

Nonattainment Fees,” amended on April 4, 2022, which addresses the CAA section 185 fee program requirements. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. Law 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it proposes to approve a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a

tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) 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.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The State did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

Dated: February 5, 2024.

Martha Guzman Aceves,

Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R03–OAR–2023–0419; FRL–11736–01–R3]

Redesignation of Portions of Westmoreland and Cambria Counties, Pennsylvania for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standards (NAAQS): Notification of Availability and Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and public comment period.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is providing notice of our intent to redesignate portions of Westmoreland County and Cambria County, Pennsylvania, to “nonattainment” for the 2010 sulfur dioxide (SO₂) national ambient air quality standard (NAAQS or standard). Westmoreland County is currently designated “attainment/unclassifiable,” and Cambria County is currently designated “unclassifiable.” EPA’s intended redesignation of portions of these counties is based on modeled violations of the 2010 SO₂ NAAQS. If the redesignation to nonattainment is finalized, the Commonwealth of Pennsylvania would be required to undertake certain planning requirements to reduce SO₂ concentrations within this area, including, but not limited to, the requirement to submit within 18 months of redesignation a revision to the Pennsylvania state implementation plan (SIP) that provides for attainment of the SO₂ standard as expeditiously as practicable, but no later than five years after the date of redesignation to nonattainment.

Notice is hereby given that EPA has posted on our public electronic docket and internet website the intended redesignation for relevant portions of Westmoreland and Cambria counties, Pennsylvania under the 2010 SO₂ NAAQS. The Agency invites the public to review and provide input on our intended redesignation during the comment period specified in the **DATES** section. EPA notified the Commonwealth of Pennsylvania of our intended redesignation action via a letter to the Governor on or about February 17, 2023, which is included in the docket for this notice of availability (NOA).

DATES: Comments must be received on or before March 28, 2024. Please refer to

the **SUPPLEMENTARY INFORMATION** section for additional information on the comment period.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R03-OAR-2023-0419 at www.regulations.gov or via email to gordon.mike@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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. 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact Ellen Schmitt, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5787. Ms. Schmitt can also be reached via electronic mail at schmitt.ellen@epa.gov.

EPA encourages the public to review our letter notifying Pennsylvania of our intended redesignation action, and the associated area-specific technical support information at www.epa.gov/sulfur-dioxide-designations/sulfur-dioxide-designations-regulatory-actions or in the public docket for this intended redesignation at www.regulations.gov under Docket ID No. EPA-R03-OAR-2023-0419.

SUPPLEMENTARY INFORMATION:

The information in this document is organized as follows:

- I. Purpose of Action and Instructions for Submitting Public Comments
- II. The 2010 SO₂ NAAQS

- III. Designations for the 2010 SO₂ NAAQS
- IV. SO₂ Monitoring and Modeling Considerations
- V. Modeled SO₂ NAAQS Violations in Westmoreland and Cambria Counties, Pennsylvania
- VI. EPA's Intended Decision To Address Modeled SO₂ NAAQS Violations in Portions of Westmoreland and Cambria Counties, Pennsylvania Through Redesignation

I. Purpose of Action and Instructions for Submitting Public Comments

The purpose of this NOA is to solicit input from interested parties on EPA's notification to the Governor of Pennsylvania about our intent and rationale for redesignating portions of Westmoreland and Cambria counties in Pennsylvania to nonattainment for the 2010 SO₂ NAAQS. EPA's notification letter and the supporting technical analysis can be found at www.epa.gov/sulfur-dioxide-designations/sulfur-dioxide-designations-regulatory-actions, as well as in the public docket for this redesignation at www.regulations.gov under Docket ID No. EPA-R03-OAR-2023-0419.

EPA invites public input regarding the redesignation of portions of Westmoreland and Cambria counties during the 45-day comment period provided in this document. To receive full consideration, input from the public must be submitted to the docket by March 28, 2024. This publication and opportunity for public comment does not affect any rights or obligations of any state, or tribe, or of EPA, which might otherwise exist pursuant to the Clean Air Act (CAA or Act) section 107(d).

CAA section 107(d)(3) provides a process for air quality redesignations that involves recommendations by affected states, territories, and tribes to EPA and responses from the Agency to those parties, prior to EPA promulgating final area redesignation decisions. The Agency is not required under CAA section 107(d)(3) to seek public comment during the redesignations process, but we are electing to do so for these counties with respect to the 2010 SO₂ NAAQS to gather additional information for EPA to consider before making a final redesignation decision for these specific areas.

A. Submitting CBI

Do not submit CBI information to EPA through www.regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or

CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2. For additional directions on sending or delivering information identified as CBI, contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

B. Tips for Preparing Your Comments

When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

II. The 2010 SO₂ NAAQS

Under section 109 of the CAA, EPA has established primary and secondary NAAQS for certain pervasive air pollutants (referred to as "criteria pollutants") and conducts periodic reviews of the NAAQS to determine whether they should be revised or whether new NAAQS should be established. The primary NAAQS represent ambient air quality standards, the attainment and maintenance of which EPA has determined, including a margin of safety, are requisite to protect the public health. The secondary NAAQS represent ambient air quality standards, the attainment and maintenance of which EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air.

EPA revised the primary SO₂ NAAQS in a final rule published in the **Federal Register** on June 22, 2010 (75 FR 35520), codified at 40 CFR 50.17, which became effective on August 23, 2010. Based on review of the air quality criteria for oxides of sulfur and the primary NAAQS for oxides of sulfur as measured by SO₂, EPA revised the primary SO₂ NAAQS to provide the requisite protection of public health with an adequate margin of safety. Specifically, EPA established a new 1-hour SO₂ standard at a level of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air

quality receptor location) when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. 40 CFR 50.17(a) and (b).

Anthropogenic SO₂ emissions originate chiefly from point sources, with fossil fuel combustion at electric utilities and other industrial facilities accounting for the majority of total emissions.¹ Current scientific evidence links short-term exposures to SO₂, ranging from five minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms.² These effects are particularly important for asthmatics at elevated ventilation rates (e.g., while exercising or playing).³ Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly and asthmatics.⁴

III. Designations for the 2010 SO₂ NAAQS

EPA is required by CAA section 107(d) to designate all areas throughout the nation as attaining or not attaining the NAAQS within two years of the promulgation of any new or revised NAAQS. Pursuant to CAA section 107(d), EPA must designate as “nonattainment” those areas that violate the NAAQS and those nearby areas that contribute to violations. Once an area has been designated, the EPA Administrator, under CAA section 107(d)(3), may at any time notify a state that a designation should be revised.

EPA was required to designate areas throughout the country for the 2010 SO₂ NAAQS by June 3, 2012. EPA invoked a 1-year extension of the deadline to designate areas for the 2010 SO₂ NAAQS, as provided for under CAA section 107, after which the Agency completed an initial round of SO₂ designations for certain areas of the country on August 5, 2013 (referred to as “Round 1”).⁵ In Round 1, EPA designated Indiana County and a portion of Armstrong County, Pennsylvania as nonattainment (hereafter referred to as the “Indiana Area”). On January 9, 2018,⁶ in a subsequent round of designations

(Round 3), EPA designated Westmoreland County, Pennsylvania as attainment/unclassifiable, and Cambria County, Pennsylvania as unclassifiable.

In 2018, during the public comment period for the proposed approval of the SO₂ attainment SIP for the Indiana Area (83 FR 32606, July 13, 2018), the Sierra Club (in conjunction with the National Parks Conservation Association (NPCA), PennFuture, Earthjustice, and Clean Air Council (the Council)) submitted a modeling analysis which claimed to show violations of the SO₂ NAAQS within portions of Westmoreland and Cambria counties due to SO₂ emissions from sources located within the Indiana Area. In 2022, during the public comment period for the proposed partial disapproval and partial approval of the Indiana Area’s attainment SIP (87 FR 15166, March 17, 2022), EPA received additional modeling from the Sierra Club, and Keystone-Conemaugh Projects, LLC (KEY-CON),⁷ focused on the Westmoreland and Cambria areas. EPA also conducted its own modeling of those areas. Based on review of all modeling analyses, EPA has determined that there are modeled SO₂ NAAQS violations outside of the existing Indiana Area, in portions of Westmoreland and Cambria counties, and accordingly notified the Governor of Pennsylvania in a letter dated February 17, 2023, of its intent to redesignate the relevant portions of Westmoreland and Cambria counties as nonattainment for the 2010 SO₂ NAAQS, consistent with CAA section 107(d)(3)(A). On June 22, 2023, Acting Secretary for the Pennsylvania Department of Environmental Protection (PA DEP), Richard Negrin, responded to EPA’s letter but did not specify whether the Commonwealth agreed or disagreed with EPA’s determination to redesignate portions of Westmoreland and Cambria counties as nonattainment for the 2010 SO₂ NAAQS. Instead, Pennsylvania’s response included several comments questioning certain aspects of the Technical Support Document (TSD) that EPA had developed and submitted to PA DEP with the February 17, 2023 redesignation letter. EPA has responded to the Commonwealth’s comments in a response to comments (RTC) document which is in the docket for this document.⁸

⁷ KEY-CON, licensee for the Keystone Generating Station located in Armstrong County and the Conemaugh Generating station located in Indiana County, provided modeling to support its comments rebutting modeling and views presented by the Sierra Club and EPA.

⁸ A copy of PA DEP’s comments on EPA’s initial redesignation TSD and also EPA’s RTC replying to

IV. SO₂ Monitoring and Modeling Considerations

The 1-hour primary SO₂ standard is violated at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of the daily maximum 1-hour average concentrations exceeds 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. EPA also believes that in certain cases, including when SO₂ monitors are lacking, air dispersion modeling is an appropriate tool to determine whether an area is in attainment, as discussed in EPA’s document titled, “SO₂ NAAQS Designations Modeling Technical Assistance Document” (Modeling TAD). The Modeling TAD provides nonbinding recommendations on how to appropriately and sufficiently model ambient air in proximity to an SO₂ emission source to establish air quality data for comparison to the 2010 primary SO₂ NAAQS for the purposes of designations.

Ambient SO₂ monitoring data are collected by state, local, and tribal monitoring agencies (“monitoring agencies”) in accordance with the monitoring requirements contained in 40 CFR parts 50, 53, and 58. A monitoring network is generally designed to measure, report, and provide related information on air quality data as described in 40 CFR part 58. To ensure that the data from the network is accurate and reliable, the monitors in the network must meet a number of requirements, including the use of monitoring methods that EPA has approved as Federal Reference Methods (FRMs) or Federal Equivalent Methods (FEMs), focusing on particular monitoring objectives, and following specific siting criteria, data reporting, quality assurance and data handling rules or procedures.

At present, except for SO₂ monitoring required at National Core Monitoring Stations (Ncore stations), there are no minimum monitoring requirements for SO₂ in 40 CFR part 58 appendix D, other than a requirement for EPA Regional Administrator approval before removing any existing monitors and a requirement that any ongoing SO₂ monitoring must have at least one monitor sited to measure the maximum concentration of SO₂ in that area.

In addition to using any valid data generated by existing monitors, refined dispersion modeling may inform NAAQS designation and

these comments, can be found in Docket No. EPA-R03-OAR-2023-0419 via www.regulations.gov.

¹ 75 FR 35520 (June 22, 2010).

² Id.

³ Id.

⁴ Id.

⁵ 78 FR 47191. Effective date October 4, 2013.

⁶ 83 FR 1098. Effective date April 9, 2018.

implementation decisions regarding sources that may have the potential to cause or contribute to a NAAQS violation. For a short-term 1-hour standard, dispersion modeling of stationary sources can be more technically appropriate, efficient, and effective because it accounts for fairly infrequent combinations of meteorological and source operating conditions that can contribute to peak ground-level concentrations of SO₂.

EPA's Guideline on Air Quality Models, found at appendix W to 40 CFR part 51, provides recommendations on modeling techniques and guidance for estimating pollutant concentrations to assess control strategies and determine emission limits.

V. Modeled SO₂ NAAQS Violations in Westmoreland and Cambria Counties, Pennsylvania

Effective on October 4, 2013, the Indiana Area (which encompasses Indiana County, as well as Plumcreek Township, South Bend Township and Eldertown Borough of Armstrong County) was designated as nonattainment for the 2010 SO₂ NAAQS. The Indiana Area includes Keystone, Conemaugh, Homer City, and Seward electric generating units (EGUs), all primary SO₂ emitting sources.

On October 11, 2017, PA DEP submitted to EPA an attainment SIP for the Indiana Area which the Agency proposed approval of on July 13, 2018 (83 FR 32606). During the public comment period for the proposed approval of the attainment SIP, the Sierra Club (in conjunction with the NPCA, PennFuture, Earthjustice, and the Council) submitted a modeling analysis using actual emissions and the critical emission values (CEVs)⁹ for Conemaugh and Seward which claimed to show violations of the SO₂ NAAQS outside of the Indiana Area, beyond the eastern border of Indiana County, within nearby portions of Westmoreland and Cambria counties. The modeling used the same meteorological data, stack parameters, background concentrations and building downwash as Pennsylvania's attainment SIP for the Indiana Area. The Sierra Club modeling used emission inputs of actual historical emissions (2013–2018 quarter 1) and a finer receptor grid that included receptors outside Indiana County. When modeling 2015–2017 emissions, the resulting design value was 293.4 micrograms per cubic meter (ug/m³), and when modeling 2013–2017

emissions, the resulting design value was 267.2 ug/m³.¹⁰

EPA issued a final approval of Pennsylvania's attainment plan for the Indiana Area on October 19, 2020 (85 FR 66240). On December 18, 2020, the Sierra Club, Clean Air Council, and PennFuture filed a petition for judicial review with the U.S. Court of Appeals for the Third Circuit, challenging EPA's final approval of the Indiana Area's attainment plan.¹¹ On April 5, 2021, EPA filed a motion for voluntary remand without vacatur of its approval of the Indiana Area attainment plan in order to reconsider its approval of the attainment plan.

On August 17, 2021, the U.S. Court of Appeals for the Third Circuit granted EPA's request for remand without vacatur of the final approval of Pennsylvania's 2010 SO₂ NAAQS attainment plan for the Indiana Area, requiring that the Agency take final action in response to the remand no later than one year from the date of the court's order (*i.e.*, by August 18, 2022).

After reconsideration, on March 17, 2022, EPA proposed partial disapproval and partial approval of the Indiana Area attainment plan (87 FR 15166). During the public comment period, EPA received air quality modeling (including modeling files) from the Sierra Club (in conjunction with the NPCA, PennFuture, Earthjustice, and the Council) using updated emissions data claiming to show modeled NAAQS violations in Westmoreland and Cambria counties due to SO₂ emissions from the Conemaugh and Seward sources located in Indiana County. EPA also received an air quality modeling report from KEYCON which used updated emissions from Conemaugh and Seward but did not show modeled NAAQS violations in Westmoreland and Cambria counties.¹²

EPA then conducted its own modeling analysis, discussed in detail in the TSD located in the docket for this document. Based on review of all modeling analyses, EPA determined that there are modeled SO₂ NAAQS violations outside of the existing Indiana Area, in Westmoreland and Cambria counties.

¹⁰ EPA considers 196.4 ug/m³ equivalent to 75 ppb (based on the 2010 SO₂ NAAQS).

¹¹ *Sierra Club, et. al. v. EPA*, Case No. 20–3568 (3rd Cir.).

¹² KEYCON emailed the modeling files to EPA on April 20, 2022.

VI. EPA's Intended Decision To Address Modeled SO₂ NAAQS Violations in Portions of Westmoreland and Cambria Counties, Pennsylvania Through Redesignation

The CAA provides EPA with the authority to revise designations of, or "redesignate," areas under CAA section 107(d)(3). Such redesignations can originate as requests by states (per CAA section 107(d)(3)(D)), and EPA can also notify a state at any time that a designation of any area or portion of an area should be revised, on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the EPA Administrator deems appropriate. CAA section 107(d)(3)(A) further states that, "[i]n issuing such notification, which shall be public, to the Governor, the Administrator shall provide such information as the Administrator may have available explaining the basis for the notice." The Act then requires the Governor to submit to EPA such redesignation, if any, as the Governor deems appropriate (CAA section 107(d)(3)(B)). CAA section 107(d)(3)(C) states that "the Administrator shall promulgate the redesignation, if any, of the area or portion thereof, submitted by the Governor in accordance with [CAA section 107(d)(3)(B)], making such modifications as the Administrator may deem necessary If the Governor does not submit, in accordance with [CAA section 107(d)(3)(B)], a redesignation for an area (or portion thereof) identified by the Administrator under [CAA section 107(d)(3)(A)], the Administrator shall promulgate such redesignation, if any, that the Administrator deems appropriate."

As noted, CAA section 107(d)(3)(A) provides EPA latitude to consider a broad range of information in considering whether a designation should be revised. In consideration of "air quality data, planning and control considerations, or any other air quality-related considerations the EPA Administrator deems appropriate," EPA has taken note of the analytical guidance that it has previously used in issuing initial area designations under CAA section 107(d)(1). EPA has issued multiple guidance documents for performing SO₂ designations, the most recent of which is a September 5, 2019 guidance from Peter Tsirigotis, Director, U.S. EPA, Office of Air Quality Planning and Standards, to Regional Air Division Directors, U.S. EPA Regions 1–10.¹³

¹³ See, "Area Designations for the 2010 Primary Sulfur Dioxide National Ambient Air Quality Standard—Round 4," memorandum to Regional Air Division Directors, Regions 1–10, from Peter

⁹ A CEV is the maximum modeled emission rate that results in attainment.

This memorandum supplements, where necessary, prior designations guidance documents on area designations for the 2010 primary SO₂ NAAQS issued on March 24, 2011, March 20, 2015, and July 22, 2016. The September 2019 memorandum identifies evaluation factors in determining whether areas are in violation of the 2010 SO₂ NAAQS and factors that EPA intends to assess in determining the boundaries for such areas. These factors include:

- (1) Air quality characterization via ambient monitoring or dispersion modeling results;
- (2) emissions-related data;
- (3) meteorology;
- (4) geography and topography; and
- (5) jurisdictional boundaries.

Available modeling indicates that portions of Westmoreland and Cambria counties are violating the 2010 1-hour SO₂ NAAQS. EPA's detailed evaluation of the modeled violations, contributing sources, and intended area boundaries based on the weight of evidence of the previously identified factors are included in the TSD, which is located in the docket for this action. EPA's intended boundaries of the relevant area encompass Lower Yoder Township in Cambria County, Pennsylvania and St. Clair Township, Seward Borough, and New Florence Borough in Westmoreland County, Pennsylvania. A map showing the boundaries of our intended nonattainment area for Westmoreland and Cambria counties is included in the TSD.

With respect to area boundaries, EPA's modeling shows that the sources of this nonattainment are SO₂ emissions from the Conemaugh and Seward plants, which are located in the existing Indiana, Pennsylvania nonattainment area. The attainment plan for the Indiana Area was partially disapproved and partially approved. This initiated a sanctions clock under CAA section 179, providing for emission offset sanctions for new sources unless Pennsylvania submits, and EPA fully approves, a revised attainment SIP for the Indiana Area within 18 months after the Agency's final partial disapproval, and providing for highway funding sanctions if EPA has not fully approved a revised plan within six months thereafter. Due to this unique situation and the already determined attainment planning schedule for the Indiana Area, EPA has decided not to add the proposed Westmoreland and Cambria nonattainment area into the existing

Indiana Area. EPA maintains that under the circumstances presented here, a new nonattainment area that does not include the contributing sources is not an impediment to the Commonwealth's ability to impose new emission limits on the sources contributing to the air quality violations in the nonattainment area. In any future attainment plan submitted for this new area, Pennsylvania will need to demonstrate that any future emissions or new emission limits for Seward and Conemaugh are sufficient to provide for NAAQS attainment in both areas as a result of this redesignation. A discussion of the intended boundaries for the Westmoreland and Cambria nonattainment area is located in the TSD associated with this redesignation document. The TSD can be found at www.regulations.gov in Docket ID No. EPA-R03-OAR-2023-0419. Based on this information, EPA notified the Governor of Pennsylvania, in a letter dated February 17, 2023, of EPA's intention to redesignate portions of Westmoreland and Cambria counties to nonattainment. On June 22, 2023, Acting Secretary for the PA DEP, Richard Negrin, responded to EPA's letter but did not specify whether it agreed or disagreed with EPA's determination to redesignate portions of Westmoreland and Cambria counties as nonattainment for the 2010 SO₂ NAAQS. Instead, Pennsylvania's response included several comments questioning certain aspects of the TSD that EPA had developed and submitted to PA DEP with the February 17, 2023 redesignation letter. EPA has responded to the Commonwealth's comments in a RTC document which is in the docket for this action.¹⁴

Through this action, EPA is providing notice of our intent to redesignate portions of Westmoreland and Cambria counties to nonattainment for the 2010 SO₂ NAAQS. The Agency is voluntarily taking public comment on the intended redesignation, TSD, and our response to PA DEP's June 27, 2023 comments. Public comment information is located in section I of this document. Per CAA section 107(d)(3)(C), EPA intends to promulgate a redesignation, if any, after considering any further information obtained during the comment period.

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024-02834 Filed 2-9-24; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 240129-0026]

RIN 0648-BM78

Fisheries of the Northeastern United States; Framework Adjustment 38 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement Framework Adjustment 38 to the Atlantic Sea Scallop Fishery Management Plan (FMP) that establishes scallop specifications and other management measures for fishing years 2024 and 2025. Framework 38 would implement measures to protect small scallops to support rotational access area trips to the fleet in future years. This action would also revise regulatory text that is unnecessary, outdated, or unclear. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

DATES: Comments must be received by February 27, 2024.

ADDRESSES: The New England Fishery Management Council (Council) has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework 38 and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of Framework 38 to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and an Initial Regulatory Flexibility Analysis (IRFA). Copies of the draft of Framework 38, the draft EA, the IRFA, and information on the economic impacts of this proposed rulemaking are available upon request from Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/scallop-framework-38>.

You may submit comments on this document, identified by NOAA-NMFS-

¹⁴ Tsigotis, dated September 5, 2019, available at www.epa.gov/sites/default/files/2019-09/documents/round_4_so2_designations_memo_09-05-2019_final.pdf.

¹⁴ A copy of PA DEP's comments on EPA's initial redesignation TSD and also EPA's RTC replying to these comments, can be found in Docket No. EPA-R03-OAR-2023-0419 via www.regulations.gov.