

**PART 52—APPROVAL AND  
PROMULGATION OF  
IMPLEMENTATION PLANS**Authority: 42 U.S.C. 7401 *et seq.***§ 52.220a Identification of plan—in part.**

\* \* \* \* \*

(c) \* \* \*

**Subpart F—California**

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

■ 2. In § 52.220a, amend Table 1 to paragraph (c) by revising the entries for “94700” and “94701” to read as follows:

TABLE 1—EPA-APPROVED STATUTES AND STATE REGULATIONS <sup>1</sup>

State citation	Title/subject	State effective date	EPA approval date	Additional explanation
*	*	*	*	*
<b>Title 17 (Public Health), Division 3 (Air Resources), Chapter 1 (Air Resources Board); Subchapter 8.6 (Maximum Incremental Reactivity); Article 1 (Tables of Maximum Incremental Reactivity (MIR) Values)</b>				
94700 .....	MIR Values for Compounds .....	1/1/2015	2/18/2021, [Insert citation of publication].	Submitted by CARB on December 1, 2016.
94701 .....	MIR Values for Hydrocarbon Solvents.	10/2/2010	2/18/2021, [Insert citation of publication].	Submitted by CARB on December 1, 2016.

<sup>1</sup> Table 1 lists EPA-approved California statutes and regulations incorporated by reference in the applicable SIP. Table 2 of paragraph (c) lists approved California test procedures, test methods and specifications that are cited in certain regulations listed in table 1. Approved California statutes that are nonregulatory or quasi-regulatory are listed in paragraph (e).

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[FR Doc. 2021-02900 Filed 2-17-21; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION  
AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2020-0195; FRL-10020-08-Region 3]

**Air Plan Approval; West Virginia; 1997  
8-Hour Ozone National Ambient Air  
Quality Standard Second Maintenance  
Plan for the West Virginia Portion of  
the Steubenville-Weirton, OH-WV Area  
Comprising Brooke and Hancock  
Counties**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the West Virginia Department of Environmental Protection (WVDEP) on behalf of the State of West Virginia. This revision pertains to the West Virginia’s plan for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the West Virginia portion of the Steubenville-Weirton, OH-WV area (Weirton Area), comprising Brooke and Hancock Counties. EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on March 22, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0195. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2926. Ms. Pagán-Incle can also be reached via electronic mail at [pagan-incle.keila@epa.gov](mailto:pagan-incle.keila@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On June 29, 2020 (85 FR 38820), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of West Virginia’s plan for maintaining the 1997 8-hour ozone NAAQS through June 13, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by WVDEP on December 10, 2019.

**II. Summary of SIP Revision and EPA Analysis**

On May 14, 2007 (72 FR 27060, effective June 13, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Weirton Area. Per CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District v. EPA*,<sup>1</sup> the D.C. Circuit held that this requirement cannot be waived for areas, like the Weirton Area, that had been redesignated to attainment for the 1997 8-hour ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.<sup>2</sup> WVDEP’s December 10, 2019 SIP submittal fulfills West

<sup>1</sup> 882 F.3d 1138 (D.C. Cir. 2018).

<sup>2</sup> “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

Virginia's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the June 29, 2020 NPRM, consistent with longstanding EPA guidance,<sup>3</sup> areas that meet certain criteria may be eligible to submit a limited maintenance plan (LMP) to satisfy one of the requirements of CAA section 175A. Specifically, states may meet CAA section 175A's requirements to "provide for maintenance" by demonstrating that the area's design value<sup>4</sup> is well below the NAAQS and that it has had historical stability attaining the NAAQS. EPA evaluated WVDEP's December 10, 2019 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Weirton Area, comprising Brooke and Hancock Counties, as a revision to the West Virginia SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 8-hour ozone NAAQS federally enforceable as part of the West Virginia SIP.

Other specific requirements of WVDEP's December 10, 2019 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

### III. EPA's Response to Comments Received

EPA received five sets of relevant comments on the June 29, 2020 NPRM, two of which were exact duplicates. All comments received are in the docket for this rulemaking action. A summary of the comments and EPA's responses are provided herein.

#### Comment 1

The commenter requests that EPA disapprove West Virginia's LMP "because it fails to show maintenance of the standard for 10 years and it fails to provide for the protection of health because of the lack of enforcement" and also because of a "lack of reductions in the Steubenville area." The commenter

also requests that EPA disapprove the LMP because EPA has not provided information with regards to "all of the areas the agency proposes to monitor."

#### Response 1

EPA disagrees that the LMP should be disapproved based on the reasons given by the commenter. EPA has determined that the LMP adequately demonstrates compliance for the second 10 year period in accordance with CAA section 175A and EPA's longstanding guidance that establishes the five elements that EPA has determined will ensure maintenance of the relevant NAAQS for a period of 10 years: (1) An attainment emissions inventory; (2) maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continue attainment; and (5) a contingency plan.<sup>5</sup> EPA determined that West Virginia's second maintenance plan addresses all the required elements of an approvable maintenance plan. Although the commenter asserts that the LMP fails to demonstrate maintenance of the NAAQS, the commenter does not offer any data to contradict the data that EPA and West Virginia relied upon, nor does the commenter explain why the data that EPA and West Virginia relied upon does not adequately demonstrate maintenance of the NAAQS. See, e.g., *International Fabricare Institute v. E.P.A.*<sup>6</sup> (The Administrative Procedures Act does not require that EPA change its decision based on "comments consisting of little more than assertions that in the opinions of the commenters the agency got it wrong," when submitted with no accompanying data). Because this LMP demonstrates that the Steubenville-Weirton Area is maintaining the 1997 8-hour ozone NAAQS and will maintain it for the duration of this LMP based on its historic and current level of emissions, there is no indication that the Weirton Area suffers from a "lack of reductions." The Area is required to obtain additional emissions reductions from the contingency measures included in its plan, but those measures will only be required to be implemented if triggered by events indicating that the Area's ability to maintain the NAAQS is threatened. EPA's approval of this LMP under the authority of CAA 110 confers upon EPA the authority to enforce the provisions of this plan, if necessary, in Federal court. Therefore, EPA disagrees

with the commenter that this LMP does not demonstrate maintenance of the NAAQS and is not enforceable.

EPA also disagrees that the LMP should be disapproved because EPA has not provided information regarding "all of the areas the agency proposes to monitor." West Virginia currently has an EPA approved monitoring network to measure compliance with the 8-hour ozone NAAQS (49 FR 18094, effective June 26, 1984). West Virginia is required to have this monitoring network for at least the duration of the second maintenance plan<sup>7</sup> and cannot change it without EPA's approval, see 40 CFR 58.14(a). The monitors are currently located in Hancock County, West Virginia and in Jefferson County, Ohio.<sup>8</sup> If the monitoring locations need to change, EPA will approve those changes only if the new locations will continue to monitor compliance with the 8-hour ozone NAAQS for the Weirton Area, see 40 CFR 58.10(a). This information was available to the public through EPA's prior rulemakings cited previously in this document, and therefore there is no lack of information for the public regarding "all of the areas the agency proposes to monitor" regarding the Weirton Area. The commenter therefore provides no basis for EPA to change its approval of the LMP for the Weirton Area.

#### Comment 2

The commenter claims that the LMP does not "address the critical public health threats posed by high levels of toxic air pollution" in the Weirton Area. The commenter alleges that the LMP should not be approved based on a letter that the commenter states was submitted by the American Lung Association (ALA) to Ohio EPA, in which the ALA identified the "Steubenville Plan" to be "short-sighted, and could endanger the health and safety of thousands of residents in the nonattainment area." Further, the commenter also contends that the LMP was approved "without an Environmental Effects Statement and an

<sup>3</sup> See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

<sup>4</sup> The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

<sup>5</sup> "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

<sup>6</sup> 972 F.2d 384 (D.C. Cir. 1992).

<sup>7</sup> See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM<sub>10</sub> Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

<sup>8</sup> See 71 FR 57905 (October 2, 2006) and the following documents included in this rule's docket: West Virginia's "2020 Ambient Air Monitoring Annual Network Plan and SO<sub>2</sub> Data Requirement Rule Annual Report" and Appendix D of Ohio EPA's "2020-2021 Ohio EPA Air Monitoring Network Plan."

environmental review,” and EPA cannot approve “until a statement and review are completed and proposed to the public at large.”

#### Response 2

The commenter has misapprehended the purpose of West Virginia’s second maintenance plan for the 1997 8-hour ozone NAAQS and the criteria for EPA’s approval of that plan. As stated in the NPRM, on December 10, 2019, West Virginia submitted a SIP revision for a second maintenance plan for the 1997 8-hour ozone NAAQS which focuses on meeting requirements under CAA section 175A, to which EPA has published longstanding guidance that provides the necessary criteria for an approvable maintenance plan.

The commenter states that EPA should disapprove the LMP based on a letter submitted to Ohio EPA by the ALA. Neither the commenter nor the ALA has submitted that letter to EPA, and whether the letter is relevant to the LMP or some other “Steubenville Plan” that is not before EPA is unclear. To the extent that the comment in general terms asserts that the LMP should not be approved due to air quality issues in Steubenville, EPA relies on the analysis in the NPRM, and its response to Comment 1, that this LMP meets the criteria for approval as it adequately demonstrates that the area will maintain the relevant NAAQS for the duration of the plan, contains all required elements of an approvable plan, and the commenter does not offer any data to contradict the data that EPA and West Virginia relied upon, nor does the commenter explain why the data that EPA and West Virginia does not adequately demonstrate maintenance of the NAAQS. See, e.g., *International Fabricare Institute v. E.P.A.*<sup>9</sup>. Therefore, EPA disagrees this comment provides a basis for disapproving this LMP.

The commenter additionally states that West Virginia’s LMP was approved “without an Environmental Effects Statement and an environmental review.” EPA is unfamiliar with these terms in respect to rulemaking conducted under the Federal Administrative Procedures Act (APA),<sup>10</sup> the CAA or its implementing regulations relevant to this rulemaking. To the extent the commenter appears to be alleging a defect in West Virginia’s process for developing and approving this LMP West Virginia submitted to EPA “[e]vidence that the State followed all of the procedural requirements of the State’s laws and constitution in

conducting and completing the adoption/issuance of the plan,”<sup>11</sup> which is in the docket for this rulemaking.”<sup>12</sup> To the extent that the comment is directed at EPA’s rulemaking on this LMP, EPA has followed all requirements of the APA, the CAA, and regulations thereunder relevant to this rulemaking. There is no requirement under the APA, the CAA, or its implementing regulations for anything or process called an “Environmental Effect statement” or “environmental review.” This comment therefore provides no basis for EPA to disapprove this LMP.

#### Comment 3

The commenter asserts that the LMP should not be approved because of EPA’s reliance on the Air Quality Modeling Technical Support Document (TSD) that was developed for EPA’s regional transport rulemaking. The commenter contends that: (1) The TSD shows maintenance of the area for three years and not 10 years; (2) the modeling was performed for transport purposes across state lines and not to show maintenance of the NAAQS; (3) the modeling was performed for the 2008 and 2015 ozone NAAQS and not the 1997 ozone NAAQS; (4) the TSD has been “highly contested” by environmental groups and that “other states contend EPA’s modeling as flawed;” and (5) the TSD does not address a recent court decision that threw out EPA’s modeling “because it modeled to the wrong attainment year. . . .” The commenter asserts that the four specific issues it raises with respect to the modeling means that the TSD is “flawed, illegal, [and] is being used improperly for the wrong purpose. . . .” The commenter states that “EPA must retract its reliance on the modeling for the purposes of this maintenance plan and must find some other way of showing continued maintenance of the 1997 ozone NAAQS.”

#### Response 3

EPA does not agree with the commenter that approval of West Virginia’s second maintenance plan is not appropriate. The commenter raises concerns about West Virginia and EPA’s citation of Air Quality Modeling TSD,

but the commenter ignores that EPA’s primary basis for finding that West Virginia has provided for maintenance of the 1997 8-hour ozone NAAQS in the Weirton Area is the State’s demonstration that the criteria for a LMP has been met. See 85 FR 38820, June 29, 2020. Specifically, as stated in the NPRM, for decades EPA has interpreted the provision in CAA section 175A that requires states to “provide for maintenance” of the NAAQS to be satisfied where areas demonstrate that design values are and have been stable and well below the NAAQS—e.g., at 85% of the standard, or in this case at or below 0.071 parts per million (ppm). EPA calls such demonstration a “limited maintenance plan.”

The modeling cited by the commenter was referenced in West Virginia’s submission and as part of EPA’s proposed approval as supplementary supporting information, and we do not agree that the commenter’s concerns about relying on that modeling are warranted. The commenter contends that the modeling only goes out three years (to 2023) and it needs to go out to 10 years, and therefore may not be relied upon. However, the Air Quality Modeling TSD was only relied upon by EPA to provide additional support to indicate that the area is expected to continue to attain the NAAQS during the relevant period. As noted previously, West Virginia primarily met the requirement to demonstrate maintenance of the NAAQS by showing that they met the criteria for an LMP, rather than by modeling or projecting emissions inventories out to a future year. We also do not agree that the State is required to demonstrate maintenance for 10 years; CAA section 175A requires the State to demonstrate maintenance through the 20th year after the area is redesignated, which in this case is 2027.

We also disagree with the commenter’s contention that because the Air Quality Modeling TSD was performed to analyze the transport of pollution across state lines with respect to other ozone NAAQS, it cannot be relied upon in this action. We acknowledge that the Air Quality Modeling TSD at issue was performed as part of EPA’s efforts to address interstate transport pollution under CAA section 110(a)(2)(D)(i)(I). However, the purpose of the Air Quality Modeling TSD is fully in keeping with the question of whether West Virginia is expected to maintain the NAAQS. The Air Quality Modeling TSD identifies which air quality monitors in the United States are projected to have problems attaining or maintaining the 2008 and

<sup>11</sup> 40 CFR part 51, Appendix V, 2.1(e).

<sup>12</sup> See “Weirton WV State Submittal” and “Weirton, WV Completeness Letter” of WVDEP’s December 10, 2019 submittal. The “Weirton WV State Submittal” states that the SIP revision includes documentation that proper administrative procedural requirements have been followed. In addition, the “Weirton, WV Completeness Letter,” certifies that EPA has determined that the submittal is administratively and technically complete and EPA will proceed to review the SIP submission.

<sup>9</sup> 972 F.2d 384 (D.C. Cir. 1992).

<sup>10</sup> 5 U.S.C. 551 *et seq.*

2015 NAAQS for ozone in 2023. Because the Air Quality Modeling TSD results simply provide projected ozone concentration design values, which are expressed as three-year averages of the annual fourth high 8-hour daily maximum ozone concentrations, the modeling results are useful for analyzing attainment and maintenance of any of the ozone NAAQS that are measured using this averaging time; in this case, the 1997, 2008 and 2015 ozone NAAQS. The only difference between the three standards is stringency. Taking the Weirton Area's most recent certified design value as of the proposal (*i.e.*, for the years 2016–2018), the area's design value was 0.065 ppm. What we can discern from this is that the Weirton Area is meeting the 1997 8-hour ozone NAAQS of 0.080 ppm, the 2008 ozone NAAQS of 0.075 ppm, and the 2015 ozone NAAQS of 0.070 ppm. The same principle applies to projected design values from the Air Quality Modeling TSD. In this case, the interstate transport modeling indicated that in 2023, the Weirton Area's design value is projected to be 0.060 ppm, which is again, well below all three standards. The fact that the Air Quality Modeling TSD was performed to indicate whether the area will have problems attaining or maintaining the 2015 ozone NAAQS (*i.e.*, 0.070 ppm) does not make the modeling less useful for determining whether the area will also meet the less stringent revoked 1997 standard (*i.e.*, 0.080 ppm).

The commenter asserts that many groups have criticized EPA's transport modeling, alleging that the agency used improper emissions inventories, incorrect contribution thresholds, wrong modeling years, or that EPA has not accounted for local situations or reductions that occurred after the inventories were established. The commenter also alleges that EPA should not rely on its modeling because it "fails to stand up to the recent court decisions," citing the *Wisconsin v. EPA* D.C. Circuit decision. EPA disagrees that the existence of criticisms of the agency's Air Quality Modeling TSD render it unreliable, and we also do not agree that anything in recent court decisions, including *Wisconsin v. EPA*, suggests that EPA's Air Quality Modeling TSD is technically flawed. We acknowledge that the source apportionment air quality modeling runs cited by the commenter have been at issue in various legal challenges to EPA actions, including the *Wisconsin v. EPA* case.<sup>13</sup> However, in that case, the only flaw in EPA's Air Quality Modeling

TSD identified by the D.C. Circuit was the fact that its analytic year did not align with the attainment date found in CAA section 181.<sup>14</sup> Contrary to the commenter's suggestion, the D.C. Circuit upheld EPA's Air Quality Modeling TSD with respect to the many technical challenges raised by petitioners in the *Wisconsin* case.<sup>15</sup> We therefore think reliance on the interstate transport Air Quality Modeling TSD as supplemental support for showing that the Weirton Area will maintain the 1997 8-hour ozone NAAQS through the end of its 20th-year maintenance period is appropriate.

#### Comment 4

The commenter asserts that EPA should disapprove this maintenance plan because EPA should not allow states to rely on emission programs such as the Cross-State Air Pollution Rule (CSAPR) to demonstrate maintenance for the 1997 ozone NAAQS. The commenter alleges that "the CSAPR and CSAPR Update and CSAPR Close-out rules were vacated entirely" by multiple courts and "are now illegal programs providing no legally enforceable emission reductions to any states formerly covered by the rules." The commenter also asserts that nothing restricts "big coal and gas power plants from emitting way beyond there (sic) restricted amounts." The commenter does allow that "If EPA can show that continued maintenance without these rules is possible for the next 10 years then that would be OK but as the plan stands it relies on these reductions and must be disapproved."

#### Response 4

The commenter has misapprehended the factual circumstances regarding these interstate transport rules. Every rule cited by the commenter that achieves emission reductions from electric generating units (EGUs or power plants)—*i.e.*, the Cross-State Air Pollution Rule and the CSAPR Update—remains in place and continues to ensure emission reductions of nitrogen oxides (NO<sub>x</sub>) and sulfur dioxide (SO<sub>2</sub>). CSAPR began implementation in 2015 (after it was largely upheld by the Supreme Court) and the CSAPR Update began implementation in 2017. The latter rule was remanded to EPA to address the analytic year issues discussed in the prior comment and response, but the rule remains fully in effect. The commenter is correct that the D.C. Circuit vacated the CSAPR close-out, but we note that that rule was only

a determination that no further emission reductions were required to address interstate transport obligations for the 2008 ozone NAAQS; the rule did not itself establish any emission reductions. We therefore disagree that the legal status of these rules presents any obstacle to EPA's approval of West Virginia's submission.

#### IV. Final Action

EPA is approving the 1997 8-hour ozone NAAQS limited maintenance plan for the Steubenville-Weirton, OH-WV area (Weirton Area), comprising Brooke and Hancock Counties as a revision to the West Virginia SIP.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- 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. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

<sup>14</sup> *Id.* at 313.

<sup>15</sup> *Wisconsin*, 938 F.3d at 323–331.

<sup>13</sup> 938 F.3d 303 (D.C. Cir. 2019).

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- 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 CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the

Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 19, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to West Virginia’s limited maintenance plan for the Steubenville-Weirton, OH-WV area (Weirton Area), comprising Brooke and Hancock Counties may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: February 8, 2021.

**Diana Esher,**

*Acting Regional Administrator, Region III.*

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

#### **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

#### **Subpart XX—West Virginia**

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding the entry “1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Steubenville-Weirton, OH-WV Area Comprising Brooke and Hancock Counties” at the end of the table to read as follows:

#### **§ 52.2520 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* * *	* * *	* * *	* * *	* * *
1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Steubenville-Weirton, OH-WV Area Comprising Brooke and Hancock Counties.	Steubenville-Weirton, OH-WV Area Comprising Brooke and Hancock Counties.	12/10/19	2/18/2021, [insert <b>Federal Register</b> citation].	

[FR Doc. 2021-03027 Filed 2-17-21; 8:45 am]

**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[EPA-R10-OAR-2019-0573, FRL-10018-79-Region 10]**

#### **Air Plan Approval; Washington; Infrastructure Requirements for the 2010 Sulfur Dioxide and 2015 Ozone Standards**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** Whenever the Environmental Protection Agency (EPA) promulgates a

new or revised National Ambient Air Quality Standard (NAAQS), the Clean Air Act requires each state to make a State Implementation Plan (SIP) submission to establish that its SIP provides for the implementation, maintenance, and enforcement of the revised NAAQS. This type of SIP submission is commonly referred to as an infrastructure SIP submission. The EPA is approving the State of Washington’s September 30, 2019 and April 3, 2020, SIP submissions as meeting specific infrastructure requirements for the 2010 sulfur dioxide and 2015 ozone NAAQS.

**DATES:** This final rule is effective March 22, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2019-0573. All

documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and is publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hunt, EPA Region 10, 1200 Sixth Avenue—Suite 155, Seattle, WA 98101, at (206) 553-0256, or [hunt.jeff@epa.gov](mailto:hunt.jeff@epa.gov).