

violation of, the CSA or its implementing regulations, is unlawful, and may subject the person to administrative, civil, and/or criminal sanctions.

### Regulatory Analyses

#### *Administrative Procedure Act*

This final rule, without change, affirms the amendment made by the interim final rule that is already in effect. Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553) generally requires notice and comment for rulemakings. However, 21 U.S.C. 811(j) provides that in cases where a certain new drug is: (1) Approved by HHS and (2) HHS recommends control in CSA schedule II–V, DEA shall issue an interim final rule scheduling the drug within 90 days. Additionally, subsection (j) specifies that the rulemaking shall become immediately effective as an interim final rule without requiring DEA to demonstrate good cause. DEA issued an interim final rule on April 7, 2020, and solicited public comments on that rule. Subsection (j) further states that after giving interested persons the opportunity to comment and to request a hearing, the Attorney General, as delegated to the Administrator of DEA, shall issue a final rule in accordance with the scheduling criteria of 21 U.S.C. 811 (b) through (d) and 812(b). DEA is now responding to the comments submitted by the public and issuing the final rule in accordance with subsection (j).

#### *Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review)*

In accordance with 21 U.S.C. 811(a) and (j), this scheduling action is subject to formal rulemaking procedures performed “on the record after opportunity for a hearing,” which are conducted pursuant to the provisions of 5 U.S.C. 556 and 557. The CSA sets forth the procedures and criteria for scheduling a drug or other substance. Such actions are exempt from review by the Office of Management and Budget (OMB) pursuant to section 3(d)(1) of Executive Order (E.O.) 12866 and the principles reaffirmed in E.O. 13563.

#### *Executive Order 12988, Civil Justice Reform*

This regulation meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988 to eliminate drafting errors and ambiguity, minimize litigation, provide a clear legal standard for affected conduct, and promote simplification and burden reduction.

#### *Executive Order 13132, Federalism*

This final rule does not have federalism implications warranting the application of E.O. 13132. The final rule does 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.

#### *Executive Order 13175, Consultation and Coordination With Indian Tribal Governments*

This final rule does not have tribal implications warranting the application of E.O. 13175. It does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.

#### *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) applies to rules that are subject to notice and comment under section 553(b) of the APA. As noted in the above discussion regarding the applicability of the APA, DEA was not required to publish a general notice of proposed rulemaking. Consequently, the RFA does not apply.

#### *Unfunded Mandates Reform Act of 1995*

In accordance with the Unfunded Mandates Reform Act (UMRA) of 1995, 2 U.S.C. 1501 *et seq.*, DEA has determined and certifies that this action would not result in any Federal mandate that may result “in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any 1 year.” Therefore, neither a Small Government Agency Plan nor any other action is required under UMRA of 1995.

#### *Paperwork Reduction Act of 1995*

This action does not impose a new collection of information requirement under the Paperwork Reduction Act of 1995. 44 U.S.C. 3501–3521. This action does not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### *Congressional Review Act*

This final rule is not a major rule as defined by the Congressional Review Act (CRA), 5 U.S.C. 804. This rule will not result in an annual effect on the

economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the U.S.-based companies to compete with foreign-based companies in domestic and export markets. However, pursuant to the CRA, DEA has submitted a copy of this final rule to both Houses of Congress and to the Comptroller General.

#### List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Reporting and recordkeeping requirements.

#### PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

■ Accordingly, the interim final rule (85 FR 19387) amending 21 CFR part 1308, which published on April 7, 2020, is adopted as a final rule without change.

**D. Christopher Evans,**  
*Acting Administrator.*

[FR Doc. 2021–04183 Filed 3–2–21; 8:45 am]

BILLING CODE 4410–09–P

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 49

[EPA–R01–OAR–2020–0374; FRL–10018–74–Region 1]

#### Approval and Promulgation of Air Quality Implementation Plan; Mashantucket Pequot Tribal Nation

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) approves the Mashantucket Pequot Tribal Nation’s (MPTN or the Tribe) Tribal Implementation Plan (TIP) under the Clean Air Act (CAA) to regulate air pollution within the exterior boundaries of the Tribe’s reservation. The TIP is one of two CAA regulatory programs that comprise the Tribe’s Clean Air Program (CAP). EPA approved the Tribe for treatment in the same manner as a State (Treatment as State or TAS) for purposes of administering New Source Review (NSR) and Title V operating permits under the CAA on July 10, 2008. In this action we act only on those portions of MPTN’s CAP that constitute a TIP containing severable elements of

an implementation plan under CAA section 110(a). The TIP includes permitting requirements for major and minor sources of air pollution. The purpose of the TIP is to enable the Tribe to attain and maintain the National Ambient Air Quality Standards (NAAQS) within the exterior boundaries of its reservation by establishing a federally enforceable preconstruction permitting program.

**DATES:** This rule is effective on April 2, 2021.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2020-0374. 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, *i.e.*, 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays and facility closures due to COVID-19.

**FOR FURTHER INFORMATION CONTACT:** Patrick Bird, Air Permits, Toxics and Indoor Programs Branch, U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Mail Code: 05-2, Boston, MA 02109-0287. Telephone: 617-918-1287. Fax: 617-918-0287. Email: [Bird.Patrick@epa.gov](mailto:Bird.Patrick@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

## Table of Contents

- I. Background and Purpose
- II. Response to Comments
- III. Final Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### I. Background and Purpose

On September 9, 2020 (85 FR 55628), EPA published a Notice of Proposed Rulemaking (NPRM) for a TIP submitted by the MPTN for approval under section 110 of the CAA. The TIP addresses attainment and maintenance of the

National Ambient Air Quality Standards (NAAQS) by establishing a federally enforceable preconstruction permitting program within the exterior boundaries of the Tribe's reservation. It also allows for sources that otherwise would have the potential to emit hazardous air pollutants or regulated NSR pollutants in amounts at or above those for major sources to request federally enforceable permit limitations that restrict emissions to below those of a major source.

The MPTN is an Indian Tribe federally recognized in 1983 by Congressional legislation (Pub. L. 98-134, sec. 9, Oct. 1St, 1983 97 Stat 855, Title 25 U.S.C.A. 1751-1760). The Secretary of the Interior recognizes the “Mashantucket Pequot Tribe of Connecticut” (73 FR 18553, 18554, April 4, 2008). MPTN's CAP was established by Tribal Council Resolution in 2005 (TCR102600-01 of 02). On July 10, 2008, EPA determined that the Tribe is eligible for TAS for these purposes.

The MPTN formally submitted the applicable elements of its TIP to EPA Region 1 on December 7, 2018. Having found that the MPTN is eligible for TAS to implement these regulatory programs, EPA is now approving the Tribe's TIP. We intend to act on the Tribe's title V operating permit program in separate notice and comment processes, as appropriate.

The rationale for EPA's proposed approval of the MPTN TIP is explained in the NPRM and will not be restated here. No adverse public comments were received on the NPRM.

### II. Response to Comments

EPA received three comments during the comment period, all of which supported EPA's proposed action. As such, these comments do not require further response to finalize the action as proposed.

### III. Final Action

EPA is approving the MPTN's TIP under the Clean Air Act to regulate air pollution within the exterior boundaries of the Tribe's reservation. In this action we act only on those portions of MPTN's CAP that constitute a TIP containing severable elements of an implementation plan under CAA section 110(a). The TIP includes permitting requirements for major and minor sources of air pollution. Specifically, we are approving the following sections of the MPTN's air quality regulations. Title 12, Subtitle 12.1, § 2—Applicability (with effective date); Title 12, Subtitle 12.1, § 4—

Definitions; and Title 12, Subtitle 12.2—New Source Review—MPTN TIP.

### IV. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the MPTN rules discussed in section I. and III. of this preamble. EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a TIP 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 TIP submissions, EPA's role is to approve tribal choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this final action merely approves tribal law as meeting Federal requirements and does not impose additional requirements beyond those imposed by tribal 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);
- 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);
- 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 Clean Air Act; 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).

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. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties, 5 U.S.C. 804(3). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 3, 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 may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 49**

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Indians, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: February 10, 2021.

**Deborah Szaro,**

*Acting Regional Administrator, EPA Region 1.*

Part 49 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT**

■ 1. The authority citation for part 49 continues to read as follows:

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

**Subpart D—Implementation Plans for Tribes—Region 1**

■ 2. Subpart D of Part 49 is amended by adding an undesignated center heading and § 49.202, after § 49.201, to read as follows:

**Implementation Plan for the Mashantucket Pequot Tribal Nation.**

**§ 49.202 Identification of Plan**

(a) *Purpose and scope.* This section contains the implementation plan for

the Mashantucket Pequot Tribal Nation. This plan consists of permitting requirements for major and minor sources of air pollution submitted by the Tribe on December 7, 2018, applicable to lands within the exterior boundaries of the Mashantucket Pequot Tribal Nation’s reservation.

(b) *Incorporation by reference.* (1) Material listed in paragraph (c) of this section was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraph (c) of this section with EPA approval dates after January 6, 2021, will be incorporated by reference in the next update to the TIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the TIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated tribal rules/regulations which have been approved as part of the Tribal Implementation Plan as of January 6, 2021.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region 1 Office, 5 Post Office Square, Suite 100, Boston, MA 02109–3912 and at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

(c) *EPA-approved regulations.*

TABLE 1 TO PARAGRAPH (c)—EPA-APPROVED MASHANTUCKET PEQUOT TRIBAL NATION REGULATIONS

Tribal citation	Title/subject	Tribal effective date	EPA approval date	Explanations
Resolution Number TCR101118–04 of 06 of the Mashantucket Pequot Tribe.	RESOLUTION NUMBER TCR101118–04 of 06 OF THE MASHANTUCKET PEQUOT TRIBAL COUNCIL, THE GOVERNING BODY OF THE MASHANTUCKET PEQUOT TRIBE, Approves the MPTN Air Quality Program, Submission of the Tribal Implementation Plan and Requests Delegation of the Title V Program.	10/11/2018	3/3/2021 [Insert <b>Federal Register</b> citation].	
MPTN Land Use Regulations, Title 12 Air Quality Regulations.	MPTN Land Use Regulations, Title 12 Air Quality Regulations.	10/11/2018	3/3/2021[Insert <b>Federal Register</b> citation].	MPTN only submitted, and EPA only approved, applicable TIP References: Subtitle 12.1, § 2 “Applicability” and § 4 “Definitions”; and Subtitle 12.2 “New Source Review—MPTN TIP.”

[FR Doc. 2021-03124 Filed 3-2-21; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52**

[EPA-R09-OAR-2020-0534; FRL-10020-36-Region 9]

**Approval and Promulgation of Air Quality State Implementation Plans; California; Plumas County; Moderate Area Plan for the 2012 PM<sub>2.5</sub> NAAQS****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a state implementation plan (SIP) revision submitted by the State of California to address Clean Air Act (CAA or “Act”) requirements for the 2012 annual fine particulate matter (PM<sub>2.5</sub>) national ambient air quality standard (NAAQS or “standard”) in the Plumas County Moderate PM<sub>2.5</sub> nonattainment area (“Portola nonattainment area”). The submitted SIP revision is the State’s “Proposed Portola PM<sub>2.5</sub> Plan Contingency Measure SIP Submittal” (“PM<sub>2.5</sub> Plan Revision”), which includes a revised City of Portola ordinance regulating PM<sub>2.5</sub> emission sources and the State’s demonstration that this submission meets the Moderate area contingency measure requirement for the 2012 annual PM<sub>2.5</sub> NAAQS in the Portola nonattainment area. The EPA is also taking final action to approve the contingency measure element of the Moderate area attainment plan for the Portola nonattainment area, as revised and supplemented by the PM<sub>2.5</sub> Plan Revision.

**DATES:** This rule is effective on April 2, 2021.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R09-OAR-2020-0534. 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. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** John Ungvarsky, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105, (415) 972-3963 or [ungvarsky.john@epa.gov](mailto:ungvarsky.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us,” and “our” refer to the EPA.

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**I. Background**

On January 15, 2013, the EPA strengthened the primary annual NAAQS for particulate matter with a diameter of 2.5 microns or less by lowering the level from 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) to 12.0 µg/m<sup>3</sup> (“2012 PM<sub>2.5</sub> NAAQS”).<sup>1</sup> The EPA established this standard after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to PM<sub>2.5</sub> concentrations above these levels.

Epidemiological studies have shown statistically significant correlations between elevated levels of PM<sub>2.5</sub> (particulate matter with a diameter of 2.5 microns or less) and premature mortality. Other important health effects associated with PM<sub>2.5</sub> exposure include aggravation of respiratory and cardiovascular disease, changes in lung function, and increased respiratory symptoms. Individuals particularly sensitive to PM<sub>2.5</sub> exposure include older adults, people with heart and lung disease, and children.<sup>2</sup> PM<sub>2.5</sub> can be emitted directly into the atmosphere as a solid or liquid particle (“primary PM<sub>2.5</sub>” or “direct PM<sub>2.5</sub>”) or can be formed in the atmosphere as a result of various chemical reactions among precursor pollutants such as nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (“secondary PM<sub>2.5</sub>”).<sup>3</sup>

<sup>1</sup> 78 FR 3086 and 40 CFR 50.18. Unless otherwise noted, all references to the PM<sub>2.5</sub> NAAQS in this notice are to the 2012 annual NAAQS of 12.0 µg/m<sup>3</sup> codified at 40 CFR 50.18.

<sup>2</sup> 78 FR 3086, 3088 (January 15, 2013).

<sup>3</sup> EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P-99/002aF and EPA/600/P-99/002bF, October 2004.

Following promulgation of a new or revised NAAQS, the EPA is required by CAA section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. The EPA designated and classified the Portola nonattainment area as “Moderate” nonattainment for the 2012 annual PM<sub>2.5</sub> standards based on ambient monitoring data that showed the area was above 12.0 µg/m<sup>3</sup> for the 2011–2013 monitoring period.<sup>4</sup> For the 2011–2013 period, the annual PM<sub>2.5</sub> design value for the Portola nonattainment area was 12.8 µg/m<sup>3</sup> based on monitored readings at the 161 Nevada Street and 420 Gulling Street monitors.<sup>5</sup>

The Portola nonattainment area includes the City of Portola (“Portola”), which has a population of approximately 2,100 and is located at an elevation of 4,890 feet in an intermountain basin isolated by rugged mountains. For a precise description of the geographic boundaries of the Portola nonattainment area, see 40 CFR 81.305.

The local air district with primary responsibility for developing a plan to attain the 2012 annual PM<sub>2.5</sub> NAAQS in this area is the Northern Sierra Air Quality Management District (NSAQMD or “District”). The District worked with the California Air Resources Board (CARB) in preparing the PM<sub>2.5</sub> Plan Revision. Under state law, authority for regulating sources under state jurisdiction in the Portola nonattainment area is split between the District, which has responsibility for regulating stationary and most area sources, and CARB, which has responsibility for regulating most mobile sources.

On February 28, 2017, California submitted the “Portola Fine Particulate Matter (PM<sub>2.5</sub>) Attainment Plan” (“Portola PM<sub>2.5</sub> Plan”) to address the CAA’s Moderate area requirements for the 2012 annual PM<sub>2.5</sub> NAAQS in the Portola nonattainment area. On March 25, 2019, the EPA fully approved the Portola PM<sub>2.5</sub> Plan, except for the contingency measure element.<sup>6</sup> As part of the attainment control strategy, the Portola PM<sub>2.5</sub> Plan relies on “Ordinance No. 344: An Ordinance of the City of Portola, County of Plumas Amending Chapter 15.10 of the City of Portola Municipal Code Providing for Regulation of Wood Stoves and Fireplaces” (“City Ordinance No. 344”) to achieve direct PM<sub>2.5</sub> emission reductions necessary for attainment by

<sup>4</sup> 80 FR 2206 (January 15, 2015).

<sup>5</sup> From 2000 through early 2013, the Portola PM<sub>2.5</sub> monitoring site was located at 161 Nevada Street. In 2013, the site was relocated to 420 Gulling Street.

<sup>6</sup> 84 FR 11208.