

604 Postage Payment Methods and Refunds

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9.0 Exchanges and Refunds

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9.2 Postage and Fee Refunds

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9.2.1 General Standards

A refund for postage and fees may be made:

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[Revise the text of item e to read as follows:]

e. Under 9.5 for Priority Mail Express postage and Sunday/holiday premium fee refunds.

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9.2.5 Applying for Refund

A customer may apply for refunds under 9.2, as follows:

[Revise the first sentence of item a to read as follows:]

a. *Online (preferred) at* www.USPS.com/help: For domestic, Priority Mail Express (postage, Sunday/holiday premium fee), and for Certified Mail, Return Receipt (hardcopy and electronic), Signature Confirmation, and USPS Tracking (USPS Marketing Mail only), extra services only. * * *

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9.5 Priority Mail Express Postage and Fees Refunds**9.5.1 Priority Mail Express 1-Day and 2-Day Delivery**

[Revise the text of 9.5.1 to read as follows:]

For Priority Mail Express 1-Day and 2-Day Delivery, the USPS refunds the postage and Sunday or holiday premium fee for an item not delivered, for an item for which delivery was not attempted, or if the item was not made available for claim by the delivery date and time specified at the time of mailing, subject to the standards for this service, unless the delay was caused by one of the situations in 9.5.5.

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700 Special Standards**703 Nonprofit USPS Marketing Mail and Other Unique Eligibility**

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2.0 Overseas Military and Diplomatic Post Office Mail

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2.6 Priority Mail Express Military Service (PMEMS)

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2.6.5 To APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed to APO/FPO and DPO destinations (from the United States) are available for delivery at the destination APO/FPO or DPO Post Office by 6:00 p.m. on the designated delivery day.

2.6.6 From APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed from APO/FPO and DPO locations (going to the United States) are delivered to an addressee within the delivery area of the destination Post Office by 6:00 p.m. on the designated delivery day.

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Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2021-06648 Filed 3-29-21; 4:15 pm]

BILLING CODE P**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2020-0198; FRL-10022-11-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 Wheeling, WV-OH Area Comprising Marshall and Ohio 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 (WV). This revision pertains to West Virginia's plan for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the West Virginia portion of the Wheeling, WV-OH area (Wheeling Area) comprising Marshall and Ohio 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 April 30, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID

Number EPA-R03-OAR-2020-0198. 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.

SUPPLEMENTARY INFORMATION:**I. Background**

On June 29, 2020 (85 FR 38831), 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 ozone NAAQS through June 14, 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 15, 2007 (72 FR 27247, effective June 14, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Wheeling 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* (South Coast II),¹ the D.C. Circuit held that this requirement cannot be waived for areas, like the Wheeling Area, that had been redesignated to attainment for the 1997 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

¹ 882 F.3d 1138 (D.C. Cir. 2018).

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.² WVDEP's December 10, 2019 SIP submittal fulfills West 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's guidance,³ 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 values⁴ are 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 Wheeling, WV-OH Area comprising Marshall and Ohio Counties as a revision to the West Virginia SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 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 four comments on the June 29, 2020 NPRM. 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 alleges that the plan should not be approved due to the allowance of future expansion of Interstate 70 (I-70) within Ohio County in West Virginia and Belmont County in Ohio from a West Virginia "transportation conformity plan." The commenter takes issue that the "transportation conformity plan" will allow more vehicles to use the highway, hence increasing the vehicle miles traveled (VMT) and the mobile source emissions. The commenter claims that "EPA should require WV to compensate" for the increase in VMT arising from the future expansion project and suggests that this could be evaluated by utilizing "actual VMT data collected on I-70" in the motor vehicle emission simulator (MOVES) modeling and the modeling "will show an increase in mobile source emissions in the area beyond that shown in WV's plan."

Response 1: EPA does not agree with the commenter that the plan should not be approved for the reasons given in the comment. The commenter did not identify a specific project that would expand the I-70 as it exists today. In an effort to identify the project that the commenter referred to, we reviewed West Virginia's current statewide transportation improvement program (STIP) and the current long-range transportation plan for the West Virginia portion of the Wheeling metropolitan area which includes Marshall and Ohio Counties. We could not identify any I-70 expansion projects in the STIP.⁵ We did identify several bridge rehabilitation projects on I-70, but these would not constitute highway expansion projects and would not result in increased vehicle miles traveled. We did identify one highway expansion project in the area's long-range transportation plan.⁶ That project would upgrade I-70 to six lanes from Elm Grove/Triadelphia interchange to Cabela Drive in Ohio County. Construction is not slated to begin until 2036. The opening date for the project is not stated in the long-range plan. Belomar, the metropolitan planning organization for the area, will have to consider the potential impacts of this project on air quality in the area when it makes transportation conformity determinations for the 1997 ozone NAAQS. However, with respect

to the commenter's request that compensating emissions reductions be obtained for any emissions increases that this project may eventually cause, there is no mechanism under the CAA that requires such compensating emissions reductions as part of a maintenance plan. In order to approve the second maintenance plan for the area, the plan must demonstrate that the area will be able to remain in attainment of the 1997 ozone NAAQS through 2027. We have reviewed the second maintenance plan and for the reasons stated in this final rule and in the proposal, we have concluded that the second maintenance plan is approvable. 85 FR 38831 (June 29, 2020).

Comment 2: The commenter claims that the second maintenance plan should be rejected because "EPA has not evaluated the loss in emission reductions" due to certain policy positions taken by the Trump administration related to "... the CAFE⁷ standards, biofuel blending requirements and removing States' and California's ability to set standards." The commenter asserts that West Virginia failed to use "reduced emission standards" in the mobile source evaluation. The commenter contends that West Virginia "uses assumptions that are against EPA's stated policy under the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Pollutants (NESHAP)" and therefore, the plan should be rejected. Further, the commenter takes issue that "Recently EPA has announced protections under the mercury and air toxic standards (MATS) rule and the Boiler maximum achievable control technology (MACT) rule," and due to the removal of these programs, "EPA should require states to use those planning assumptions and account for any lost emissions reductions achieved by those programs."

Response 2: It is unclear from the comment how or why the commenter believes the particular policies cited are relevant to this action. For example, biofuel blending requirements are not relevant to ozone reductions, and neither West Virginia nor Ohio has adopted California's light duty vehicle emission standards, and therefore, neither state is impacted by the withdrawal of California's waiver for its zero emission vehicle sales mandate and its greenhouse gas emissions standards.⁸ The change to the National Highway

² "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

³ 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 PM₁₀ Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

⁴ 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.

⁵ <https://transportation.wv.gov/highways/programming/STIP/Pages/default.aspx>.

⁶ <https://www.belomar.org/wordpress/wp-content/uploads/2016/07/bomts-lrp-2040-final-document.pdf>.

⁷ Corporate Average Fuel Economy (CAFE).

⁸ See 84 FR 51310, September 27, 2019. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program.

Traffic Safety Administration's (NHTSA) corporate average fuel economy rules and EPA's greenhouse gas emissions standards did not affect EPA's Tier 3 vehicle and fuel regulation.⁹ Therefore, new vehicles continue to be required to be certified to the Tier 3 emissions standards for nitrogen oxides (NO_x) and volatile organic compounds (VOCs). Neither of the Safer Affordable Fuel-Efficient (SAFE) rulemakings affected emissions from the existing vehicle fleet. For the reasons stated in the NPRM, we disagree with alleged deficiencies in evaluating mobile sources.

We also do not agree with the commenter's contentions about West Virginia using "assumptions that are against EPA's stated policy under NSPS and NESHAP," or that EPA should require West Virginia to address the removal of protections the commenter alleges EPA has made under the MATS and Boiler MACT rules. The commenter does not identify how any NSPS or NESHAP "policies" impact this action, or which policies, NESHAPs or NSPS the commenter believes are relevant to this action. With respect to MATS and the Boiler MACT, the commenter incorrectly assumes that protections under those rules have been "removed." In a 2020 rulemaking, EPA found that it was not "appropriate and necessary" to regulate hazardous air pollutants (HAP) emissions from coal- and oil-fired Electrical Generating Units (EGUs), thereby reversing the Agency's previous conclusion under CAA section 112(n)(1)(A). 85 FR 31286 (May 22, 2020). This action did not, however, remove the EGUs covered by MATS from regulation. EPA explicitly stated that coal- and oil-fired EGUs would remain on the CAA section 112(c)(1) source category list, and that the CAA section 112(d) standards for those EGUs, as promulgated in the MATS rule, would be unaffected by its reversal of the "appropriate and necessary" finding because EPA had not met the statutorily required CAA section 112(c)(9) delisting criteria to remove these units from regulation. 85 FR at 31286 (May 22, 2020).¹⁰ The commenter is therefore incorrect that there has been any "removal of protections" with respect to the emission limits required under the

MATS rule. Similarly, although EPA has proposed certain changes to the Boiler MACT in response to a court decision,¹¹ those proposed changes have not been finalized to date. Therefore, the environmental protections of neither the MATS rule nor the Boiler MACT rule have been removed or decreased. EPA therefore disagrees with the commenter that this plan should be disapproved because of WVDEP's failure to address, in a plan designed to maintain an ozone standard, the CAA programs and policies referenced by the commenter.

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 the 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, but the commenter ignores that EPA's primary basis for finding that West Virginia has provided for maintenance of the 1997 ozone NAAQS in the Wheeling Area is the State's demonstration that the criteria for a limited maintenance plan has been met. See 85 FR 38831, 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 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 above, West Virginia primarily met the requirement to demonstrate maintenance of the NAAQS by showing that they met the criteria for a limited maintenance plan, 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 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

⁹ See 85 FR 24174, April 30, 2020. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks.

¹⁰ We note also that the 2020 rulemaking has been challenged in the Court of Appeals for the District of Columbia and has also been identified by President Biden's January 20, 2021 Executive Order as an action that EPA should propose to review, revise, or rescind by August 2021.

¹¹ 85 FR 52198 (August 24, 2020).

is stringency. Taking the Wheeling Area's most recent certified design value as of the proposal (*i.e.*, for the years 2016–2018), the area's design value was 0.066 parts per million (ppm). What we can discern from this is that the area is meeting the 1997 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 Wheeling Area's design value is projected to be 0.067 ppm,¹² 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.¹³ 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 TSD runs cited by the commenter have been at issue in various legal challenges to EPA actions, including the *Wisconsin v. EPA* case. 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 181.¹⁴ 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.¹⁵ We therefore think reliance on the interstate transport air quality modeling TSD as supplemental support for showing that the Wheeling Area will maintain the 1997 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 CSAP and CSAP Update and CSAP 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 NO_x and sulfur dioxide (SO₂). 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 ozone NAAQS limited maintenance plan for the Wheeling, WV-OH area comprising Marshall and Ohio 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);
- 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 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).

¹² The June 29, 2020 NPRM for this action recited 0.060 ppm as the Projected 2023 design value in Table 2—Wheeling Area 8-hour Ozone Design Value in Part Per Million. Through this final action we clarify that the correct Projected 2023 design value that was included in the State's submission, is 0.067 ppm. The inclusion of the slightly higher but incorrect figure in the NPRM is a harmless error that does not alter EPA's approval of this LMP.

¹³ *Wisconsin*, 938 F.3d 303 (D.C. Cir. 2019).

¹⁴ *Wisconsin*, 938 F.3d at 313.

¹⁵ *Wisconsin*, 938 F.3d at 323–331.

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 June 1, 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 Wheeling, WV-OH area comprising Marshall and Ohio 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: March 25, 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 an entry for “1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV–OH Area Comprising Marshall and Ohio 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 Wheeling, WV-OH Area Comprising Marshall and Ohio Counties.	Wheeling WV-OH, West Virginia Area Comprising Marshall and Ohio Counties.	12/10/19	3/31/21, [insert Federal Register citation].	

[FR Doc. 2021–06523 Filed 3–30–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210325–0069]

RIN 0648–BK45

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Final rule; delay of effective date.

SUMMARY: We, the NMFS, are delaying the effective date of a final rule that published on December 20, 2019.

DATES: As of March 31, 2021, the effective date of the rule amending 50 CFR part 223 that published at 84 FR 70048 on December 20, 2019, is delayed until August 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Lee, NMFS Southeast Regional Office, telephone: 727–824–5312, or email: jennifer.lee@noaa.gov.

SUPPLEMENTARY INFORMATION: On December 20, 2019, we published a final rule to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea turtles in their nets, and that rule had an effective date of April 1, 2021 (84 FR 70048). The final rule amends regulations at 50 CFR part 223 under the authority of the Endangered Species Act. The purpose of the final rule is to reduce incidental

bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. The rule also amends the definition of tow time to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and it refines additional portions of the TED requirements to avoid potential confusion. We delayed the effectiveness of the final rule until April 1, 2021, to allow for the manufacture of the necessary number of TEDs and for fishers, particularly lower income fishers, to prepare financially for the regulation.

We typically conduct outreach on changes to TED regulations through in-person industry workshops and trade shows, dockside and net shop visits, and enforcement trainings. In our final rule we stated that we would be scheduling and announcing future TED training workshops. We also distributed a Fishery Bulletin to industry