

appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

List of Subjects in 40 CFR Part 52

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

Dated: September 8, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

[FR Doc. 2021-19818 Filed 9-14-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R10-OAR-2020-0305; FRL-8878-01-R10]

Air Plan Approval; ID; West Silver Valley Redesignation to Attainment for the 2012 Annual PM_{2.5} Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the West Silver Valley, Idaho nonattainment area to attainment for the 2012 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS). EPA is also proposing to approve a maintenance plan for the area demonstrating continued compliance with the NAAQS through 2031, which the Idaho Department of Environmental Quality (IDEQ) submitted along with the redesignation request on June 2, 2020, for inclusion into the Idaho State Implementation Plan (SIP). Additionally, EPA is proposing to approve the 2031 motor vehicle emissions budgets included in Idaho's maintenance plan for PM_{2.5}, nitrogen oxides (NO_x) and volatile organic compounds (VOCs). EPA is proposing this action pursuant to the Clean Air Act (CAA or the Act).

DATES: Comments must be received on or before October 15, 2021.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R10-OAR-2020-0305, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received

to its public docket. Do not electronically submit any information you consider to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Claudia Vaupel, (206) 553-6121, vauepl.claudia@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever “we,” “us,” or “our” is used, it is intended to refer to EPA.

Table of Contents

- I. Background
- II. Requirements for Redesignation to Attainment
- III. EPA's Analysis of Idaho's Submittal
 - A. Attainment Determination
 - B. Applicable Requirements Under Section 110 and Part D of the CAA
 - 1. CAA Section 110 General SIP Requirements
 - 2. Part D of Title I Requirements
 - C. Improvement in Air Quality Due to Permanent and Enforceable Measures
 - D. Fully Approved Maintenance Plan
 - 1. Attainment Inventory
 - 2. Maintenance Demonstration
 - 3. Monitoring Network
 - 4. Verification of Continued Attainment
 - 5. Contingency Plan
 - E. Requirements for Transportation Conformity and Motor Vehicle Emissions Budgets (MVEBs)
- IV. Proposed Action
- V. Statutory and Executive Order Reviews

I. Background

On December 14, 2012, EPA promulgated a revised primary annual PM_{2.5} NAAQS to provide increased protection of public health from fine particle pollution. 78 FR 3086 (January 15, 2013). In that action, EPA strengthened the primary annual PM_{2.5} standard from 15.0 micrograms per cubic meter (mg/m³) to 12.0 mg/m³, which is attained when the 3-year average of the annual arithmetic means does not exceed 12.0 mg/m³. On December 18, 2014, EPA promulgated

initial designations for the 2012 primary PM_{2.5} NAAQS based on 2011–2013 air quality monitoring data for the majority of the United States. 80 FR 2206 (January 15, 2015). In that action, EPA designated the West Silver Valley in Shoshone County, Idaho as a moderate nonattainment area for the 2012 annual PM_{2.5} NAAQS. See 40 CFR 81.313.

On April 6, 2018, EPA published a “finding of failure to submit” required SIP elements for the 2012 annual PM_{2.5} NAAQS for several nonattainment areas nationwide, including the West Silver Valley in Idaho. See 83 FR 14759. In particular, Idaho failed to submit the following specific moderate area SIP elements for the West Silver Valley: An attainment demonstration; control strategies, including reasonably available control measures (RACM) and reasonably available control technologies (RACT); a reasonable further progress (RFP) plan; quantitative milestones; and contingency measures. This finding triggered the sanctions clock under section 179 of the CAA, as well as an obligation under section 110(c) of the CAA for EPA to promulgate a Federal Implementation Plan no later than 2 years from the effective date of the finding, if Idaho has not submitted, and EPA has not approved, the required SIP submission.

On December 21, 2018, EPA determined that the West Silver Valley attained the 2012 annual PM_{2.5} NAAQS based on 2015–2017 ambient air quality monitoring data and made a “clean data determination.” 83 FR 65535. A clean data determination suspends certain planning requirements for the area, including the requirement to submit an attainment demonstration and associated RACM, including RACT, an RFP plan, and contingency measures for failure to attain or meet RFP. These requirements are suspended as long as the area continues to meet the 2012 annual PM_{2.5} NAAQS. When the area is redesignated to attainment, the requirements are permanently discharged.

II. Requirements for Redesignation to Attainment

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA, 42 U.S.C. 7407(d)(3)(E), allows for redesignation provided that: (1) EPA determines that the area has attained the applicable NAAQS; (2) EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) EPA determines that the improvement in air quality is due to permanent and enforceable reductions

in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) EPA has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing such area has met all requirements applicable to the area under section 110 and part D of the CAA. In this proposed action, EPA will review CAA section 107(d)(3)(E) requirements (2) and (5) together as part of our evaluation of Idaho's redesignation request.

EPA has provided guidance on redesignation in the CAA "General Preamble,"¹ and has provided further guidance on processing redesignation requests in the following documents: (1) "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum); (2) "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and (3) "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to

Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994. These documents are included in the docket for this proposed action.

III. EPA's Analysis of Idaho's Submittal

EPA is proposing to redesignate the West Silver Valley to attainment for the 2012 annual PM_{2.5} NAAQS and to approve Idaho's related maintenance plan. EPA's proposed approval of the redesignation request and maintenance plan is based upon EPA's determination that the area continues to attain the 2012 annual PM_{2.5} NAAQS and that all other redesignation criteria have been met for the area. The following is a description of how Idaho's June 2, 2020, submission satisfies the requirements of section 107(d)(3)(E) of the CAA for the 2012 annual PM_{2.5} standard.

A. Attainment Determination

To redesignate an area from nonattainment to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2012 annual PM_{2.5} NAAQS if it meets the standard, as determined in accordance with 40 CFR 50.13 and appendix N of 40 CFR part 50. To attain the 2012 annual PM_{2.5} NAAQS, the 3-year average of the annual arithmetic mean concentration, as determined in

accordance with 40 CFR part 50, appendix N, must be less than or equal to 12.0 mg/m³ at all relevant monitoring sites in the subject area over a 3-year period. The relevant data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS) database.

There is one PM_{2.5} ambient air quality monitor in the West Silver Valley, located in Pinehurst, Idaho (AQS ID 160790017). As noted, EPA first determined that the West Silver Valley attained the 2012 annual PM_{2.5} NAAQS based on 2015–2017 ambient air quality monitoring data at this monitor on December 21, 2018. 83 FR 65535.

EPA has reviewed the certified, quality-controlled and quality-assured PM_{2.5} Pinehurst monitoring data for the 2018–2020 design value period and determined that the design value is 10.9 mg/m³, which is less than or equal to 12.0 mg/m³, and therefore the area continues to meet the 2012 annual PM_{2.5} NAAQS. On this basis, EPA is proposing to determine that the West Silver Valley is attaining the 2012 annual PM_{2.5} NAAQS. The monitoring data is summarized in Tables 1 and 2 is also available in the docket for this action available online at <https://www.regulations.gov>, Docket ID: EPA–R10–OAR–2020–0305.

TABLE 1—2015 TO 2020 PM_{2.5} ANNUAL MEANS IN THE WEST SILVER VALLEY IN IDAHO

Area/county	Monitor AQS ID	Annual means in µg/m ³					
		2015	2016	2017*	2018	2019	2020
Pinehurst/Shoshone	160790017	13.6	9.3	12.3	12.8	9.63	11.1

*EPA excluded five 24-hr PM_{2.5} values during September 2017 because those NAAQS exceedances were caused by a wildfire exceptional event. (See 83 FR 65535, December 21, 2018).

TABLE 2—2015 TO 2020 PM_{2.5} ANNUAL DESIGN VALUES IN THE WEST SILVER VALLEY IN IDAHO

Area/county	Monitor AQS ID	Annual design values in µg/m ³			
		2015–2017*	2016–2018*	2017–2019*	2018–2020
Pinehurst/Shoshone	160790017	11.7	11.2	11.3	10.9

*EPA excluded five 24-hr PM_{2.5} values during September 2017 because those NAAQS exceedances were caused by a wildfire exceptional event. (See 83 FR 65535, December 21, 2018).

B. Applicable Requirements Under Section 110 and Part D of the CAA

In accordance with section 107(d)(3)(E)(v) of the CAA, Idaho must meet all the requirements applicable to the West Silver Valley under section 110 of the CAA (general SIP requirements) and part D of title I of the CAA (SIP requirements for

nonattainment areas). Under section 107(d)(3)(E)(ii) of the CAA, Idaho's SIP revisions for the 2012 annual PM_{2.5} NAAQS for the West Silver Valley must be fully approved under section 110(k) of the CAA. Section 110(k) of the CAA sets out the requirements for EPA's actions on SIP revision submittals.

The September 4, 1992 Calcagni memorandum describes EPA's interpretation of section 107(d)(3)(E) with respect to the timing of applicable requirements. Under this interpretation, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant CAA requirements that come due prior to the

¹ See "State Implementation Plans; General Preamble for the Implementation of Title I of the

Clean Air Act Amendments of 1990," 57 FR 13498, April 16, 1992.

submittal of a complete redesignation request. *See also* Shapiro memorandum, September 17, 1993,² and 60 FR 12459, 12465–12466, (March 7, 1995) (redesignation of Detroit-Ann Arbor). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved but are not required as a prerequisite to redesignation. *See* CAA section 175A(c). *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25418, 25424 and 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

In the case of the West Silver Valley, the base year emissions inventory was due prior to Idaho's submittal of the complete redesignation request for the area. Therefore, the base year inventory is an applicable requirement. The attainment plan, including RACM/RACT, and contingency measures for failure to attain or meet RFP, were also due prior to Idaho's submittal of complete redesignation requests for the West Silver Valley. However, as described in detail later in this notice of proposed rulemaking (NPRM), the clean data determination suspended these requirements for as long as the West Silver Valley continues to meet the 2012 annual PM_{2.5} NAAQS. When the area is redesignated to attainment, these requirements are permanently discharged.

1. CAA Section 110 General SIP Requirements

Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. The general SIP elements and requirements set forth in section 110(a)(2) of the CAA include, but are not limited to the following: (1) Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; (2) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (3)

implementation of a minor source permit program; (4) provisions for the implementation of part C requirements (referred to as prevention of significant deterioration or PSD); (5) provisions for the implementation of part D requirements for nonattainment new source review (referred to as part D NNSR, NNSR, nonattainment NSR, or NSR) permit programs; (6) provisions for air pollution modeling; and (7) provisions for public and local agency participation in planning and emission control rule development.

CAA section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. However, CAA section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that these requirements are applicable for purposes of redesignation.

In addition, EPA believes that the other CAA section 110(a)(2) elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation because the area will still be subject to these requirements after it is redesignated. EPA concludes that the CAA section 110(a)(2) and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request, and that CAA section 110(a)(2) elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. This approach is consistent with EPA's existing policy on applicability of conformity (*i.e.*, for redesignations) and oxygenated fuels requirement. *See* Reading, Pennsylvania, proposed rulemaking and final rule (61 FR 53174, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rule (61 FR 20458, May 7, 1996); and Tampa, Florida, final rule (60 FR 62748, December 7, 1995). *See also*, the discussion on this issue in the Cincinnati, Ohio redesignation (65 FR at 37890, June 19, 2000), and in the Pittsburgh-Beaver Valley, Pennsylvania

redesignation (66 FR at 53099, October 19, 2001).

EPA has reviewed the Idaho SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for the purposes of redesignation. EPA has previously approved provisions of Idaho's SIP as demonstrating compliance with the CAA section 110(a)(2) requirements for the 2012 annual PM_{2.5} NAAQS (82 FR 57132, December 4, 2017 and 83 FR 48240, September 24, 2018). However, as noted above, the requirements of section 110(a)(2) are statewide requirements that are not linked to the PM_{2.5} nonattainment status of the West Silver Valley area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of this proposed redesignation.

Because PSD requirements will apply after redesignation, areas being redesignated must have an approved PSD program. Once the West Silver Valley is redesignated to attainment, Idaho's PSD program, and not NNSR, will become effective in the area. Idaho's PSD regulations are codified in the Idaho Administrative Procedures Act (IDAPA) at 58.01.01.200–228. We most recently approved revisions to Idaho's PSD program on August 20, 2018 (83 FR 42033), May 12, 2017 (82 FR 22083) and August 12, 2016 (81 FR 53290).

Areas seeking redesignation need not comply with the requirement that a NNSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this is described in the Nichols memorandum. Nevertheless, on August 20, 2018, EPA approved Idaho's SIP as meeting applicable NNSR requirements. (83 FR 42033). EPA has reviewed the Idaho SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation, namely a SIP-approved PSD program.

2. Part D of Title I Requirements

Part D of Title I of the CAA sets forth the basic nonattainment plan requirements applicable to all nonattainment areas at subpart 1 (CAA sections 172–176) and requirements specific to PM₁₀ and PM_{2.5} areas at subpart 4 (CAA section 189). On August 24, 2016, EPA promulgated the Fine Particulate Matter National Ambient Air Quality Standards; State Implementation Plan Requirements

² “State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,” Memorandum from Michael H. Shapiro, Acting Assistant Administrator, Air and Radiation, September 17, 1993.

rule.³ This rule implements the requirements of part D of title I of the CAA for areas designated nonattainment for any PM_{2.5} NAAQS.

EPA's longstanding interpretation of the nonattainment planning requirements of CAA section 172 is that once an area is attaining the NAAQS, those requirements are not "applicable" for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for Implementation of CAA title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. See 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for RFP and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements "have no meaning" for an area that has already attained the standard. *Id.* This interpretation was also set forth in the Calcagni memorandum. EPA's understanding of CAA section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to PM_{2.5} in 40 CFR 51.1015 and suspends a state's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9).⁴ Courts have upheld EPA's interpretation of CAA section 172(c)(1)'s "reasonably available" control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC v. EPA*, 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club v. EPA*, 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club v. EPA*, 314 F.3d 735, 744 (5th Cir. 2002).

As stated previously, EPA determined that the West Silver Valley has attained the 2012 annual PM_{2.5} NAAQS in a "clean data determination." 83 FR 65535, December 21, 2018. Furthermore, as shown in section III.A of this document, the West Silver Valley continues to attain the 2012 annual PM_{2.5} NAAQS. Therefore, because attainment has been reached in the West

Silver Valley, no additional measures are needed to provide for attainment, and CAA section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the West Silver Valley continues to attain the standard until redesignation.

The CAA section 172(c)(2) requirement that nonattainment plans contain provisions promoting reasonable further progress toward attainment is also not relevant for purposes of redesignation because EPA has determined that the West Silver Valley has monitored attainment of the 2012 annual PM_{2.5} NAAQS. In addition, because the West Silver Valley has attained the 2012 annual PM_{2.5} NAAQS and is no longer subject to RFP requirements, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. CAA section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. The requirement under CAA section 172(c)(3) was not suspended by EPA's clean data determination for the 2012 annual PM_{2.5} NAAQS and is the only remaining requirement under CAA section 172 to be considered for purposes of redesignation of the West Silver Valley. On September 29, 2017, Idaho submitted to EPA a 2013 base year emissions inventory for the West Silver Valley for the 2012 annual PM_{2.5} NAAQS. The 2013 base year inventory covers the general source categories of point sources, nonroad mobile sources, area sources, and onroad mobile sources and includes PM_{2.5} emissions and precursors, NO_x, sulfur dioxide (SO₂), VOCs, and ammonia (NH₃). EPA approved the 2013 base year inventory on September 11, 2018 (83 FR 45830).

CAA section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. As stated previously in this document, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NNSR program be approved prior

to redesignation, provided that the area demonstrates maintenance of the NAAQS without NNSR. A more detailed rationale for this view is described in the Nichols memorandum.

Nevertheless, EPA first approved the requirements of the part D NSR permit program for Idaho under subpart 1 on November 26, 2010 (75 FR 72719). Subsequently, on March 20, 2018, Idaho submitted rule revisions to meet additional part D NSR requirements promulgated by EPA under subpart 4 (81 FR 58010, August 24, 2016). We approved Idaho's submission on August 20, 2018 (83 FR 42033).

Once the West Silver Valley is redesignated to attainment, Idaho's PSD program, and not NNSR, will become effective in the area. Idaho's PSD regulations are codified in the Idaho Administrative Procedures Act (IDAPA) at 58.01.01.200–228 (permit to construct) and governed by IDAPA 58.01.01.205 (permit requirements for new major facilities or major modifications in attainment or unclassifiable areas). We most recently approved revisions to Idaho's PSD program on August 20, 2018 (83 FR 42033), May 12, 2017 (82 FR 22083) and August 12, 2016 (81 FR 53290). EPA finds that Idaho's PSD provisions meet all applicable Federal requirements for any area designated unclassifiable or attainment.

CAA section 172(c)(7) requires the SIP to meet the applicable provisions of CAA section 110(a)(2). As noted above, we find that the Idaho SIP meets the CAA section 110(a)(2) applicable requirements for purposes of redesignation.

Section 175A of the CAA requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area "for at least 10 years after the redesignation." In conjunction with its requests to redesignate the West Silver Valley to attainment, Idaho submitted a plan to provide for maintenance of the 2012 annual PM_{2.5} NAAQS in the West Silver Valley for at least 10 years after redesignation, through 2031. Idaho is requesting that EPA approve the submission as meeting the requirement of section 175A of the CAA. Once approved, the maintenance plan will ensure that the Idaho SIP meets the requirements of the CAA regarding maintenance of the 2012 annual PM_{2.5} NAAQS for the West Silver Valley. EPA's analysis of the maintenance plan is provided in section III.D of this document.

EPA concludes that Idaho has met the requirements of subpart 1 of part D relevant for redesignation. Specifically,

³ 81 FR 58010, August 24, 2016. Codified at 40 CFR part 51, subpart Z.

⁴ This regulation was promulgated as part of the 1997 PM_{2.5} NAAQS implementation rule that was subsequently challenged and remanded in *NRDC v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), as discussed in section III.B of this document. However, the Clean Data Policy portion of the implementation rule was not at issue in that case.

pursuant to section 110(k) of the CAA, EPA has approved Idaho's 2013 base year inventory for the West Silver Valley into the Idaho SIP.

C. Improvement in Air Quality Due to Permanent and Enforceable Measures

CAA section 107(d)(3)(E)(iii) of the CAA provides that for an area to be redesignated to attainment, the Administrator must determine that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan, implementation of applicable Federal air pollutant control regulations, and other permanent and enforceable reductions.

In making this demonstration for the West Silver Valley, Idaho explained that control measures for the area focused on residential wood combustion, onroad, and nonroad sources, which contributed to PM_{2.5} formation in the 2013 base year emissions inventory (2013 was one of the years used to designate the area as nonattainment). The 2017 attainment year emissions inventory recorded reductions in directly emitted PM_{2.5} and precursors for those categories (2017 is one of the years used to monitor attainment). Idaho states that the emissions reductions occurred because of permanent and enforceable federal reduction programs, public outreach, and financial incentives.

Residential Wood Heating

Idaho's residential wood combustion control measures for the West Silver Valley addressed smoke from heating devices, such as fireplaces and wood stoves. In comparing emissions between the 2013 base year inventory and the 2017 attainment year inventory for the West Silver Valley, Idaho showed a 63 percent decrease in PM_{2.5} emissions from residential wood combustion, from 55.38 tons per year (tpy) in the 2013 base year emissions inventory to 20.45 tpy in the 2017 attainment year emissions inventory. Idaho attributed these emission reductions primarily to Federal standards for wood heaters and to the West Silver Valley woodstove changeout program.

Idaho explained that EPA's 2015 Standards of Performance for New Residential Wood Heaters strengthened emissions limits for residential wood heaters, making devices significantly cleaner.⁵ The 2015 rule requires, among other things, that new residential wood

heaters be certified to meet the 2015 emission limits before they may be imported, sold, or distributed in the U.S. To accelerate the removal of uncertified wood stoves, Idaho incentivized wood stove replacements in the West Silver Valley through a wood stove changeout program. Participants in the changeout program replaced uncertified wood stoves with EPA-certified devices or gas appliances, and were required to surrender their uncertified wood stoves, making the emissions reductions permanent. Between 2013 and 2017, Idaho replaced 65 wood stoves in the West Silver Valley. Although Idaho's future year emissions projections assume residential wood combustion to be constant for years beyond 2017, Idaho anticipates additional emissions reductions as phase II of the Standards of Performance for New Residential Wood Heaters is implemented and as remaining funding for an additional 140 wood stove replacements in the West Silver Valley is distributed.

Mobile Sources

Idaho states that despite increasing vehicle populations and vehicle miles traveled, emissions from mobile sources in the West Silver Valley have decreased as a result of Federal motor vehicle regulations. In comparing the 2013 base year emissions inventory with the 2017 attainment year emissions, EPA found that onroad emissions decreased by 2.55 tpy and nonroad emissions decreased by 3.65 tpy.⁶

Idaho primarily attributes the reduction in onroad emissions to the Federal Tier 2 (65 FR 6698, February 10, 2000) and Tier 3 (79 FR 23414, April 28, 2014) vehicle emissions standards and gasoline sulfur control requirements, and to the Federal rule for heavy-duty engine and vehicle standards and highway diesel fuel sulfur control requirements (66 FR 5002, January 18, 2001). Idaho explained that the vehicle standards reduce tailpipe and evaporative emissions, reductions which increase as vehicle turnover increases over time, and that the gasoline sulfur standards make emissions control systems more effective for both existing and new vehicles.

Idaho identified several Federal rules that have been promulgated to address nonroad mobile emissions sources. On June 29, 2004, EPA adopted a comprehensive national program to reduce emissions from nonroad diesel

engines (69 FR 38958). The rule phased in tighter emissions limits for large nonroad diesel engines and requirements for reducing the sulfur content of nonroad diesel fuel.

Statewide SIP-Approved Rules

Idaho has several SIP-approved rules that apply statewide and complement the Federal control strategies in the West Silver Valley. For example, the following rules assist in the control of PM_{2.5} in the West Silver Valley: The rules for the control of open burning at IDAPA 58.01.01.600 through 624; the requirements to reasonably control fugitive dust at sections 650 through 652; the permitting of industrial sources (sections 200, 300 and 400), and the specific requirements for nonmetallic mineral processing plants at sections 795 through 799. Additionally, sections 550 through 562 provide authority to limit emissions during degraded air quality episodes.

Idaho also assessed the potential role that changing meteorological conditions might have played in improving air quality in the West Silver Valley. Idaho reviewed temperature and precipitation data as well as the frequency of wintertime stagnation events. Idaho concluded that it is unlikely that favorable meteorological conditions played a significant role in attaining the 2012 annual PM_{2.5} NAAQS.

Based on the evaluation of these control measures, EPA proposes to determine that the improvement in air quality is reasonably attributable to permanent and enforceable reductions in emissions resulting from implementation of the applicable Federal air pollutant control regulations, and other permanent and enforceable emissions reductions.

D. Fully Approved Maintenance Plan

In conjunction with Idaho's request to redesignate the West Silver Valley to attainment, Idaho submitted SIP revisions to provide for maintenance of the 2012 annual PM_{2.5} NAAQS through 2031. EPA is proposing to approve Idaho's maintenance plan for the West Silver Valley. If this proposed action is finalized, the West Silver Valley will have an approved maintenance plan.

CAA section 107(d)(3)(E)(iv) requires that, for a nonattainment area to be redesignated to attainment, EPA must fully approve a maintenance plan which meets the requirements of CAA section 175A. The plan must demonstrate continued attainment of the relevant NAAQS in the area for at least 10 years after our approval of the redesignation. Eight years after our approval of a redesignation, the State must submit a

⁵ EPA promulgated standards for residential wood heaters on February 26, 1988 (53 FR 5860). On March 16, 2015, EPA revised the rule (80 FR 13672). EPA recently revised the rule on April 2, 2020 (85 FR 18448).

⁶ The 2013 base year EI onroad emissions were 17.30 tpy and nonroad emissions were 14.7 tpy (see 83 FR 21976, May 11, 2018).

revised maintenance plan demonstrating attainment for the 10 years following the initial 10-year period. The maintenance plan must also contain a contingency plan to ensure prompt correction of any violation of the NAAQS. The Calcagni Memo provides additional guidance on the content of a maintenance plan, stating that a maintenance plan should include the following elements: (1) An attainment emissions inventory; (2) a maintenance demonstration showing attainment for 10 years following redesignation; (3) a commitment to maintain the existing monitoring network; (4) verification of continued attainment; and (5) a contingency plan

to prevent or correct future violations of the NAAQS. The following paragraphs describe how each of these elements is addressed in Idaho's maintenance plan.

1. Attainment Inventory

As discussed in the CAA General Preamble (*see* 57 FR 13498, April 16, 1992) and the Calcagni Memo, PM_{2.5} maintenance plans should include an attainment emission inventory to identify the level of emissions in the area which is sufficient to maintain the NAAQS. The attainment inventory should be consistent with EPA's most recent guidance on emission inventories for nonattainment areas available at the time and should include the emissions

during the time period associated with the monitoring data showing attainment.

Idaho submitted a maintenance plan for the West Silver Valley that includes an attainment year inventory for the area for 2017, which is one of the years in the period during which the West Silver Valley first monitored attainment of the 2012 annual PM_{2.5} NAAQS (*see* section III.A of this document). The attainment year inventory includes emissions of PM_{2.5}, NO_x, SO₂, VOC, and NH₃. The 2017 attainment levels of emissions are summarized in Table 3, along with future year projected emissions for 2026 and 2031.

TABLE 3—WEST SILVER VALLEY MAINTENANCE PLAN EMISSIONS INVENTORIES

[In tons per year]

Source category	2017 attainment	2026 interim	2031 maintenance	Difference from 2026 and 2017	Difference from 2031 and 2017
PM_{2.5} (condensable and filterable)					
Point	0.642	0.742	0.742	0.10	0.10
Area	259.710	259.070	258.720	-0.64	-0.99
Onroad	14.700	8.760	9.250	-5.94	-5.45
Nonroad	3.590	1.780	1.590	-1.81	-2.00
Total	278.642	270.352	270.302	-8.29	-8.34
NO_x					
Point	1.610	6.430	9.200	4.82	7.59
Area	51.130	51.500	51.700	0.37	0.57
Onroad	484.160	324.140	338.400	-160.02	-145.76
Nonroad	62.080	29.910	27.260	-32.17	-34.82
Total	598.980	411.980	426.560	-187.00	-172.42
SO₂					
Point	0.080	0.110	0.130	0.03	0.05
Area	16.170	16.350	16.450	0.18	0.28
Onroad	0.700	0.760	0.900	0.06	0.20
Nonroad	0.100	0.080	0.090	-0.02	-0.01
Total	17.050	17.300	17.570	0.25	0.52
VOC					
Point	5.710	13.820	13.980	8.11	8.27
Area	3,307.970	3,350.320	3,373.840	42.35	65.87
Onroad	134.200	83.670	73.450	-50.53	-60.75
Nonroad	32.050	28.080	28.200	-3.97	-3.85
Total	3,479.930	3,475.890	3,489.470	-4.04	9.54
NH₃					
Point	0.020	0.160	0.250	0.14	0.23
Area	35.200	35.090	35.030	-0.11	-0.17
Onroad	4.430	4.490	5.300	0.06	0.87
Nonroad	0.110	0.110	0.110	0.00	0.00
Total	39.760	39.850	40.690	0.09	0.93

Based on our review of the emissions inventories Idaho provided in its submission, we propose to find that Idaho prepared an adequate attainment inventory for the West Silver Valley area.⁷

2. Maintenance Demonstration

CAA section 175A requires a state seeking redesignation to attainment to submit a SIP revision to provide for the maintenance of the NAAQS in the area “for at least 10 years after the redesignation.” A state can make this demonstration by either showing that future emissions of a pollutant or its precursors will not exceed the level of the attainment inventory, or by modeling to show that the future mix of sources and emissions rates will not cause a violation of the NAAQS.⁸ In its maintenance plan, Idaho demonstrates maintenance by showing that emissions projected over the maintenance period will not exceed emissions levels that were present when the area came into attainment of the 2012 annual PM_{2.5} NAAQS. In its maintenance demonstration for the West Silver Valley, Idaho projected emissions forward to 2026 and 2031, which satisfies the 10-year interval required in section 175A of the CAA. As discussed previously, Idaho selected 2017 as the attainment emissions inventory year for the West Silver Valley. The attainment inventory identifies the level of emissions that is sufficient to attain the 2012 annual PM_{2.5} NAAQS. Idaho has previously submitted a 2013 base year inventory, which EPA approved into the Idaho SIP on September 11, 2018 (83 FR 45830).

The emissions inventories in the West Silver Valley maintenance plan address four major source categories: Point, area, onroad mobile and nonroad mobile. Idaho estimated future year emissions inventories using the latest socioeconomic growth indicators and applying emissions reduction benefits from adopted control strategies when appropriate.

Idaho identified five minor point sources in the West Silver Valley and projected emissions to future years by using either their potential to emit as a conservative estimate of growth, the average annual growth of population, or assumed little or no expected growth based on data evidence or conversations with facility owners. Area sources in the West Silver Valley emissions inventory include residential wood combustion,

solvent use, agricultural production, fuel transport, combustion (residential, commercial, and industrial), unpaved road dust, industrial processes, outdoor burning, prescribed fire, and waste disposal, treatment and recovery processes. Idaho estimated future year emissions based on the average annual growth rate of the appropriate activity sector in the previous 5 years through to the final year of the maintenance plan, 2031. Idaho developed the mobile source inventory for Shoshone County using the latest version of EPA’s Motor Vehicle Emissions Simulator (MOVES) model at the time,⁹ MOVES2014b, and apportioned it to the West Silver Valley nonattainment area. Idaho used local inputs and applied growth rates to the 2017 vehicle miles travelled and vehicle populations to develop inputs for the 2026 and 2031 projections. Idaho calculated paved road dust emissions according to AP-42 guidance for Shoshone County and apportioned the emissions estimates to the West Silver Valley area. To estimate nonroad mobile source emissions, Idaho used the nonroad component of the MOVES model and used the model defaults, except for meteorological data.

EPA has reviewed the documentation provided by Idaho for developing the 2026 and 2031 emissions inventories for the West Silver Valley and finds that Idaho prepared them in accordance with EPA requirements. These inventories indicate a decrease in emissions of PM_{2.5} (38.34 tpy or 3%) and NO_x (172.42 tpy or 28.79%) throughout the maintenance period, between 2017 and 2031. Although there are slight increases in emissions of SO₂ (0.52 tpy or 3.05%), VOC (9.54 tpy or 0.28%) and NH₃ (0.93 tpy or 2.34%) between 2017 and 2031, which Idaho attributes to population growth, Idaho demonstrated that this increase will not prevent maintenance of the NAAQS through 2031.

3. Monitoring Network

In the maintenance plan, Idaho committed to continue to operate the air monitoring network in accordance with

⁹ MOVES 2014b was the latest model version when Idaho submitted the West Silver Valley redesignation request and maintenance plan to EPA on June 2, 2020. Since that time, EPA published model version MOVES3 on January 7, 2021, making it the latest version of the MOVES model as of this publication. 86 FR 1106. As explained in the notice of availability for MOVES3, state and local agencies should use the latest version of MOVES that is available at the time that a SIP is developed. However, state and local agencies that have already completed significant work on a SIP with a version of MOVES2014 may continue to rely on the earlier version of MOVES. Because Idaho submitted the SIP to EPA before MOVES3 was released, it was appropriate for Idaho to have used MOVES2014b.

40 CFR part 58. Idaho stated that it will work with EPA each year through the air monitoring network review process to determine the adequacy of the monitoring network, if additional monitoring is needed, and if or when the site can be discontinued or relocated.¹⁰ EPA proposes to determine that the maintenance plan contains adequate provisions for continued operation of an air quality monitoring network to verify maintenance of the 2012 annual PM_{2.5} NAAQS.

4. Verification of Continued Attainment

Idaho remains obligated to continue to quality-assure monitoring data and enter all data into AQS in accordance with Federal guidelines. Idaho will use air monitoring results to verify continued attainment of the 2012 annual PM_{2.5} NAAQS and to track progress of the maintenance plan. Idaho is also required to periodically update the emissions inventory for Shoshone County in accordance with the Annual Air Emissions Reporting Requirements Rule (AERR). This includes developing annual inventories for major point sources and a comprehensive periodic inventory covering all source categories every 3 years.

5. Contingency Plan

CAA section 175A(d) requires that a maintenance plan also include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area to attainment. For the purposes of CAA section 175A, a state is not required to have fully adopted contingency measures that will take effect without further action by the state in order for the maintenance plan to be approved. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted promptly once they are triggered. The maintenance plan should discuss the measures to be adopted and a schedule and procedure for adoption and implementation. The contingency plan must require that the state will implement all measures contained in the Part D nonattainment plan for the area prior to redesignation. The state should also identify the specific indicators, or triggers, which will be used to determine when the contingency plan will be implemented.

The West Silver Valley maintenance plan identifies actions Idaho will promptly take to prevent or correct a violation of the 2012 annual PM_{2.5}

¹⁰ See EPA’s November 9, 2020 approval of Idaho’s 2020 Annual Monitoring Network Plan, included in the docket for this action.

⁷ “Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations,” May 2017.

⁸ See Calcagni Memo, pages 9–10.

NAAQS. If the annual average PM_{2.5} concentration reaches 12.5 ug/m³ or greater in a single calendar year, Idaho will evaluate all appropriate data to determine the cause of the elevated levels and whether the elevated PM_{2.5} levels are likely to continue. Idaho will evaluate all appropriate data including air quality data, meteorology, evaluation of wood smoke programs and information on wildfires or winter power outages to determine the cause of the exceedance within 6 months of the year in which the annual average reaches 12.5 ug/m³ or greater. If the evaluation indicates that additional control measures are necessary, Idaho will implement appropriate contingency measures as expeditiously as possible, no later than 18 months from the determination of a single year exceedance based on quality-assured data. If Idaho determines that an exceptional event contributes to a violation of the 2012 annual PM_{2.5} standard, it will follow EPA's exceptional events rule.¹¹

Idaho has identified the following potential contingency measures for the West Silver Valley maintenance plan:

- Increase efforts to control mud and dirt track out from industrial, construction, and agricultural operations onto paved roads.
- Adopt local ordinance addressing nonresidential slash burning to require burn permits year-round.
- Adopt local ordinances that reduce the residential open burning days.
- Adopt a local ordinance that prohibits installing uncertified wood stoves in residential and commercial buildings.
- Expand educational efforts to reduce PM_{2.5} from wood smoke.

- Pursue funds to continue offering wood stove changeouts and fireplace conversions within the West Silver Valley nonattainment area.

Based on our analysis of Idaho's submittal, we propose to find that the contingency measure provisions provided in the West Silver Valley maintenance plan are sufficient and meet the requirements of CAA section 175A(d).

E. Requirements for Transportation Conformity and Motor Vehicle Emissions Budgets (MVEBs)

Transportation conformity is required by CAA section 176(c). EPA's transportation conformity rule at 40 CFR part 93, subpart A, requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they conform to the SIP. Conforming to a SIP means that onroad transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. Thus, EPA's transportation conformity rule requires a demonstration that emissions from a metropolitan planning organization's regional transportation plan and transportation improvement program, involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval, are consistent with the motor vehicle emissions budgets (MVEBs) contained in a control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). The MVEB is the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance

demonstration to attain or maintain compliance with the NAAQS in the nonattainment or maintenance area. A PM_{2.5} maintenance plan should identify MVEBs for direct PM_{2.5}, NO_x and all other PM_{2.5} precursors from onroad mobile source emissions that are determined to significantly contribute to PM_{2.5} levels in the area.¹²

Idaho indicated that the West Silver Valley nonattainment area meets the definition of an "isolated rural nonattainment area" at 40 CFR 93.109(g) because the area does not contain, and is not part of, a metropolitan planning organization. Neither a transportation improvement plan nor a regional transportation plan was developed for the West Silver Valley. Instead, transportation projects for the West Silver Valley are included in a statewide transportation improvement plan. The Idaho Transportation Department is responsible for transportation conformity determinations in this isolated rural nonattainment area.

The maintenance plan submitted by Idaho for the West Silver Valley identifies MVEBs for PM_{2.5}, NO_x and VOCs, which are displayed in Table 4. To determine which precursor pollutants were required to be included in the MVEB, Idaho reviewed PM_{2.5} speciation at the Pinehurst monitor (AQS ID 160790017). Idaho did not include emissions from paved road dust because those emissions were found to be insignificant. Idaho also found that vehicle emissions of SO₂ and NH₃ contributed minimally to PM_{2.5} in the area and did not include MVEBs for these precursors in accordance with 40 CFR 93.102(b)(2)(v).

TABLE 4—2017 AND 2031 MVEBs FOR THE WEST SILVER VALLEY

Year	Motor vehicle emissions budget (tpy)		
	PM _{2.5}	NO _x	VOC
2017	10.84	484.16	134.20
2031	3.76	338.14	73.45

EPA is proposing to find that Idaho has evaluated the appropriate pollutants and precursors and appropriately established MVEBs for PM_{2.5}, NO_x and VOCs. Idaho used the most up-to-date model (MOVES2014b) available at the time of submission in order to appropriately calculate these budgets. The MVEBs are based on the control measures in the maintenance plan and

consistent with maintaining the 2012 annual PM_{2.5} NAAQS.

IV. Proposed Action

EPA is proposing to redesignate the West Silver Valley 2012 annual PM_{2.5} nonattainment area, and to approve the associated maintenance plan for the area. If this proposal is finalized, the designation status of the West Silver

Valley under 40 CFR part 81 will be revised to attainment upon the effective date of the final action.

V. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section

¹¹ Treatment of Data Influenced by Exceptional Events, October 3, 2016, 81 FR 68216.

¹² See 40 CFR 93.102(b)(2)(iv) and (v), and (b)(3).

107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 already 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).

In addition, this proposed action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rulemaking does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: September 8, 2021.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2021-19801 Filed 9-14-21; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 405

[CMS-3372-P2]

RIN 0938-AT88

Medicare Program; Medicare Coverage of Innovative Technology (MCIT) and Definition of "Reasonable and Necessary"

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Proposed rule.

SUMMARY: This proposed rule would repeal the Medicare Coverage of Innovative Technology (MCIT) and Definition of "Reasonable and Necessary" final rule, which was published on January 14, 2021, and would be effective on December 15,

2021. We are providing a public comment period to allow interested parties to provide comments about the proposed repeal, our intent to conduct future rulemaking to explore an expedited coverage pathway that provides access to innovative beneficial technologies and the reasonable and necessary definition.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by October 15, 2021.

ADDRESSES: In commenting, please refer to file code CMS-3372-P2. Comments, including mass comment submissions, must be submitted in one of the following three ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3372-P2, P.O. Box 8013, Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3372-P2, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Lori Ashby, (410)-786-6322 or MCIT@cms.hhs.gov.

SUPPLEMENTARY INFORMATION: Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following website as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that website to view public comments. CMS will not post on [Regulations.gov](http://www.regulations.gov) public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage