

October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;

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

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation’s Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

TCEQ did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable

implementing regulations neither prohibit nor require such an evaluation. Consistent with EPA’s discretion under the CAA, EPA has evaluated the EJ considerations of this action, as is described in the proposed action at 89 FR 63117 (August 2, 2024) in the section titled, “EJ Considerations.” Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record inconsistent with the stated goal of E.O. 12898/14096 of achieving EJ for communities with EJ concerns.

This action is exempt from the Congressional Review Act because it is a rule of particular applicability. The rule makes factual determinations for an identified entity (the Rusk-Panola area of Texas), based on facts and circumstances specific to that entity. The determination of failure to attain the 2010 SO₂ NAAQS does not in itself create any new requirements beyond what is mandated by the CAA.

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 February 18, 2025. 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 9, 2024.

Earthea Nance,
Regional Administrator, Region 6.

For the reasons stated in the preamble, the Environmental Protection Agency 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 SS—Texas

■ 2. Amend § 52.2277 by adding paragraph (c) to read as follows:

§ 52.2277 Control strategy and regulations: Sulfur Dioxide.

* * * * *

(c) *Determination of failure to attain.* Effective January 16, 2025, the EPA has determined that the Rusk and Panola Counties, Texas nonattainment area failed to attain the 2010 1-hour primary sulfur dioxide (SO₂) national ambient air quality standards (NAAQS) by the applicable attainment date of January 12, 2022. This determination triggers the requirements of CAA section 179(d) for the State of Texas to submit a revision to the Texas SIP for the Rusk and Panola Counties nonattainment area to the EPA by December 17, 2025. The SIP revision must, among other elements, provide for attainment of the 1-hour primary SO₂ NAAQS in the Rusk and Panola Counties, Texas SO₂ nonattainment area as expeditiously as practicable but no later than December 17, 2029.

[FR Doc. 2024–29482 Filed 12–16–24; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R10–OAR–2024–0371; FRL–12159–02–R10]

Designation of Areas for Air Quality Planning Purposes; Redesignation Request and Associated Maintenance Plan for Whatcom County, WA 2010 SO₂ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On July 25, 2024, the State of Washington (WA) submitted a request for the Environmental Protection Agency (EPA) to redesignate to attainment a portion of Whatcom County immediately surrounding the now permanently closed aluminum smelter, Intalco Aluminum LLC, which the EPA designated nonattainment for the 2010 1-hour primary sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). Washington also submitted a request for the EPA to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the area. The EPA is taking the following final actions: we have determined that the Whatcom County (partial) SO₂ nonattainment area (Whatcom County area or area) is

attaining the 2010 1-hour primary SO₂ NAAQS; we are approving Washington's plan for maintaining attainment of the 2010 1-hour primary SO₂ NAAQS in the area; and we are redesignating the Whatcom County area to attainment for the 2010 1-hour primary SO₂ NAAQS.

DATES: This final rule is effective January 16, 2025.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R10-OAR-2024-0371. 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 or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <https://www.regulations.gov>, or please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

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

SUPPLEMENTARY INFORMATION:

Throughout this document, wherever "we" or "our" is used, it means the EPA.

I. Background

On September 27, 2024 (89 FR 79195), The EPA proposed to take the following four separate but related actions: (1) determine that the Whatcom County area is attaining the 2010 1-hour SO₂ NAAQS; (2) approve Washington's plan for maintaining the 2010 1-hour SO₂ NAAQS (maintenance plan), including proposed approval of a "reproducible approach" to representing the air quality of the affected area; (3) redesignate the Whatcom County area to attainment for the 2010 1-hour SO₂ NAAQS; and (4) determine that the Whatcom County area has clean monitoring data.

The public comment period for the proposed actions closed on October 28, 2024. We received two anonymous comments, document EPA-R10-OAR-2024-0371-0014 (comment #1) and EPA-R10-OAR-2024-0371-0015 (comment #2). Both comments expressed support for the EPA's approval of Washington's redesignation request and maintenance plan. However, comment #1 and comment #2 raised concerns about Washington's

ability to verify continued attainment. In addition, comment #2 suggested the contingency measures contain more specificity and that Washington should include a public accessibility plan in its Maintenance Plan. The full text of the comments may be found in the docket for this action, and we have responded to the relevant comments in section II. of this preamble. Under the Clean Air Act (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, the EPA's role is to approve State choices, provided that they meet the criteria of the CAA.

II. EPA Responses to Comments Received

A. Monitoring Network and Verification of Continued Attainment

Comment: The EPA's proposed rulemaking provided a synopsis of Washington's strategy for verification of continued attainment in the area as part of the State's maintenance plan.¹ A more detailed explanation of Washington's "reproducible approach" to representing air quality, submitted to allow future monitor system modification under 40 CFR 58.14(c)(3), was provided in the maintenance plan itself.² With respect to this issue, comment #1 contains the statement, "although this has well solidified evidence, it is necessary to continue monitoring the nonattainment and attainment areas of Whatcom County to ensure the air quality stays in line with the EPA's NAAQS. If the EPA did approve the request from Washington State it would further confirm the EPA's dedication to implementing their own policies." Comment #2 states, "while the plan allows for flexibility in adjusting SO₂ monitoring sites, it is crucial to consider that SO₂ impacts often disproportionately affect vulnerable communities. Could the EPA establish clearer criteria or a more rigorous review process before relocating or decommissioning monitors? This would ensure that communities previously affected by emissions from the Intalco facility continue to have adequate air quality protections, even in the absence of a large point source."

Response: We agree that Washington's maintenance plan should contain

¹ See 89 FR 79195 (September 27, 2024) at pages 79200-79202.

² See Chapter 6, Verification of Attainment, Control Measures, and Maintenance Demonstration, at pages 35-43.

provisions for monitoring air quality in the area and verifying continued attainment. As discussed in the preamble to the proposed rulemaking, the maintenance plan contains these provisions and otherwise meets the maintenance plan requirements in CAA section 175A and the EPA's associated guidance.³ Neither comment directly addresses the EPA's evaluation of these provisions in the preamble to the proposed rulemaking nor provides a basis for disapproving Washington's maintenance plan. To the extent the comments imply that the maintenance plan is inadequate to monitor and verify continued attainment or lacks specificity in this regard, we disagree. The following discussion summarizes Washington's approach to monitoring air quality in the area post-redesignation and verifying continued attainment.

In the EPA's December 2020 technical support document for the nonattainment designation, we determined the region of violation was most likely due to plume downwash at the Intalco facility during certain wind conditions, that the modeled area of violation did not extend far from the Intalco facility fence line, that the gradient of concentration near the areas of violation was steep, quickly dropping with distance from the Intalco facility fence line, and that other nearby industrial facilities did not sufficiently contribute to violations of the 1-hour primary SO₂ NAAQS to warrant inclusion in the nonattainment area boundary.⁴ In our final nonattainment boundary determination, we concurred with the Washington Department of Ecology (Ecology) and Northwest Clean Air Agency (NWCAA) that the boundary should be drawn to encompass the cause of the SO₂ violations, the Intalco facility.

With the permanent closure of the Intalco facility, Washington's comprehensive emissions inventory, prepared as part of the maintenance plan, shows no remaining significant sources of SO₂, including mobile or area source emissions.⁵ Therefore, in the absence of any current SO₂ emission sources, Washington's monitoring network and verification of continued attainment strategy focused on potential

³ 42 U.S.C. 7505a and the September 4, 1992, Memorandum from John Calcagni titled "Procedures for Processing Requests to Redesignate Areas to Attainment."

⁴ See 201_Appendix A Whatcom County SO₂ Area Designation.pdf, included in the docket for this action.

⁵ See Chapter 5, Emissions Inventory, at pages 25-34.

future emission sources that may be located within the area.⁶

As described in our proposed rulemaking and the State's maintenance plan, the new source review (NSR) program ensures that any single facility applying for a permit to locate within the area complies with the NAAQS and other regulatory requirements.⁷ In addition, Washington's maintenance plan included a stepwise process for assessing the cumulative impacts of new sources constructed in the area and triggering deployment of SO₂ monitors. This process ensures that cumulative impacts remain below the NAAQS should multiple facilities move to the area. Under the maintenance plan verification of continued attainment provisions, Washington, with NWCAA as the lead agency for the jurisdiction in coordination with Ecology, will evaluate the cumulative impacts of the new source or modifications using three sequential "Action Levels."

Under Action Level 1, Washington will conduct cumulative dispersion modeling using potential emissions if two conditions are met: (1) the cumulative potential SO₂ emissions in the area are greater than or equal to 250 tons per year of SO₂ and (2) the proposed new source or modification has the potential to emit 40 tons per year of SO₂ (the significant emission rate under the major NSR program). Washington will use the EPA's preferred screening and dispersion modeling tools identified in 40 CFR part 51 appendix W ("Appendix W") as normally applicable for any source seeking a construction permit under the NSR program. If the results of the modeling under Action Level 1 indicate a design concentration of greater than or equal to 90% of the 1-hour NAAQS, then Washington will proceed to Action Level 2.

Under Action Level 2, Washington will conduct refined dispersion modeling that uses actual emissions from existing sources and potential emissions from the new source or modification. If the results of that modeling indicate a design concentration of greater than or equal to 50% of the 1-hour SO₂ NAAQS, then Washington will proceed to Action Level 3.

Under Action Level 3, Washington will deploy SO₂ ambient monitors within 1 year of the initial startup of the new source or modification. Any new

monitors established for verification of continued attainment will be operated as State and Local Air Monitoring Stations (SLAMS) as part of Ecology's Primary Quality Assurance Organization (PQAO). Ecology will verify that monitor siting complies with 40 CFR part 58 appendix E (Probe and Monitoring Path Siting Criteria for Ambient Air Quality Monitoring) and will include any new site proposals in its annual Ambient Air Monitoring Network Plan. This plan is available for public inspection and comment for at least 30 days before its submission to the EPA by July 1 of each year. Any such proposal will be subject to review and approval by the EPA Regional Administrator, following the process described in 40 CFR 58.10.

Therefore, we disagree with the implication in comment #2 that the verification of continued attainment framework described in the State's maintenance plan lacked clear criteria or a rigorous review process. The commenter provided no details for improving the methodology or raising specific concerns with the presented framework.

With respect to the broader issue of protecting "communities previously affected by emissions from the Intalco facility" we agree with the commenter that these communities should be protected against future violations of health-based air quality standards. Washington's maintenance plan does so, and the commenter did not provide any specific reasons why the EPA should find to the contrary. We note that during the operation of the Intalco facility, the areas impacted by the elevated levels of SO₂ were very close to the facility's fence line and did not reach the nearby city of Ferndale.⁸ More importantly, there are no current SO₂ sources in the area or SO₂ exposure risks. Current 2021–2023 design value SO₂ concentrations in the area are 3 parts per billion (ppb), much lower than the EPA's health-based NAAQS of 75 ppb.

With respect to monitoring, we reiterate that the current monitors were sited for the specific purpose of measuring building downwash impacts immediately surrounding the Intalco facility and thus are not necessarily suitable to assessing impacts to the surrounding community.⁹ Accordingly, Washington included in its maintenance plan its reproducible approach to assessing future impacts on the

community from new sources. This approach—coupled with NWCAA and Washington's NSR program—is adequate to ensure future development does not cause or contribute to a violation of the SO₂ NAAQS.

B. Contingency Measures

Comment: Comment #2 stated "while the contingency measures are well-defined, additional detail about specific control measures and response timelines would help reassure the public of the plan's robustness. Particularly, if SO₂ levels approach the National Ambient Air Quality Standards (NAAQS) threshold, having a more explicit list of immediate actions the EPA or the Northwest Clean Air Agency (NWCAA) would take would demonstrate the agency's commitment to rapid response in the event of future exceedances."

Response: We disagree that Washington's contingency measures should be more specific. As discussed in the preamble of our proposed rulemaking, the only significant source of SO₂ in the area has permanently shut down, thus the cause of any potential future NAAQS exceedance is unknown. Therefore, Washington cannot develop specific contingency measures as part of its maintenance plan.¹⁰ Rather, Washington committed to concrete trigger levels and timelines for determining the appropriate contingency measures, but did not include specific measures in its maintenance plan. Therefore, our position remains that Washington's maintenance plan contains such contingency provisions as the Administrator deems necessary to assure that the State will promptly correct any violation of the standard which occurs after the redesignation of the area as an attainment area.¹¹

C. Impacts of Future Sources

Comment: Comment #2 stated "while I understand that the Clean Air Act may not require environmental justice analysis for this action, it would be prudent to consider the impacts of future sources or monitoring changes on historically marginalized communities. The inclusion of a public accessibility plan to provide real-time air quality data would support EPA's goals under Executive Order 12898, ensuring fair treatment and meaningful involvement of all residents in air quality decisions."

Response: The EPA responded to the commenter's concern regarding

⁶ See Chapter 6, Verification of Attainment, Control Measures, and Maintenance Demonstration, at pages 35–43.

⁷ See 89 FR 79195 (September 27, 2024) at page 79201.

⁸ See Chapter 2, Intalco—Ferndale SO₂ Nonattainment Area, at pages 8–9.

⁹ See 201_Appendix A Whatcom County SO₂ Area Designation.pdf and 202_Intalco Sulfur Dioxide Attainment Plan_2202035.pdf, included in the docket for this action.

¹⁰ See 89 FR 79195 (September 27, 2024) at page 79202.

¹¹ CAA section 175A(d).

monitoring changes in section II.A of this preamble. With respect to impacts of future sources, our proposed rulemaking discussed how the NSR permitting program is the mechanism the EPA, States, and local clean air agencies use to assess the impacts of future sources. Washington's SIP includes NWCAA Rule 300 which establishes the minor NSR program applicable to sources constructed or modified in the Ferndale Area. Under Rule 300, save for certain limited exemptions, sources with a potential to emit more than 2.0 tons per year (tpy) of SO₂ must obtain approval prior to construction.¹² NWCAA may not approve construction or modification unless, among other things, the source will employ best available control technology and allowable emissions will not cause or contribute to a violation of any NAAQS.¹³ As to the latter, NWCAA may require modeling using the EPA guidelines in appendix W of 40 CFR part 51 to determine whether construction and operation of the source will cause or contribute to a violation of any NAAQS.

Washington's SIP also includes a major new source review program to regulate the construction and modification of major sources constructed or modified in the Ferndale Area.¹⁴ In general, Washington's major NSR program incorporates by reference the Federal major NSR program at 40 CFR 52.21. The major NSR program applies to sources with a potential to emit of 100 tpy of any regulated NSR pollutant for certain listed source categories, and 250 tpy of any regulated NSR pollutant for unlisted sources. Regulated NSR pollutant includes pollutants for which the EPA has established a NAAQS. Similar to the minor NSR program, all sources subject to the major NSR program must obtain a permit before commencing construction. In order to obtain a permit, the source must, among other things, demonstrate the source will apply best available control technologies for each regulated NSR pollutant that the source has the potential to emit in significant amounts. In the case of SO₂, the significant emissions rate is 40 tpy. In addition, the source must demonstrate through dispersion modeling that construction and operation of the source will not cause or contribute to a violation of any NAAQS or violate any prevention of significant deterioration increment. We

believe the NSR permitting programs described above provide the best tools available for assessing impacts to communities from future sources.

III. Final Action

For the reasons stated in our proposed rulemaking (89 FR 79195, September 27, 2024) and in section II. of this preamble, we are taking the following three separate but related final actions: (1) determining that the Whatcom County area is attaining the 2010 1-hour SO₂ NAAQS; (2) approving Washington's plan for maintaining the 2010 1-hour SO₂ NAAQS, including approval of a "reproducible approach" to representing the air quality of the affected area; and (3) redesignating the Whatcom County area to attainment for the 2010 1-hour SO₂ NAAQS.

Specifically, as described in our proposed rulemaking, the EPA has determined that the Whatcom County area is attaining the 2010 1-hour primary SO₂ NAAQS based on the most recent complete monitoring data for the three-year (2021–2023) design value period.

The EPA is approving the maintenance plan under the 2010 1-hour SO₂ NAAQS for the Whatcom County area into the Washington SIP (under CAA section 175A). The maintenance plan demonstrates that the area will continue to maintain the 2010 1-hour SO₂ NAAQS and includes a process to develop and implement contingency measures to remedy any future violations of the 2010 1-hour SO₂ NAAQS and procedures for evaluating potential violations.

The EPA has determined that the Whatcom County area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS. On this basis, the EPA is approving Washington's redesignation request for the area. Accordingly, the EPA is revising the legal designation of the portion of Whatcom County designated nonattainment at 40 CFR 81.348 to attainment for the 2010 1-hour SO₂ NAAQS.

The EPA is not finalizing a Clean Data Determination for the Whatcom County area. As noted in our proposed rulemaking, the EPA proposed the option to finalize a clean data determination in the event that the EPA did not finalize the proposed redesignation. However, because the EPA is finalizing the redesignation of the area to attainment, it is not finalizing this portion of the proposal.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment is an action that affects the status of a geographical area and does 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.

In addition, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act.

Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For these reasons, this final action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.
- Executive Order 12898 (Federal Actions to Address Environmental

¹² Rule 300.1(A); 300.4.

¹³ Rule 300.9.

¹⁴ 40 CFR 52.2470(c); WAC 173–400–113 and WAC 173–400–700 through 173–400–750.

Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. The EPA defines EJ as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.” The Washington Department of Ecology did evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for communities with EJ concerns.

In addition, this final action, pertaining to redesignation of the Whatcom County area and approval of a maintenance plan for the area, would not be approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule would not have Tribal implications and would not impose substantial direct costs on tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). Consistent with EPA policy, the EPA provided a consultation opportunity to Tribes located near the Whatcom County area, in letters dated July 25, 2024 and July 29, 2024, included in the docket for this action.

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

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 February 18, 2025. 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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

Dated: December 11, 2024.

Daniel Opalski,

Acting Regional Administrator, Region 10.

40 CFR parts 52 and 81 are amended 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 WW—Washington

■ 2. In § 52.2470, amend paragraph (e), table 2, by adding the heading “Attainment and Maintenance Planning—Sulfur Dioxide (SO₂)” and the entry “Sulfur Dioxide (SO₂) Maintenance Plan” immediately after the entry for “Particulate Matter (PM_{2.5}) Maintenance Plan” to read as follows:

§ 52.2470 Identification of plan.

* * * * *
(e) * * *

TABLE 2—ATTAINMENT, MAINTENANCE, AND OTHER PLANS

Name of SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Explanations
* * *	* * *	* * *	* * *	* * *
Attainment and Maintenance Planning—Sulfur Dioxide (SO ₂)				
Sulfur Dioxide (SO ₂) Maintenance Plan.	Whatcom County	7/25/24	12/17/2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	
* * *	* * *	* * *	* * *	* * *

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PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.348, amend the table entitled “Washington—2010 Sulfur Dioxide NAAQS” by revising the entry for “Whatcom County (part)” to read as follows:

§ 81.348 Washington.

* * * * *

WASHINGTON—2010 SULFUR DIOXIDE NAAQS
[Primary]

Designated area ¹	Designation	
	Date ²	Type
Whatcom County (part) That portion of Whatcom County encompassed by the rectangle with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 10 with datum NAD83 as follows: (1) Vertices—UTM Easting (m) 519671, UTM Northing (m) 5412272; (2) Vertices—UTM Easting (m) 524091, UTM Northing (m) 5412261; (3) Vertices—UTM Easting (m) 519671, UTM Northing (m) 5409010; (1) Vertices—UTM Easting (m) 524111, UTM Northing (m) 5409044.	January 16, 2025	Attainment.

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.
² This date is April 9, 2018, unless otherwise noted.

* * * * *
[FR Doc. 2024–29575 Filed 12–16–24; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R05–OAR–2024–0546; FRL–12410–01–R5]

Findings of Failure To Attain and Reclassification of Areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin as Serious for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final determination.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Allegan County, MI; Berrien County, MI; Chicago, IL-IN-WI; Cleveland, OH; Milwaukee, WI; Muskegon County, MI; Sheboygan County, WI; and Illinois portion of the St. Louis, MO-IL areas failed to attain the 2015 ozone National Ambient Air Quality Standards (NAAQS) by the applicable attainment date. The effect of failing to attain by the applicable attainment date is that the areas will be reclassified by operation of law to “Serious” nonattainment for the 2015 ozone NAAQS on January 16, 2025, the effective date of this final rule. This action fulfills EPA’s obligation under the Clean Air Act (CAA) to determine whether ozone nonattainment areas attained the NAAQS by the attainment date and to publish a document in the **Federal Register** identifying each area that is determined as having failed to attain and identifying the reclassification.

DATES: This final rule is effective on January 16, 2025.
ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2024–0546. 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.*, Confidential Business Information (CBI), Proprietary Business Information (PBI), 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 either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Eric Svingen, Environmental Engineer, at (312) 353–4489 before visiting the Region 5 office.
FOR FURTHER INFORMATION CONTACT: Eric Svingen, Air and Radiation Division (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, svingen.eric@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Overview of Action

EPA is required to determine whether areas designated nonattainment for an ozone NAAQS attained the standard by the applicable attainment date, and to take certain steps for areas that failed to attain (see CAA section 181(b)(2)). EPA’s determination of attainment for the 2015 ozone NAAQS is based on a

nonattainment area’s design value (DV) as of the attainment date.¹

The 2015 ozone NAAQS is met at an EPA regulatory monitoring site when the DV does not exceed 0.070 parts per million (ppm). For the Moderate nonattainment areas for the 2015 ozone NAAQS addressed in this action, the attainment date was August 3, 2024. Because the DV is based on the three most recent, complete calendar years of data, attainment must occur no later than December 31 of the year prior to the attainment date (*i.e.*, December 31, 2023, in the case of Moderate nonattainment areas for the 2015 ozone NAAQS). As such, EPA’s determinations for each area are based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2021, 2022, and 2023.

This action addresses eight areas in Illinois, Indiana, Michigan, Missouri, Ohio, and Wisconsin that were classified as Moderate for the 2015 ozone NAAQS as of the Moderate area attainment date of August 3, 2024. EPA is addressing the remaining areas, including the Missouri portion of the St. Louis area, in separate actions. Table 1 provides a summary of the DVs and the EPA’s air quality-based determinations

¹ A DV is a statistic used to compare data collected at an ambient air quality monitoring site to the applicable NAAQS to determine compliance with the standard. The data handling conventions for calculating DVs for the 2015 ozone NAAQS are specified in appendix U to 40 CFR part 50. The DV for the 2015 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The DV is calculated for each air quality monitor in an area, and the DV for an area is the highest DV among the individual monitoring sites located in the area.