counties in Florida, the modeling analysis of potential receptors was not complete for these counties. However, the most recent ambient data (2015–2017) for these counties indicates design values well below the level of the 2012 annual $PM_{2.5}$ NAAQS. In addition, the highest value for these observed monitors is 8.0 μg/m³ at the Hillsborough County monitor (12–057–3002), which is well below the NAAQS. This is also consistent with historical data: Complete and valid design values in the 2006–2008, 2007–2009 and/or 2008–2010 periods for these counties were all well below the 2012 annual $PM_{2.5}$ NAAQS. This is also consistent with historical data: Complete and valid design values in the 2006–2008 and/or 2007–2009 periods for these counties were well below the 2012 annual $PM_{2.5}$ NAAQS. For these reasons, we find that none of the counties in Florida with monitoring gaps between 2009–2013 should be considered either nonattainment or maintenance receptors for the 2012 annual $PM_{2.5}$ NAAQS. For these reasons, we propose to find that emissions from Michigan will not significantly contribute to nonattainment or interfere with maintenance of the 2012 annual $PM_{2.5}$ NAAQS in Florida. We find further support in the fact that EPA's source apportionment modeling predicting state impacts on downwind monitors in 2012 under the base case scenario in our original CSAPR analysis, showing little impact from Michigan to any of Florida's counties.

The conclusions of Michigan's analysis are consistent with EPA's expanded review of its March 23, 2017 submittal. All areas that Michigan sources potentially contribute to are expected to attain and maintain the 2012 annual $PM_{2.5}$ NAAQS, and as demonstrated in its submittal, Michigan will not contribute to projected nonattainment or maintenance issues at any sites in 2021. Michigan's analysis shows that through permanent and enforceable measures currently contained in its SIP, and other emissions reductions occurring in Michigan and in other states, monitored $PM_{2.5}$ air quality in all identified areas that Michigan sources may impact will continue to improve, and that no further measures are necessary to satisfy Michigan's responsibilities under CAA section 110(a)(2)(D)(i)(I). Therefore, EPA is proposing that prongs one and two of the interstate pollution transport element of Michigan's infrastructure SIP are approvable.

IV. What action is EPA taking?

EPA is proposing to approve a portion of Michigan's March 23, 2017, submittal certifying that the current Michigan SIP is sufficient to meet the required infrastructure requirements under CAA section 110(a)(2)(D)(i)(I), specifically prongs one and two, as set forth above. EPA is requesting comments on the proposed approval.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- 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, 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).

List of Subjects in 40 CFR Part 52

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

Dated: October 29, 2018.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2018–24817 Filed 11–13–18; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–HQ–OAR–2018–0226; FRL–9986–44–OAR]

RIN 2060–AT97

Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing three actions related to the attainment date for 11 areas classified as ''Moderate'' for the 2008 ozone National Ambient Air Quality Standards (NAAQS). First, the agency is proposing to determine that two areas—the Baltimore, Maryland, and Mariposa County, California, nonattainment areas—attained the standard by the July 20, 2018, attainment date. Second, the agency is proposing to grant requests for a 1-year attainment date extension to two other areas: Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, and Sheboygan County, Wisconsin. Third,

the agency is proposing to determine that seven areas failed to attain the standards by the attainment date: Chicago-Naperville, Illinois-Indiana-Wisconsin; Dallas-Fort Worth, Texas; Greater Connecticut, Connecticut; Houston-Galveston-Brazoria, Texas; Nevada County (Western part), California; New York-North New Jersey-Long Island, Connecticut-New York-New Jersey; and San Diego County, California. The effect of failing to attain by the attainment date is that such areas will be reclassified by operation of law to "Serious" upon the effective date of the final reclassification notice. Consequently, the responsible state air agencies must submit State Implementation Plan (SIP) revisions required to satisfy the statutory and regulatory requirements for Serious areas for the 2008 ozone NAAQS. The EPA is proposing deadlines for submittal of those SIP revisions and implementation of the related control requirements. This proposed action is necessary to fulfill the EPA's statutory obligation to determine whether ozone nonattainment areas attained the NAAQS by the attainment date, and, within 6 months of the attainment date, publish a notice in the **Federal Register** identifying each area that is determined as having failed to attain and identifying the reclassification.

DATES:

Comments. Written comments must be received on or before December 14, 2018.

Public Hearings. If anyone contacts us requesting a public hearing on or before November 29, 2018, we will hold a public hearing. Additional information about the hearing, if requested, will be published in a subsequent **Federal Register** document. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and the public hearing.

ADDRESSES: *Comments:* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2018–0226, at *https://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure 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. The 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 *http://www2.epa.gov/dockets/comments.html*.

Public Hearing. If anyone contacts us requesting a public hearing on or before November 29, 2018, we will hold a public hearing. Please refer to **SUPPLEMENTARY INFORMATION** for additional information on the comment period and the public hearing.

FOR FURTHER INFORMATION CONTACT: For further general information on this proposed rule, contact Ms. Virginia Raps, Office of Air Quality Planning and Standards (OAQPS), Air Quality Policy Division, U.S. Environmental Protection Agency, Mail Code: C539–01, Research Triangle Park, NC 27711, telephone (919) 541–4383; fax number: (919) 541–5315; email address: *raps.virginia@epa.gov*. To request a public hearing or information pertaining to a public hearing on this notice, contact Ms. Pamela Long at (919) 541–0641 or *long.pam@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Entities potentially directly affected by this proposed action include state, local, and tribal air pollution control or management agencies. Individuals and entities potentially indirectly affected by this action include owners and operators of sources that emit volatile organic compounds (VOC) and nitrogen oxides (NO_X) emissions, which contribute to ground-level ozone formation within the ozone nonattainment areas that are the subject of this proposed notice.

B. What should I consider as I prepare my comments for the EPA?

1. Submitting CBI. Do not submit this information to the EPA through *https://www.regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information on any digital storage media that you mail to the EPA, mark the outside of the digital storage media as CBI and then identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed to be CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2 "Public Information."

2. Tips for Preparing Your Comments. When submitting comments, remember to:

a. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

b. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a CFR part or section number.

c. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

d. Describe any assumptions and provide any technical information and/or data that you used.

e. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow reproduction of your method and the results.

f. Provide specific examples to illustrate your concerns and suggest alternatives.

g. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

h. Make sure to submit your comments by the comment period deadline identified under **DATES** in this notice.

C. Where can I get a copy of this document and other related information?

In addition to being available in the docket, an electronic copy of this notice will be posted at *https://www.epa.gov/ozone-pollution*.

D. What information should I know about a possible public hearing?

To request a public hearing or information pertaining to a public hearing on this notice, contact Ms. Pamela Long at (919) 541–0641 or *long.pam@epa.gov* before 5 p.m. on or before November 29, 2018. If requested, further details concerning a public hearing for this proposed rule will be published in a separate **Federal Register** document. For updates and additional information on a public hearing, please check the EPA's website for this rulemaking at *https://www.epa.gov/ozone-pollution*.

E. How is this preamble organized?

The information and proposals presented in this notice are organized as follows:

I. General Information
A. Does this action apply to me?
B. What should I consider as I prepare my comments for the EPA?
C. Where can I get a copy of this document and other related information?
D. What information should I know about a possible public hearing?
E. How is this preamble organized?
II. Overview and Basis of Proposal
A. Overview of Proposal
B. What is the background for the proposed actions?
C. What is the statutory authority for the proposed actions?
D. How does the EPA determine whether an area has attained the 2008 ozone standards?
III. What is the EPA proposing and what is the rationale?
A. Determinations of Attainment by the Attainment Date
B. Extensions of Moderate Area Attainment Date
C. Determinations of Failure To Attain and Reclassification
D. Serious Area SIP Revision Submission Deadlines and RACT Implementation Deadlines
IV. Environmental Justice Considerations
V. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review
B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs
C. Paperwork Reduction Act (PRA)
D. Regulatory Flexibility Act (RFA)
E. Unfunded Mandates Reform Act (UMRA)
F. Executive Order 13132: Federalism
G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks
I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
J. National Technology Transfer and Advancement Act (NTTAA)
K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

II. Overview and Basis of Proposal

A. Overview of Proposal

The EPA Administrator 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.[1] For a concentration-based standard, such as the 2008 ozone NAAQS,[2] a determination of attainment[3] is based on a nonattainment area's design value.[4]

The 2008 ozone NAAQS are met at an ambient monitoring site when the design value does not exceed 0.075 parts per million (ppm). For areas classified as Moderate nonattainment for the 2008 ozone NAAQS, the attainment date is July 20, 2018. Because the design value 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, 2017, in the case of Moderate nonattainment areas for the 2008 ozone NAAQS). As such, the EPA's proposed determinations for each area are based upon the complete, quality-assured and certified ozone monitoring data from calendar years 2015, 2016, and 2017.

All monitors in an area must be considered when determining if the area attains the NAAQS. To make the determination that an area attains the NAAQS, each monitor must have a valid[5] design value meeting the standard. If one or more monitors in an area have a design value that exceeds the standard, the area does not attain the NAAQS.

This proposed action addresses 11 of the 14 nonattainment areas that were classified as Moderate for the 2008 ozone NAAQS as of the Moderate area attainment date of July 20, 2018, that have not already been reclassified to Serious.[6] The remaining three areas will be addressed in separate actions:

(1) On September 27, 2016, May 17, 2018, and July 17, 2018, the Arizona Department of Environmental Quality submitted to the EPA for review exceptional events demonstrations for the Phoenix-Mesa, Arizona, Moderate nonattainment area.[7] Actions taken by the EPA on the demonstrations may affect a determination of attainment by the attainment date for the area. The proposed action to determine attainment for the Phoenix-Mesa, Arizona, area by the attainment date for the Moderate 2008 ozone NAAQS will, therefore, be addressed in a separate **Federal Register** notice.

(2) The Imperial County, California, Moderate nonattainment area is not included in this proposed action. On July 9, 2018, the California Air Resources Board submitted the "Imperial County Clean Air Act Section 179B(b) Retrospective Analysis for the 75 ppb 8-Hour Ozone Standard," which may affect a determination of attainment by the attainment date for this area.[8] The proposed action to determine attainment for the Imperial County, California, area by the attainment date for the Moderate 2008 ozone NAAQS will be addressed in a separate **Federal Register** notice.

(3) The Moderate nonattainment area for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation based in California is not included in this proposed action because the EPA has not yet finalized a 2015–2017 design value for the nonattainment area.

Table 1 provides a summary of the design values and the EPA's proposed air quality-based determinations for the 11 Moderate areas addressed in this action.

[1] *See* CAA section 181(b)(2).

[2] Because the 2008 primary and secondary NAAQS for ozone are identical, for convenience, the EPA refers to them together as "the 2008 ozone NAAQS."

[3] The criteria for determining if an area is attaining the 2008 ozone NAAQS are set out in 40 CFR 50.15 and 40 CFR part 50, Appendix P.

[4] A design value 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 design value for the 2008 ozone NAAQS is the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration. The design value is calculated for each air quality monitor in an area and the area's design value is the highest design value among the individual monitoring sites in the area.

[5] Design values attaining the 2008 ozone NAAQS must also meet minimum data completeness requirements specified in 40 CFR part 50, Appendix P to be considered valid.

[6] The Kern County (Eastern Kern), California, nonattainment area was reclassified from Moderate to Serious effective August 6, 2018, in response to a voluntary reclassification request submitted by the state of California (*see* 83 FR 31334, July 5, 2018). SIP revisions addressing Serious area requirements for Eastern Kern County will be due on August 6, 2019, and the area must attain the 2008 ozone standards by July 20, 2021.

[7] CAA section 319(b) defines an exceptional event as an event that (i) affects air quality; (ii) is not reasonably controllable or preventable; (iii) is an event caused by human activity that is unlikely to recur at a particular location or a natural event; and (iv) is determined by the Administrator through process established in regulation to be an exceptional event. ADEQ submitted its demonstration pursuant to 40 CFR 50.14, which establishes the process by which states may request that the Administrator determine that air quality monitoring data showing exceedances or violations of the NAAQS that are directly due to an exceptional event may be excluded from regulatory determinations, including whether a nonattainment area has met the NAAQS by its deadline.

[8] CAA section 179B(b) provides that where a state demonstrates to the Administrator's satisfaction that an ozone nonattainment area would have attained the NAAQS by the applicable attainment date but for emissions emanating from outside the United States, that area shall not be subject to the mandatory reclassification provision, CAA section 181(b)(2). Note that the statute cites 42 U.S.C. 7511(a)(2), but that provision establishes ozone attainment deadlines for severe areas under the 1-hour standard. The EPA has long interpreted the citation in CAA section 179B(b) to be a scrivener's error that was supposed to refer to 42 U.S.C. 7511(b)(2), which refers to consequences for failure to attain by the attainment date.

TABLE 1—2008 OZONE NAAQS MODERATE NONATTAINMENT AREA EVALUATION SUMMARY

2008 NAAQS nonattainment area	2015–2017 Design value (ppm)	2008 NAAQS attained by the Moderate attainment date	2017 4th Highest daily maximum 8-hr average (ppm)	Area failed to attain 2008 NAAQS but eligible for 1-year attainment date extension based on 2017 4th highest daily maximum 8-hr average ≤0.075 ppm
Baltimore, MD	0.075	Attained	Not applicable	Not applicable.
Chicago-Naperville, IL-IN-WI	0.078	Failed to Attain	0.079	No.
Dallas-Fort Worth, TX	0.079	Failed to Attain	0.077	No.
Denver-Boulder-Greeley-Ft. Collins-Loveland, CO.	0.079	Failed to Attain	0.075	Yes.
Greater Connecticut, CT	0.076	Failed to Attain	0.078	No.
Houston-Galveston-Brazoria, TX.	0.081	Failed to Attain	0.079	No.
Mariposa County, CA	0.075	Attained	Not applicable	Not applicable.
Nevada County (Western part), CA.	0.087	Failed to Attain	0.090	No.
New York-N. New Jersey-Long Island, CT-NJ-NY.	0.083	Failed to Attain	0.086	No.
San Diego County, CA	0.084	Failed to Attain	0.090	No.
Sheboygan County, WI	0.080	Failed to Attain	0.075	Yes.

The data used to calculate both the 2015–2017 design values and the 2017 fourth highest daily maximum 8-hour averages are provided in the technical support document (TSD) found in the docket for this proposed action.[9]

The EPA proposes to find that the Baltimore, Maryland, and Mariposa County, California, Moderate nonattainment areas attained by the attainment date as evidenced by the 2015–2017 design values presented in Table 1, which do not exceed 0.075 ppm. The EPA proposes to grant a 1-year attainment date extension for the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, and Sheboygan County, Wisconsin, nonattainment areas. Colorado and Wisconsin have complied with all requirements and commitments pertaining to the area in the applicable implementation plan,[10] and demonstrated that the 2017 fourth highest daily maximum 8-hour average ozone concentrations do not exceed 0.075 ppm. Accordingly, the EPA proposes to establish a new attainment date of July 20, 2019, for these areas.

The EPA proposes to determine that seven Moderate areas with a 2015–2017 design value greater than 0.075 ppm did not attain by the attainment date and do not qualify for a 1-year attainment date extension under CAA section 181(a)(5), as interpreted by the EPA in 40 CFR 51.1107. If the EPA determines that a nonattainment area classified as Moderate failed to attain by the attainment date, the EPA shall publish the identity of each such area in the **Federal Register** no later than 6 months following the attainment date and identify the reclassification as required under CAA section 181(b)(2)(B).

Furthermore, as required under CAA section 181(b)(2)(A), if the EPA finalizes the determinations that these seven areas failed to attain by the attainment date, they will be reclassified to Serious by operation of law.[11] The reclassified areas will then be subject to the Serious area requirement to attain the 2008 ozone NAAQS as expeditiously as practicable, but not later than July 20, 2021.

Once reclassified as Serious, the relevant states must submit to the EPA the SIP revisions for these areas that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA section 182(c) and in the 2008 Ozone NAAQS SIP Requirements Rule (*see* 80 FR 12264, March 6, 2015).[12] However, the deadlines specified in section 182(c) have passed for plan submissions applicable to areas originally classified as Serious on July 20, 2012. For instance, 40 CFR 51.1108 established the deadline for Serious-area attainment demonstrations to be 48 months after the effective date of nonattainment designation, or July 20, 2016, a date that has passed and cannot be met by areas reclassified in this notice. Under CAA section 182(i), reclassified areas are required to meet the requirements associated with their newly reclassified status according to the schedules prescribed in connection with such requirements, except that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is "necessary or appropriate to assure consistency among the required submissions." Because these dates have already passed, the EPA is using its discretion granted under CAA section 182(i) to propose adjusting the deadlines for submitting SIP revisions that would otherwise apply under CAA section 182(c).

As discussed in Section III.D of this notice, the EPA proposes that the SIP revisions, not including the Reasonably Available Control Technology (RACT) SIP revision required under CAA sections 182(b)(2) and 182(f), will be due 12 months after the effective date of the final reclassification notice. The EPA also discusses its proposed deadlines, and solicits comments on alternative due dates and deadlines, for RACT SIP revisions and RACT

[9] "Technical Support Document Regarding Ozone Monitoring Data—Determinations of Attainment, 1-Year Attainment Date Extensions, and Reclassifications for Moderate Areas under the 2008 8-Hour Ozone National Ambient Air Quality Standards (NAAQS)," Docket ID No. EPA–OAR–2018–0226.

[10] *See* CAA section 181(a)(5).

[11] None of the 2015–2017 design values shown in Table 1 for any of the seven areas proposed to be reclassified as Serious equals or exceeds 0.113 ppm, which is the threshold for reclassifying an area to Severe under CAA section 181(b)(2)(A) and 40 CFR 51.1103. Therefore, none of these areas are required to be reclassified by operation of law to Severe or Extreme.

[12] In *South Coast Air Quality Mgmt. Dist.* v. *EPA*, 882 F.3d 1138 (DC Cir. 2018), the D.C. Circuit granted in part and denied in part petitions for review challenging the 2008 ozone NAAQS SIP Requirements Rule. Among other things, the D.C. Circuit vacated the portion of the rule that allowed states to select an alternative baseline year (*i.e.*, a year other than 2011) for purposes of calculating reasonable further progress. *See id.* at 882 F.3d at 1152–53. South Coast Air Quality Management District petitioned the Court for rehearing on this issue and the Court denied that petition. *South Coast*, No. 15–1123, Order No. 1750751 (DC Cir. September 14, 2018).

implementation for the newly reclassified Serious areas.

B. What is the background for the proposed actions?

On March 12, 2008, the EPA issued its final action to revise the NAAQS for ozone to establish new 8-hour standards (73 FR 16436, March 27, 2008). In that action, the EPA promulgated identical revised primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.075 ppm. Specifically, the standards require that the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentration may not exceed 0.075 ppm. The 2008 ozone NAAQS retain the same general form and averaging time as the 0.08 ppm ozone NAAQS set in 1997, so that the only difference is the more protective level of 0.075 ppm.

Effective on July 20, 2012, the EPA designated 46 areas throughout the country as nonattainment for the 2008 ozone NAAQS (77 FR 30088, May 21, 2012, and 77 FR 34221, June 11, 2012). In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of each nonattainment area's ozone problem, determined by the area's design values (77 FR 30160, May 21, 2012).[13] In that rule, the EPA established the attainment date for Moderate and Serious nonattainment areas as 6 years and 9 years, respectively, from the effective date of the final designation, July 20, 2012. Thus, the attainment date for Moderate nonattainment areas for the 2008 ozone NAAQS was July 20, 2018, and the attainment date for Serious areas is July 20, 2021. In a separate action effective on June 3, 2016, the EPA reclassified 11 of the 36 Marginal areas to Moderate for failing to attain the NAAQS by the July 20, 2015, Marginal attainment date (81 FR 26697, May 4, 2016). In that action, two Marginal areas received 1-year attainment date extensions. However, these two areas were later reclassified to Moderate for failing to attain the NAAQS by the July 20, 2016, extended Marginal area attainment date (Houston-Galveston-Brazoria, Texas—81 FR 90207, December 14, 2016; Sheboygan County, Wisconsin—81 FR 91841 December 19, 2016).

C. What is the statutory authority for the proposed actions?

The statutory authority for the actions proposed in this notice is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include, but are not necessarily limited to, sections 181(a)(5) and 181(b)(2).

By way of background, CAA section 107(d) provides that when the EPA establishes or revises a NAAQS, the agency must designate areas of the country as nonattainment, attainment, or unclassifiable based on whether they are not meeting (or contributing to air quality in a nearby area that is not meeting) the NAAQS, meeting the NAAQS or cannot be classified as meeting or not meeting the NAAQS, respectively. Subpart 2 of part D of title I of the CAA governs the classification, state planning and emissions control requirements for any areas designated as nonattainment for a revised primary ozone NAAQS. In particular, CAA section 181(a)(1) requires each area designated as nonattainment for a revised ozone NAAQS to be "classified" at the same time as the area is designated based on the extent of the ozone problem in the area (as determined based on the area's "design value," which represents air quality in the area for the most recent 3 years). Classifications for ozone nonattainment areas range from "Marginal" to "Extreme" based on the severity of the area's air quality problem. CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification. CAA section 182, as interpreted by the EPA's implementing regulations at 40 CFR 51.1108—1117, also establishes the timeframes by which air agencies must submit and implement SIP revisions to satisfy the applicable attainment planning elements, and the timeframes by which nonattainment areas must attain the 2008 ozone NAAQS. However, the EPA is proposing in Section III.D of this notice to adjust the deadlines for SIP revisions for any newly classified Serious nonattainment areas, as provided for in CAA section 182(i), including deadlines for RACT SIP revisions and RACT implementation.

Section 181(b)(2)(A) of the CAA requires that within 6 months following the applicable attainment date, the EPA shall determine whether an ozone nonattainment area attained the ozone standard based on the area's design value as of that date. Section 181(a)(5) of the CAA gives the EPA the discretion to grant a 1-year extension of the attainment date upon application by any state if: (1) The state has complied with all requirements and commitments pertaining to the area in the applicable implementation plan; and (2) no more than one measured exceedance of the NAAQS for ozone has occurred in the area preceding the extension year. The EPA may grant a second 1-year extension if these same criteria are met by the end of the first extension year.

In 40 CFR 51.1107, the EPA interpreted CAA section 181(a)(5)(B)'s exceedance-based air quality requirement of the extension criteria for purposes of a concentration-based standard like the 2008 8-hour ozone NAAQS. For purposes of determining an area's eligibility for an attainment date extension for the 2008 ozone NAAQS, the EPA has interpreted the criteria of CAA section 181(a)(5)(B) to mean that an area is eligible for a 1-year extension of the attainment date if it fourth highest daily maximum 8-hour value for the attainment year does not exceed the level of the standard.[14]

In the event an area fails to attain the ozone NAAQS by the applicable attainment date, CAA section 181(b)(2)(A) requires the EPA to make the determination that an ozone nonattainment area failed to attain the ozone standard by the applicable attainment date, and requires the area to be reclassified by operation of law to the higher of: (1) the next higher classification for the area, or (2) the classification applicable to the area's design value as of the determination of failure to attain.[15] Section 181(b)(2)(B) of the CAA requires the EPA to publish the determination of failure to attain and accompanying reclassification in the **Federal Register** no later than 6 months after the attainment date, which in the case of the Moderate nonattainment areas considered in this proposal would be no later than January 20, 2019.

Once an area is reclassified as a result of this action, each state is required to submit certain SIP revisions. The SIP

[13] Three areas were initially classified Moderate for the 2008 ozone NAAQS: Baltimore, Maryland, Dallas-Ft. Worth, Texas, and the Pechanga Reservation, located in southern California. Classifications for the remaining areas (of the 46 areas designated nonattainment for the 2008 ozone NAAQS) were 36 Marginal, two Serious, three Severe, and two Extreme areas.

[14] *See* 40 CFR 51.1107 pertaining to determining eligibility under CAA section 181(a)(5)(B) for the first and the second 1-year attainment date extensions for the 2008 ozone NAAQS. For the second 1-year extension, the area's fourth highest daily maximum 8-hour average concentration of ozone cannot not exceed 0.075 ppm when averaged over both the original attainment year and the first extension year.

[15] All nonattainment areas named in this notice that failed to attain by the attainment date would be classified to the next highest classification of Serious. None of the affected areas has a design value that would otherwise place an area in a higher classification (*i.e., see* CAA section 181(b)(2)(A) reference to Severe and Extreme areas).

revisions are intended to, among other things, demonstrate how the area will attain the NAAQS as expeditiously as practicable, but no later than July 20, 2021, the attainment date for Serious nonattainment areas for the 2008 ozone NAAQS. According to CAA section 182(i), each state containing an ozone nonattainment area reclassified as Serious under CAA section 181(b)(2) shall submit SIP revisions consistent with the schedules contained in CAA section 182(b) for Moderate areas and 182(c) for Serious areas. However, CAA section 181(b)(2) provides that the EPA "may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions." In Section III.D of this notice, the EPA explains its proposal to adjust such deadlines.

D. How does the EPA determine whether an area has attained the 2008 ozone standards?

Under EPA regulations at 40 CFR part 50, Appendix P, the 2008 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration does not exceed 0.075 ppm. This 3-year average is referred to as the "design value." When the design value does not exceed 0.075 ppm at each ambient air quality monitoring site within the area, the area is deemed to be attaining the ozone NAAQS. The rounding convention in Appendix P dictates that concentrations shall be reported in "ppm" to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.076 ppm is greater than 0.075 ppm and would exceed the standard, but a design value of 0.0759 is truncated to 0.075 and attains the 2008 ozone NAAQS.

The EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System (AQS) database.[16] Ambient air quality monitoring data for the 3-year period preceding the attainment date (which for the 2008 ozone NAAQS Moderate areas is the period from 2015–2017) must meet the data completeness requirements in Appendix P.[17] The completeness requirements are met for the 3-year period at a monitoring site if daily maximum 8-hour average concentrations of ozone are available for at least 90 percent of the days within the ozone monitoring season, on average, for the 3-year period, and no single year has less than 75 percent data completeness.

III. What is the EPA proposing and what is the rationale?

The EPA is proposing this action to fulfill its statutory obligation under CAA section 181(b)(2) to determine whether 11 Moderate ozone nonattainment areas attained the 2008 ozone NAAQS as of the attainment date of July 20, 2018. The EPA evaluated air quality monitoring data submitted by the appropriate state and local air agencies to determine the attainment status of the 11 areas as of the applicable attainment date of July 20, 2018. This section describes the separate determinations and actions being taken in this proposed rule.

A. Determinations of Attainment by the Attainment Date

Two of the 11 nonattainment areas' monitoring sites had a design value that did not exceed 0.075 ppm based on the 2015–2017 data. Thus, the EPA proposes to determine, in accordance with CAA section 181(b)(2)(A) and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the two areas, Baltimore, Maryland, and Mariposa County, California, listed in Table 1, attained the standard by the applicable attainment date for Moderate nonattainment areas for the 2008 ozone NAAQS.

The EPA's Clean Data Policy,[18] as codified for the 2008 ozone NAAQS at 40 CFR 51.1118, suspends the requirements for states to submit certain attainment planning SIPs such as the attainment demonstration, including reasonably available control measures (RACM), reasonable further progress (RFP), and contingency measures for so long as an area continues to attain the standard. The EPA determined that Mariposa County, California, had attained the 2008 ozone standard and therefore suspended the requirements for the state to submit an attainment demonstration and associated RACM, RFP plans, contingency measures, and other attainment planning elements, in accordance with 40 CFR 51.1118.[19] The EPA proposes that, following a final determination of attainment by the attainment date for Mariposa County, California, these requirements would remain suspended. Similarly, the EPA also proposes that a final determination of attainment by the attainment date for Baltimore, Maryland, would continue to suspend the state's attainment planning requirements for that area in accordance with 40 CFR 51.1118, as the EPA previously determined the area attained the 2008 ozone NAAQS and issued a Clean Data Determination.[20]

These proposed determinations of attainment by the attainment date do not constitute formal redesignations to attainment as provided for under CAA section 107(d)(3). Redesignations to attainment require the states responsible for ensuring attainment and maintenance of the NAAQS to meet the requirements under CAA section 110 and part D, including submitting for EPA approval a maintenance plan to ensure continued attainment of the standard for 10 years following redesignation, as provided under CAA section 175A.

The EPA is soliciting comments on these proposed determinations of attainment by the applicable attainment date for the Baltimore, Maryland, and Mariposa County, California, areas. Further technical analysis supporting this proposed determination is located in the TSD for this rule, which is available in the docket for this action.

B. Extensions of Moderate Area Attainment Date

The EPA is proposing to grant a 1-year extension of the attainment date for two areas: Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, and Sheboygan County, Wisconsin. Approval of the 1-year attainment date extensions is based on the states' compliance under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1107. These areas meet the specific air quality criteria for the 1-year extension under 51.1107(a)(1), meaning the fourth highest daily maximum 8-hour average ozone concentration recorded during the attainment year

[16] The EPA maintains the AQS, a database that contains ambient air pollution data collected by the EPA, state, local, and tribal air pollution control agencies. The AQS also contains meteorological data, descriptive information about each monitoring station (including its geographic location and its operator) and data quality assurance/quality control information. The AQS data is used to (1) assess air quality, (2) assist in attainment/non-attainment designations, (3) evaluate SIPs for non-attainment areas, (4) perform modeling for permit review analysis, and (5) prepare reports for Congress as mandated by the CAA. Access is through the website at *https://www.epa.gov/aqs*.

[17] *See* 40 CFR part 50, Appendix P, section 2.3(b).

[18] More information about the Clean Data Policy and redesignation guidance is available at *https://www.epa.gov/ozone-pollution/redesignation-and-clean-data-policy-cdp*.

[19] For Mariposa, California, the final 2008 ozone NAAQS Clean Data Determination was initially effective on February 21, 2017 (81 FR 93624, December 21, 2016) and was delayed until March 21, 2017, due to a Presidential directive (82 FR 8499, January 26, 2017).

[20] For Baltimore, Maryland, the final 2008 ozone NAAQS Clean Data Determination was effective on July 1, 2015 (80 FR 30941, June 1, 2015).

(2017) did not exceed the 2008 ozone NAAQS of 0.075 ppm. In addition, state officials have certified that they have complied with all requirements and commitments pertaining to these areas in their respective implementation plan.

By way of letter dated June 4, 2018,[21] the Colorado Department of Public Health and Environment (CDPHE) requested an extension for the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, Moderate area attainment date. The state's request for an extension also includes a certification that the state of Colorado has complied with all requirements and commitments pertaining to the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, Moderate ozone area SIP, in accordance with CAA section 181(a)(5)(A). The EPA evaluated the information submitted by the state and is proposing to determine that the state has met the requirement of CAA section 181(a)(5)(A) for this area.

The state also submitted an exceptional events demonstration claiming that the area's fourth highest daily maximum 8-hour average ozone concentration at one monitor, which exceeded the 0.075 ppm standard, was caused by wildfires in Montana and Pacific Northwest states in late summer 2017. On July 11, 2018, the EPA concurred with the state's demonstration that prevailing winds transported smoke from those wildfires to the Denver area on September 2 and 4, 2017, causing exceedances of the 2008 ozone NAAQS. Pursuant to 40 CFR 50.14, the EPA is proposing to exclude the air quality data submitted in the state's exceptional events demonstration for purposes of this determination of attainment by the attainment deadline. With the exceptional events data excluded, the fourth highest daily maximum 8-hour average for the area in 2017 does not exceed 0.075 ppm. Thus, the EPA is proposing to grant a 1-year attainment date extension for the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, Moderate nonattainment area in this proposed action.

In a letter from the Wisconsin Department of Natural Resources (DNR), dated May 24, 2018,[22] the state requested a 1-year attainment date extension for the Sheboygan County, Wisconsin, Moderate nonattainment area stating the requirements and commitments given under CAA section 181(a)(5)(A) had been met. In their request, the state officials also provided their certification of the 2017 ambient air monitoring data for the area. The EPA has evaluated this information from the state and is proposing to determine that the state has met the requirement of CAA section 181(a)(5)(A) for this area.[23]

In the letter, the state also explains that the fourth highest daily 8-hour ozone concentration from monitors in the area did not exceed 0.075 ppm during the 2017 calendar year and presented the state's "2017 Wisconsin Ambient Air Monitoring Data Certification" to support the analysis. Upon evaluation of the information submitted by the Wisconsin DNR, the EPA is proposing to grant a 1-year attainment date extension for the Sheboygan County, Wisconsin, Moderate nonattainment area in this proposed action.

If we finalize our action as proposed, upon the effective date of the final action, the attainment date for these areas would be extended to July 20, 2019. The areas would remain classified as Moderate for the 2008 ozone NAAQS unless and until the EPA makes a determination that either or both areas failed to attain the NAAQS by the new attainment date.

The EPA is soliciting comments on the proposed 1-year attainment date extensions for the Denver-Boulder-Greeley-Ft. Collins-Loveland, Colorado, and Sheboygan County, Wisconsin, Moderate nonattainment areas.

C. Determinations of Failure To Attain and Reclassification

The EPA is proposing to determine that seven Moderate nonattainment areas failed to attain the 2008 ozone NAAQS by the attainment date of July 20, 2018. These areas are not eligible for a 1-year attainment date extension because they do not meet the extension criteria under CAA section 181(a)(5) as interpreted by the EPA in 40 CFR 51.1107. The areas' ozone design values for 2015–2017 are shown in Table 1.

If we finalize our action as proposed, each of these areas will be reclassified to Serious, the next higher classification, as provided under CAA section 181(b)(2)(A)(i) and codified at 40 CFR 51.1103. These areas are required to attain the standard "as expeditiously as practicable" but no later than 9 years after the initial designation as nonattainment, which in this case would be no later than July 20, 2021. After reclassification to Serious, if any of these areas attains the 2008 ozone NAAQS prior to the Serious-area attainment date, the relevant state may seek a Clean Data Determination, under which certain attainment planning SIPs would be suspended under 40 CFR 51.1118 or a redesignation to attainment.[24]

The EPA is soliciting comments on this proposal for determining that these areas did not attain the 2008 ozone NAAQS by the Moderate area attainment date.

D. Serious Area SIP Revision Submission Deadlines and RACT Implementation Deadlines

Moderate nonattainment areas that failed to attain the 2008 ozone NAAQS by the attainment date will be reclassified as Serious by operation of law upon the effective date of the final reclassification notice. Each responsible state air agency must submit SIP revisions that satisfy the air quality planning requirements for a Serious area under CAA section 182(c).

On July 20, 2012, when final nonattainment designations became effective for the 2008 ozone NAAQS, states responsible for areas initially classified as Serious were required to prepare and submit SIP revisions by deadlines relative to that effective date. For those areas, the deadlines ranged from 2 to 4 years after July 20, 2012, depending on the SIP "element" required (*e.g.,* 2 years for the RACT SIP and 4 years for the attainment demonstration). Since those deadlines were passed, the EPA is proposing to use its discretion under CAA section 182(i) to adjust the SIP deadlines that would otherwise apply. Thus, the EPA is proposing that each state within which all or part of an area reclassified to Serious is located shall submit SIP revisions according to the following adjusted schedules:

[21] Kaufman, Garrison, Director, Air Pollution Control Division, CDPHE. "Submittal of Exceptional Events Demonstration and Request to Extend 2008 Ozone National Ambient Air Quality Standard Attainment Deadline for the Denver Metropolitan/North Front Range Nonattainment Area." June 4, 2018. Attachments included the "CDPHE Exceptional Event Demonstration for Ozone on September 2 and 4, 2017," and the "Colorado 2017 Data Certification Request Letter."

[22] Good, Gail, Director, Air Management Program, Wisconsin Department of Natural Resources, "Request for a one-year extension of the 2008 ozone standard attainment date for the Sheboygan County, Wisconsin moderate nonattainment area," letter dated May 24, 2018, which includes as an attachment the "2017 Wisconsin Ambient Air Monitoring Data Certification—Criteria Network Data," dated April 30, 2018.

[23] Letter dated July 11, 2018, to Garry Kaufman, Director, Air Pollution Control Division, Colorado Department of Public Health and Environment, from Martin Hestmark, Assistant Regional Administrator, Office of Partnerships and Regulatory Assistance, U.S. EPA Region 8, which inclused as an enclosure a TSD. This document is available in the rulemaking docket for this action.

[24] For a fuller description of the effects of a Clean Data Determination, *see* Section III.A of this preamble.

1. Due date for non-RACT Serious area SIP revisions, SIP revisions, and implementation deadline for RACT tied to attainment. The EPA proposes that states submit all SIP revisions—with the exception of any RACT revisions not needed for attainment purposes—no later than 12 months after the effective date of the final reclassification notice.[25] The state submittal requirements for attainment plans, in general, are provided under CAA section 172(c); the SIP requirements that apply to Serious areas for the 2008 ozone NAAQS are listed under CAA section 182(c) and include: (1) Enhanced monitoring; (2) attainment demonstration and reasonable further progress (RFP) plan; (3) an enhanced vehicle inspection and maintenance program, if applicable; (4) clean-fuel vehicle programs and transportation control; (5) nonattainment New Source Review program revisions; and (6) contingency measures. States must also provide an analysis of—and adopt all—RACM, including RACT needed for purposes of meeting RFP or timely attaining the NAAQS. Such an analysis should include: (1) An evaluation of controls for sources emitting 100 tons per year (tpy) or more that may have become reasonably available since the January 1, 2017, Moderate area deadline for adopting and implementing RACT, and (2) an evaluation of controls for sources emitting 50 tpy or more that are currently reasonably available, consistent with the Serious area classification.

The "schedule prescribed in connection with" the attainment planning requirements for Serious areas is 4 years from designation. *See* CAA section 182(i). However, given the Serious area attainment date of July 20, 2021, and the fact that these areas are reclassified rather than newly designated Serious areas, the EPA proposes that a 12-month deadline for the attainment planning requirements for all areas newly reclassified as Serious "is necessary and appropriate" to assure consistency among these submissions. Although not directly applicable, the EPA notes that the analogous provision in the general nonattainment area requirements in Subpart 1 also provides 12 months for submission of a new attainment demonstration and associated controls after the EPA determines that an area has failed to attain by its attainment date. *See* CAA section 179(d). We also believe the proposed timeframe is consistent with how the EPA handled setting SIP submission deadlines for other nonattainment areas that were reclassified from Moderate to Serious for past ozone NAAQS. Examples include Dallas-Ft. Worth, Texas,[26] an area reclassified in 2010 as Serious for the 1997 8-hour ozone NAAQS, and the Beaumont-Port Arthur, Texas,[27] and St. Louis, Missouri,[28] areas, reclassified in 2003 and 2004, respectively, from Moderate to Serious for the 1979 1-hour ozone NAAQS. Twelve months generally provides the time necessary for states and local air districts to finish reviews of available control measures, adopt revisions to necessary attainment strategies, address other SIP requirements and complete the public notice process necessary to adopt and submit timely SIP revisions.[29]

The EPA also proposes that any RACT that states determine is needed for meeting RFP or timely attainment of the 2008 ozone NAAQS must be implemented by the date that the attainment plan is due, *i.e.,* no later than 12 months after the effective date of the final reclassification notice. As a general matter, the Act requires implementation of those requirements needed for timely attainment "as expeditiously as practicable." *See* CAA section 172(c)(1). The EPA believes that an implementation deadline of 12 months from the effective date of the reclassification is consistent with the requirement to act expeditiously and moreover is consistent with the start of the attainment year ozone season for all 2008 ozone NAAQS Serious areas, which is the start of the 2020 ozone season. All emissions control strategies designed to help areas attain the 2008 ozone NAAQS by the applicable Serious area attainment date of July 20, 2021, or to qualify for a 1-year extension of that attainment date, necessarily must be in place and in effect no later than the start of the final full ozone season preceding the attainment date, as that is the last ozone season of air quality monitoring data that could affect the area's design value as of the attainment date or would decide whether the area met the 1-year extension air quality eligibility criterion (*see* 40 CFR 51.1108(d)). The EPA discusses its proposed deadlines for RACT SIP revisions and implementation of RACT beyond what may be needed in a Serious area for attainment purposes in Sections III.D.2 and III.D.3 of this notice.

The EPA seeks comment on its proposed date of 12 months from the effective date of the final reclassification notice both for Serious area SIP revisions to be due and the implementation deadline for any RACT measures states determine necessary for meeting RFP or demonstrating timely attainment in the area.

2. Due date for additional Serious area RACT SIP revisions. For Serious areas reclassified from Moderate, the requirement for RACT expands to include all sources that emit, or have the potential to emit, 50 tons per year (tpy) of VOC or NO_X.[30] State air agencies responsible for Moderate areas are already required to implement RACT for major sources,[31] defined as sources that emit or have the potential to emit 100 tpy.[32] Thus, states must revise their RACT SIPs to include those other sources emitting or having the potential to emit 50 to 100 tpy. The EPA proposes that states submit their SIP revisions for any RACT not otherwise needed for attainment purposes by August 3, 2020. This deadline is anticipated to be approximately 18 months after the effective date of the final reclassification notice.

This proposed deadline would align the Serious area RACT SIP deadline for the 2008 ozone NAAQS with some of

[25] The EPA has long taken the position that the statutory requirement for states to assess and adopt RACT for sources in ozone nonattainment areas classified Moderate and higher generally exists independently from the attainment planning requirements for such areas. *See* Memo from John Seitz, "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard" (1995), at 5 (explaining that Subpart 2 requirements linked to the attainment demonstration are suspended by a finding that a nonattainment area is attaining but that requirements such as RACT must be met whether or not an area has attained the standard); *see also* 40 CFR 51.1118 (suspending attainment demonstrations, RACM, RFP, contingency measures, and other attainment planning SIPs with a finding of attainment). In addition to the independent RACT requirement, states have a statutory obligation to apply RACM (including such reductions in emissions from existing sources in the area as may be obtained through implementation of RACT) to meet RFP requirements and to demonstrate attainment as expeditiously as practicable. Therefore, to the extent that a state adopts new or additional RACT controls to meet RFP requirements or to demonstrate attainment as expeditiously as practicable, those states must include such RACT revisions with the other SIP elements due as part of the attainment plan required under CAA sections 172(c) and 182(c) and must implement them by the same date as explained further in Section III.D.3 of this notice.

[26] *See* 75 FR 79302, December 20, 2010, Dallas-Ft. Worth, Texas, reclassification to Serious for the 1997 8-hour ozone NAAQS.

[27] *See* 69 FR 16483, March 30, 2004, Beaumont-Port Arthur, Texas, reclassification to Serious for the 1979 1-hour ozone NAAQS.

[28] *See* 68 FR 4836, January 30, 2003, St. Louis, Missouri, reclassification to Serious for the 1979 1-hour ozone NAAQS.

[29] *Cf.* CAA section 179(d)(1).

[30] *See* CAA sections 182(c) and 182(f).

[31] *See* CAA section 182(b)(2) and 182(f).

[32] *See* CAA section 302(j).

the nonattainment area SIP revision deadlines associated with the 2015 ozone NAAQS.[33] CAA section 182(i) provides that the Administrator may adjust deadlines for reclassified areas "to the extent such adjustment is necessary or appropriate to assure consistency among the required submissions." The EPA interprets "consistency among the required submissions" to allow for consideration of "required submissions" for various ozone NAAQS that are being implemented simultaneously. Since all the areas that would be reclassified to Serious upon the effective date of the final reclassification notice are also designated nonattainment for the 2015 ozone NAAQS or are in the Ozone Transport Region (OTR), the responsible state air agencies are required under CAA section 182 to submit SIP revisions for certain SIP elements for the 2015 ozone NAAQS within 2 years of the effective date of the nonattainment area designations. The effective date of nonattainment area designations for the 2015 ozone NAAQS was August 3, 2018, and, therefore, the deadline for submitting nonattainment SIP revisions associated with that standard would be August 3, 2020. Consistent with CAA section 182(i), the EPA believes coordinating the SIP deadlines related to the 2008 and 2015 ozone NAAQS for these nonattainment areas is appropriate and could result in more effective implementation of the NAAQS.

Under CAA section 182(i), reclassified areas generally are required to submit SIP revisions associated with their new classification "according to the schedules prescribed in connection with such requirements." CAA section 182(b)(2), which establishes the RACT requirement for ozone nonattainment areas classified as Moderate or above, and CAA section 184(b), which establishes RACT requirements for areas in the ozone transport region, provide a 24-month schedule for compliance with those requirements.[34] Although the proposed deadline of August 3, 2020, provides less than 24 months, the EPA believes the anticipated timeframe is appropriate given coordination with the 2015 ozone NAAQS SIP deadlines and the nature of the submission, *i.e.,* because states with newly reclassified Serious areas should already have addressed RACT requirements commensurate with the Moderate area classification.

The EPA is proposing (and soliciting comments) on an August 3, 2020, deadline for RACT SIP revisions. The EPA is also taking comment on whether allowing states a full 24 months from the effective date of the final reclassification notice to submit SIP revisions for RACT not otherwise needed for attainment purposes would yield a more desirable end result in terms of emissions reductions and air quality benefits, state processing and resource burden, and/or burden on emissions sources.

3. Implementation deadline for additional Serious area RACT. CAA section 182(b)(2) establishes the RACT area requirements for ozone areas designated and classified Moderate and higher.[35] That provision, which was written for the 1-hour ozone NAAQS, established a deadline of five years from November 15, 1990, *i.e.,* the date of designation, for the implementation of RACT. In the 2008 ozone NAAQS SIP Requirements Rule, the EPA interpreted this statutory deadline for the 2008 standard by establishing a RACT implementation deadline of January 1 of the fifth year after the effective date of nonattainment designation, and explained that this was consistent with the maximum timeframe provided under the CAA for implementing RACT in nonattainment areas classified Moderate or higher.[36] For nonattainment areas initially classified as Moderate or higher for the 2008 ozone NAAQS and for OTR states, RACT measures were required to be implemented by January 1, 2017. Because that date has passed and cannot be applied to the areas subject to reclassification by this action, the EPA is proposing to set a new deadline of August 3, 2020, for implementation of any new RACT requirements not otherwise needed for RFP or timely attainment purposes.

This proposed deadline, approximately 18 months after the anticipated effective date of the final reclassification notice, is the same deadline proposed for the submission of the related RACT SIP revisions discussed in Section III.D.2 of this notice. Ideally, SIP submission deadlines would precede the implementation of control strategies contained in those SIP submissions. However, given the compressed timeframe available for states to meet the July 20, 2021, attainment date for Serious areas, the EPA believes that, at the very least, it is appropriate to align the deadline for RACT SIP submissions with the deadline for implementation of any new controls contained in that RACT SIP.

The EPA acknowledges the fact that the majority of ozone nonattainment areas in the country were designated and classified as Marginal for the 2015 ozone NAAQS, and so will likely not be required to have any additional RACT in place for the 2015 standard until 2023, and only if such areas are eventually reclassified as Moderate.[37] Providing a slightly longer timeframe (*i.e.,* 18 months rather than 12 months) for implementation of any additional RACT for newly reclassified Serious areas for the 2008 standards could lead states to determine that additional controls are reasonable, thus helping areas attain both the 2008 and 2015 standards more expeditiously.

The Moderate areas subject to reclassification by this proposed action should have already implemented RACT for sources emitting 100 tpy or more of VOC or NO_X. Therefore, at this stage, states should be primarily focused on adopting and implementing new RACT measures required to control sources emitting 50 to 100 tpy of VOC or NO_X. The EPA believes 18 months will provide adequate time to implement any new controls determined to be RACT for this group of sources. However, as noted above, areas originally classified as Moderate and higher for the 2008 ozone NAAQS had just under five years to implement ozone RACT requirements (by January 1 of the fifth year after effective date of designation, *i.e.,* January 1, 2017). By contrast, areas reclassified from Marginal to Moderate for the 2008 ozone NAAQS in 2016 became subject to the RACT requirement less than seven months (and in one case significantly less than seven months) before the RACT implementation deadline.[38] [39] In some areas, states may have been able to adopt additional RACT controls had

[33] All the areas subject to reclassification in this notice are among those designated nonattainment for the 2015 ozone NAAQS, effective August 3, 2018 (*see* 83 FR 25776, June 4, 2018).

[34] *See* 40 CFR 51.1112(a)(2).

[35] CAA Section 182(b)(2) sets the RACT requirement for Moderate areas, and the Act requires other higher-classified areas to fulfill the CAA section 182(b) requirements. *See* CAA sections 182(c), (d), and (e) (requiring states with Serious, Severe, and Extreme nonattainment areas, respectively, to fullfil the obligations required of lower-classified areas).

[36] *See* 40 CFR 51.1112(a)(3); 80 FR 12264, 12280 (March 6, 2015).

[37] *See* CAA section 182(b) and (c), as applied only to Moderate areas and above. All areas in the OTR, regardless of classification for the 2015 ozone NAAQS, would be required to have any additional RACT in place for the 2015 ozone standard by RACT implementation deadlines interpreted from CAA section 182(b) in EPA's final "2015 Ozone NAAQS SIP Requirements Rule," which is forthcoming.

[38] *See* 81 FR 26697; May 4, 2016.

[39] *See* 81 FR 90207, December 14, 2016, Houston-Galveston-Brazoria, Texas, reclassification to Moderate for the 2008 8-hour ozone NAAQS.

there been additional time to implement them. The EPA, therefore, seeks comment on whether an extended RACT implementation deadline—beyond August 3, 2020, but no later than January 1 of the fifth year after effective date of reclassification to Serious (*i.e.*, January 1, 2024)—would yield additional and substantial emission reductions in newly-reclassified Serious areas (beyond what could be achieved by the due date of August 3, 2020, proposed in this notice) to justify an extended compliance due date for RACT not otherwise needed in an area for timely attainment by the July 20, 2021, attainment date for Serious areas.

In summary, the EPA is propsing (and soliciting comments) on an August 3, 2020, deadline for implementing RACT in newly reclassified Serious nonattainment areas for the 2008 ozone NAAQS. The EPA is also taking comment on an extended deadline up to January 1, 2024, for implementing RACT in newly reclassified Serious nontainment areas for the 2008 ozone NAAQS.

IV. Environmental Justice Considerations

The EPA believes that this proposed action will not have disproportionately high or adverse human health or environmental effects on minority, low-income, or indigenous populations.

The purpose of this rule is to make the determination whether certain areas attained the 2008 ozone NAAQS by the attainment date, which is required by the CAA for purposes of implementing the 2008 ozone NAAQS. As such, this action does not directly affect the level of protection provided for human health or the environment. Moreover, it is intended that the actions and deadlines resulting from this notice will lead to greater protection for United States citizens, including minority, low-income, or indigenous populations, by ensuring that states meet their statutory obligation to develop and submit SIPs to ensure that areas make progress toward attaining the 2008 ozone NAAQS.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This rule does not impose any new information collection burden under the PRA not already approved by the Office of Management and Budget. This action proposes to: (1) Find that certain Moderate ozone nonattainment areas listed in Table 1 failed to attain the 2008 NAAQS by the applicable attainment date; (2) identify those areas subject to reclassification as Serious ozone nonattainment areas by operation of law upon the effective date of the reclassification notice; and (3) adjust any applicable implementation deadlines. Thus, the proposed action does not establish any new information collection burden that has not already been identified and approved in the EPA's information collection request.[40]

D. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. The proposed determinations of attainment and failure to attain the 2008 ozone NAAQS (and resulting reclassifications), and the proposed determination to grant 1-year attainment date extensions do not in and of themselves create any new requirements beyond what is mandated by the CAA. Instead, this rulemaking only makes factual determinations, and does not directly regulate any entities.

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action imposes no enforceable duty on any state, local or tribal governments or the private sector.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, tribes, or the relationship between the national government and the states and tribes, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This action has tribal implications. However, it will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The EPA has identified a few tribal areas implicated in the 11 areas covered by the EPA's action proposing determinations of attainment for the 2008 ozone NAAQS. The EPA intends to communicate with potentially affected tribes located within the boundaries of the nonattainment areas for the 2008 ozone NAAQS as the agency moves forward in developing a final rule.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of "covered regulatory action" in section 2–202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not concern an environmental health risk or safety risk.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes the human health or environmental risk addressed by this action will not have potential disproportionately high and adverse human health or environmental effects on minority, low-income, or indigenous populations. The results of this evaluation are contained in the section of the preamble titled "Environmental Justice Considerations."

[40] On April 30, 2018, the OMB approved EPA's request for renewal of the previously approved information collection request (ICR). The renewed request expires on April 30, 2021, 3 years after the approval date (*see* OMB Control Number 2060–0695 and ICR Reference Number 201801–2060–003 for EPA ICR No. 2347.03).

List of Subjects

40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements and Volatile organic compounds.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: November 7, 2018.

William L. Wehrum,

Assistant Administrator.

[FR Doc. 2018–24816 Filed 11–13–18; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 355

[EPA–HQ–OLEM–2018–0318; FRL–9986–40–OLEM]

RIN 2050–AH00

Emergency Release Notification Regulations on Reporting Exemption for Air Emissions From Animal Waste at Farms; Emergency Planning and Community Right-to-Know Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to amend the release notification regulations under the Emergency Planning and Community Right-to-Know Act (EPCRA) to add the reporting exemption for air emissions from animal waste at farms provided in section 103(e) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In addition, EPA is proposing to add definitions of "animal waste" and "farm" to the EPCRA regulations to delineate the scope of this reporting exemption. This proposed rulemaking maintains consistency between the emergency release notification requirements of EPCRA and CERCLA in accordance with the statutory text, framework and legislative history of EPCRA, and is consistent with the Agency's prior regulatory actions.

DATES: Comments must be received on or before December 14, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2018–0318, at *https://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure 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. The 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: Sicy Jacob, United States Environmental Protection Agency, Office of Land and Emergency Management, 1200 Pennsylvania Ave. NW (Mail Code 5104A), Washington, DC 20460; telephone number: (202) 564–8019; email address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

A list of entities that could be affected by this final rule include, but are not necessarily limited to:

Type of entity	Examples of affected entities
Industry	NAICS code 111—Crop production. NAICS code 112—Animal production.
States and/or Local Governments	NAICS code 999200—State Government, excluding schools and hospitals. NAICS code 999300—Local Government, excluding schools and hospitals. State Emergency Response Commissions, Tribal Emergency Response Commissions, Tribal Emergency Planning Committees and Local Emergency Planning Committees.

This table is not intended to be exhaustive, but rather provide a guide for readers regarding the types of entities that EPA is aware could be involved in the activities affected by this action. However, other types of entities not listed in this table could be affected by this proposed rulemaking. To determine whether your entity is affected by this action, you should carefully examine the applicability criteria found in § 355.30 of title 40 of the Code of Federal Regulations (CFR). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. What action is the Agency taking?

The EPA is proposing to amend the EPCRA emergency release notification regulations to include the reporting exemption for air emissions from animal waste at farms provided in CERCLA section 103(e). In addition, EPA is proposing to add definitions of "animal waste" and "farm" to the EPCRA regulations to delineate the scope of this reporting exemption.

C. What is the Agency's authority for taking this action?

This proposed rulemaking is being issued under EPCRA, which was enacted as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986 (Pub. L. 99–499). EPA proposes this rulemaking under the