

**UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

STATE OF UTAH, by and through)
its Governor, SPENCER J. COX,)
and its Attorney General,)
DEREK E. BROWN,)

Petitioner,)

v.)

Case No. _____

U.S. ENVIRONMENTAL PROTECTION)
AGENCY and LEE ZELDIN,)
Administrator, U.S. EPA,)

Respondents.)

PETITION FOR REVIEW

Under the Clean Air Act Section 307(b)(1), 42 U.S.C. § 7607(b)(1), the Administrative Procedure Act, 5 U.S.C. § 702, Federal Rule of Appellate Procedure 15(a), and Tenth Circuit Rule 15, the State of Utah (“Utah”) petitions this Court for review of the final rule of the United States Environmental Protection Agency (“EPA”) titled “Finding of Failure to Attain and Reclassification of an Area in Utah as Serious for the 2015 Ozone National Ambient Air Quality Standards,” published in the Federal Register at 89 Fed. Reg. 97,545 (Dec. 9, 2024) (EPA Docket No. EPA-R08-OAR-2024-0552). A copy of EPA’s final rule is attached to this Petition.

This Court has jurisdiction and is the proper venue for this action, under 42 U.S.C. § 7607(b)(1) because the final rule is “locally and regionally applicable” and is reviewable “in the United States Court of Appeals for the appropriate circuit.” *Id.* In the final rule, EPA determines that the Utah’s Northern Wasatch Front area did not attain the 2015 8-hour ozone National Ambient Air Quality Standards by the applicable attainment date and reclassifies the area to serious nonattainment. *See* 89 Fed. Reg. 97,546. The final rule does not apply to any other areas in the United States but applies only locally to the Northern Wasatch Front area in Utah’s northern portion.

EPA also did not make any findings that the final rule is “based on a determination of nationwide scope or effect.” 42 U.S.C. § 7607(b)(1). The venue is proper in this Court as the appropriate circuit for the “locally and regionally applicable” action. *Id.*

Dated: February 7, 2025.

Respectfully submitted,

/s/ Marina V. Thomas

Derek E. Brown
UTAH ATTORNEY GENERAL

Stanford E. Purser
SOLICITOR GENERAL
Sarah Goldberg
ASSISTANT UTAH ATTORNEY GENERAL
Utah Attorney General's Office
160 East 300 South, Fifth Floor
P.O. Box 140858
Salt Lake City, Utah 84114-0858
Ph. (801) 366-0533
spurser@agutah.gov
sgoldberg@agutah.gov

Marina V. Thomas
Craig W. Anderson
Braden W. Asper
ASSISTANT UTAH ATTORNEYS GENERAL
Utah Attorney General's Office
Environment, Health & Human Services
Division
195 North 1950 West, Second Floor
P.O. Box 140873
Salt Lake City, UT 84114-0873
Ph. (801) 536-0290
marinathomas@agutah.gov
craiganderson@agutah.gov
bradenasper@agutah.gov

Counsel for Petitioner State of Utah

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing Petition for Review by certified mail, return receipt requested, addressed to the following:

Hon. Lee Zeldin
Office of the Administrator (1101A)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Hon. Pam Bondi
Attorney General of the United States
United States Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, D.C. 20530-0001

Correspondence Control Unit
Office of General Counsel (2311)
United States Environmental Protection Agency
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dated: February 7, 2025

/s/ Andrea A. Gaytan
ANDREA A. GAYTAN
Paralegal, Utah Attorney General's Office

- a. Remove and reserve paragraphs (c)(1)(i) and (c)(1)(ii); and
- b. Revise paragraph (c)(1)(v).
The revisions read as follows:

§ 52.119 Identification of plan—conditional approvals.

* * * * *

(c) * * *
(1) * * *

(v) The RACT demonstration titled “Analysis of Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) State

Implementation Plan (RACT SIP),” only those portions of the document beginning with “Gasoline Tank Trucks And Vapor Collection System Leaks” on page 34 through the first full paragraph on page 35, and Appendix C: CTG RACT Spreadsheet, the rows beginning with “Gasoline Tank Trucks and Vapor Collection System Leaks” on page 65, through “Service Stations—Stage I” on pages 67–69. This demonstration represents the RACT requirement for the following source categories: Control of Volatile Organic Compound Leaks from

Gasoline Tank Trucks and Vapor Collection Systems (EPA–450/2–78–051); and Design Criteria for Stage I Vapor Control Systems—Gasoline Service Stations (EPA–450/R–75–102).

* * * * *

- 3. In § 52.120, paragraph (c), Table 4, revise the entries for “Rule 350” and “Rule 351” to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

TABLE 4 TO PARAGRAPH (c)—EPA-APPROVED MARICOPA COUNTY AIR POLLUTION CONTROL REGULATIONS

County citation	Title/subject	State effective date	EPA approval date	Additional explanation
* * * * *				
Post-July 1998 Rule Codification				
* * * * *				
Regulation III—Control of Air Contaminants				
* * * * *				
Rule 350	Storage and Transfer of Organic Liquids (Non-Gasoline) at an Organic Liquid Distribution (OLD) Facility.	November 18, 2020	December 9, 2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Submitted electronically on December 3, 2020, as an attachment to a letter dated November 24, 2020.
Rule 351	Storage and Loading of Gasoline at Bulk Gasoline Plants and at Bulk Gasoline Terminals.	November 18, 2020	December 9, 2024, [INSERT FIRST PAGE OF FEDERAL REGISTER CITATION].	Submitted electronically on December 3, 2020, as an attachment to a letter dated November 24, 2020.
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[FR Doc. 2024–28537 Filed 12–6–24; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R08–OAR–2024–0552; FRL–12458–01–R8]

Finding of Failure To Attain and Reclassification of an Area in Utah as Serious for the 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Northern Wasatch Front, UT area 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 area will be reclassified by operation of law to “Serious” nonattainment for the 2015 ozone NAAQS on, the effective date of this final rule. This action fulfills the EPA’s obligation under the Clean Air Act (CAA) to determine whether ozone nonattainment areas attained the NAAQS by the Moderate area 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 rule is effective January 8, 2025.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R08–OAR–2024–0552. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Amanda Brimmer, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD–AQ–R, 1595 Wynkoop Street, Denver, Colorado 80202–1129, telephone number: (303) 312–6323, email address: brimmer.amanda@epa.gov.

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

I. Overview of Action

The 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)). The 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 Moderate nonattainment areas for the 2015 ozone NAAQS, such as the area 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 before the attainment date (*i.e.*, December 31, 2023, in the case of Moderate nonattainment areas for the 2015 ozone NAAQS). Accordingly, the EPA’s determinations for each Moderate area are based upon the complete, quality-assured, and certified ozone monitoring data from calendar years 2021, 2022, and 2023.

This action addresses the Northern Wasatch Front area in Utah, which was classified as Moderate for the 2015 ozone NAAQS as of the Moderate area attainment date of August 3, 2024. The EPA is finding that the Northern Wasatch Front Moderate area did not attain by the attainment date, because the area’s 2021–2023 DV was 0.077 ppm which is greater than 0.070 ppm. Under CAA section 181(b)(2)(A), the effect of this determination is that this area will be reclassified by operation of law as Serious on the effective date of this final rule. The reclassified area will then be subject to the Serious area requirement to attain the 2015 ozone NAAQS as expeditiously as practicable, but not later than August 3, 2027.

As a result of the area’s reclassification as Serious, Utah must submit to the EPA the state implementation plan (SIP) revisions for this area that satisfy the statutory and regulatory requirements applicable to Serious areas established in CAA

section 182(c) and in the 2015 Ozone NAAQS SIP Requirements Rule (see 83 FR 62998, December 6, 2018). The EPA is establishing deadlines for submitting SIP revisions for these reclassified areas in a separate action.

II. What is the background for this action?

On October 26, 2015, the EPA issued its final action to revise the NAAQS for ozone to establish a new 8-hour standard (*see* 80 FR 65452, October 26, 2015). In that action, the EPA promulgated identical tighter primary and secondary ozone standards designed to protect public health and welfare that specified an 8-hour ozone level of 0.070 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 0.070 ppm.

Effective on August 3, 2018, the EPA designated 52 areas throughout the country as nonattainment for the 2015 ozone NAAQS (see 83 FR 25776, June 4, 2018). In a separate action, the EPA assigned classification thresholds and attainment dates based on the severity of an area’s ozone problem, determined by the area’s DV (see 83 FR 10376, May 8, 2018). Consistent with CAA section 181(a), the EPA established the attainment date for Marginal, Moderate, and Serious nonattainment areas as 3 years, 6 years, and 9 years, respectively, from the effective date of the final designations. Thus, the attainment date for Marginal nonattainment areas for the 2015 ozone NAAQS was August 3, 2021, the attainment date for Moderate areas was August 3, 2024, and the attainment date for Serious areas is August 3, 2027. On October 7, 2022 (87 FR 60897), the EPA determined that 22 areas, including the Northern Wasatch Front area addressed in this action, did not attain the standards by the Marginal attainment date, and these areas were reclassified as Moderate by operation of law.

III. What is the statutory authority for this action?

The statutory authority for this determination is provided by the CAA, as amended (42 U.S.C. 7401 *et seq.*). Relevant portions of the CAA include sections 107, 181 and 182.

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 each area is not meeting (or is 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 DV). Classifications for ozone nonattainment areas are “Marginal,” “Moderate,” “Serious,” “Severe,” and “Extreme,” in order of stringency. CAA section 182 provides the specific attainment planning and additional requirements that apply to each ozone nonattainment area based on its classification.

Section 181(b)(2)(A) of the CAA provides that within 6 months following the applicable attainment date, the EPA must determine whether an ozone nonattainment area attained the ozone standard based on the area’s DV as of that date. Under CAA section 181(a)(5) and 40 CFR 51.1307, on application by any state, the EPA may grant a 1-year extension to the attainment date when certain criteria are met. One criterion for a first attainment date extension is that an area’s fourth highest daily maximum 8-hour value for the attainment year must not exceed the level of the standard.

If an area fails to attain the ozone NAAQS by the applicable attainment date and is not granted a 1-year attainment date extension, 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 DV as of the determination of failure to attain.² 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 area considered in this determination is February 3, 2025.

Once an area is reclassified, each state that contains a reclassified area is

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.

² The nonattainment area named in this action that failed to attain by the attainment date is being classified to the next higher classification, Serious. It does not have a DV that would otherwise place it in a higher classification.

required to submit certain SIP revisions in accordance with the more stringent classification. The SIP revisions are intended to, among other things, demonstrate how the area will attain the NAAQS as expeditiously as practicable, but no later than August 3, 2027, the Serious area attainment date for the 2015 ozone NAAQS. Per CAA section 182(i), a state with a reclassified ozone nonattainment area must submit the applicable attainment plan requirements “according to the schedules prescribed in connection with such requirements” in CAA section 182(c) for Serious areas, but 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.” EPA is addressing the SIP revision and implementation deadlines for newly reclassified Serious areas, as well as the continued applicability of Moderate area requirements that this area may not yet have met, in a separate rulemaking.

IV. How does EPA determine whether an area has attained the standard?

The level of the 2015 ozone NAAQS is 0.070 ppm.³ Under EPA regulations at 40 CFR part 50, appendix U, the 2015 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient ozone concentration (*i.e.*, the DV) does not exceed 0.070 ppm. When the DV does not exceed 0.070 ppm at each ambient air quality monitoring site

within the area, the area is deemed to be attaining the ozone NAAQS. Each area’s DV is determined by the highest DV among monitors with valid DVs.⁴ The data handling convention in 40 CFR part 50 appendix U states that concentrations are to be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a 3-year average ozone concentration of 0.071 ppm is greater than 0.070 ppm and would exceed the standard, but a 3-year average ozone concentration of 0.0709 ppm is truncated to 0.070 ppm and attains the 2015 ozone NAAQS.

The EPA’s determination of whether the Northern Wasatch Front attained the standard is based on hourly ozone concentration data for calendar years 2021, 2022 and 2023 that have been collected and quality-assured in accordance with 40 CFR part 58 and reported to the EPA’s Air Quality System (AQS) database.⁵

State and local monitoring network plans are subject to approval by the EPA on an annual basis, and any interim modifications to those plans must also be approved by the EPA.⁶ The annual monitoring network plan process is provided in 40 CFR 58.10 and the requirements governing system modifications and monitor discontinuations are laid out in 40 CFR 58.14. Where state or local agencies seek to modify the ambient air quality monitoring networks by discontinuing a monitor station, the EPA may approve

such modifications subject to the criteria established in 40 CFR 58.14(c). The EPA may not approve such discontinuation if doing so would compromise data collection needed for implementation of a NAAQS. If a monitor has been discontinued subject to 40 CFR 58.14 such that the discontinuation results in insufficient data to calculate a valid DV according to appendix U to 40 CFR part 50, EPA will determine the applicable area’s attainment status based on the remaining monitors in the area.

V. What is EPA’s determination for the area?

The EPA is determining that the Northern Wasatch Front Moderate nonattainment area failed to attain the 2015 ozone NAAQS by the attainment date of August 3, 2024. As shown in table 1, at least one monitor in this area had a 2021–2023 DV greater than 0.070 ppm; in fact, *all* of the area’s monitors had a 2021–2023 DV greater than 0.070 ppm. The EPA has further determined that this area did not meet the requirements under section 181(a)(5)(B) and 40 CFR 51.1307 necessary to grant a 1-year extension of the attainment date, because at least one monitor had a 2023 fourth highest daily maximum 8-hour average that was greater than 0.070 ppm. Table 1 shows the annual fourth highest daily maximum 8-hour average ozone concentration and 2021–2023 DV for each monitor in the Northern Wasatch Front area.

TABLE 1—2021–2023 FOURTH HIGHEST DAILY MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AND DESIGN VALUES AT ALL MONITORS IN THE NORTHERN WASATCH FRONT AREA

AQS site ID	County	Fourth highest daily maximum 8-hour average ozone concentration (ppm)			2021–2023 DV (ppm)
		2021	2022	2023	
490110004	Bountiful Viewmont	0.082	0.075	0.073	0.076
490352005	Copper View	0.086	0.074	0.073	0.077
490353006	Hawthorne	0.081	0.072	0.072	0.075
490353010	Rose Park	0.079	0.075	0.070	0.074
490353013	Herriman #3	0.087	0.071	0.068	0.075
490353014	Lake Park	0.082	0.072	0.072	0.075

³ See 40 CFR 50.19.

⁴ According to appendix U to 40 CFR part 50, ambient monitoring sites with a DV of 0.070 ppm or less must meet minimum data completeness requirements in order to be considered valid. These requirements are met for a 3-year period at a site if daily maximum 8-hour average ozone concentrations are available for at least 90% of the days within the ozone monitoring season, on average, for the 3-year period, with a minimum of at least 75% of the days within the ozone monitoring season in any one year. Ozone

monitoring seasons are defined for each state in appendix D to 40 CFR part 58. DVs greater than 0.070 ppm are considered to be valid regardless of the data completeness.

⁵ 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>.

⁶ Annual monitoring network plans for each state are available at <https://www.epa.gov/amtic/state-monitoring-agency-annual-air-monitoring-plans-and-network-assessments>.

VI. What action is EPA taking?

Pursuant to CAA section 181(b)(2), the EPA is determining that the Northern Wasatch Front area failed to attain the 2015 ozone NAAQS by the applicable attainment date of August 3, 2024. Therefore, upon the effective date of this final action, this area will be reclassified by operation of law to Serious nonattainment for the 2015 ozone NAAQS. Once reclassified as Serious, this area will be 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 August 3, 2027.

The Administrative Procedure Act (APA) provides that when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. 5 U.S.C. 553(b)(B). The EPA has determined that there is good cause for making this final agency action without prior proposal and opportunity for comment, because our action to determine whether this area has attained the NAAQS by the attainment date is governed, per CAA section 181(b)(2)(A), solely by area design values as of that date. The area DVs relied upon in this document are calculations based on the certified air quality monitoring data governed by EPA’s regulations at 40 CFR part 58 and involve no exercise of judgment or discretion. Thus, notice and public procedures are unnecessary to take this action. The EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 14094: Modernizing Regulatory Review

This action is not a “significant regulatory action” under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Order 14094 (88 FR 21879, April 11, 2023).

B. Paperwork Reduction Act (PRA)

This rule does not impose an information collection burden under the provisions of the PRA of 1995 (44 U.S.C. 3501 *et seq.*). This action does not contain any information collection activities and serves only to make a final determination that the Northern Wasatch Front nonattainment area

failed to attain the 2015 ozone standards by the August 3, 2024, attainment date, as a result of which the area will be reclassified as Serious nonattainment for the 2015 ozone standards by operation of law upon the effective date of this final reclassification action.

C. 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 (5 U.S.C. 601 *et seq.*). This action will not impose any requirements on small entities. The determination of failure to attain the 2015 ozone standards (and resulting reclassifications), do not in and of themselves create any new requirements beyond what is mandated by the CAA. This final action would require the state to adopt and submit SIP revisions to satisfy CAA requirements and would not itself directly regulate any small entities.

D. 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. The action imposes no enforceable duty on any state, local or Tribal governments or the private sector.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The division of responsibility between the Federal government and the states for purposes of implementing the NAAQS is established under the CAA.

F. 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 one Tribal area within the nonattainment area covered by this final rule, that would potentially be affected by this rulemaking. Specifically, the Skull Valley Band of Goshute Indians is within the Northern Wasatch Front, Utah nonattainment area.

The EPA has concluded that the proposed rule may have Tribal implications for this Tribe for the

purposes of Executive Order 13175 but would not impose substantial direct costs upon the Tribe, nor would it preempt Tribal law. As noted previously, a Tribe that is part of an area that is reclassified from Moderate to Serious nonattainment is not required to submit a Tribal Implementation Plan (TIP) revision to address new Serious area requirements. However, when the EPA finalizes the determinations of failure to attain in this action, the nonattainment new source review (NNSR) major source threshold and offset requirements would change for stationary sources seeking preconstruction permits in any nonattainment areas newly reclassified as Serious.

The EPA will communicate with the potentially affected Tribe located within the boundary of the Northern Wasatch Front nonattainment area addressed in this action, including offering government-to-government consultation, as appropriate.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying to those regulatory actions that concern environmental health or safety risks that 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 establish an environmental standard intended to mitigate health or safety risks.

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

This action is not subject to Executive Order 13211 (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order 12898 (Federal Actions to Address Environmental 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. 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, Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

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. 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 E.O. 12898/14096 of achieving environmental justice for communities with EJ concerns.

K. Congressional Review Act

This rule is exempt from the CRA because it is a rule of particular

applicability. The rule makes factual determinations for an identified entity (Northern Wasatch Front, UT area), based on facts and circumstances specific to that entity. The determinations of attainment and failure to attain the 2015 ozone NAAQS do not in themselves create any new requirements beyond what is mandated by the CAA.

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 7, 2025. Filing a petition for reconsideration by the Administrator of this action 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 this 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 81

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone,

UTAH—2015 8-HOUR OZONE NAAQS
 [Primary and Secondary]

Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 4, 2024.

KC Becker,

Regional Administrator, Region 8.

For the reasons stated in the preamble, title 40 CFR part 81 is amended as follows:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

■ 2. In § 81.345, the table entitled “Utah—2015 8-Hour Ozone NAAQS [Primary and Secondary]” is amended by revising the entry for “Northern Wasatch Front, UT” to read as follows:

§ 81.345 Utah.

* * * * *

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Northern Wasatch Front, UT		Nonattainment	11/8/2025	Serious.
Weber County (part):				
All portions of Weber County west of and including Townships 5, 6, and that portion of 7 North Range 1 West that are west of the ridgeline that traces the Wasatch Mountains from the southeast corner of the township to the easternmost extension of the county boundary within the township.				
Tooele County (part):				
In Tooele County, the following Townships or portions thereof as noted (including Tooele City):				
Township 1 South Range 3 West.				
Township 2 South Range 3 West.				
Township 3 South Range 3 West.				
Township 3 South Range 4 West.				
Township 2 South Range 4 West.				
Township 2 South Range 5 West.				
Township 3 South Range 5 West.				
Township 3 South Range 6 West.				
Township 2 South Range 6 West.				
Township 1 South Range 6 West.				
Township 1 South Range 5 West.				
Township 1 South Range 4 West.				
Township 1 South Range 7 West.				
Township 2 South Range 7 West.				
Township 3 South Range 7 West.				
All sections within Township 4 South Range 7 West except for sections 29, 30, 31 and 32.				
Township 4 South Range 6 West.				
Township 4 South Range 5 West.				
Township 4 South Range 4 West.				
Township 4 South Range 3 West.				
Salt Lake County.				

UTAH—2015 8-HOUR OZONE NAAQS—Continued
 [Primary and Secondary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Davis County.				

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 August 3, 2018, unless otherwise noted.

* * * * *
 [FR Doc. 2024–28851 Filed 12–6–24; 8:45 am]
 BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 282

[EPA–R07–UST–2024–0452; FRL–12274–03–R7]

Nebraska: Final Approval of State Underground Storage Tank Program Revisions, Codification, and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act (RCRA or Act), the Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the State of Nebraska’s Underground Storage Tank (UST) program submitted by the Nebraska State Marshal (NSFM). This action also codifies EPA’s approval of Nebraska’s State program and incorporates by reference those provisions of the State regulations that we have determined meet the requirements for approval. The provisions will be subject to EPA’s inspection and enforcement authorities under the RCRA and other applicable statutory and regulatory provisions.

DATES: This rule is effective February 7, 2025, unless EPA receives adverse comment by January 8, 2025. If EPA receives adverse comments, it will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register, as of February 7, 2025, in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Submit your comments by one of the following methods:

1. **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. **Email:** blankenship.marie@epa.gov. **Instructions:** Direct your comments to Docket ID No. EPA–R07–UST–2024–0452.

EPA’s policy is that all comments received will be included in the public docket without change and may be available online at <https://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <https://www.regulations.gov>, or email. The Federal <https://www.regulations.gov> website is an “anonymous access” system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through <https://www.regulations.gov>, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and also with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties, and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. EPA encourages electronic submittals, but if you are unable to submit electronically, please reach out to the EPA contact person listed in the document for assistance.

Docket: All documents in the docket are listed in the <https://www.regulations.gov>

www.regulations.gov index. Although listed in the index, some information might not be publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

IBR and supporting material: You can view and copy the documents that form the basis for this codification and associated publicly available materials either through <https://www.regulations.gov> or by contacting Marie Blankenship at (913) 551–7908 or blankenship.marie@epa.gov. Please call or email the contact listed above if you need access to material indexed but not provided in the docket.

FOR FURTHER INFORMATION CONTACT: Marie Blankenship, Tanks, Toxics, and Pesticides Branch, Land, Chemical, and Redevelopment Division, U.S. Environmental Protection Agency, Region 7, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7908; email address: blankenship.marie@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Approval of Revisions to Nebraska’s Underground Storage Tank Program

A. Why are revisions to State programs necessary?

States that have received final approval from the EPA under section 9004(b) of RCRA, 42 U.S.C. 6991c(b), must maintain an underground storage tank program that is no less stringent than the Federal UST program. Either EPA or the approved State initiate program revision. When EPA makes revisions to the regulations that govern the UST program, States must revise their programs to comply with the updated regulations and submit these revisions to the EPA for approval. Program revision may be necessary when the controlling Federal or State statutory or regulatory authority is modified or when responsibility for the State program is shifted to a new agency or agencies.

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Byron White United States Courthouse
1823 Stout Street
Denver, Colorado 80257
(303) 844-3157
Clerk@ca10.uscourts.gov

Christopher M. Wolpert
Clerk of Court

Jane K. Castro
Chief Deputy Clerk

February 07, 2025

Mr. Craig W. Anderson
Office of the Attorney General for the State of Utah
350 North State Street, Suite 230
P.O. Box 142320
Salt Lake City, UT 84114-2320

Mr. Braden W. Asper
Mrs. Marina V Thomas
Office of the Attorney General for the State of Utah
Environment and Health Division
195 North 1950 West, 2nd Floor South
Salt Lake City, UT 84114

Ms. Sarah Goldberg
Mr. Stanford E. Purser
Office of the Attorney General for the State of Utah
160 East 300 South, 6th Floor
P.O. Box 140854
Salt Lake City, UT 84114

RE: 25-9519, State of Utah v. EPA, et al
Dist/Ag docket: EPA-R08-OAR-2024-552

Dear Counsel:

Your petition for review has been docketed, and the case number is above. **Within 14 days** from the date of this letter, Petitioner's counsel must electronically file:

- **An entry of appearance and certificate of interested parties** per 10th Cir. R. 46.1(A) and (D).
- **A docketing statement** per 10th Cir. R. 3.4.

In addition, any counselled entities that are required to file a Federal Rule of Appellate Procedure 26.1 disclosure statement must do so **within 14 days of the date of this letter**. All parties must refer to Federal Rule of Appellate Procedure 26.1 and Tenth Circuit Rule 26.1 for applicable disclosure requirements. All parties required to file a disclosure

statement must do so even if there is nothing to disclose. Rule 26.1 disclosure statements must be promptly updated as necessary. *See* 10th Cir. R. 26.1(A).

Also within 14 days, Respondent's counsel must electronically file an entry of appearance and certificate of interested parties. **Attorneys that do not enter an appearance within the specified time frame will be removed from the service list.**

Within 40 days from the date of service of the petition for review, the respondent agency shall file the record or a certified list. *See* Fed. R. App. P. 17. If a certified list is filed, the entire record, or the parts the parties may designate, must be filed on or before the deadline set for filing the respondent's brief. *See* 10th Cir. R. 17.1.

We have served the petition for review on the respondent agency via electronic notice using the court's ECF system. Petitioner must serve a copy of the petition for review on all parties, other than the respondent(s), who participated in the proceedings before the agency. *See* Fed. R. App. P. 15(c).

The [Federal Rules of Appellate Procedure](#), the [Tenth Circuit Rules](#), and [forms](#) for the aforementioned filings are on the court's [website](#). The Clerk's Office has also created a set of [quick reference guides](#) and [checklists](#) that highlight procedural requirements for appeals filed in this court.

Please contact this office if you have questions.

Sincerely,



Christopher M. Wolpert
Clerk of Court

cc: Pamela J. Bondi (via certified mail)
Correspondence Control Unit
Lee Zeldin (via certified mail)

CMW/sds