6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA-HQ-OAR-2025-0192; FRL-12716-01-OAR

RIN 2060-AW63

Interstate Transport Plan Review for the 2015 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; reconsideration of final rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the U.S. Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) submissions from eight States — Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee — regarding interstate transport for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS). This action also explains why the EPA anticipates withdrawing previously proposed EPA error-correction actions related to interstate transport obligations for Iowa and Kansas and withdrawing previously proposed SIP disapproval actions for Tennessee, New Mexico, and Arizona. The "good neighbor" or "interstate transport" provision requires that each State's SIP contain adequate provisions to prohibit emissions from within the State from significantly contributing to nonattainment or interfering with maintenance of the NAAQS in other States. If finalized as proposed, this action would resolve these 10 States' obligations to

eliminate significant contribution to nonattainment or interference with maintenance of the 2015 8-hour ozone NAAQS in other States.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: *Comments:* You may send comments, identified by Docket ID No. **EPA-HQ-OAR-2025-0192**, by any of the following methods:

- Federal eRulemaking Portal: *www.regulations.gov* (our preferred method). Follow the online instructions for submitting comments.
- Email: *a-and-r-docket@epa.gov*. Include Docket ID No. EPA-HQ-OAR-2025-0192 in the subject line of the message.
- Mail: U.S. Environmental Protection Agency, EPA Docket Center, Docket ID No. EPA-HQ-OAR-2025-0192, Mail Code 28221T, 1200 Pennsylvania Avenue NW, Washington, DC 20460.
- Hand Delivery or Courier: EPA Docket Center, WJC West Building, Room 3334, 1301 Constitution Avenue NW, Washington, DC 20004. The Docket Center's hours of operation are 8:30 a.m.- 4:30 p.m., Monday-Friday (except Federal holidays).

Instructions: All submissions received must include the Docket ID No. for this proposed rulemaking. Comments received may be posted without change to *www.regulations.gov*, including personal information provided. For detailed instructions on sending comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For information about this proposed rule, contact Gwyndolyn Sofka, Air Quality Planning Division, Office of State Air Partnerships (C539-04), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number (919) 541-5121; email address: *sofka.gwyndolyn@epa.gov* OR Thomas Uher, Air Quality Planning Division, Office of State Air Partnerships (C539-04), Environmental Protection Agency, 109 TW Alexander Drive, Research Triangle Park, NC 27711; telephone number: (919) 541-5534; email address: *uher.thomas@epa.gov*.

SUPPLEMENTARY INFORMATION:

Docket. The EPA established a docket for this action under Docket ID No. EPA-HQ-OAR-2025-0192. All documents in the docket are listed in *www.regulations.gov/*. Although listed, 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 as PDF versions that can only be accessed on the EPA computers in the docket office reading room. Certain databases and physical items cannot be downloaded from the docket but may be requested by contacting the docket office at 202-566-1744. The docket office has up to 10 business days to respond to these requests. With the exception of such material, publicly available docket materials and a plain language summary of the proposed rule are available electronically at *www.regulations.gov.*

Instructions. Direct your comments to Docket ID No. EPA-HQ-OAR-2025-0192. The

EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit electronically to *www.regulations.gov* any information that you consider to be CBI or other information whose disclosure is restricted by statute. This type of information should be submitted as discussed below.

The EPA may publish any comment received to its public docket. 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 *www.epa.gov/dockets/commenting-epa-dockets*.

The *www.regulations.gov/website* allows you to submit your comment anonymously, 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 *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, the EPA recommends that you include your name and other contact information in the body of

your comment and with any digital storage media you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should not include special characters or any form of encryption and should be free of any defects or viruses. For additional information about the EPA's public docket, visit the EPA Docket Center homepage at *www.epa.gov/dockets*.

Submitting CBI. Do not submit information containing CBI to the EPA through *www.regulations.gov*. 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, note the docket ID, mark the outside of the digital storage media as CBI, and identify electronically within the digital storage media the specific information that is claimed as CBI. In addition to one complete version of the comments that includes information claimed as CBI, you must submit a copy of the comments that does not contain the information claimed as CBI directly to the public docket through the procedures outlined in *Instructions* above. If you submit any digital storage media that does not contain CBI, mark the outside of the digital storage media clearly that it does not contain CBI and note the docket ID. Information not marked as CBI will be included in the public docket and the EPA's electronic public docket without prior notice. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Our preferred method to receive CBI is for it to be transmitted electronically using email attachments, File Transfer Protocol (FTP), or other online file sharing

services (*e.g.*, Dropbox, OneDrive, Google Drive). Electronic submissions must be transmitted directly to the Office of State Air Partnerships (OSAP) CBI Office at the email address oaqps_cbi@epa.gov and, as described above, should include clear CBI markings and note the docket ID. If assistance is needed with submitting large electronic files that exceed the file size limit for email attachments, and if you do not have your own file sharing service, please email *oaqps_cbi@epa.gov* to request a file transfer link. If sending CBI information through the postal service, please send it to the following address: U.S. EPA, Attn: OAQPS Document Control Officer, Mail Drop: C404-02, 109 T.W. Alexander Drive, P.O. Box 12055, Research Triangle Park, North Carolina 27711, Attention Docket ID No. EPA-HQ-OAR-2025-0192. The mailed CBI material should be double wrapped and clearly marked. Any CBI markings should not show through the outer envelope.

Preamble acronyms and abbreviations. Throughout this preamble the use of "we," "us," or "our" is intended to refer to the EPA. We use multiple acronyms and terms in this preamble. While this list may not be exhaustive, to ease the reading of this preamble and for reference purposes, the EPA defines the following terms and acronyms here:

2016v1	2016 Version 1 Emissions Modeling Platform
2016v2	2016 Version 2 Emissions Modeling Platform
2016v3	2016 Version 3 Emissions Modeling Platform
CAA	Clean Air Act
CAIR	Clean Air Interstate Rule
CBI	Confidential Business Information
CFR	Code of Federal Regulations
CSAPR	Cross-State Air Pollution Rule
EGU	Electric Generating Unit
EHD	Environmental Health Department
EPA	United States Environmental Protection Agency
FIP	Federal Implementation Plan

LADCO	Lake Michigan Air Directors Consortium
NAAQS	National Ambient Air Quality Standards
NDEP	Nevada Division of Environmental Protection
NMED	New Mexico Environment Department
NO_x	Nitrogen Oxides
OMB	United States Office of Management and Budget
ppb	parts per billion
ppm	parts per million
PRA	Paperwork Reduction Act
RFA	Regulatory Flexibility Act
SIP	State Implementation Plan
TSD	Technical Support Document
UMRA	Unfunded Mandates Reform Act
VOCs	Volatile Organic Compounds
WOE	Weight of Evidence

Organization of this document. The information in this preamble is organized as follows:

I. Executive Summary

On October 1, 2015, the EPA revised the primary and secondary 8-hour standards for ozone to 70 parts per billion (ppb) in the final rule entitled "National Ambient Air Quality Standards for Ozone" ("2015 8-hour ozone NAAQS").[1] States were required to provide ozone infrastructure SIP submissions to fulfill interstate transport obligations for the 2015 8-hour ozone NAAQS by October 1, 2018.[2] Pursuant to the "good neighbor" or "interstate transport" provision of CAA section 110, the SIP submissions were required to include provisions sufficient to prevent emissions within the State that "contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to [the NAAQS]."[3]

In a series of memoranda released in 2018, the EPA provided guidance to States on the content of SIP submissions that address the interstate transport provision for the 2015 ozone NAAQS. In March 2018, we released modeling results that use a 2011 base year and a 2023 analytical year ("March 2018 memorandum").[4] In August 2018, we

[1] 80 FR 65292 (Oct. 26, 2015).
[2] *See* 42 U.S.C. 7410(a)(1).
[3] *Id.* 7410(a)(2)(D)(i)(I).
[4] *See* Information on the Interstate Transport State Implementation Plan Submissions for

issued further guidance advising that it "may be reasonable and appropriate for states to use a 1 ppb contribution threshold, as an alternative to a 1 percent threshold." ("August 2018 memorandum").[5] Many States, including States covered by this rulemaking, submitted SIP submissions that relied on the modeling and analysis in the March 2018 and August 2018 memoranda.

When acting on certain submissions in 2023, however, the EPA interpreted the March 2018 and August 2018 memoranda as allowing EPA to give greater weight to the EPA's latest modeling results (referred to as "2016v3") when it showed linkages not identified in the March 2018 memorandum modeling and to apply a 1 percent of the NAAQS contribution threshold. Based on the SIP submissions, the EPA's interpretation of its memoranda, and the 2016v3 modeling, the EPA disapproved the SIP submissions from Alabama, Kentucky, Minnesota, Mississippi, Nevada, and 16 other States in "Air Plan Disapprovals; Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards" ("SIP Disapproval Action").[6] Using the same approach, the EPA also proposed to disapprove the SIP submissions from Arizona, New

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the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act section 110(a)(2)(D)(i)(I), March 27, 2018. The version of 2023 contribution modeling referenced in the March 2018 memorandum may also be referred to as 2011-base year modeling. The memo is available in the docket (Docket ID No. EPA-HQ-OAR-2025-0192) and at *www.epa.gov/Cross-State-Air-Pollution/memo-and-supplemental-information-regarding-interstate-transport-sips*.

[5] *See* Analysis of Contribution Thresholds for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, August 31, 2018 at 3, available in the docket and at *www.epa.gov/Cross-State-Air-Pollution/memo-and-supplemental-information-regarding-interstate-transport-sips*.

[6] *See* 88 FR 9336 (Feb. 13, 2023).

Mexico, and Tennessee, and proposed to error correct the previous approval of the SIPs from Iowa and Kansas to disapprovals in "Supplemental Air Plan Actions: Interstate Transport of Air Pollution for the 2015 8-Hour Ozone National Ambient Air Quality Standards and Supplemental Federal 'Good Neighbor Plan' Requirements for the 2015 8-Hour Ozone National Ambient Air Quality Standards" ("Proposed Supplemental Air Plan Action").[7]

Many of the EPA's disapprovals were challenged in regional circuit courts and stayed.[8] The Fifth Circuit vacated and remanded the EPA's disapproval of Mississippi's SIP submission concluding that the EPA failed to recognize or reasonably explain its decision to consider the updated modeling in an "outcome determinative" way.[9] The Sixth Circuit vacated and remanded the EPA's disapproval of Kentucky's SIP in part for failing to address reliance interests Kentucky had in guidance provided by EPA to Kentucky, including specific feedback on a draft version of Kentucky's submission.[10] The challenges against the disapprovals of the SIP submissions from Alabama, Minnesota, and Nevada remain pending, but in abeyance, pending the EPA's

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[7] *See* 89 FR 12666 (Feb. 16, 2024).
[8] *See, e.g.*, *Alabama et al. v. EPA*, No. 23-11173, ECF No. 33 (11th Cir. August 17, 2023) (Alabama); *Allete, Inc. et al. v. EPA*, No. 23-1776, ECF No. 5292580 (8th Cir. July 5, 2023) (Minnesota).
[9] *Texas v. EPA*, 132 F.4th 808, 860-862 (5th Cir. 2025). The Fifth Circuit has withheld the mandate pending the resolution of pending petitions for rehearing en banc, which are focused on the portion of the opinion upholding the EPA's disapproval of Texas's SIP submission. *See Texas et al. v. EPA*, No. 23-60069 ECF No. 588 (5th Cir. May 22, 2025).
[10] *Kentucky v. EPA*, 123 F.4th 447, 468-471 (6th Cir. 2024). See Sections III.C.3 and III.C.4 for further discussion of the Sixth Circuit's decision.

reconsideration.[11]

In light of the Fifth and Sixth Circuit judicial decisions and upon further review, the EPA now proposes to evaluate the relevant SIP submissions under policies related to the contribution threshold and choice of modeling consistent with the Fifth and Sixth Circuits' interpretation of the March 2018 and August 2018 memoranda. This proposed rule, if finalized, would approve the portion of SIP submissions addressing interstate transport for the 2015 8-hour ozone NAAQS of eight States. Additionally, at the final stage of this rulemaking, the EPA anticipates withdrawing the proposed error correction of the EPA's past approvals for two additional States and withdrawing the proposed partial disapproval of SIP submissions for three States included in the EPA's Proposed Supplemental Air Plan Action under CAA section 110(a)(2)(D)(i)(I), referred to as the "good neighbor" or the "interstate transport" provision of the CAA, for the 2015 8-hour ozone NAAQS.

The EPA proposes to find that interstate transport of ozone precursor emissions from eight upwind States (Alabama, Arizona, Kentucky, Mississippi, Minnesota, Nevada, New Mexico, and Tennessee) do not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other States. On that basis, we propose to approve the relevant portions of these States' SIPs, which do not need to impose additional restrictions to satisfy obligations under the interstate transport

[11] *See Alabama et al. v. EPA*, No. 23-11173 (11th Cir.); *Alabama Power Company v. EPA*, No. 23-11196 (11th Cir.); *Allete, Inc. et al. v. EPA*, No. 23-1776 (8th Cir.); *Nevada Cement Co. LLC, v. EPA*, No. 23-682 (9th Cir.).

provision. We, therefore, propose to reconsider the previous full or partial disapprovals of the 2015 ozone NAAQS SIP submissions from Alabama, Minnesota, and Nevada included in the SIP Disapproval Action. In response to the circuit courts' remands of the EPA's disapprovals of the 2015 ozone NAAQS interstate transport SIP submissions from Kentucky and Mississippi, we are proposing to approve these SIPs.[12]

The EPA previously proposed to partially disapprove the 2015 8-hour ozone NAAQS interstate transport SIP submissions from Arizona, New Mexico, and Tennessee.[13] The EPA also proposed error corrections related to the prior approval of Iowa and Kansas's 2015 8-hour ozone NAAQS interstate transport SIPs.[14] For consistent treatment between States, the EPA anticipates withdrawing these prior proposals at the final stage of this rulemaking. For clarification, the EPA notes that the prior SIP approvals for Iowa and Kansas remain in place.

The EPA previously promulgated 2015 8-hour ozone NAAQS interstate transport Federal Implementation Plans (FIPs) for Alabama, Kentucky, Minnesota, Mississippi, and Nevada,[15] which have been stayed under the EPA's actions in response to various judicial stays of the SIP Disapproval Action and to the Supreme Court's stay of the Good Neighbor Plan.[16] If this action is finalized as proposed, the EPA would no longer have

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[12] *See Kentucky v. EPA*, 123 F.4th 447 (6th Cir. 2024); *Texas v. EPA*, 132 F.4th 808 (5th Cir. 2025).
[13] 89 FR 12666 (Feb. 16, 2024).
[14] *Id.*
[15] 88 FR 36654 (June 5, 2023) (Good Neighbor Plan).
[16] 88 FR 49295 (July 31, 2023) (staying the Good Neighbor Plan FIPs for, inter alia,

the authority or the intention to lift the current stay of those FIPs, or otherwise attempt to implement those FIPs, for these or any other States with approved SIPs with respect to the interstate transport obligations for the 2015 ozone NAAQS.[17]

Taken together, these steps, if finalized, will fully resolve the included States' interstate transport obligations for the 2015 8-hour ozone NAAQS. The EPA intends to take a subsequent action consistent with this proposal, subject to further public input, to address interstate transport obligations for the 2015 8-hour ozone NAAQS for other States.

II. General Information

A. Does this action apply to me?

This proposed rule is relevant to 10 States. It affects five upwind States (Alabama, Kentucky, Mississippi, Minnesota, and Nevada) with prior full or partial disapprovals and three upwind States (Arizona, New Mexico, and Tennessee) with proposed partial disapprovals of the portion of their SIP submittals addressing interstate transport for the 2015 8-hour ozone NAAQS by approving their SIPs. The EPA finds that these States do

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Kentucky and Mississippi); 88 FR 67102 (Sept. 29, 2023) (staying the Good Neighbor Plan FIPs for, inter alia, Alabama, Minnesota, and Nevada); 89 FR 87960 (Nov. 6, 2024) (staying the Good Neighbor Plan as to all subject emissions sources).

[17] The EPA is not at this time withdrawing the Good Neighbor Plan FIPs for states with proposed SIP approvals but anticipates taking that step in a future action for all states that obtain final SIP approvals for the relevant obligations. Because the Good Neighbor Plan FIPs are stayed for Alabama, Kentucky, Minnesota, Mississippi, and Nevada, and the EPA has no current authority to bring them into effect, leaving the stayed regulatory provisions in place has no practical or legal effect for any party. We acknowledge that the removal of regulatory language promulgating such FIPs is a matter that is important to be resolved quickly to provide certainty to the relevant states. However, we believe such an action would be subject to CAA section 307(d) and is beyond the scope of this action.

not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State. In addition, this proposed rule explains why the EPA anticipates withdrawing the EPA's prior proposed error correction regarding Iowa and Kansas' 2015 8-hour ozone NAAQS interstate transport SIPs.[18] For clarification, the EPA notes that the prior approvals for Kansas and Iowa's SIPs remain in place.

B. What action is the EPA taking?

In this rule, as stated in Section I of this preamble, the EPA is proposing approval of the portion of SIP submissions addressing interstate transport for the 2015 8-hour ozone NAAQS of eight States, including areas of Indian country located within the geographic bounds of the covered States. As part of these broader actions, the EPA is proposing to reconsider three prior final SIP actions and respond to the remand of two SIP actions to the EPA. At the final stage of this rulemaking, the EPA anticipates withdrawing the EPA's prior proposed error correction of past approvals for two additional States and withdrawing the proposed partial disapproval of SIP submissions for three States included in the Proposed Supplemental Air Plan Action.[19]

This action does not propose any action on the "Federal 'Good Neighbor Plan' for the 2015 Ozone National Ambient Air Quality Standards" ("Good Neighbor Plan").[20] However, the EPA would no longer have the authority or the intention to lift the current stay of those FIPs, or otherwise attempt to implement the Good Neighbor Plan

[18] *Id*.
[19] *Id*.
[20] 88 FR 36654 (June 5, 2023).

requirements, for these or any other State with approved SIPs with respect to the interstate transport obligations for the 2015 ozone NAAQS.

The EPA intends to address the Good Neighbor Plan, and the remaining States covered by that action which are not addressed in this action, in a future action. We anticipate that action will also address, as relevant, the applicability of any Good Neighbor Plan FIPs in areas in Indian country.

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

The statutory authority for this proposed action is provided by the CAA as amended (42 U.S.C. 7401 *et seq.*). Specifically, CAA section 110 provides the primary statutory underpinning for this action. The most relevant portions of CAA section 110 are subsections 110(a)(1), 110(a)(2) (including 110(a)(2)(D)(i)(I)), 110(k)(2), and 110(k)(3). The EPA has historically referred to SIP submissions made for the purpose of satisfying the applicable requirements of CAA sections 110(a)(1) and 110(a)(2) as "infrastructure SIP" or "iSIP" submissions. CAA section 110(a)(1) addresses the timing and general requirements for iSIP submissions and CAA section 110(a)(2) provides more details concerning the required content of these submissions.[21] CAA section 110(a)(2) includes a list of specific elements that "[e]ach such plan" must address, including the requirements of CAA section 110(a)(2)(D)(i)(I).[22]

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[21] 42 U.S.C. 7410(a)(2).

[22] The EPA's general approach to infrastructure SIP submissions is explained in greater detail in individual documents acting or proposing to act on state infrastructure SIP submissions and in guidance. *See, e.g.*, Memorandum from Stephen D. Page on Guidance

CAA section 110(a)(2)(D)(i)(I), also known as the "good neighbor" or "interstate transport" provision, provides the primary basis for this proposed action. It requires that each State's SIP include provisions sufficient to "prohibit[ ], consistent with the provisions of this subchapter, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will — (I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any [NAAQS]."[23] The EPA often refers to the emissions reduction requirements under this provision as "good neighbor obligations" or "interstate transport obligations" and submissions addressing these requirements as "good neighbor SIPs" or "interstate transport SIPs."

CAA section 301(a)(1) gives the Administrator the general authority to prescribe such regulations as necessary to carry out functions under the CAA.[24] Pursuant to this section, the EPA has authority to clarify the applicability of CAA requirements and undertake other rulemaking action as necessary to implement CAA requirements.

CAA section 110(k)(2) gives the Administrator authority to act on a complete SIP submission in accordance with CAA section 110(k)(3), which gives the Administrator authority to approve in whole, disapprove, or approve in part and disapprove in part SIP submissions based on the EPA's determination whether the submission meets the

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on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2) (Sept. 13, 2013) included in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.

[23] 42 U.S.C. 7410(a)(2)(D)(i)(I).

[24] *Id.* 7601(a)(1).

relevant requirements of the CAA.[25] The authority to review and approve or disapprove submissions, based on the EPA's interpretation of the CAA, also implicitly includes the authority to reconsider the EPA's previous action on a SIP submission. Two judicial decisions described in Sections III.C.3 and 4 of this preamble have caused the EPA to reconsider key policies related to interstate transport requirements under CAA section 110(a)(2)(A)(i)(I) for the 2015 8-hour ozone NAAQS.[26] The EPA's new understanding is applicable not just to the States who were the subject of those judicial decisions but to other States as well.

In addition to the forgoing provisions, the EPA proposes this action consistent with agencies' authority to reconsider prior decisions.[27]

III. Background & Approach for Evaluation

A. Description of Statutory, Regulatory, and Judicial Background

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 70 ppb for the 8-hour standard.[28] CAA section 110(a)(1) requires States to submit, within three years after promulgation of a new or revised standard, SIP submissions meeting the applicable requirements of CAA

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[25] *Id.* 7410(k)(2)-(3).
[26] *See Kentucky v. EPA*, 123 F.4th 447 (6th Cir. 2024); *Texas v. EPA*, 132 F.4th 808 (5th Cir. 2025).
[27] *See FDA* v. *Wages & White Lion Invs., LLC,* 145 S. Ct. 898 (2025); *FCC* v. *Fox TV Stations, Inc.,* 556 U.S. 502 (2009); *Motor Vehicle Mfrs. Ass'n* v. *State Farm Mut. Auto. Ins. Co.,* 463 U.S. 29 (1983); *Clean Air Council* v. *Pruitt,* 862 F.3d 1, 8 (D.C. Cir. 2017).
[28] Although the level of the standard is specified in the units of ppb, ozone concentrations are also described in parts per million (ppm). For example, 70 ppb is equivalent to 0.070 ppm.

section 110(a)(2).[29] One of these applicable requirements is found in CAA section 110(a)(2)(D)(i)(I), which generally requires that SIPs contain adequate provisions to prohibit in-state emissions activities from having certain adverse air quality effects on other States due to interstate transport of pollution. There are two so-called "prongs" within CAA section 110(a)(2)(D)(i)(I). A SIP for a new or revised NAAQS must contain adequate provisions prohibiting any source or other type of emissions activity within the State from emitting air pollutants in amounts that will significantly contribute to nonattainment of the NAAQS in another State (Prong 1) or interfere with maintenance of the NAAQS in another State (Prong 2). The EPA and States must give independent significance to Prong 1 and Prong 2 when evaluating downwind air quality problems under CAA section 110(a)(2)(D)(i)(I).[30]

On January 31, 2023, the EPA signed final disapprovals for 19 SIP submissions and partially approved and partially disapproved two SIP submissions addressing the good neighbor provision for the 2015 ozone NAAQS, including from Alabama, Kentucky, Minnesota, Mississippi, and Nevada.[31] On March 15, 2023, the EPA promulgated FIPs for Alabama, Kentucky, Minnesota, Mississippi, and Nevada in the Good Neighbor Plan, which were later stayed. On February 16, 2024, the EPA proposed partial disapproval of SIP submissions from Arizona, New Mexico, and Tennessee;

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[29] SIP submissions that are intended to meet the applicable requirements of CAA section 110(a)(1) and (2) of the CAA are often referred to as infrastructure SIPs and the applicable elements under CAA section 110(a)(2) are referred to as infrastructure requirements.
[30] *See North Carolina v. EPA*, 531 F.3d 896, 909-11 (D.C. Cir. 2008).
[31] 88 FR 9336 (Feb. 13, 2023).

proposed error corrections to change past approvals to partial disapprovals for Iowa and Kansas; and proposed FIPs for all five States.[32]

In *Ohio v. EPA*, the Supreme Court stayed enforcement of FIPs promulgated in the Good Neighbor Plan as to certain parties pending judicial review.[33] The EPA complied with that order by staying the FIPs as to all sources in all the remaining 23 States not already under stays.[34] The EPA's disapprovals of the SIP submissions from Kentucky and Mississippi were later vacated and remanded back to the EPA by circuit courts, which means that the EPA has an outstanding duty to act on those SIP submissions consistent with the court opinions.[35, 36]

B. Description of the EPA's 4-Step Interstate Transport Regulatory Process

When evaluating interstate transport obligations, the EPA consistently utilizes the 4-step interstate transport framework (the "Framework"), which was developed to explicate the critical statutory terms in CAA section 110(a)(2)(D)(i)(I) and to provide a reasonable organization to the analysis of the complex air quality challenge of interstate ozone transport. The EPA addressed the interstate transport requirements of CAA section 110(a)(2)(D)(i)(I) with respect to implementation of prior NAAQS using the Framework in several regulatory actions, including the original Cross-State Air Pollution Rule

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[32] 89 FR 12666 (Feb. 16, 2024).
[33] *Ohio v. EPA*, 603 U.S. 279 (2024).
[34] 89 FR 87960 (Nov. 6, 2024) (staying the Good Neighbor Plan as to all subject emissions sources); see *also* 88 FR 49295 (July 31, 2023); 88 FR 67102 (Sept. 29, 2023).
[35] *Kentucky v. EPA*, 123 F.4th 447 (6th Cir. 2024); *Texas v. EPA*, 132 F.4th 808 (5th Cir. 2025).
[36] Texas petitioners' petitions for rehearing en banc of *Texas* remain pending. See *Texas et al. v. EPA*, No. 23-60069, ECF Nos. 582, 583 (5th Cir. May 9, 2025).

(CSAPR),[37] which addressed interstate transport with respect to the 1997 ozone NAAQS as well as the 1997 and 2006 fine particulate matter standards, and the CSAPR Update[38] and the Revised CSAPR Update, [39] which addressed the 2008 ozone NAAQS.[40] For the 2015 8-hour ozone NAAQS, the EPA used this framework in evaluating SIP submissions (while considering any alternative approaches States may have put forth in the submission) and applied this framework in the Good Neighbor Plan.[41]

Shaped by input from State air agencies[42] and other stakeholders on the EPA's prior interstate transport rulemakings and SIP submission actions,[43] as well as several court decisions,[44] the EPA developed and used the Framework to evaluate States' obligations to eliminate interstate transport emissions under the interstate transport provision for the ozone NAAQS:

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[37] *See* Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone and Correction of SIP Approvals; 76 FR 48208 (Aug. 8, 2011) (CSAPR).
[38] Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; 81 FR 74504 (Oct. 26, 2016).
[39] Revised Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS; 86 FR 23054 (Apr. 30, 2021).
[40] In 2019, the D.C. Circuit Court of Appeals remanded the CSAPR Update to the extent it failed to require upwind states to eliminate their significant contribution by the next applicable attainment date by which downwind states must come into compliance with the NAAQS, as established under CAA section 181(a). *Wisconsin v. EPA*, 938 F.3d 303, 313 (D.C. Cir. 2019). The Revised CSAPR Update responded to the remand of the CSAPR Update in *Wisconsin* and the vacatur of a separate rule, the "CSAPR Close-Out," 83 FR 65878 (Dec. 21, 2018), in *New York v. EPA*, 781 F. App'x. 4 (D.C. Cir. 2019).
[41] 88 FR 9338; 88 FR 36671.
[42] 63 FR 57356, 57361 (Oct. 27, 1998).
[43] In addition to CSAPR rulemakings, other regional rulemakings addressing ozone transport include the "NO_x SIP Call;" 63 FR 57356 (Oct. 27, 1998), and the "Clean Air Interstate Rule" (CAIR); 70 FR 25162 (May 12, 2005).
[44] *See, e.g.*, *EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489 (2014) (*EME Homer City*).

(1) identify monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS (*i.e.*, nonattainment and/or maintenance receptors);

(2) identify States that impact those air quality problems in other (*i.e.*, downwind) States sufficiently such that the States are considered to "contribute" *(i.e.*, are considered "linked") to those receptors and whose emissions, therefore, warrant further review and analysis;

(3) identify the emissions reductions necessary (if any), applying a multifactor analysis, to eliminate each linked upwind State's significant contribution to nonattainment or interference with maintenance of the NAAQS at the locations identified in Step 1; and

(4) adopt permanent and enforceable measures needed to achieve those emissions reductions.

The EPA does not require States to use the Framework in interstate transport SIP submissions, but it is a useful organizational tool that has been upheld by the Supreme Court as "permissible, workable, and equitable."[45]

C. The EPA's Approach to Evaluating Interstate Transport for the 2015 Ozone NAAQS

1. Selection of Analytic Year

In this section, the EPA describes the process for identifying an appropriate analytic year for this proposed rule. Every State covered by this proposed rule utilized an analytic year of 2023. The EPA is retaining the 2023 analytical year used to inform past

[45] *EME Homer City*, 572 U.S. at 524.

action on States' interstate transport SIP submissions, to ensure consistency and equitable treatment of all States, and to give consideration to the information and data available to States at the time they developed these SIP submissions. In the EPA's March 2018 memorandum, the EPA provided air quality information that States could use to identify receptors in Step 1 and evaluate interstate contributions in Step 2 using a 2023 analytic year.[46] The EPA selected the year 2023 because it was the last full ozone season before the August 3, 2024, Moderate area attainment date for the 2015 ozone NAAQS.[47] Ozone seasons for purposes of interstate transport obligations run each year from May 1 – September 30.[48] To demonstrate attainment by these deadlines, downwind States would be required to rely on design values calculated using ozone data from 2021 through 2023.[49] Areas that do not attain by the deadline may be "bumped up" to a higher nonattainment classification level per CAA sections 181 and 182, thereby incurring additional ongoing obligations. Thus, consistent with prior interstate transport rulemakings, the EPA's analysis focuses on the last full ozone season before the attainment dates (*i.e.*, 2023). The later versions of the EPA's modeling (2016v2, 2016v3)

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[46] *See* March 2018 memorandum. The version of 2023 contribution modeling referenced in the March 2018 memorandum may also be referred to as 2011-base year modeling. The memo is available in the docket (Docket ID No. EPA-HQ-OAR-2025-0192) and at *www.epa.gov/Cross-State-Air-Pollution/memo-and-supplemental-information-regarding-interstate-transport-sips*.

[47] *See* CAA section 181(a); 40 Code of Federal Regulations (CFR) 51.1303; 83 FR 25776 (June 4, 2018, effective Aug. 3, 2018).

[48] *See* 40 CFR 52.38(b)(1), 52.40(c)(1)).

[49] The ozone design value for a monitoring site for the 2015 ozone NAAQS is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at the site. 40 CFR part 50, appendix U, section 4(a).

also used a 2023 analytic year.

The EPA recognizes that in applying the EPA's 2023 analytics to inform this action, *see* Section III.C.4 of this preamble, the EPA may be perceived as acting inconsistently with the EPA's previous policy of considering a future analytic year from the standpoint of the timing of the EPA's rulemaking action. The EPA's general policy has been to use forward-looking projections associated with a future analytic year, consistent with its interpretation that the interstate transport provision is a forward-looking statute.[50] Courts have generally upheld that interpretation.[51] However, no court has ruled (nor has the EPA interpreted) that the statute compels the EPA to always use a future analytic year from the standpoint of every particular interstate transport rulemaking. Here, the EPA proposes that several important, overriding considerations warrant retaining the 2023 analytic year in this rulemaking. Were the EPA to consider air quality information tied to year(s) after 2023,[52] the EPA would separately evaluate these States using different data than that which informed our prior evaluation of the State submissions, solely as a result of the timing of the EPA's action on these States.

Where the need for parity among States or other jurisdictions in like circumstances warrants it, courts have recognized that it may be appropriate for the EPA

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[50] *See, e.g.,* 86 FR 23054, 23074 (April 30, 2021).
[51] *See North Carolina v. EPA*, 531 F.3d 896, 913-14 (D.C. Cir. 2008).
[52] The EPA used an analytic year of 2023 in previously promulgated FIPs for the 2015 ozone NAAQS. The EPA also used a 2026 analytic year, but the additional analysis for 2026 was conducted for purposes of the Agency's Step 3 analysis in that rulemaking. *See* 88 FR at 36694.

to rely on a unified dataset to ensure consistency in treatment.[53] Here, for two States, the EPA is acting on remand following adverse court rulings, and the EPA is otherwise conducting reconsideration as to the other States included in this action, taking those adverse decisions into account. Comparable to the situation in *Weld County*, it makes sense to conduct this re-evaluation using the existing information in the record, rather than become trapped in a cycle of constantly shifting analysis and output. Indeed, the court in *Kentucky* faulted the EPA for failing to consider States' reliance interests when switching to updated analytics in our disapproval of Kentucky's SIP submission, rather than evaluating the submission according to the EPA's March 2018 memorandum modeling, which was provided to States for use in drafting their plans if they chose.[54]

In addition, the EPA recognizes that the Agency provided information to States for use in the development of these SIP submissions including air quality projections for the analytic year 2023 as released in the March 2018 memorandum. In this respect, we find it appropriate to use the same analytic year as the one the EPA's guidance communicated to States (*i.e.*, 2023) during SIP development. Therefore, when evaluating the SIP submissions for the 2015 8-hour ozone NAAQS included in this action, the EPA proposes to rely solely on projected air quality data for the 2023 analytic year. In doing so, the EPA is mindful of the unique and case-specific reliance interests the March 2018

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[53] *See Bd. Cnty. Comm'rs of Weld Cnty. v. EPA*, 72 F.4th 284, 290 (D.C. Cir. 2023) ("*Weld County*") (upholding as reasonable the EPA's determination that "greater parity among counties and faster turnaround make the original data a better choice than partial updating").

[54] *See Kentucky*, 123 F.4th 447, 469-70.

memorandum may have engendered in State air agencies, since that memorandum said States "may consider using this [2023 modeling data] to develop SIPs that address requirements of [CAA section 110(a)(2)(D)(i)(I)] for the 2015 ozone NAAQS" and did not address the use of air quality information for an analytic year after 2023.[55] This determination is not being made, and should not be understood, to extend to any other CAA requirements or situations. In addition, as described in Section III.C.4. of this preamble, the EPA's proposed approach for evaluating air quality information in this action is to first rely on information provided in the March 2018 memorandum, as included by States in their SIP submissions, and then consider more recent EPA modeling information only if necessary to determine whether any linkages are still projected to persist.

2. Step 1 of the 4-Step Interstate Transport Framework

In Step 1, a State (or the EPA in the context of a FIP) identifies monitoring sites that are projected to have problems attaining and/or maintaining the NAAQS in the analytic year. Where the EPA's analysis shows that a site does not fall under the definition of a nonattainment or maintenance receptor, that site is excluded from further analysis under the EPA's Framework. For sites that are identified as a nonattainment or maintenance receptor in 2023, the EPA proceeds to the next step of the Framework by identifying which upwind States contribute above the threshold to those receptors.

The EPA's approach to identifying ozone nonattainment and maintenance

[55] March 2018 memorandum at 4.

receptors in this action gives independent consideration to both the "contribute significantly to nonattainment" and the "interfere with maintenance" prongs of CAA section 110(a)(2)(D)(i)(I), consistent with the D.C. Circuit's direction in *North Carolina*.[56]

The EPA identifies nonattainment receptors as those monitoring sites that are projected to have average design values that exceed the NAAQS, based on air quality modeling, and that are also measuring nonattainment based on the most recent monitored design values. This approach is consistent with prior transport rulemakings, such as the CSAPR Update, where the EPA defined nonattainment receptors as those sites that both currently measure nonattainment and that the EPA projects will be in nonattainment in the analytic year (*i.e.*, 2023).[57]

In addition, the EPA identifies a receptor as a "maintenance" receptor for purposes of defining interference with maintenance, consistent with the method used in CSAPR and upheld by the D.C. Circuit in *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118, 136 (D.C. Cir. 2015).[58] Specifically, the EPA identifies maintenance receptors as those receptors that would have difficulty maintaining the relevant NAAQS in a scenario that takes into account historical variability in air quality at that receptor.

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[56] *See North Carolina*, 531 F.3d at 910-11 (holding that the EPA must give "independent significance" to each prong of CAA section 110(a)(2)(D)(i)(I)).

[57] 81 FR 74504 (Oct. 26, 2016). This same concept, relying on both current monitoring data and modeling to define nonattainment receptor, was also applied in CAIR. *See* 70 FR 25241, 25249 (Jan. 14, 2005); *see also North Carolina,* 531 F.3d at 913-14 (affirming as reasonable the EPA's approach to defining nonattainment in CAIR).

[58] 76 FR 48208 (Aug. 8, 2011). The CSAPR Update and Revised CSAPR Update also used this approach. *See* 81 FR 74504 (Oct. 26, 2016) and 86 FR 23054 (Apr. 30, 2021).

The variability in air quality is determined by evaluating the projected "maximum" design value at each monitoring site. These future year maximum design values are derived from model projections of the maximum measured design value during the relevant base year time period. The EPA interprets the projected maximum future design value to be a potential future air quality outcome consistent with the meteorology that yielded maximum measured concentrations in the ambient data set analyzed for that receptor (*i.e.*, ozone conducive meteorology). The EPA also recognizes that previously experienced meteorological conditions (*e.g.*, dominant wind direction, temperatures, air mass patterns) promoting ozone formation that led to maximum concentrations in the measured data may reoccur in the future. The maximum design value gives a reasonable projection of future air quality at the receptor under a scenario in which such conditions do, in fact, reoccur. The projected maximum design value is used to identify upwind emissions that, under those circumstances, could interfere with the downwind area's ability to maintain the NAAQS.

Recognizing that nonattainment receptors are also, by definition, maintenance receptors, the EPA often uses the term "maintenance-only" to refer to those receptors that are not nonattainment receptors. Consistent with the concepts for maintenance receptors, as described earlier, the EPA identifies "maintenance-only" receptors as those monitoring sites that have projected average design values above the level of the applicable NAAQS but that are not currently measuring nonattainment based on the most recent official design values. In addition, those monitoring sites with projected average design values below the NAAQS, but with projected maximum design values above the NAAQS, are

also identified as "maintenance-only" receptors, even if they are currently measuring nonattainment based on the most recent official design values.

3. Step 2 of the 4-Step Interstate Transport Framework

In Step 2, a State (or the EPA in the context of a FIP) uses air quality modeling to quantify the impacts of emissions from each upwind State to each receptor in the 2023 analytic year. The EPA then evaluates these impacts with respect to an air quality screening threshold. Emissions impacts above that threshold are considered to constitute a "contribution" to that receptor, whether a nonattainment or maintenance receptor. Emissions impacts below that threshold are considered *de minimis* and so categorically are excluded from being considered "contribution" (or, for purposes of Prong 2, are categorically not considered "interference with maintenance"). The CAA does not define "contribution" or "interference" as used in the interstate transport provision, and this approach gives technical meaning to these statutory terms through screening out *de minimis* impacts. States with emissions impacts above the contribution threshold proceed to Step 3 analysis, where both air quality and cost factors are considered as part of a multi-factor analysis, to determine what, if any, emissions might be deemed "significant" and, thus, must be eliminated pursuant to the requirements of CAA section 110(a)(2)(D)(i)(I).[59]

A relatively low contribution threshold has historically been used for ozone

[59] Note that upwind states that are linked to a downwind receptor at Step 2 may nevertheless be found to not significantly contribute to nonattainment or interfere with maintenance at the receptor depending on the outcome of the Step 3 analysis. *See* 81 FR 74553.

NAAQS considering the collective contribution problem posed by interstate ozone pollution.[60] The contribution metric used in Step 2 is defined as the average impact from each State to each receptor on the days in 2023 with the highest ozone concentrations at the receptor, based on the future year modeling.[61] To quantify the contribution of emissions from individual upwind States to projected 2023 ozone design values for the identified downwind nonattainment and maintenance receptors in Step 2, the EPA performed nationwide, State-level ozone source apportionment modeling. The source apportionment modeling provides contributions to ozone at receptors from precursor emissions of anthropogenic nitrogen oxides (NO_x) and volatile organic compounds (VOCs) in individual upwind States. The EPA released contribution modeling results for 2023 with the March 2018 memorandum, which uses a base year of 2011.[62] The EPA later released contribution modeling results for 2023 using a 2016 base year.[63]

Determining an appropriate screening threshold is a critical component of designing and applying Step 2. The assessment completed in the August 2018 memorandum[64] used data and air quality analyses that were specifically applicable to the NAAQS being considered and the relevant air quality conditions (*e.g.*, pollutant

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[60] *See* 88 FR at 9342.
[61] *See* Air Quality Modeling Final Rule Technical Support Document – 2015 Ozone NAAQS Good Neighbor Plan in Docket ID No. EPA-HQ-OAR-2025-0192 ("2016v3 Technical Support Document (TSD)").
[62] For an explanation of how the base year is used, see the 2016v3 TSD in the docket for this proposed action.
[63] 88 FR 9352-9354 (Feb. 13, 2023).
[64] August 2018 memorandum, available in the docket and at *www.epa.gov/Cross-State-Air-Pollution/memo-and-supplemental-information-regarding-interstate-transport-sips*.

concentrations and the magnitude of interstate transport). As a result, conclusions made with respect to one NAAQS are not by default applicable to another NAAQS. In previous actions, the EPA's analysis of collective contribution concluded that a screening threshold equivalent to 1 percent of the 1997 and 2008 ozone NAAQS was appropriate in Step 2.[65]

In the August 2018 memorandum, the EPA evaluated data pertinent to several alternative thresholds that could be applicable to the development of SIP revisions to address transport for the 2015 8-hour ozone NAAQS. This evaluation compared the 1 percent of the 8-hour ozone NAAQS threshold (1-percent threshold), which is 0.70 ppb, and two potential alternative thresholds, 1 ppb and 2 ppb. The purpose of that analysis was to examine the amount of collective upwind contribution (*i.e.*, the sum of contributions from upwind States that are linked to each receptor) that would be captured at each of these alternative thresholds nationwide. The EPA's conclusion in that memorandum was that a threshold of 1 ppb may be appropriate for States to use and develop SIP revisions addressing the interstate transport provision for the 2015 8-hour ozone NAAQS because, nationwide, the difference in the amount of total upwind contribution captured using a 1-ppb threshold is relatively small compared to the amount captured using a 1-percent threshold (roughly a 7 percentage point difference). The August 2018 memorandum also indicated a 2-ppb threshold may be insufficient to

[65] In CSAPR, the EPA used 0.80 ppb as the threshold, which is 1 percent of the 1997 ozone NAAQS. 76 FR 48208, 48238 (Aug. 8, 2011). In the CSAPR Update, the EPA used 0.75 ppb as the threshold, which is 1 percent of the 2008 ozone NAAQS. 81 FR 74504, 74518 (Oct. 26, 2016).

address collective upwind State contribution to downwind air quality problems.[66]

Subsequent case law reviewing the EPA's disapproval of Kentucky's SIP submission interpreted the August 2018 memorandum as establishing a presumptively approvable Step 2 threshold of 1 ppb. The Sixth Circuit determined that the "August 2018 memorandum treated the 1 ppb threshold as presumptively acceptable unless a state's unique facts made the threshold improper[.]"[67] Further, the Sixth Circuit found that the August 2018 memorandum, together with feedback provided by the EPA during Kentucky's SIP development process, established an EPA policy that Kentucky could apply a 1-ppb contribution threshold in Step 2 in its SIP submission for the 2015 ozone NAAQS without further justification.[68]

The Fifth Circuit reached a similar result in vacating and remanding the EPA's disapproval of Mississippi's SIP submission.[69] The Fifth Circuit found that the EPA had improperly dismissed Mississippi's use of a 1-ppb threshold as "inconsequential" to the EPA's disposition of the SIP, which was incorrect when considered in conjunction with the choice of modeling used..[70] The Court found that the EPA had failed to provide an adequate explanation for the EPA's disapproval of Mississippi's SIP.[71] In reviewing this decision on remand, the EPA notes that in reaching this conclusion, the Fifth Circuit necessarily found unpersuasive the EPA's explanations concerning why a 1-ppb

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[66] August 2018 Memorandum at 4.
[67] *Kentucky*, 123 F.4th. at 469.
[68] *Id.* at 468-469.
[69] *Texas*, 132 F.4th at 860-62.
[70] *Id.* at 861.
[71] *Id.* at 862.

threshold was inappropriate for States to use without adequate justification.[72] The EPA cited and discussed this analysis in its merits brief.[73] The EPA believes it prudent to implement a policy more consistent with the Sixth Circuit's interpretation of the August 2018 memorandum in *Kentucky*, which is that 1 ppb is a "presumptively acceptable" threshold for all States.[74]

Thus, in response to these opinions and in light of the 2018 August Memorandum and any reliance interests it may have engendered in State air agencies, the EPA is proposing to determine that a 1-ppb threshold is the appropriate Step 2 threshold to rely on in the first instance for the 2015 ozone NAAQS for all States in this action and any future actions related to the 2015 ozone NAAQS.[75] As noted in the August 2018 memorandum, nationally the 1-ppb threshold captures a generally comparable amount of total upwind contributions overall (70 percent using 1 ppb versus 77 percent using 1 percent (0.70 ppb)) - when considering all receptors. Further, in the EPA's latest modeling, 2016 Version 3 Emissions Platform Modeling ("2016v3"), the difference in the amount of total upwind contributions captured is even less, identifying a difference of

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[72] *See* 88 FR at 9371-73; *see also id.* at 9357-58.
[73] *See* EPA Resp. Br. at 138-46, No. 23-60069 (5th Cir. filed Aug. 15, 2023); *see also id.* at 34, 42-43, 124-29.
[74] *Kentucky*, 123 F.4th. at 469.
[75] The EPA is identifying the 1 ppb threshold as acceptable based on the specific facts and circumstances associated with this reconsideration of interstate transport obligations for the 2015 ozone NAAQS. Previously identified thresholds used in interstate transport analysis associated with other NAAQS, which were based on their own unique records, are not affected or intended to be affected. In addition, the use of a 1 ppb threshold does not undermine the basis for prior approvals of interstate transport SIPs for the 2015 ozone NAAQS that had used the 1 percent threshold. Any SIP that was approved under that threshold, which translates to .7 ppb, would be approvable under the 1 ppb threshold.

only 5 percentage points.[76] By relying on a 1-ppb threshold rather than a 1-percent threshold, the EPA continues to provide the potential, in Step 3, for meaningful emissions reductions in remaining linked upwind States to aid downwind States with attainment and maintenance of the 2015 ozone NAAQS, while also focusing the EPA's efforts on areas that are more likely to have impactful outcomes should any emissions reductions be deemed appropriate. In this proposal, the EPA also solicits comment on the use of thresholds other than the 1-percent or 1-ppb thresholds discussed in this action, such as a 5-percent threshold or a 2-ppb threshold, including a basis for relying on any suggested alternative threshold.

The EPA recognizes that not all States elected to rely on the 1-ppb threshold when developing their SIP submissions, either because the State did not consider an alternative threshold due to the facts and circumstances available at the time of submission (*e.g.*, the State was linked above or below both the 1-percent and 1-ppb threshold), or they found it appropriate to rely on the 1-percent threshold. However, the EPA finds it appropriate to presumptively apply a 1-ppb contribution threshold for the consistent treatment of all States. The availability of different thresholds in Step 2 has the potential to result in inconsistent application of interstate transport obligations based solely on the decisions of a State in Step 2 of the Framework. While alternative thresholds for purposes of Step 2 may be "similar" in terms of capturing the relative amount of upwind contribution (as described in the August 2018 memorandum), nonetheless, use of an alternative threshold

[76] 88 FR 9336, 9374 (Feb. 13, 2023).

would omit some States from further evaluation of potential emissions controls while other States with a similar level of contribution would proceed to a Step 3 analysis. This can create significant consistency problems among States. Finally, the August 2018 memorandum cautioned that contribution thresholds higher than 1 ppb, such as 2 ppb, would capture "notably less [upwind contribution] at most receptors than the amount captured with either a 1 ppb or 1 percent threshold, and therefore emission reductions from states linked at that higher threshold may be insufficient to address collective upwind state contribution to downwind air quality problems."[77] The EPA is not currently aware of information that would support a threshold other than 1 ppb for any state.

4. Choice of Modeling to Inform Steps 1 and 2

The EPA released the October 2017 memorandum[78] containing updated modeling data for 2023, which incorporated changes made in response to comments on the January 6, 2017, Notice of Data Availability,[79] and was intended to provide information to assist States' efforts to develop SIP submissions to address interstate transport obligations for the 2008 ozone NAAQS. The March 2018 memorandum noted that the same 2011 base-year modeling data released in the October 2017 memorandum could also be useful for

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[77] August 2018 memorandum at 4.

[78] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2008 Ozone National Ambient Air Quality Standards under Clean Air Act section 110(a)(2)(D)(i)(I), October 27, 2017, ("October 2017 Memorandum"), available in the docket for this proposed action.

[79] *See* Notice of Availability of the Environmental Protection Agency's Preliminary Interstate Ozone Transport Modeling Data for the 2015 8-hour Ozone National Ambient Air Quality Standard (NAAQS), ("Notice of Data Availability"); 82 FR 1733 (Jan. 6, 2017).

identifying potential downwind air quality problems with respect to the 2015 ozone NAAQS in Step 1 of the Framework. The March 2018 memorandum also included newly available contribution modeling data for 2023 to assist States in evaluating their impact on potential downwind air quality problems for the 2015 8-hour ozone NAAQS under Step 2 of the Framework.[80]

Following the release of the March 2018 memorandum modeling, through a collaborative multi-year joint effort by the EPA, multi-jurisdictional organizations, and States, the EPA developed an updated air quality modeling platform with base year emissions for 2016 and projected emissions for 2023 (*i.e.*, 2016 Version 1 Emissions Platform Modeling ("2016v1")).[81] The EPA made further updates to the 2016-based emissions platform to include updated onroad mobile emissions from Version 3 of the EPA's Motor Vehicle Emission Simulator (MOVES) model ("MOVES3")[82] and updated emissions projections for electric generating units (EGUs) that reflected the emissions reductions from the Revised CSAPR Update, recent information on plant closures, and other inventory improvements (*i.e.*, 2016 Version 2 Emissions Platform Modeling

[80] The March 2018 memorandum stated "While the information in this memorandum and the associated air quality analysis data could be used to inform the development of these SIPs, the information is not a final determination regarding states' obligations under the good neighbor provision. Any such determination would be made through notice-and-comment rulemaking." March 2018 memorandum at 2.

[81] *See* the Air Quality Modeling Technical Support Document for the Final Revised Cross-State Air Pollution Rule Update, included in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.

[82] Additional details and documentation related to the MOVES3 model can be found at *www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves*.

("2016v2")).[83] The EPA's latest version of air quality modeling incorporated additional feedback, and was released in early 2023 ("2016v3 modeling").[84]

In the final SIP Disapproval Action, the EPA explained that in evaluating all SIP submissions, the EPA considered the entire record before the EPA, including updated modeling and other air quality analytics, even if such information was not available to States at the time they developed their submissions.[85] The EPA explained that, in our view, we had the authority and responsibility in evaluating interstate transport obligations to consider the best available information.[86] However, the Fifth Circuit found that the EPA had inappropriately applied the 2016v3 modeling in an outcome-determinative way in the EPA's evaluation of Mississippi's SIP submission.[87] In addition, the Sixth Circuit found that in disapproving Kentucky's SIP submission, the EPA inappropriately failed to acknowledge the reliance interests Kentucky had in the March 2018 memorandum modeling as the EPA stated in the March 2018 memorandum that States could use such

[83] The construct of the 2016v2 emissions platform is described in the "Technical Support Document (TSD): Preparation of Emissions Inventories for the 2016v2 North American Emissions Modeling Platform," and is included in the docket for this proposed action. See also, "Air Quality Modeling Technical Support Document for the Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standards Proposed Rulemaking," ("2016v2 TSD") also included in the docket.
[84] Details on the 2016v3 air quality modeling and the methods for projecting design values and determining contributions in 2023 and 2026 based on this platform are described in 2016v3 TSD included in the docket for this proposed action.
[85] 88 FR at 9343.
[86] *Id.* at 9365-67.
[87] *Texas*, 132 F.4th at 861-62.

modeling in developing their interstate transport SIPs.[88] [89] Therefore, the EPA is reconsidering the EPA's approach regarding States' choice of modeling for evaluating interstate transport SIP submissions for the 2015 ozone NAAQS in Steps 1 and 2.

When acting on several SIP submissions in 2023, including those from five States covered by this proposal, the EPA looked at the modeling relied upon by States but also relied in a "primary" way on the results of the 2016v3 modeling, which identifies receptors and contributions in 2023, using a 2016 base year; one reviewing court observed that the effect of this approach was "outcome determinative" for some States such as Mississippi.[90] As noted above, compared to the March 2018 memorandum modeling, the 2016v3 modeling uses more recent emissions data and incorporates other technical updates to the modeling platform.[91] The differences between the March 2018 memorandum modeling and 2016v3 modeling, depending on the contribution threshold, result in differences in receptor classification (*e.g.*, nonattainment versus maintenance-only) and/or the magnitude of downwind contributions. In the final SIP Disapproval Action and the Proposed Supplemental Air Plan Action, the EPA considered whether a State identified itself as linked based on whichever modeling it chose but ultimately

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[88] *Kentucky*, 123 F.4th at 468-69.
[89] EPA Resp. Br. at 185-211, No. 23-60069, ECF No. 397 (5th Cir. filed Aug. 15, 2023); EPA Resp. Br. at 76-95, No. 23-3216, ECF No. 73 (6th Cir. filed Jan. 29, 2024).
[90] 88 FR 9380-9381; *Texas*, 132, F.4th at 860-62. The *Texas* court also recognized that for other States this was not the case, and the EPA's more recent modeling was merely confirmatory. *Id.* at 861.
[91] *See* 2016v3 TSD and "Air Quality Modeling Technical Support Document for the 2015 Ozone NAAQS Preliminary Interstate Transport Assessment" in the docket for this proposed action.

relied on the 2016v3 modeling for determining whether a State was linked in Step 2 because the 2016v3 was the most-up-to-date information at the time.[92]

The Fifth and Sixth Circuits did not determine that the EPA may not consider updated information in taking action on these SIP submissions or any other types of SIP submissions.[93] Instead, as described above, these courts viewed the EPA as having failed to explain the EPA's reasoning, considering the unique circumstances associated with the history of the 2015 ozone NAAQS interstate transport obligations and how the EPA had interpreted the March 2018 memorandum and the August 2018 memorandum in its disapprovals of Kentucky and Mississippi's SIP submissions.[94] The EPA's approach here is limited to this reconsideration of certain 2015 ozone NAAQS good neighbor SIP actions and does not reflect a broader legal or policy judgment concerning the EPA's authority to consider information more generally under the interstate transport provision or other provisions of the CAA. In general, the EPA views the choice of which information to consider or rely on to involve consideration of case-specific circumstances. Further, in the context of this proposed action, the EPA believes it is appropriate to apply a common approach to evaluate interstate transport obligations among States for parity. Therefore, to respond to the Fifth and Sixth Circuits' remands concerning how the EPA previously applied the 2016v3 modeling to Kentucky and Mississippi (and to apply those precedents in a consistent manner in its reconsideration of

[92] 87 FR 9343, 9380.
[93] *Texas*, 132 F.4th at 860, 862; *Kentucky*, 123 F.4th at 472.
[94] *Texas*, 132 F.4th at 860-861; *Kentucky*, 123 F.4th at 468-471.

its 2015 ozone NAAQS transport actions[95]), to acknowledge and accommodate reliance interests States may have had in the March 2018 memorandum modeling, and to treat States' interstate transport obligations consistently for the 2015 8-hour ozone NAAQS, the EPA is proposing to approach the choice of modeling in Steps 1 and 2 in the following way: the EPA will rely first on the modeling the State used in its SIP submission to identify receptors and the magnitude of contributions to those receptors.[96] If that modeling indicates a State is not linked in the 2023 analytic year to any receptors above 1 ppb, the EPA will approve that submission. If, however, the modeling a State used indicates that a State is linked above 1 ppb to at least one receptor, the EPA will consider the best available modeling (*i.e.*, the 2016v3 modeling) to determine whether any linkages above 1 ppb are still anticipated to persist in 2023.[97] If no linkages persist,

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[95] The EPA's regulations provide that the EPA need not necessarily revise provisions of a rule meant to maintain national uniformity in response to one or more regional circuit decisions arising from actions that are locally or regionally applicable. *See, e.g.*, 40 CFR 56.4(c). However, we believe it is "essential" to have national consistency in the implementation of interstate ozone obligations, *see, e.g.*, 87 FR at 9373-74, and so we propose to apply the logic of these judicial decisions more broadly to the EPA's national policies for interstate transport obligations for the 2015 8-hour ozone NAAQS to avoid any unfairness that could result from the uneven application of judicial rulings from different regional circuits.

[96] The EPA has the statutory authority to evaluate the sufficiency of States' modeling and technical analyses in their SIP submissions. *See Texas v. EPA*, 156 F.4th 523, 542-43 (5th Cir. 2025). In this instance, the EPA finds that the photochemical grid modeling the States covered by this proposal used was technically sufficient for the purpose of evaluating interstate contribution for the 2015 ozone NAAQS.

[97] Under this proposed approach, we note that the EPA is also not considering the novel "violating monitor maintenance-only" approach to maintenance receptor identification that was developed for the final SIP Disapproval Action. This approach gave greater consideration to more recent monitoring data when identifying receptors at Step 1 of the

the EPA will consider that State to have resolved its linkages and will approve such submissions under these circumstances. This approach ensures that full consideration is given to the modeling available to the States at the time they develop their interstate transport SIP submissions, whether that be developed by the EPA or otherwise, which is consistent with the cooperative-federalism framework of NAAQS implementation.

For the purposes of this action, as further explained in Section IV of this preamble, this approach to choice of modeling, in conjunction with the use of a 1-ppb threshold, supports proposing approval of eight States' SIP submissions (Alabama, Arizona, Kentucky, Mississippi, Minnesota, Nevada, New Mexico, and Tennessee) and withdrawing prior proposed error corrections for two other States (Iowa and Kansas).

5. Step 3 of the 4-Step Interstate Transport Framework

In Step 3 of the Framework, a State (or the EPA in the context of a FIP) further evaluates a State's emissions, considering multiple factors, including air quality and cost, to determine what, if any, emissions significantly contribute to nonattainment or interfere with maintenance and, thus, must be eliminated under CAA section 110(a)(2)(D)(i)(I). Because all States included in this proposal can be approved in Steps 1 and 2, there is no need to further discuss Step 3.

Framework. The monitoring information used in this approach (measured 2021-2022 air quality monitoring data) post-dates the information available to States when they developed their 2015 8-hour ozone NAAQS interstate transport SIPs. Further, the EPA has not applied that methodology in an "outcome-determinative" way to date for any State.

6. Step 4 of the 4-Step Interstate Transport Framework

In Step 4, a State (or the EPA in the context of a FIP) develop control strategies to achieve the emissions reductions determined to be necessary in Step 3 to eliminate significant contribution to nonattainment or interference with maintenance of the NAAQS, which become permanent and enforceable when adopted. Because all States included in this proposal can be approved in Steps 1 and 2, there is no need to further discuss Step 4.

IV. SIP Submissions Addressing Interstate Transport of Air Pollution for the 2015 8-hour Ozone NAAQS

A. SIP Summaries and the EPA's Evaluation

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous final and proposed actions on the SIP submissions from Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee and anticipates withdrawing the prior proposed error corrections related to Iowa and Kansas's SIPs.[98] This section summarizes and evaluates the submissions from these 10 States. As explained throughout Section IV of this preamble, the EPA is proposing to find that these 10 States are screened out from further review after determining their contributions fall below the contribution threshold, and so the EPA

[98] 88 FR 9336 (Feb. 13, 2023) (Alabama, Kentucky, Minnesota, Mississippi, and Nevada); 89 FR 12666 (Arizona, Iowa, Kansas, New Mexico, and Tennessee) (Feb. 16, 2024).

need not examine the additional information contained in the submissions despite having done so in previous *Federal Register* notices. This proposed action, if finalized, would replace the EPA's previous final actions disapproving the SIP submissions from Alabama, Minnesota, and Nevada.

The EPA acknowledges that there are other States in the SIP Disapproval Action that are not included in this proposal, which is limited to those states for which proposed approval is warranted on the basis of the policies explained in Section III.C. The EPA intends to reconsider the SIP Disapproval Action, and/or the basis for disapproval, as to other states, including but not necessarily limited to Arkansas, Missouri, Oklahoma, Utah, and West Virginia, in a separate, upcoming rulemaking.

1. Alabama

a. Prior Notices Related to Alabama's SIP Submission

On June 21, 2022, the Alabama Department of Environmental Management submitted a SIP addressing CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 ozone NAAQS for the State of Alabama.[99] The EPA's proposed disapproval of Alabama's submission was published on October 25, 2022,[100] and later finalized on January 31, 2023.[101] However, the EPA is reconsidering the policy decisions made in our prior actions addressing interstate transport obligations for the

[99] *See* "AL-127 6.21.2022 Submittal For Ozone 2015 ISIP" ("Alabama's SIP submission") in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[100] 87 FR 64412 (Oct. 25, 2022).
[101] 88 FR 9336 (Feb. 13, 2023).

2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of this preamble. As a result, the EPA now proposes to reconsider the disapproval and proposes to approve Alabama's SIP submission.

b. Summary of Alabama's Submission

Alabama's SIP submission provides the State's evaluation of its impact on downwind States and concludes that emissions from the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other States in 2023. Alabama relies on the results of the EPA's 2016v2 modeling to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in the State in Steps 1 and 2 of the Framework.[102]

Alabama's SIP submission also identifies existing SIP-approved regulations and Federal programs that regulate ozone precursor emissions from sources in the State, including the CSAPR trading programs.[103] Alabama's SIP submission acknowledges that CSAPR does not address interstate transport for the 2015 8-hour ozone standard but does provide residual NO_x emissions reductions. Alabama notes that the implementation of the existing SIP-approved regulations and Federal programs provides for a decline in ozone precursor emissions in the State. Alabama also notes there are no nonattainment or maintenance areas in Alabama and that ozone precursor emissions will continue to

[102] Alabama's SIP submission at Part E.
[103] *Id.*

decline in the State.

Alabama's SIP submission also includes a "weight of evidence" (WOE) analysis evaluating the EPA's 2016v2 emissions modeling platform, which showed that Alabama is projected to contribute above 0.70 ppb to one nonattainment monitor and one maintenance monitor.[104] In support of its WOE analysis, Alabama cites the EPA's October 2018 memorandum,[105] which discusses alternative methods to identifying maintenance receptors, as well as the March and August 2018 memoranda as supporting Alabama's use of a 1-ppb threshold.

Alabama's WOE analysis includes a Hybrid Single Particle Lagrangian Integrated Trajectory model back trajectory analysis to receptors in Denton County and Harris County, Texas. Alabama concludes that, based on the back trajectories, monitored exceedances at the Texas receptors are locally driven. Alabama also notes that the design values for the two Texas monitors have been stagnant, while design values in Alabama continue to trend downward.

Finally, Alabama provides a review of the State's NO_x emissions for point and mobile sources. Alabama indicates that the highest contributor of NO_x emissions in the State are from mobile sources but that NO_x emissions from this source category have decreased and will continue to decrease.

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[104] *Id.*

[105] *See* Considerations for Identifying Maintenance Receptors for Use in Clean Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards, October 19, 2018 ("October 2018 Memorandum"), available in the docket and at *www.epa.gov/Cross-State-Air-Pollution/memo-and-supplemental-information-regarding-interstate-transport-sips*.

Based on this information, Alabama's SIP submission states that emissions from Alabama do not contribute above 1 ppb of the 2015 8-hour ozone NAAQS to any projected nonattainment or maintenance receptors in Step 2 of the Framework.

c. Evaluation of Alabama's Submission

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous disapproval of the SIP submission from Alabama. As stated previously, Alabama's SIP submission uses the EPA's 2016v2 modeling. This modeling showed that Alabama's projected maximum contribution is 0.88 ppb to a nonattainment receptor (receptor ID 482010055 in Harris County, Texas) and 0.71 ppb to a maintenance receptor (receptor ID 481210034 in Denton County, Texas).[106] Both contributions from the State's chosen modeling are below the 1-ppb threshold. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Alabama does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Alabama's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[107] This proposed action, if finalized, would replace the EPA's previous final action disapproving the SIP

[106] 2016v2 TSD, Appendix C.
[107] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).

submission from Alabama.[108]

2. Arizona

a. Prior Notices Related to Arizona's SIP Submission

On September 24, 2018, the Arizona Department of Environmental Quality submitted a SIP addressing the "infrastructure" requirements of CAA section 110(a)(2), including the interstate transport requirements under CAA section 110(a)(2)(D)(i)(I), for the 2015 8-hour ozone NAAQS.[109] On June 24, 2022, the EPA's proposed approval of Arizona's SIP submission was published.[110] The EPA then withdrew the 2022 proposed approval of Arizona's SIP submission with respect to CAA section 110(a)(2)(d)(i)(I) and proposed to partially disapprove Arizona's SIP submission as to Prong 2 in the Proposed Supplemental Air Plan Action.[111] However, the EPA is reconsidering the policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of this preamble. As a result, the EPA is proposing to fully approve Arizona's SIP submission.

b. Summary of Arizona's Submission

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[108] 88 FR 9336.
[109] *See* "Arizona State Implementation Plan Revision under Clean Air Act Sections 110(a)(1) and 110(a)(2) for the 2015 Ozone National Ambient Air Quality Standards" ("Arizona's SIP submission") in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[110] 87 FR 37776 (June 24, 2022).
[111] 89 FR 12666 (Feb. 16, 2024).

Arizona's SIP submission relies on the March 2018 memorandum modeling to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in the State in Steps 1 and 2 of the Framework.[112] Arizona further relies on the 1-percent threshold in Step 2.[113] Arizona notes that the March 2018 memorandum modeling shows that Arizona does not contribute greater than 1 percent of the NAAQS to any of the modeled nonattainment or maintenance receptors in other States.[114] Therefore, Arizona finds that the State does not contribute significantly to nonattainment or maintenance receptors in other States and that it is not necessary to identify emissions reductions or adopt any permanent or enforceable controls under the interstate transport provision for the 2015 8-hour ozone NAAQS.[115] Arizona also states that Arizona's SIP submission contains adequate provisions to ensure that emissions from the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State in the future.[116]

c. Evaluation of Arizona's Submission

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous proposed disapproval of the SIP submission from Arizona. Arizona's SIP submission uses the EPA's March 2018

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[112] Arizona's SIP submission at 12-13.
[113] *Id.* at 13.
[114] *Id.*
[115] *Id.*
[116] *Id.* at 14.

memorandum modeling. This modeling showed that Arizona's projected maximum contribution is 0.49 ppb to a nonattainment receptor (receptor ID 80590006 in Jefferson County, Colorado) and 0.49 ppb to a maintenance receptor (receptor ID 81230009 in Weld County, Colorado).[117] Arizona is not linked above the 1-ppb threshold to any downwind receptor in the State's chosen modeling. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Arizona does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Arizona's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[118] If finalized, the EPA will withdraw the prior proposed partial disapproval.

3. Iowa

a. Prior Notices Related to Iowa's SIP Submission

On November 30, 2018, Iowa submitted a SIP revision addressing CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 8-hour ozone NAAQS.[119] On March 2, 2020, the EPA's proposed approval of the portion of Iowa's SIP submission addressing CAA section 110(a)(2)(D)(i)(I) was published.[120] This proposed approval was

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[117] *See* Attachment C to the EPA's March 2018 Memorandum.
[118] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).
[119] *See* "Iowa State Implementation Plan Revision for the 2015 Ozone National Ambient Air Quality Standards" ("Iowa's SIP submission") in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[120] 85 FR 12232 (Mar. 2, 2020).

later withdrawn,[121] and the EPA issued a new approval for Iowa's SIP submission, which was published on April 15, 2022.[122] The EPA then proposed an error correction of our previous approval to partially disapprove Iowa's SIP submission in the Proposed Supplemental Air Plan Action.[123] However, the EPA is now reconsidering the policy decisions made in prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of this preamble. As a result, the EPA anticipates withdrawing the proposed error correction of the April 15, 2022, final approval of Iowa's SIP submission.

b. Summary of Iowa's Submission

Iowa relies on the EPA's March 2018 memorandum modeling to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in Iowa and concludes that the State does not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[124] Iowa references the August 2018 memorandum as a basis to use a 1-ppb threshold when evaluating the State's contribution to downwind receptors in Step 2. Iowa identifies projected contributions greater than 1 percent of the NAAQS to two downwind receptors: a nonattainment receptor in Milwaukee County, Wisconsin (Milwaukee

[121] 87 FR 9477 (Feb. 22, 2022).
[122] 87 FR 22463 (Apr. 15, 2022).
[123] 89 FR 12666 (Feb. 16, 2024).
[124] Iowa's SIP submission at 7.

receptor), and a maintenance-only receptor in Allegan County, Michigan (Allegan receptor).[125]

Iowa notes that, of the contribution greater than 1 percent of the NAAQS, application of the 1-ppb threshold captures 83 percent of the upwind contribution at the Milwaukee receptor and 94 percent of the upwind contribution at the Allegan receptor.[126] Based on these data, Iowa concludes that the 1-ppb threshold is therefore an appropriate contribution threshold with respect to the 2015 8-hour ozone NAAQS because it captures a "substantial portion" of the upwind contribution when compared to the 1-percent threshold at both receptors.[127] Because Iowa's impact on both receptors is projected to be below the 1-ppb threshold, Iowa concludes that the State's emissions will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS at either receptor.

c. Evaluation of Iowa's Submission

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous proposed error correction of the previous approval of Iowa's SIP. Iowa's SIP submission uses the EPA's March 2018 memorandum modeling. This modeling showed that Iowa's projected maximum contribution is 0.79 ppb to a nonattainment receptor (receptor ID 550790085 in

[125] *Id.*
[126] *Id.* at 8.
[127] *Id.*

Milwaukee County, Wisconsin) and 0.77 ppb to a maintenance receptor (receptor ID 260050003 in Allegan County, Michigan).[128] Both contributions from the State's chosen modeling are below the 1-ppb threshold. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Iowa does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA anticipates withdrawing the proposed error correction of the April 15, 2022, final approval of Iowa's SIP submission.[129] For clarification, the EPA notes that the previous approval of Iowa's SIP remains in place.

4. Kansas

a. Prior Notices Related to Kansas' SIP Submission

On September 27, 2018, Kansas submitted a SIP revision addressing CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 8-hour ozone NAAQS.[130] The EPA's proposed approval of Kansas' SIP submission was published on February 8, 2022,[131] and the EPA's final approval was published on April 4, 2022.[132] The EPA then proposed an error correction of the past approval to partially disapprove Kansas' SIP in

[128] *See* Attachment C to the EPA's March 2018 memorandum.
[129] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).
[130] *See* "Kansas Air Quality State Implementation Plan Revision for the Implementation, Maintenance, and Enforcement of the 2015 Ozone (O_3) National Ambient Air Quality Standards" ("Kansas' SIP submission") in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[131] 87 FR 7071 (Feb. 8, 2022).
[132] 87 FR 19390 (Apr. 4, 2022).

the Proposed Supplemental Air Plan Action.[133] However, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations for the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of this preamble. As a result, the EPA anticipates withdrawing the proposed error correction of the April 4, 2022, final approval of Kansas' SIP submission.

b. Summary of Kansas' Submission

Kansas relies on the EPA's March 2018 memorandum modeling to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in Kansas in the year 2023.[134] Kansas notes that the State's greatest contribution to a projected nonattainment or maintenance receptor is 0.77 ppb, which is between 0.7 ppb and 1 ppb.[135] Because Kansas's maximum contribution to receptors in downwind States is between 1 percent of the NAAQS and 1 ppb, the State cites the EPA's August 2018 memorandum to rely on a 1-ppb threshold.[136] Therefore, Kansas concludes that emissions from sources within the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.

c. Evaluation of Kansas' Submission

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[133] 89 FR 12666 (Feb. 16, 2024).
[134] Attachment A to Kansas' SIP submission at 24-26.
[135] *Id.*
[136] *Id.*

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous proposed error correction of the approval of Kansas' SIP. Kansas' SIP submission uses the EPA's March 2018 memorandum modeling. This modeling showed that Kansas' projected maximum contribution is 0.69 ppb to a nonattainment receptor (receptor ID 484392003 in Tarrant County, Texas) and 0.77 ppb (receptor ID 260050003 in Allegan County, Michigan)[137] This contribution from the State's chosen modeling is below the 1-ppb threshold. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Kansas does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA anticipates withdrawing the proposed error correction of the April 4, 2022, final approval of Kansas's SIP submission.[138] For clarification, the EPA notes that the previous approval of Kansas' SIP remains in place.

5. Kentucky

a. Prior Notices Related to Kentucky's SIP Submission

On January 9, 2019, the Commonwealth of Kentucky submitted a SIP revision, a portion of which addressed CAA section 110(a)(2)(D)(i)(I) interstate transport

[137] *See* Attachment C to the EPA's March 2018 memorandum.
[138] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).

requirements for the 2015 8-hour ozone NAAQS.[139] The EPA's proposed disapproval of Kentucky's SIP submission was published on February 22, 2022,[140] and the EPA's final disapproval was published on February 13, 2023.[141] The Sixth Circuit vacated and remanded that disapproval to the EPA.[142] Additionally, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations for the 2015 8-hour ozone NAAQS following *Kentucky* and the remand and vacatur of the EPA's disapproval of Mississippi's SIP submission by the Fifth Circuit, as described in Section III.C. of this preamble. As a result, the EPA now proposes to approve Kentucky's SIP submission.

b. Summary of Kentucky's Submission

Kentucky's SIP submission provides the Commonwealth's analysis of its impact to downwind States and concludes that the Commonwealth meets the requirements of CAA section 110(a)(2)(D)(i)(I) because Kentucky's SIP submission contains adequate provisions to prevent sources and other types of emissions activities within the Commonwealth from significantly contributing to nonattainment, or interfering with the maintenance, of downwind States with respect to the 2015 8-hour ozone NAAQS.

Kentucky's SIP submission relies on the results of the EPA's March 2018 memorandum modeling to identify downwind nonattainment and maintenance receptors

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[139] *See* "Final Kentucky Infrastructure State Implementation Plan," Element D ("Kentucky's SIP submission") included in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[140] 87 FR 9498 (Feb. 22, 2022).
[141] 88 FR 9336 (Feb. 13, 2023).
[142] *Kentucky*, 123 F.4th at 473.

that may be "linked" to emissions from sources in Kentucky.[143] Kentucky notes that these modeling results showed Kentucky is projected to be linked to four nonattainment receptors and one maintenance receptor above 1 percent of the NAAQS.

Kentucky relies on the EPA's August 2018 memorandum to apply a 1-ppb threshold and finds that the Commonwealth is no longer projected to be linked to the four nonattainment receptors.[144] Kentucky, therefore, concludes that no further controls are required to address the Commonwealth's contribution to those four receptors and that Kentucky's SIP submission contains adequate provisions to prevent sources and other types of emissions activities within the Commonwealth from contributing significantly to nonattainment in any other State (*i.e.*, "Prong 1" of CAA section 110(a)(2)(D)(i)(I)) for the 2015 8-hour ozone NAAQS).[145]

After application of the 1-ppb contribution threshold, Kentucky notes it contributes over 1 ppb to one maintenance receptor in Harford County, Maryland ("Harford receptor").[146] Kentucky's SIP submission states that emissions reductions required for an upwind State should not be the same for a monitor that is projected to be attaining the NAAQS under average conditions as for a nonattainment monitor. Kentucky further maintains that local controls should be implemented before requiring upwind States to control their sources.

Kentucky also reviews NO_x emissions trends in the Commonwealth, comparing

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[143] Kentucky's SIP submission at 18-19.
[144] *Id.* at 19.
[145] *Id.* at 45.
[146] *Id.* at 19.

annual NO_x emissions from 2008 to 2016 and finding that NO_x emissions in Kentucky have significantly decreased since 2008.[147] Kentucky indicates that scheduled shutdowns, fuel switches, and retirements of facilities in the Commonwealth mean Kentucky's emissions will continue to decrease. In addition, Kentucky lists existing State, SIP-approved regulations and Federal programs for sources in the Commonwealth that it concluded address the requirements of CAA 110(a)(2)(D)(i)(I) for the 2015 8-hour ozone NAAQS.[148] Thus, Kentucky concludes that no further reductions other than existing and anticipated measures are required to address the Commonwealth's interstate transport obligation to eliminate its contribution to the Harford receptor (Prong 2).

c. Evaluation of Kentucky's Submission

The Sixth Circuit vacated and remanded the EPA's prior disapproval of Kentucky's SIP submission on the grounds that the disapproval was arbitrary and capricious for improperly departing from past policy.[149] In particular, the Sixth Circuit found that the EPA had ignored Kentucky's reliance interests in the modeling results released with the March 2018 memorandum and that the August 2018 memorandum, together with feedback provided by the EPA during Kentucky's SIP submission development process, established that Kentucky could apply a 1-ppb contribution threshold in Step 2 in its SIP submission for the 2015 ozone NAAQS without further

[147] *Id.* at 30-31.
[148] *See* Kentucky's SIP submission, at 20-30 for the list of state, SIP-approved regulations and Federal programs identified by Kentucky.
[149] *Kentucky*, 123 F.4th at 468.

justification.[150]

On remand, the EPA is reevaluating Kentucky's submission in accordance with the court's identification of the EPA's previous missteps. As described in Section III.C.3. of this preamble, the EPA is applying a 1-ppb contribution threshold. Furthermore, as described in Section III.C.4. of this preamble, to accommodate Kentucky's reliance interests, the EPA is referring in the first instance to the State's chosen modeling. When the modeling a State relies on in its SIP submission shows a contribution over 1 ppb to at least one receptor in 2023, the EPA will confirm whether any linkages are projected to exist in the EPA's updated modeling. Though not explicitly endorsed by the court, the Sixth Circuit suggested this approach could be a possible route for the EPA on remand.[151] Kentucky's SIP submission uses the EPA's March 2018 memorandum modeling. This modeling showed that Kentucky's projected maximum contribution is 0.89 ppb to a nonattainment receptor (receptor ID 90013007 in Fairfield County, Connecticut) and 1.52 ppb to a maintenance receptor (receptor ID 240251001 in Harford County, Maryland).[152] The EPA's 2016v3 modeling shows a maximum contribution of 0.84 ppb to a nonattainment receptor (receptor ID 90013007 in Fairfield County, Connecticut) and 0.79 ppb to a maintenance receptor (receptor ID 90099002 in New Haven County, Connecticut).[153] Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Kentucky does not impact downwind air quality

[150] *Id.* at 468-469.
[151] *Id.* at 472.
[152] *See* Attachment C to the EPA's March 2018 memorandum.
[153] 2016v3 TSD, Table 4-1.

problems such that the Commonwealth should be considered "linked" in Step 2 of the Framework, and therefore further review and analysis at Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Kentucky's SIP submission because the Commonwealth will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[154] This proposed action, if finalized, will respond to the Sixth Circuit's vacatur and remand of the previous disapproval of Kentucky's SIP submission.

6. Minnesota

a. Prior Notices Related to Minnesota's SIP Submission

On October 1, 2018, the Minnesota Pollution Control Agency submitted a SIP revision to address CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 8-hour ozone NAAQS.[155] The EPA's proposed partial disapproval of Minnesota's SIP submission was published on February 22, 2022,[156] and the EPA's final partial disapproval (as to Prong 2) was published on February 13, 2023.[157] However, the EPA is now reconsidering the policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of

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[154] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).
[155] *See* "Infrastructure/110(a) requirements for the 2015 Ozone National Ambient Air Quality Standard" ("Minnesota's SIP submission") available in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[156] 87 FR 9838 (Feb. 22, 2022).
[157] 88 FR 9336 (Feb. 13, 2023).

this preamble. As a result, the EPA now proposes to reconsider the February 13, 2023, partial disapproval of Minnesota's SIP submission and is proposing to fully approve Minnesota's SIP submission.

b. Summary of Minnesota's Submission

Minnesota's SIP submission cites both the EPA's March 2018 memorandum modeling and modeling conducted by the Lake Michigan Air Directors Consortium (LADCO).[158] In Step 1 of the Framework, Minnesota identifies monitoring sites that are projected to have problems attaining and/or maintaining the 2015 8-hour ozone NAAQS in 2023 according to LADCO modeling, which used the Eastern Regional Technical Advisory Committee (ERTAC) EGU Tool version 2.7[159] and the EPA's March 2018 modeling.[160] LADCO performed a modeling demonstration like that of the EPA's 2018 transport modeling, except with use of the ERTAC EGU Tool to supplement State-specific EGU information.

In Step 2, Minnesota's SIP submission presents the State's projected 2023 ozone contributions to maintenance and nonattainment receptors identified by both LADCO modeling and the EPA's March 2018 modeling.[161] Minnesota's SIP submission notes there were differences in identified receptors between the two modeling results, and the LADCO results overall yielded slightly lower projected contributions to downwind

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[158] *See* Minnesota's SIP submission at 1.
[159] Information about the ERTAC EGU tool can be found at *https://marama.org/technical-center/ertac-egu/*.
[160] Minnesota's SIP submission at Tables 2 and 3, pages 8-9.
[161] *Id.*

receptors from Minnesota sources than the EPA's modeling.[162]

Minnesota relies on the 1-percent threshold to define linkages. Both the LADCO modeling and the EPA's March 2018 modeling showed that Minnesota contributes less than 1 percent of the NAAQS to all downwind receptors. Minnesota shows in Table 2 of the State's SIP submission that the highest projected contribution to a receptor in 2023 is 0.40 ppb, based on the EPA's March 2018 modeling, or 0.45 ppb, based on LADCO modeling, to a receptor in Milwaukee County, Wisconsin.[163] Minnesota concludes that the State is not linked above 1 percent of the NAAQS to any downwind receptor and therefore does not contribute to nonattainment or interference with maintenance in other States with respect to the 2015 8-hour ozone NAAQS.

Although Minnesota concludes it is not linked in Step 2, Minnesota proceeds with a Step 3 analysis. Minnesota provides air quality data to demonstrate that no additional emissions reductions are necessary to satisfy the State's transport obligations, including evidence of decreasing ambient ozone concentrations in the State from the mid-1990s through 2017 as well as decreasing NO_x and VOC emissions from the State from 2002 through 2015.[164] Minnesota concludes that decreasing emissions in the State make it unlikely for the State to contribute significantly to nonattainment or interference with maintenance of the 2015 8-hour ozone NAAQS in downwind States.

Minnesota therefore concludes that no additional permanent or enforceable

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[162] *Id.* at 7.
[163] *Id.* at 8-9.
[164] *Id.* Figures 1-3, pages 10-11.

measures are needed to address ozone transport contribution from Minnesota sources beyond existing control measures. Therefore, Minnesota did not consider any new permanent and enforceable measures to reduce emissions as part of the Step 4 analysis.

c. Evaluation of Minnesota's Submission

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous disapproval of the SIP submission from Minnesota. In Steps 1 and 2 of the Framework, Minnesota relies on both LADCO modeling and the EPA's March 2018 memorandum modeling in its SIP submission. The March 2018 memorandum modeling showed that Minnesota's projected maximum contribution is 0.40 ppb to a nonattainment receptor (receptor ID 550790085 in Milwaukee County, Wisconsin) and 0.31 ppb to a maintenance receptor (receptor ID 261630019 in Wayne County, Michigan).[165] LADCO modeling similarly showed that Minnesota's projected maximum contribution to any downwind receptor is 0.45 ppb (receptor ID 550790085 in Milwaukee County, Wisconsin).[166] Minnesota does not contribute above the 1-ppb threshold to any receptor in its modeling of choice. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Minnesota does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis at Steps 3 and 4 is not warranted. Therefore, the EPA is

[165] *See* Attachment C to the EPA's March 2018 memorandum.
[166] Minnesota's SIP submission, Table 2 at 8.

proposing to fully approve Minnesota's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[167] This proposed action, if finalized, would replace the EPA's previous final action disapproving the SIP submission from Minnesota.[168]

7. Mississippi

a. Prior Notices Related to Mississippi's SIP Submission

On September 3, 2019, the Mississippi Department of Environmental Quality submitted a SIP revision addressing CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 8-hour ozone NAAQS.[169] The EPA's proposed disapproval of Mississippi's SIP submission was published on February 22, 2022,[170] and the EPA's final disapproval was published on February 13, 2023.[171] The Fifth Circuit vacated and remanded that disapproval to the EPA.[172] Additionally, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following *Texas* and the remand and vacatur of the EPA's disapproval of Kentucky's SIP submission by the Sixth Circuit, as described in Section III.C. of this preamble. As a result, the EPA proposes to approve Mississippi's

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[167] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).
[168] 88 FR 9336.
[169] *See* "Mississippi 2015 Ozone Infrastructure SIP Prongs 1 & 2" ("Mississippi's SIP submission") included in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.
[170] 87 FR 9545 (Feb. 22, 2022).
[171] 88 FR 9336 (Feb. 13, 2023).
[172] *Texas*, 132 F.4th at 863.

SIP submission.

b. Summary of Mississippi's Submission

Mississippi's SIP submission provides the State's analysis of its impact to downwind States and concludes that emissions from the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other States.

Mississippi's SIP submission relies on the EPA's March 2018 memorandum modeling to identify projected downwind nonattainment and maintenance receptors and contribution linkages in 2023 that may be impacted by emissions from sources in Mississippi in Steps 1 and 2 of the Framework, respectively.[173] Mississippi notes that the modeled contributions for Mississippi are below 1 percent of the NAAQS for all nonattainment and maintenance receptors, except the Deer Park nonattainment receptor in Harris County, Texas ("Deer Park receptor").[174] Mississippi's SIP submission identifies that the State is projected to contribute 0.79 ppb to the Deer Park receptor.[175]

Mississippi discusses the EPA's August 2018 memorandum, noting that 0.79 ppb is between 1 percent of the NAAQS and 1 ppb.[176] Mississippi's SIP submission also states that the Deer Park receptor design value was projected to be greater than the 2015 8-hour ozone standards in 2023, but the actual 2015-2017 design value was below the

[173] Mississippi's SIP submission at 4.
[174] *Id.*
[175] *Id.* Table 1.
[176] *Id.* at 6.

NAAQS at 68 ppb.[177] Based on the EPA's March 2018 modeling, along with application of a 1-ppb threshold and information regarding 2015-2017 monitored values at the Deer Park receptor, Mississippi concludes that sources in the State are not linked to downwind nonattainment or maintenance receptors in Step 2 and, therefore, the State does not significantly contribute to nonattainment in another State for the 2015 8-hour ozone standards. Further, Mississippi states that the State's SIP submission contains adequate provisions to prohibit sources and other types of emissions activities within the State from contributing to nonattainment (Prong 1) in another State with respect to the 2015 8-hour ozone NAAQS.

In Mississippi's SIP submission, the State treats the Deer Park receptor as a maintenance receptor because the 2017 design value of 68 ppb was below the level of the NAAQS at this monitor.[178] Mississippi cites the EPA's October 2018 memorandum to apply this alternative definition of a maintenance receptor. Based on the alternative definition of a maintenance receptor and the application of a 1-ppb threshold, Mississippi concludes that the State does not significantly interfere with maintenance (Prong 2) in another State for the 2015 8-hour ozone standards. c. Evaluation of Mississippi's Submission

c. Evaluation of Mississippi's Submission

The Fifth Circuit vacated and remanded the EPA's prior disapproval of Mississippi's SIP submission on the grounds that the disapproval was arbitrary and

[177] *Id.* Table 4.
[178] *Id.* at 9.

capricious for inadequate explanation.[179] Applying a 1-percent threshold to 2016v3 modeling results, the EPA found Mississippi to be linked to at least one out-of-state receptor. The court noted that the EPA had said that Mississippi's use of a 1-ppb contribution threshold was "inconsequential" to the outcome; however, Mississippi did not contribute above 1 ppb in the older modeling provided in its SIP submission and so would not have been linked had the EPA limited its consideration only to the modeling used in Mississippi's SIP submission.[180] Due to this, the court found that the EPA failed to recognize or reasonably explain its decision to consider the updated modeling in an "outcome determinative" way.[181]

On remand, the EPA is reevaluating Mississippi's submission in accordance with the court's identification of the EPA's previous missteps. As described in Section III.C.4. of this preamble, the EPA relies in the first instance on the modeling the State chose to use in its submission and will only consider its updated modeling information to confirm that at least one linkage above 1 ppb continues to persist. In Steps 1 and 2 of the Framework, Mississippi relies on the EPA's March 2018 memorandum modeling to identify nonattainment and maintenance receptors and identify upwind State linkages to nonattainment and maintenance receptors.[182] This modeling showed that Mississippi's

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[179] *Texas*, 132 F.4th at 860-862.
[180] *See id.* at 861-862.
[181] *Id.* at 862.
[182] In Step 1, Mississippi also applied an alternative definition of a maintenance receptor using the EPA's October 2018 Memorandum and 2014 to 2017 Design Values. However, based on the EPA's conclusions identified in this section, the EPA does not find it necessary to review in depth the State's application of an alternative maintenance receptor definition.

projected maximum contribution is 0.79 ppb to a nonattainment receptor (receptor ID 482011039 in Harris County, Texas) and 0.50 ppb to a maintenance receptor (receptor ID 482010024 in Harris County, Texas).[183] Mississippi does not contribute above the 1-ppb threshold to any receptor in its modeling of choice. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Mississippi does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis at Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Mississippi's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[184] Here, the EPA is not using its updated information in an outcome determinative way as it is not relying on its updated modeling information to approve Mississippi's submission. This proposal, if finalized, will respond to the Fifth Circuit's vacatur and remand of the previous disapproval of Mississippi's SIP submission.

8. Nevada

a. Prior Notices Related to Nevada's SIP Submission

On September 28, 2018, the Nevada Division of Environmental Protection (NDEP) submitted Nevada's infrastructure SIP revision for the 2015 8-hour ozone

[183] *See* Attachment C to the EPA's March 2018 memorandum.
[184] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).

NAAQS.[185] The EPA's proposed disapproval of Nevada's SIP submission was published on May 24, 2022,[186] and the final disapproval was published on February 13, 2023.[187] However, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C of this preamble. As a result, the EPA is proposing to reconsider the February 13, 2023, disapproval of Nevada's SIP submission and is proposing to approve Nevada's SIP submission.

b. Summary of Nevada's Submission

NDEP addresses CAA section 110(a)(2)(D)(i)(I) interstate transport requirements for the 2015 8-hour ozone NAAQS in Appendix E of Nevada's SIP submission.[188] Nevada's SIP submission follows the Framework to analyze Nevada's impact on other States. In Steps 1 and 2, Nevada relies on the EPA's March 2018 memorandum

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[185] *See* "The Nevada Division of Environmental Protection Portion of the Nevada State Implementation Plan for the 2015 Ozone NAAQS: Demonstration of Adequacy" ("Nevada's SIP submission") included in the docket for this proposed action, Docket ID No. EPA-HQ-OAR-2025-0192.

[186] 87 FR 31485 (May 24, 2022).

[187] 88 FR 9336 (Feb. 13, 2023).

[188] Nevada's SIP submission also includes information from two other agencies that regulate air quality in Nevada: the Clark County Department of Air Quality and the Washoe County Health District Air Quality Management Division. Though these two county level agencies provided their own submissions, they do not include their own separate transport evaluation and instead incorporate Appendix E of Nevada's SIP verbatim. The individual submissions from Clark County and Washoe County are included in the docket, and for simplicity in this section "Nevada's SIP submission" refers to the collection of submissions from NDEP, Clark County, and Washoe County.

modeling.[189] Further, in Step 2, Nevada applies a 1-percent threshold.[190] Based on the EPA's March 2018 memorandum modeling results, Nevada's SIP submission concludes that the largest projected contribution from Nevada to a nonattainment or maintenance receptor in another State is 0.9 percent of the 2015 8-hour ozone NAAQS.[191]

Based on the conclusion that emissions sources in Nevada do not contribute above 1 percent of the NAAQS to any nonattainment or maintenance receptors, Nevada's SIP submission concludes that identification of necessary emissions reductions in Step 3 of the EPA's Framework is not needed.[192] Accordingly, Nevada does not consider any new permanent and enforceable measures to reduce emissions in Step 4 of the Framework.[193]

c. Evaluation of Nevada's Submission

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous disapproval of the SIP submission from Nevada. In Steps 1 and 2 of the Framework, Nevada relies on the EPA's March 2018 memorandum modeling to identify nonattainment and maintenance receptors and upwind State linkages to nonattainment and maintenance receptors in 2023. This modeling showed that, outside of California, Nevada's projected maximum contribution is 0.38 ppb to a maintenance receptor (receptor ID 8059001 in Jefferson County,

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[189] Nevada's SIP submission, at E-2 and E-3.
[190] Nevada's SIP submission at E-2, E-3, and E-10.
[191] *Id*. at E-6 and Attachment A. Specific contributions to nonattainment and maintenance monitors are contained in Table E-A3.
[192] *Id.* at E-11.
[193] *Id*.

Colorado) and 0.37 ppb to a nonattainment receptor (receptor ID 80690011 in Larimer County, Colorado).[194, 195] Nevada is not linked to any downwind receptor above the 1-ppb threshold in its modeling of choice. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that Nevada does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Nevada's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[196] This proposed action, if finalized, would replace the EPA's previous final action disapproving the SIP submission from Nevada.[197]

9. New Mexico

a. Prior Notices Related to New Mexico's SIP Submission

In 2019, the EPA found that New Mexico had failed to submit a complete interstate transport SIP submission for the 2015 8-hour ozone NAAQS.[198] This triggered the EPA's obligation to promulgate a FIP for New Mexico within two years.[199] When the

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[194] *See* Attachment C to the EPA's March 2018 memorandum.
[195] Nevada identified its maximum contribution to be 0.9 percent of the NAAQS (or 0.65 ppb) to a monitoring site in California. Because this is below the 1 ppb threshold (as well as a 1% of NAAQS threshold), we do not need to resolve whether this monitoring site should be considered a transport receptor. *See* 88 FR at 36718.
[196] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).
[197] 88 FR 9336.
[198] 84 FR 66612 (Dec. 4, 2019).
[199] 42 U.S.C. 7410(c)(1)(A).

EPA did not do so, multiple parties brought deadline-suit litigation against the EPA. This resulted in a consent decree deadline of June 1, 2024, for the EPA to either promulgate a FIP for New Mexico or approve a SIP submission fully resolving New Mexico's interstate transport obligations.[200] By stipulation of the parties, that deadline has now been extended to February 26, 2026.[201]

On July 20, 2021, on behalf of the City of Albuquerque Environmental Health Department (EHD), the New Mexico Environment Department (NMED) submitted a certification that Albuquerque-Bernalillo County "does not cause or contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other state."[202] On July 27, 2021, NMED then submitted an interstate transport SIP submission certifying that New Mexico's SIP submission satisfies interstate transport requirements for the 2015 8-hour ozone NAAQS. [203] On July 5, 2023, NMED submitted a supplemental letter that contains additional data for the EPA's consideration in the

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[200] *WildEarth Guardians v. Zeldin*, No. 22-cv-0174-RB-GBW (D.N.M. Aug. 16, 2022); *Sierra Club v. Zeldin*, No. 3:22-cv-01992-JD (N.D. Cal. Jan. 24, 2023).
[201] Joint Stipulation Extending Consent Decree Deadlines, *WildEarth Guardians v. Zeldin*, No. 1:22-cv-0174, ECF No. 20 (D.N.M. Nov. 25, 2024); Joint Notice of Stipulated Extension of Consent Decree Deadline, *Sierra Club v. Zeldin*, No. 3:22-cv-01992-JD, ECF No. 44 (N.D. Cal. Nov. 25, 2024).
[202] *See* "New Mexico Good Neighbor State Implementation Plan Certification for the 2015 Ozone NAAQS, Submitted on Behalf of Albuquerque-Bernalillo County" ("EHD SIP submission") in the docket for this action, Docket ID No. EPA-HQ-OAR-2025-0192.
[203] *See* "New Mexico's Good Neighbor State Implementation Plan Certification for the 2015 Ozone National Ambient Air Quality Standard" ("NMED's SIP submission") in the docket for this action. For simplicity in this section, "New Mexico's SIP submission" refers to the collective information in NMED's submission and EHD's submission.

Agency's review of the New Mexico SIP submission.[204] The EPA proposed to partially disapprove New Mexico's SIP submission as to Prong 2 in the Proposed Supplemental Air Plan Action.[205] However, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C of this preamble. As a result, the EPA is proposing full approval of New Mexico's SIP submission.

b. Summary of New Mexico's Submission

New Mexico's SIP submission contains what NMED characterizes as a WOE analysis of New Mexico's contribution to ozone transport receptors. In Step 1 of the Framework, New Mexico's SIP submission relies on the EPA's March 2018 memorandum modeling.[206] In Step 2, New Mexico identifies that the State contributes above 1 percent of the NAAQS to one maintenance receptor and one nonattainment receptor, both in Colorado.[207]

New Mexico used a WOE analysis rather than relying on a single, national standard for identifying linkages and determining whether contributions from an upwind State are significant.[208] NMED and EHD find that New Mexico should not be considered

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[204] This additional data was included under the heading "Exhibit A Estimates of Emission Reductions ("Exhibit A").
[205] 89 FR 12666 (Feb. 16, 2024).
[206] NMED's Exhibit A acknowledged the EPA's 2016v3 modeling results and linkages.
[207] *Id*. at Table 1, page 4; page 5.
[208] New Mexico SIP submission at 5.

linked to Colorado receptors in Step 2 because the majority of the contribution to these receptors comes directly from Colorado. New Mexico's submission also states that the relative share of in-state versus out-of-state contribution in Colorado, topographical influences on the transport of ozone in Colorado, and other air quality information support its WOE analysis.[209]

New Mexico concludes it would be unreasonable for the State to take further actions to address its interstate transport requirements for the 2015 8-hour ozone NAAQS and therefore do not conduct an analysis of emissions control opportunities within the State in Step 3. Thus, in Step 4, NMED and EHD determine that no additional permanent and enforceable measures are necessary to reduce the State's emissions.

The supplemental information NMED submitted for the EPA's consideration in 2023 provides more information in response to the EPA's indication that the EPA may disapprove New Mexico's SIP submission. To the EPA's knowledge, this letter was not subject to public notice or rulemaking process at the State level and does not in itself purport to be a SIP submission or a revision to New Mexico's SIP submission. As such, the EPA takes the information in the letter under advisement but does not consider the letter to be a new SIP submission in its own right or part of New Mexico's SIP submission.

c. Evaluation of New Mexico's Submission

As described in Section III.C. of this preamble, in light of the EPA's

[209] *Id.* at 5-16.

implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous proposed disapproval of the SIP submission from New Mexico. New Mexico relies on the EPA's March 2018 memorandum modeling in the State's SIP submission. This modeling showed that New Mexico's maximum contribution is 0.77 ppb to a maintenance receptor (receptor ID 81230009 in Weld County, Colorado) and 0.70 ppb to a nonattainment (receptor ID 80590006 in Jefferson County, Colorado).[210] Both contributions in the State's modeling of choice are below the 1-ppb threshold. Thus, in accordance with the policies articulated in Section III.C. of this preamble, the EPA proposes to find that New Mexico does not impact downwind air quality problems such that it should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis in Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve New Mexico's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[211] If finalized, the EPA will withdraw the prior proposed partial disapproval.

10. Tennessee

a. Prior Notices Related to Tennessee's SIP Submission

On September 13, 2018, the Tennessee Department of Environment and Conservation submitted a SIP addressing CAA section 110(a)(2)(D)(i)(I) interstate

[210] *See* Attachment C to the EPA's March 2018 memorandum.
[211] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).

transport requirements for the 2015 8-hour ozone NAAQS.[212] The EPA previously proposed approval of Tennessee's SIP submission on December 30, 2019.[213] The EPA then withdrew this proposed approval and proposed to disapprove Tennessee's SIP submission in a notice published on February 22, 2022.[214] In the Proposed Supplemental Air Plan Action, the EPA then withdrew the proposed disapproval and proposed to partially disapprove Tennessee's SIP submission as to Prong 2.[215] However, the EPA is now reconsidering policy decisions made in our prior actions addressing interstate transport obligations under the 2015 8-hour ozone NAAQS following the remand and vacatur of the EPA's disapproval of Kentucky's and Mississippi's SIP submissions by the Sixth and Fifth Circuits, respectively, as described in Section III.C. of this preamble. As a result, the EPA is proposing full approval of Tennessee's SIP submission.

b. Summary of Tennessee's Submission

Tennessee's SIP submission provides the State's analysis of its impact to downwind States and concludes that emissions from the State will not significantly contribute to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in other States. Tennessee's SIP submission relies on the EPA's March 2018 memorandum modeling to identify downwind nonattainment and maintenance receptors

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[212] The September 13, 2018, SIP submission provided by TDEC was received by the EPA on September 17, 2018. On September 18, 2018, Tennessee submitted multiple SIP submissions under one cover letter. The EPA is only acting on Tennessee's 2015 8-hour ozone NAAQS interstate transport SIP requirements in this notice ("Tennessee's SIP submission").

[213] 84 FR 71854 (Dec. 30, 2019).

[214] 87 FR 9545 (Feb. 22, 2022).

[215] 89 FR 12666 (Feb. 16, 2024).

that may be impacted by emissions from sources in the State in Steps 1 and 2 of the Framework.[216] Tennessee summarizes the State's upwind contribution and notes Tennessee's largest impact on a projected downwind receptor is 0.31 ppb and 0.65 ppb to a nonattainment and maintenance receptor, respectively. Tennessee finds that, based on these modeling results, emissions from Tennessee do not contribute above 1 percent of the NAAQS or above 1 ppb at any monitors that are projected to be in nonattainment or maintenance.[217]

Tennessee's SIP submission emphasizes a significant reduction in NO_x emissions from coal-fired EGUs and other large NO_x sources leading to improvements in air quality, including reductions attributable to previous transport rulemakings.[218] Additionally, Tennessee identifies existing SIP-approved provisions, Federal regulations and programs, court settlements, and statewide source shutdowns that Tennessee believes limit ozone precursor emissions in the State.[219]

Based on this information, Tennessee concludes that the State does not significantly contribute to nonattainment or interfere with maintenance in another State of the 2015 8-hour ozone NAAQS, and the existing approved SIP, found at 40 CFR part 52, Subpart RR, provides for adequate measures to control ozone precursor emissions.

c. Evaluation of Tennessee's Submission

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[216] Tennessee's SIP submission at 9.
[217] *Id.*
[218] Tennessee's SIP submission cites Federal and state rules at pages 9-12.
[219] See pages 9 through 12 of Tennessee's SIP submission for a list of SIP-approved state rules and Federal rules.

As described in Section III.C. of this preamble, in light of the EPA's implementation of policies consistent with the Sixth and Fifth Circuits' decisions in *Kentucky* and *Texas*, the EPA is reconsidering its previous proposed disapproval of the SIP submission from Tennessee. Tennessee relied on the EPA's March 2018 memorandum modeling to identify nonattainment and maintenance receptors and upwind State linkages to nonattainment and maintenance receptors in 2023. Tennessee relies on a 1-ppb threshold in its SIP submission. This modeling showed that Tennessee's projected maximum contribution is 0.31 ppb to a nonattainment receptor (receptor ID 551170006 in Sheboygan County, Wisconsin) and 0.65 ppb to a maintenance receptor (receptor ID 260050003 in Allegan County, Michigan).[220] Therefore, Tennessee is not linked to any downwind receptors above the 1-ppb threshold in its modeling of choice. Thus, in accordance with the policies articulated in Section III.C. of this preamble, based on the EPA's evaluation of the information provided in Tennessee's SIP submission, the EPA proposes to find that Tennessee does not impact downwind air quality problems such that the State should be considered "linked" in Step 2 of the Framework and, therefore, further review and analysis at Steps 3 and 4 is not warranted. Therefore, the EPA is proposing to approve Tennessee's SIP submission because the State will not contribute significantly to nonattainment or interfere with maintenance of the 2015 8-hour ozone NAAQS in any other State.[221] If finalized, the EPA will withdraw the prior proposed partial disapproval.

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[220] *See* Attachment C to the EPA's March 2018 memorandum.
[221] *See* 42 U.S.C. 7410(a)(2)(D)(i)(I).

B. CAA Section 110(l)

Under CAA section 110(l), "the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment . . . or any other applicable requirement of this chapter." Section 110(l) applies to all CAA requirements, including section 110(a)(2)(D) requirements relating to interstate transport.[222]

For the 2015 8-hour ozone NAAQS, the EPA previously disapproved interstate transport SIP submissions from, and promulgated interstate transport FIPs for sources in, Alabama, Kentucky, Minnesota, Mississippi, and Nevada.[223] The EPA's predicate authority for the FIPs as to each of these States was judicially stayed or judicially vacated.[224] However, the Ninth Circuit later lifted the stay of Nevada's SIP submission.[225] The EPA never promulgated interstate transport FIPs for Arizona, Iowa, Kansas, New Mexico, or Tennessee. Therefore, this proposed action, if finalized, will not revise any existing requirement in any lawfully promulgated implementation plan for any State included in this proposed action. In the case of Nevada, even if the Good Neighbor Plan were considered in the baseline (which is assumed only for the sake of argument,

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[222] *Id.* 7410(l).
[223] 88 FR 9336 (Feb. 13, 2023); 88 FR 36654 (June 5, 2023).
[224] *Alabama et al. v. EPA*, No. 23-11173, ECF No. 33 (11th Cir. Aug. 17, 2023) (SIP Disapproval Action as to Alabama stayed); *Kentucky v. EPA*, 123 F.4th 447 (6th Cir. 2024) (SIP Disapproval Action as to Kentucky vacated); *Allete, Inc. d/b/a Minnesota Power et al. v. EPA*, No. 23-1776, ECF No. 5292580 (8th Cir. July 5, 2023) (SIP Disapproval Action as to Minnesota stayed); *Texas v. EPA*, 132 F.4th 808 (5th Cir. 2025) (SIP Disapproval Action as to Mississippi vacated); *Nevada Cement Co. v. EPA*, No. 23-682, ECF No. 27 (9th Cir. July 3, 2023) (SIP Disapproval Action as to Nevada stayed).
[225] *Nevada Cement Co. v. EPA*, No. 23-682, ECF No. 65 (9th Cir. Dec. 17, 2024).

given that the stay of its SIP disapproval was lifted), the EPA is not aware of any interference with other requirements of the CAA that would result from this proposed action.

V. Summary of Changes to Existing Regulatory Text

This section describes proposed amendments to the regulatory text in the CFR to approve and promulgate SIPs for eight States (Alabama, Arizona, Kentucky, Minnesota, Mississippi, Nevada, New Mexico, and Tennessee).

The primary CFR amendments that would apply the approval and promulgation of the SIPs will be made in the respective State's subpart of 40 CFR part 52. The subparts are as follows: Alabama – subpart B, Arizona – subpart D, Kentucky – subpart S, Minnesota – subpart Y, Mississippi – subpart Z, Nevada – subpart DD, New Mexico – subpart GG, Tennessee – subpart RR. Where appropriate, the approval status for the 2015 8-hour ozone NAAQS will be changed from disapproved to approved, and, where appropriate, the approval status will be changed to indicate the SIP has now been approved.

VI. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at www.epa.gov/laws-regulations/laws-and-executive-orders.

A. Executive Order 12866: Regulatory Planning and Review

This action is a significant regulatory action that was submitted to the Office of Management and Budget (OMB). Any changes made in response to Executive Order 12866 review have been documented in the docket for this action.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is expected to be an Executive Order 14192 deregulatory action. This proposed rule is expected to provide burden reduction. If finalized, this action would resolve the interstate transport obligations of eight States for the 2015 8-hour ozone NAAQS. Therefore, this action would result in reduced regulatory burden for those States.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because it does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

I certify this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action proposes to approve SIP submissions as satisfying interstate transport requirements under CAA section 110(a)(2)(D)(i)(I) for the 2015 ozone NAAQS, and these SIP submissions do not impose any requirements on small 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. The 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, on the relationship between the national government and the States, 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 does not have Tribal implications as specified in Executive Order 13175. This proposed rule does not have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes. Thus, Executive Order 13175 does not apply to this action.

H. Executive Order 13045: Protection of Children From Environmental Health Risks 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. Therefore, this action is not subject to Executive Order 13045 because it merely approves SIP submissions as containing the necessary provisions to satisfy interstate transport requirements under CAA section 110(a)(2)(D)(i)(I).

Furthermore, since this action does not concern human health risks, EPA's Policy on Children's Health also does not apply.

I. Executive Order 13211: Actions Concerning Regulations That Significantly Affect

Energy Supply, Distribution, or Use

This action is not a "significant energy action" because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The purpose of this proposed rule is to resolve the interstate transport requirements for the 2015 8-hour ozone NAAQS for 10 States. The EPA does not expect these activities to adversely affect energy suppliers, distributors, or users.

J. National Technology Transfer and Advancement Act

This rulemaking does not involve technical standards.

List of Subjects in 40 CFR Part 52

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Particulate matter, Sulfur dioxide.

_____

Lee Zeldin,
Administrator.