6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2008-0108; FRL-9998-00-Region 1]

Air Plan Approval; Massachusetts; Transport State Implementation Plans for the 1997, 2008, and 2015 Ozone Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve State Implementation Plan (SIP) revisions submitted by the State of Massachusetts that address the interstate transport of air pollution requirements for Infrastructure SIPs for the 1997, 2008, and 2015 ozone national ambient air quality standards (NAAQS) (i.e., Transport SIPs). The intended effect of this action is to propose approval of the Transport SIPs as revisions to the Massachusetts SIP. This action is being taken under the Clean Air Act.

DATES: Written comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R01-OAR-2008-0108 at https://www.regulations.gov, or via email to simcox.alison@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally

not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www.epa.gov/dockets/commenting-epa-dockets. Publicly available docket materials are available at https://www.regulations.gov or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square – Suite 100, Boston, MA. EPA requests that, if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Alison C. Simcox, Air Quality Branch, U.S. Environmental Protection Agency, EPA Region 1, 5 Post Office Square - Suite 100, (Mail code 05-2), Boston, MA 02109 - 3912, tel. (617) 918-1684, email simcox.alison@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. The term "the Commonwealth" refers to the State of Massachusetts.

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IV. Statutory and Executive Order Reviews

I. Background

On January 31, 2008, February 9, 2018, and September 27, 2018, the Massachusetts Department of Environmental Protection (DEP) submitted revisions to its State Implementation Plan (SIP) consisting of interstate transport SIPs for the 1997, 2008, and 2015 ozone NAAQS. The interstate transport SIPs we are proposing to approve were submitted to address the infrastructure requirements of section 110(a)(2)(D)(i)(I) of the Clean Air Act (CAA).

Over the past two decades, EPA has revised the primary ozone standard three times. On July 18, 1997, EPA revised the ozone standard from 0.120 parts per million (ppm), based on a one-hour average, to 0.08 ppm, based on a three-year average of the annual fourth-highest daily maximum 8-hour average. *See* 62 FR 38856. On March 12, 2008, EPA revised the level of the primary ozone standard from 0.08 ppm to 0.075 ppm and maintained the form of the standard. *See* 73 FR 16436. Most recently, on October 1, 2015, EPA revised the primary ozone standard by lowering the level to 0.070 ppm while maintaining the form of the standard. *See* 80 FR 65292.

Section 110(a)(1) of the CAA requires states to submit SIPs to address a new or revised NAAQS within three years after promulgation of a standard, or within a shorter period as EPA may prescribe. Section 110(a)(2) lists the elements that new SIPs must address, as applicable, including section 110(a)(2)(D)(i), which pertains to interstate transport of certain emissions.

The interstate transport SIP provisions require each state to submit a SIP that prohibits emissions that have certain adverse effects in another state due to interstate transport of air pollution. Section 110(a)(2)(D)(i) identifies four elements related to the evaluation of impacts of interstate transport of air pollutants; in this rulemaking, we are addressing the first two elements; the remaining two elements will be acted on under separate rulemaking actions. Specifically, the

portions that we are proposing to approve pertain to section 110(a)(2)(D)(i)(I): (1) significant contribution to nonattainment of the ozone NAAQS in any other state (commonly called "prong 1"); and (2) interference with maintenance of the ozone NAAQS (commonly called "prong 2") by any other state. These two provisions (or "prongs") are commonly referred to as the "good neighbor" provisions of the CAA. The first provision requires that a state's SIP for a new or revised NAAQS contain adequate measures to prohibit any source or other type of emissions activity in the state from emitting pollutants in amounts that "contribute significantly" to nonattainment of the NAAQS in another state. The second provision requires that a state's SIP prohibit any source or other type of emissions activity in the state from emitting pollutants in amounts that will "interfere with maintenance" of the applicable NAAQS in any other state.

II. EPA's evaluation of the state's submittals

A. Background and evaluation of the Transport SIP for the 1997 ozone standard

On April 25, 2005, EPA published a final rule that made a finding that all 50 states had failed to submit, pursuant to Section 110(a)(2)(D)(i) of the CAA, interstate transport SIPs for the 1997 ozone NAAQS. *See* 70 FR 21147. Subsequently, on August 15, 2006, EPA issued a guidance memorandum that provided recommendations to states for making submissions to meet the requirements of section 110(a)(2)(D)(i) for the 1997 8-hour ozone and 1997 fine-particle ($PM_{2.5}$) standards (2006 Guidance).[1]

The CAA does not specifically mandate how to determine significant contribution to nonattainment or interference with maintenance of the NAAQS. Therefore, EPA has interpreted these terms in past regulatory actions, such as the 1998 nitrogen oxides (NO_X) SIP Call, in which

[1] Memorandum from William T. Harnett entitled "Guidance for State Implementation Plan (SIP) Submissions to Meet Current Outstanding Obligations Under Section 110(a)(2)(D)(i) for the 8-hour ozone and $PM_{2.5}$ National Ambient Air Quality Standards" (Aug. 15, 2006).

EPA took action to address emissions of NO_X that significantly contributed to nonattainment of, or interfered with maintenance of, the then-applicable ozone NAAQS. *See* 63 FR 57356 (October 27, 1998).

The NO_X SIP Call was the mechanism through which EPA evaluated whether NO_X emissions from sources in certain states had prohibited interstate impacts, and if they did, required the states to adopt SIP revisions to eliminate the NO_X emissions through participation in a regional cap-and-trade program or by other means.

After promulgation of the 1997 8-hour ozone and $PM_{2.5}$ NAAQS, EPA recognized that regional transport was a serious concern throughout the eastern United States and, therefore, developed the 2005 Clean Air Interstate Rule (CAIR) to address emissions of sulfur dioxide (SO_2) and NO_X that exacerbate ambient ozone and $PM_{2.5}$ levels in many downwind areas through interstate transport. *See* 70 FR 25162. In CAIR, EPA interpreted the term "interfere with maintenance" as part of the evaluation of whether the emissions of sources in certain states had impacts on areas that could put them at risk of violating the NAAQS in a modeled future-year unless actions were taken by upwind states to reduce SO_2 and NO_X emissions. Through CAIR, EPA required states that had such interstate impacts to adopt SIP revisions to eliminate the SO_2 and NO_X emissions, whether through participation in a regional cap-and-trade program or by other means. Massachusetts was included in CAIR as a state that, under the 1997 ozone NAAQS, contributed significantly to ozone-season nonattainment in another state.

EPA's 2006 Guidance addressed CAA section 110(a)(2)(D)(i) requirements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS. For those states subject to CAIR, EPA indicated that compliance with CAIR would meet the two requirements of section 110(a)(2)(D)(i)(I) for these NAAQS.

In 2008, the U.S. Court of Appeals for the D.C. Circuit found that CAIR and the related CAIR federal implementation plans (FIPs) were unlawful.[2] Among other issues, the court held that EPA had not correctly addressed the second element of section 110(a)(2)(D)(i)(I) in CAIR and noted that "EPA gave no independent significance to the 'interfere with maintenance' prong of section 110(a)(2)(D)(i)(I) to separately identify upwind sources interfering with downwind maintenance."[3] EPA's approach, the court reasoned, would leave areas that are "barely meeting attainment" with "no recourse" to address upwind emissions sources.[4] The court, therefore, concluded that a plain-language reading of the statute requires EPA to give independent meaning to the "interfere with maintenance" requirement of section 110(a)(2)(D)(i)(I) and that the approach used by EPA in CAIR failed to do so.

On August 8, 2011, to address the judicial remand of CAIR, EPA adopted a new rule to address interstate transport of air pollution pursuant to section 110(a)(2)(D)(i): "Federal Implementation Plans: Interstate Transport of Fine Particulate Matter and Ozone, and Correction of SIP Approvals," known as the Cross State Air Pollution Rule (CSAPR). *See* 76 FR 48208. As part of CSAPR, EPA reexamined the section 110(a)(2)(D)(i)(I) requirements for the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in other states.[5] In CSAPR, EPA developed an approach to predict which areas that would violate the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in the future, and which areas that would be close to the level of these NAAQS and, therefore, at risk of becoming nonattainment areas. This approach starts by identifying geographic areas for which further evaluation is appropriate and differentiates between areas where the concern is "significant contribution to nonattainment" from those where the concern is "interference with maintenance."

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[2] *See North Carolina v. EPA*, 531 F.3d 896 (DC Cir. 2008), amended on rehearing, 550 F.3d 1176 (2008).
[3] 531 F.3d at 909.
[4] *Id*.
[5] The original CSAPR did not address the 2008 8-hour ozone NAAQS.

Under CSAPR, EPA evaluated data from air-quality monitors over three overlapping 3-year periods (*i.e.*, 2003-2005, 2004-2006, and 2005-2007), as well as data from air-quality modeling to predict which areas would violate the 1997 8-hour ozone and $PM_{2.5}$ NAAQS in 2012, and which areas would have difficulty maintaining attainment. If an area's projected monitoring data for 2012 indicated that it would violate the NAAQS based on the average of these three overlapping periods, then this monitor was considered appropriate for comparison for purposes of the "significant contribution to nonattainment" element. However, if an area's projected data indicated that it would violate the NAAQS based on a single period, but not over the average of the three periods, then this monitor was considered appropriate for comparison for purposes of the "interfere with maintenance" element.

EPA's 2006 Guidance did not specifically recommend this approach to states. However, in light of the court's decision on CAIR, EPA used this approach to evaluate whether Massachusetts had met its "good neighbor" obligations with respect to the 1997 ozone standard. In this guidance, EPA stated that "EPA believes that the contents of the SIP submission required by section 110(a)(2)(D) may vary, depending upon the facts and circumstances related to the specific NAAQS. In particular, the data and analytical tools available at the time the State develops and submits a SIP for a new or revised NAAQS necessarily affects the contents of the required submission."

On January 31, 2008, Massachusetts submitted a SIP revision to EPA addressing the CAA Section 110(a)(2)(D)(i) "good neighbor" requirements for the 1997 ozone NAAQS. The Commonwealth's submittal noted that EPA's 2006 Guidance indicates that states subject to EPA's CAIR can meet their CAA Section 110(a)(2)(D)(i) "good neighbor" obligations with a state-adopted, SIP-approved CAIR regulation. Massachusetts submitted a CAIR regulation to EPA on March 30, 2007, and EPA approved it into the Massachusetts SIP on December 3, 2007.

See 72 FR 67854. Massachusetts noted that it doubted that the CAIR rule would be adequate to ensure all areas in the Eastern U.S. would meet the 1997 ozone NAAQS by the required attainment dates, and, therefore, supplemented its submittal with information about additional controls measures it had adopted, or planned to adopt, that stemmed from a planning effort overseen by the Ozone Transport Commission (OTC).

Although Massachusetts was identified as a state that contributed significantly to ozone nonattainment in another state, and, therefore, was required under CAIR to reduce ozone-season NOx emissions, EPA's August 2011 CSAPR rule reached a different conclusion based on an updated analysis of air-quality and emissions data. *See* 76 FR 48299. Specifically, Table V.D-7 of the CSAPR rule indicates that Massachusetts' largest downwind contribution to nonattainment for ozone was 0.0 ppb, and its largest downwind contribution to maintenance for ozone was 0.6 ppb. *Id.* at 48245. These levels are below the 1 percent of the standard (0.8 ppb) that EPA established as the contribution threshold for the 1997 ozone NAAQS. Accordingly, EPA concluded in CSAPR that Massachusetts does not significantly contribute to nonattainment or interfere with maintenance of the 1997 ozone NAAQS. *Id.* at 48236 (explaining that states whose contributions are below the threshold do not violate the Good Neighbor provision). In light of the analysis of ozone transport contained in the CSAPR rule, the final determination pertaining to Massachusetts in that action, and the Commonwealth's continued adoption of VOC and NOx control strategies as noted in their January 31, 2008, Transport SIP submittal, we are proposing to find that Massachusetts has met its CAA Section 110(a)(2)(D)(i)(I) "good neighbor" SIP obligation for the 1997 ozone NAAQS.

B. Background and evaluation of the Transport SIP for the 2008 ozone standard

On March 12, 2008, EPA revised the primary and secondary ozone standards from 0.08 parts per million (ppm) to 0.075 ppm. *See* 73 FR 16436. As discussed above, upon promulgation of a new or revised NAAQS, states have three years to submit the SIP revision under section 110(a)(2) of the Act, including "good neighbor" SIPs. The CAA gives EPA a backstop role to issue federal implementation plans (FIPs), as appropriate, for states that do not have "good neighbor" provisions, or other required provisions, approved in their SIP.

To meet this backstop role for the 2008 ozone NAAQS, EPA updated the CSAPR ozone-season program by issuing a final rule on October 26, 2016, known as the CSAPR Update. *See* 81 FR 74504. The CSAPR Update addressed the summertime (May-September) transport of ozone in the eastern United States that crosses state lines to help downwind states meet and maintain the 2008 ozone NAAQS.[6] The CSAPR Update used the same framework that was used by EPA in developing CSAPR.[7] Prior to this, on July 13, 2015, EPA published a rule finding that 24 states, including Massachusetts, failed to make complete submissions addressing the requirements of section 110(a)(2)(D)(i)(I) regarding the 2008 ozone NAAQS. *See* 80 FR 39961.

Through several previous rulemakings,[8] EPA, working in partnership with states, established a four-step interstate-transport framework to address the requirements of the "good neighbor" provision for the ozone NAAQS.[9] The four steps are: Step 1—Identify downwind receptors that are expected to have problems attaining or maintaining the NAAQS; step 2—determine which upwind states contribute enough to these identified downwind air quality

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[6] In the CSAPR Update, EPA issued FIPs to address CAA section 110(a)(2)(D)(i) obligations for 22 eastern states but determined that no FIP was needed for Massachusetts.

[7] Key elements of the four-step interstate transport framework have been upheld by the Supreme Court in *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014).

[8] NO_X SIP Call. 63 FR 57356 (October 27, 1998); Clean Air Interstate Rule (CAIR). 70 FR 25162 (May 12, 2005); Cross-State Air Pollution Rule (CSAPR). 75 FR 48208 (August 8, 2011); and CSAPR Update. 81 FR 74504 (October 26, 2016).

[9] The four-step interstate framework has also been used to address requirements of the good neighbor provision for some previous particulate matter (PM) NAAQS.

problems to warrant further review and analysis; step 3—identify the emissions reductions necessary to prevent an identified upwind state from contributing significantly to those downwind air quality problems; and step 4—adopt permanent and enforceable measures needed to achieve those emissions reductions.

To apply the first and second steps of the four-step interstate-transport framework to the 2008 ozone NAAQS, EPA evaluated modeling projections for air-quality monitoring sites in 2017 and considered current (at the time) ozone monitoring data at these sites to identify receptors [10] anticipated to have problems attaining or maintaining the 2008 ozone NAAQS. Next, EPA used air-quality modeling to assess contributions from upwind states to these downwind receptors and evaluated the contributions relative to a screening threshold of one percent (1%) of the NAAQS. States with contributions that equaled or exceeded the 1% threshold were identified as warranting further analysis for "significant contribution to nonattainment" or "interference with maintenance" of the NAAQS. In the CSAPR Update, EPA found that Massachusetts did not contribute at or above the 1% threshold to any downwind nonattainment or maintenance receptor. *See* 81 FR 74506. Therefore, EPA did not issue FIP requirements for sources in Massachusetts as part of CSAPR Update. *See id.* at 74553.

On June 6, 2014, Massachusetts submitted most of its infrastructure SIP for the 2008 ozone NAAQS to EPA. On December 21, 2016, EPA fully approved most, and conditionally approved some portions, of that submittal. *See* 81 FR 93627. However, that submittal did not include the "good neighbor" provisions of section 110(a)(2)(D)(i)(I). On February 9, 2018,

[10] Within the CSAPR framework, the term "receptor" indicates a monitoring site. Under CSAPR Update, nonattainment receptors are downwind monitoring sites that are projected to have an average design value that exceed the NAAQS and that have a current monitored design value above the NAAQS, while maintenance receptors are downwind monitoring sites that are projected to have maximum design values that exceed the NAAQS.

Massachusetts submitted a SIP revision to address this unmet SIP obligation for the 2008 ozone NAAQS. In today's action, we are proposing to approve that submittal.

In its February 2018, submittal, the Commonwealth noted that the CSAPR Update states that the largest modeled contribution of emissions from Massachusetts to nonattainment and maintenances receptors are well below the threshold of 1% of the NAAQS. Massachusetts also pointed to the declining trend in ozone-precursor emissions that has occurred in the Commonwealth to support its view that Massachusetts is unlikely to cause future problems to downwind attainment or maintenance receptors. Moreover, we note that, in the CSAPR Update, EPA already "determined that emissions from [Massachusetts] do not significantly contribute to nonattainment or interfere with maintenance of the 2008 ozone NAAQS in downwind states" and that EPA "need not require further emission reductions from sources in [Massachusetts] to address the good neighbor provision as to the 2008 ozone NAAQS." 81 FR at 74506.

In light of the above, we propose that Massachusetts has met its CAA Section 110(a)(2)(D)(i)(I) "good neighbor" SIP obligation for the 2008 ozone NAAQS.

C. Background and evaluation of the Massachusetts Transport SIP for the 2015 ozone standard

EPA has released several documents relevant to evaluating interstate transport with respect to the 2015 ozone NAAQS. First, on January 6, 2017, EPA published a notice of data availability (NODA) for preliminary interstate ozone-transport modeling with projected ozone design values for 2023.[11] The year 2023 aligns with the expected attainment year for Moderate ozone nonattainment areas under the 2015 ozone standard. On October 27, 2017, EPA issued a memorandum (2017 memorandum) containing updated modeling data for 2023, with changes

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

made in response to comments on the NODA.[12] The 2017 memorandum also included data for the 2023 modeling year. Although it stated that the modeling may be useful for states for developing SIPs addressing "good neighbor" obligations for the 2008 ozone NAAQS, the 2017 memorandum did not address the 2015 ozone NAAQS.

On March 27, 2018, EPA issued a memorandum (March 2018 memorandum) indicating that the same 2023 modeling data released in the 2017 memorandum may also be useful for evaluating potential downwind air-quality problems with respect to the 2015 ozone NAAQS (step 1 of the four-step framework).[13] The March 2018 memorandum included contribution-modeling results to help states evaluate their impact on potential downwind air-quality problems (step 2 of the four-step framework). In August and October 2018, EPA issued two more memoranda that provided guidance for developing "good neighbor" SIPs for the 2015 ozone NAAQS regarding (1) potential contribution thresholds that may be appropriate to apply in step 2 and (2) considerations for identifying downwind areas that may have problems maintaining the standard (i.e., prong 2) at step 1 of the framework.[14]

The March 2018 memorandum described the updated photochemical and source-apportionment modeling used to project ambient ozone concentrations for 2023 and the state-by-state impacts on those concentrations. As described in the 2017 and March 2018

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[12] *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) (Oct. 27, 2017), available in the docket for this action or at *https://www.epa.gov/interstate-air-pollution-transport/interstate-air-pollution-transport-memos-and-notices*.

[13] *See* Information on the Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards under Clean Air Act Section 110(a)(2)(D)(i)(I) (Mar. 27, 2018), available in the docket for this action or at *https://www.epa.gov/interstate-air-pollution-transport/interstate-air-pollution-transport-memos-and-notices*.

[14] *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 (Aug. 31, 2018) ("August 2018 memorandum"); 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 (Oct. 19, 2018), available in the docket for this action or at *https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs*.

memoranda, EPA used the Comprehensive Air Quality Model with Extensions (CAMx version 6.40) to model average and maximum design values in 2023 to identify potential nonattainment and maintenance receptors for the 2015 ozone NAAQS. The March 2018 memorandum presented design values calculated in two ways: (1) following the EPA's historic "3 x 3" approach[15] to evaluating all sites, and (2) following a modified approach for coastal monitoring sites in which "overwater" modeling data were not included in the calculation of future-year design values (known as the "no water approach").

For identifying potential nonattainment and maintenance receptors in 2023, EPA applied the same approach as that used in the CSAPR Update. Specifically, EPA identified nonattainment receptors as those monitors with both measured values[16] and projected 2023 average design values exceeding the NAAQS. The EPA identified maintenance receptors as those monitors with projected maximum design values exceeding the NAAQS. This included monitoring sites with measured values below the NAAQS, but with projected average and maximum design values above the NAAQS, and monitoring sites with projected average design values below the NAAQS, but with projected maximum design values above the NAAQS. Data for all monitoring sites projected to be nonattainment or maintenance receptors based on the updated 2023 modeling is included in Attachment B of the March 2018 memorandum.

After identifying potential downwind nonattainment and maintenance receptors, EPA performed nationwide, state-level ozone source-apportionment modeling to estimate the expected impact from each state to each nonattainment and maintenance receptor.[17] For more information, see the 2017 and March 2018 memoranda, the NODA for the preliminary interstate

[15] *See* March 2018 memorandum, p. 4.
[16] The EPA used 2016 ozone design values, based on 2014-2016 measured data, which were the most current data at the time of the analysis. *See* attachment B of the March 2018 memorandum, p. B-1.
[17] As discussed in the March 2018 memorandum, the EPA performed source-apportionment model runs for a modeling domain that covers the 48 contiguous United States and the District of Columbia, and adjacent portions of Canada and Mexico.

transport assessment, and the supporting technical documents included in the docket for today's action.

As noted previously, on August 31, 2018, EPA issued a memorandum (the August 2018 memorandum) providing guidance concerning contribution thresholds that may be appropriate to apply with respect to the 2015 ozone NAAQS in step 2. Consistent with the process for selecting the 1% threshold in CSAPR and the CSAPR Update, the memorandum included analytical information regarding the degree to which potential air-quality thresholds would capture the collective amount of upwind contribution from upwind states to downwind receptors for the 2015 ozone NAAQS. The August 2018 memorandum indicated that, based on EPA's analysis of its most recent modeling data, the amount of upwind collective contribution captured using a 1 ppb threshold is generally comparable, overall, to the amount captured using a threshold equivalent to 1% of the 2015 ozone NAAQS. Accordingly, EPA indicated that it may be reasonable and appropriate for states to use a 1 ppb contribution threshold, as an alternative to the 1% threshold, at step 2 of the four-step framework in developing their SIP revisions addressing the good neighbor provision for the 2015 ozone NAAQS.[18]

Although the March 2018 memorandum presented information regarding EPA's latest analysis of ozone transport, EPA has not made any final determinations regarding how states should identify downwind receptors with respect to the 2015 ozone NAAQS at step 1 of the four-step framework. Rather, EPA noted that, in developing their SIPs, states have flexibility to follow different analytical approaches than EPA if their chosen approach has adequate technical justification and is consistent with the requirements of the CAA.

On September 27, 2018, Massachusetts submitted a SIP revision addressing the infrastructure SIP requirements of section 110(a)(2), including the section 110(a)(2)(D)(i)(I)

[18] *See* August 2018 memorandum, p. 4.

interstate transport requirements for the 2015 ozone NAAQS.[19] Massachusetts relied on the results of EPA's modeling for the 2015 ozone NAAQS (in the March 2018 memorandum) to identify downwind nonattainment and maintenance receptors that may be impacted by emissions from sources in the Commonwealth. Based on Massachusetts' review of EPA's modeling assumptions, model performance evaluation, and the modifications made in response to public comments, the Commonwealth determined that EPA's future-year projections were appropriate for purposes of evaluating Massachusetts' impact on attainment and maintenance of the 2015 ozone NAAQS in other states. Thus, the Commonwealth concurred with EPA's photochemical modeling results that indicate Massachusetts' greatest impact on any potential downwind nonattainment or maintenance receptor would be 0.24 ppb.

Massachusetts compared these values to a screening threshold of 0.70 ppb, representing 1% of the 2015 ozone NAAQS, and concluded that because none of the Commonwealth's impacts exceed this threshold, emissions from Massachusetts sources will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

The March 2018 memorandum also provided contribution data regarding the impact of other states on the potential receptors. To evaluate the Commonwealth's 2015 ozone NAAQS interstate-transport SIP submission, EPA used the 1% threshold to conclude that the state's impact will not significantly contribute to nonattainment or interfere with maintenance of the NAAQS in any other state. EPA notes that, consistent with the August 2018 memorandum, it may be reasonable for states to use a 1-ppb contribution threshold as an alternative to a 1%

[19] As noted earlier, in this action, EPA is only addressing the requirements of section 110(a)(2)(D)(i)(I). EPA will address the remaining infrastructure requirements for the 2015 ozone NAAQS in a separate rulemaking(s).

threshold at step 2 of the four-step framework. However, for the reasons discussed below, it is unnecessary for EPA to determine the appropriateness of applying a 1-ppb threshold for purposes of today's action.

EPA's updated 2023 modeling discussed in the March 2018 memorandum indicates that Massachusetts' largest impact on any potential downwind nonattainment or maintenance receptor is 0.24 ppb at the Queens, New York, monitor. This value is less than 0.70 ppb (1% of the 2015 ozone NAAQS),[20] and demonstrates that emissions from Massachusetts are not linked to any projected 2023 downwind nonattainment and maintenance receptors identified in the March 2018 memorandum. Therefore, EPA proposes to find that Massachusetts will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in any other state.

III. Proposed Action

EPA is proposing to approve Massachusetts' SIP revisions that were submitted to address prongs 1 and 2 of the interstate transport requirements for CAA section 110(a)(2)(D)(i)(I) for the 1997, 2008, and 2015 ozone NAAQS. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. [21] These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rule by following the instructions listed in the **ADDRESSES** section of this **Federal Register**.

IV. Statutory and Executive Order Reviews

[20] Because none of Massachusetts' impacts exceed 0.70 ppb, they necessarily also do not exceed the 1ppb contribution threshold discussed in the August 2018 memorandum.

[21] EPA is not reopening for comment final determinations made in CSAPR or in the CSAPR Update or the modeling conducted to support those rulemakings.

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: August 7, 2019.

Deborah Szaro,
Acting Regional Administrator,
EPA Region 1.

[FR Doc. 2019-17406 Filed: 8/13/2019 8:45 am; Publication Date: 8/14/2019]