

information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

#### List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

#### PART 876—GASTROENTEROLOGY—UROLOGY DEVICES

■ 1. The authority citation for part 876 continues to read as follows:

**Authority:** 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 876.5550 to subpart F to read as follows:

##### § 876.5550 Prostatic artery embolization device.

(a) *Identification.* A prostatic artery embolization device is an intravascular implant intended to occlude the prostatic arteries to prevent blood flow to the targeted area of the prostate, resulting in a reduction of lower urinary tract symptoms related to benign prostatic hyperplasia. This does not include cyanoacrylates and other embolic agents which act by in situ polymerization or precipitation, or embolization devices used in neurovascular applications (see 21 CFR 882.5950).

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The device must be demonstrated to be biocompatible.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be tested:

(i) Evaluation of suitability for injection through catheters intended for use in embolization; and

(ii) Evaluation of the size distribution of the device.

(3) Performance data must support the sterility and pyrogenicity of the device.

(4) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the identified shelf life.

(5) Clinical data must evaluate post-embolization damage due to non-target embolization under anticipated use conditions.

(6) The labeling must include:

- (i) Specific instructions on safe device preparation and use;
- (ii) The device shelf life;
- (iii) Data regarding urinary retention; and
- (iv) Data regarding post-prostatic artery embolization syndrome.

Dated: November 7, 2017.

**Lauren Silvis,**  
*Chief of Staff.*

[FR Doc. 2017–24586 Filed 11–13–17; 8:45 am]

**BILLING CODE 4164–01–P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA–R03–OAR–2016–0369; FRL–9970–70–Region 3]

##### Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standard; District of Columbia, Maryland, and Virginia; Washington, DC-MD-VA Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is making a final determination that the Washington, DC–MD–VA marginal ozone nonattainment area (the Washington Area) attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Washington Area for the 2013–2015 monitoring period. The effect of this determination of attainment is that the Washington Area will not be bumped up or reclassified as a moderate nonattainment area. This determination of attainment is not equivalent to a redesignation, and the states in the Washington Area and the District of Columbia must meet the statutory requirements for redesignation in order to be redesignated to attainment. This determination is also not a clean data determination. This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on December 14, 2017.

**ADDRESSES:** EPA established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0369. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the docket index, some information is not publicly available, e.g., confidential business

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

**FOR FURTHER INFORMATION CONTACT:** Gavin Huang, (215) 814–2042, or by email at [huang.gavin@epa.gov](mailto:huang.gavin@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On April 25, 2017 (82 FR 19011), EPA published a notice of proposed rulemaking (NPR) for the Washington Area. The Washington Area consists of the Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's in Maryland; the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia; and the entirety of the District of Columbia. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone National Ambient Air Quality Standards (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

##### II. EPA's Evaluation

Section 181(b)(2)(A) of the CAA requires that EPA determine whether an area has attained the NAAQS by its attainment date based on complete and certified air quality data from the three full calendar years preceding an area's attainment date. The 2008 ozone NAAQS level is 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Consistent with the requirements contained in 40 CFR part 50, appendix P, EPA reviewed the ozone ambient air quality monitoring data for each monitoring site within the Washington Area for the monitoring period from 2013 through 2015, as recorded in the Air Quality System (AQS) database. Federal, state, and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that all the Washington Area monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Therefore, based on 2013–2015 certified air quality

data, EPA concludes that the Washington Area has attained the 2008 ozone NAAQS.

The specific requirements of this determination of attainment by the attainment date and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received comments that are addressed in Section III of this rulemaking action.

### III. Public Comments and EPA's Responses

EPA received adverse comments from one commenter, the Center for Biological Diversity (hereinafter referred to as the "Commenter"). The Commenter expressed general concern about the "increasing trend in ozone levels" and the lack of data at monitoring stations. The Commenter's specific concerns are summarized and addressed in this section. EPA also received non-adverse comments.

*Comment 1:* The Commenter notes that "the 2013–2015 design values show 3 year averages below 70 ppm," but that "there are many exceedances of 70 ppm on an annual basis and an increasing trend of values above 70 ppm from 2013–2015."

*Response 1:* The 2008 ozone NAAQS is the relevant standard for this determination of attainment by the attainment date, and the level of that NAAQS is 0.075 ppm and not 0.070 ppm. Therefore, the Commenter's statements as to the Washington Area's design value in relation to 0.070 ppm are not relevant. As stated in the NPR, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality concentration, which is quality assured and certified, is less than or equal to 0.075 ppm. See 82 FR 19011, 19012.

Design values are the metrics (*i.e.*, statistics) that are compared to the NAAQS levels to determine compliance with the standard. See 40 CFR part 50, appendix P, section 1(b). The 8-hour, concentration-based ozone NAAQS was designed so that the "public health risks associated with exposure to a pollutant without a clear, discernable threshold can be appropriately addressed through a standard that allows for multiple exceedances to provide increased stability, but that also significantly limits the number of days on which the level may be exceeded and the magnitude of such exceedances." See 73 FR 16435. As of its July 20, 2016 attainment date, the Washington Area's three-year average of the annual fourth-highest daily maximum 8-hour average

ambient air quality concentration is less than or equal to the 0.075 ppm standard.

*Comment 2:* The Commenter states that the proposed rule failed to address the 2016 data from monitoring stations and whether that data achieves the 2008 ozone NAAQS.

*Response 2:* To determine whether an area attained by the 2008 ozone NAAQS attainment date of July 20, 2016, EPA is required to rely on the three previous full years of data, which are 2013–2015. CAA section 181(b)(2)(A); 40 CFR part 50, appendix P, section 2.3(b). Any data occurring in calendar year 2016 cannot be used in this determination because July 20, 2016 is in the middle of the 2016 ozone season and would produce only incomplete, non-quality assured, and uncertified data as of the July 20, 2016 attainment date. The statutory provision governing the type of determination of attainment EPA is finalizing today is very clear: "the Administrator shall determine, *based on the area's design value (as of the attainment date)*, whether the area attained the standard by that date." CAA section 181(b)(2)(A) (emphasis added). When making determinations of attainment by the attainment deadline, EPA has consistently applied this unambiguous language as restricting its analysis to the years of data that constitute the basis for an area's design value as of the specific attainment deadline. EPA's regulations at 40 CFR part 50, appendix P further clarify that the design value be derived from "three consecutive, *complete calendar years* of air quality monitoring data." 40 CFR part 50, appendix P, section 2.3(b) (emphasis added). Taken together with the language of section 181(b)(2), for an attainment date of July 20, 2016, EPA is required to rely on the three previous, complete calendar years of data, which would be 2013–2015. The Commenter's request that EPA use calendar year 2016 data for this section 181(b)(2)(A) determination of attainment is not permitted under the statute and regulations.

*Comment 3:* The Commenter is concerned with EPA's data substitution analysis because EPA does not have complete data to make its determination. Pursuant to 40 CFR part 50, appendix P, section 2.3(b), attainment demonstrations must be based upon "three consecutive, complete calendar years of air quality monitoring data."

*Response 3:* The Commenter is correct that appendix P of 40 CFR part 50 sets minimum data completeness requirements for quality assured monitoring data that must be met in order to make a determination of

attainment for the ozone NAAQS; however, appendix P also permits adding missing days assumed less than the level of the standard where appropriate in order to meet the completeness requirements. 40 CFR part 50, appendix P, section 2.3(b) states that: "meteorological or ambient data may be sufficient to demonstrate that meteorological conditions on missing days were not conducive to concentrations above the level of the standard. Missing days assumed less than the level of the standard are counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator." As discussed in this rulemaking action, EPA and the District of Columbia Department of Energy and Environment (DC DOEE) provided analyses that showed the strong probability that the missing days would not have shown an exceedance of the 2008 ozone NAAQS, in accordance with appendix P, and was approved by the Region 3 Regional Administrator on December 12, 2016.

*Comment 4:* The Commenter states that "the data substitution analysis performed by the Takoma Recreation Center monitoring station (Site ID 110010050) and lack of data at Site ID 110010041 is incomplete and contradictory." The Commenter points out that the proposed rule states that data substitution analyses were performed using "an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements" and that "EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis." 82 FR 19013. However, the document, the "District of Columbia—Submittal Letter for Data Substitution Analysis" (Docket ID EPA–OAR–2016–0369–0008) fails to disclose or provide the regression analysis, and implies that the only analysis that was conducted was based on "meteorological and ambient monitoring data."

*Response 4:* First, EPA notes that the document entitled "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station (AQS Site ID 11–001–0050)" was created by DC DOEE (Docket Number EPA–OAR–2016–0369–0007), and not the Takoma Recreation Center, as stated in the comment.

Second, for the River Terrace monitor (AQS ID #11–001–0041), EPA did not conduct any data substitution analysis. As explained in the NPR, the reason for the lack of 2014 and 2015 data at the

River Terrace monitor was a planned temporary monitor shutdown due to site renovation and construction that EPA approved into DC DOEE's annual network monitoring plan. Therefore, EPA would not look for a valid design value at this monitor, because three years of complete data was not available. See 82 FR 19013. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan, and the remaining monitors in the Washington Area's network are sufficient to support a valid design value. See 40 CFR 58.10(a)(2). The Washington-Arlington-Alexandria, DC-VA-MD-WV metropolitan statistical area (MSA) is only required to have three ozone monitoring sites, but the area has a robust monitoring network with sixteen ozone monitoring sites spread across three states. Therefore, data from the River Terrace monitor (AQS ID #11-001-0041) was not used in this determination of attainment by the attainment date.

Third, as to the Commenter's concerns about what type of analysis was performed to achieve data completeness at the Takoma Recreation Center monitor, EPA's preamble in the NPR incorrectly stated that "EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis." See 82 FR 19013. The DC DOEE analysis for the Takoma Recreation Center monitor did not in fact include a separate substitution analysis as a check on the validity of the temperature analysis or the regression analysis—rather, DC DOEE's analysis as a whole was comprised of both a temperature analysis and a regression analysis.<sup>1</sup> The Technical Support Document for the Takoma Recreation Center monitor, which was included in the docket with the proposed action, reflects the correct analysis for that monitor, which used both a temperature analysis and a regression analysis to achieve minimum data completeness. However, the preamble's misstatement does not invalidate the analyses or the choice of days assumed to be less than the ozone standard in the analyses. As noted in this rulemaking action, appendix P of 40 CFR part 50 allows missing days to be added to the site completeness using meteorological or ambient data, and that missing days assumed less than the

level of the standard can be counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator. The Takoma Recreation Center analysis generated valid missing days that can be counted for the purpose of meeting the data completeness requirement in 40 CFR part 50, appendix P.

Contrary to the Commenter's suggestion, the regression analysis was included in the docket with the proposed action. The submittal letter from the DC DOEE cited in the comment (Docket EPA-R03-OAR-2016-0369-0008) included a 21-page document entitled "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station" (Docket EPA-R03-OAR-2016-0369-0007). The document makes it clear that DC DOEE compared seven years of temperature data from 2009 through 2015 from Reagan International Airport with actual measured ozone concentrations from 2009 through 2015 at eight nearby ozone ambient monitors to determine whether there was a measured temperature below which none of those monitors recorded an exceedance of the 0.075 ppm ozone standard. Docket EPA-R03-OAR-2016-0369-0007, pp. 5–7. This analysis determined that during this seven-year period, none of these monitors exceeded the 0.075 ppm ozone standard when the temperature was below 84 degrees Fahrenheit. Based on this finding, DC DOEE concluded that any ozone season day during 2013 (the year with missing data) for which the high temperature did not exceed 84 degrees Fahrenheit would likely measure below the 0.075 ppm ozone standard. Based on this assumption, DC DOEE flagged 68 days during the 2013 ozone season in the Takoma Recreation Center monitor's data as "BG," meaning "missing ozone data [but] not likely to exceed the level of the standard." Docket EPA-R03-OAR-2016-0369-0007, pp. 5–7. Adding these 68 days in 2013 determined to be days below the ozone standard to the existing data set did not result in enough data points to meet the minimum yearly 75% completeness standard for ozone at this monitor. Therefore, the DC DOEE's analysis then used a regression analysis to determine whether additional ozone season days with missing data could be assumed to be below the ozone standard at the Takoma Recreation Center monitor. Docket EPA-R03-OAR-2016-0369-0007, p. 7. Using this regression analysis, measured ozone values at the nearby McMillan ozone monitor were found to correlate strongly with

measured ozone values at the Takoma Recreation Center monitor, such that an equation could be developed to predict missing ozone values at the Takoma Recreation Center monitor by using actual measured values from the McMillan monitor in the equation for those missing days. The regression equation identified a number of days in 2013 at the Takoma Recreation Center monitor where the temperature exceeded 85 degrees but the predicted ozone values did not exceed 0.075 ppm. Using this method, DC DOEE added 4 days in September 2013 with temperatures above 85 degrees and 5 days in October 2013 with temperatures exceeding 85 degrees to the 2013 ozone data for the Takoma Recreation Center monitor, also using the "BG" flag. In total, 77 days were added to the Takoma Recreation Center monitoring station.

*Comment 5:* The Commenter noted that EPA relies upon the "null code" submission for 77 days for the Takoma Recreation Center monitoring station. A null qualifier is required when submitting a null (*i.e.*, nothing was collected) sample measurement. The Commenter stated there is no analysis to demonstrate that the data collected on those 77 days was below the 2008 ozone NAAQS. Furthermore, the inclusion of a lack of data, instead of modeled data projections, fails to meet the data completeness requirements.

*Response 5:* The analysis showing that 77 days at the Takoma Recreation Center monitor meets the minimum data completeness requirement is contained in the DC DOEE's "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station" (Docket Number EPA-R03-OAR-2016-0369-0007). Also, see the response to Comment 4.

The lack of data, as represented by a "BG" or other null code, for those days when the Takoma Recreation Center monitor did not measure valid ozone readings, does not automatically mean a failure to meet the data completeness requirements of 40 CFR part 50, appendix P. Nor does appendix P require "modeled data projections." Rather, when there is a lack of data represented by a null code, section 2.3(b) of appendix P provides that those missing days may be used if they are reasonably assumed to be less than the level of the standard. The detailed temperature and regression analyses approved by the Regional Administrator, and included in the docket, establish the basis for EPA's conclusion that certain missing days at the Takoma Recreation Center monitor can be assumed to be less than the level of the NAAQS and therefore may be

<sup>1</sup> As discussed in Comment 6, the EPA Clean Air Markets Division (CAMD) analysis for the Beltsville CASTNET monitor also did not perform a substitution analysis.

counted towards the data completeness requirement.

*Comment 6:* It is also unclear whether the CAMD—Data Substitution Analysis (Docket ID: EPA–R03–OAR–2016–0369–0006) for the CASTNET ozone monitor at the Beltsville, Maryland site provides the meteorological and substitution analysis as stated in the proposed rule and as required by the CAA. 40 CFR part 50, appendix P, section 2.3(b).

*Response 6:* As noted in response to Comment 4, the preamble to the NPR incorrectly stated that a meteorological analysis, regression analysis, and a data substitution analysis were performed for both monitors. As shown in the analysis for the Beltsville CASTNET monitor (AQS ID #24–033–9991) (Docket Number: EPA–R03–OAR–2016–0369–0006), the EPA CAMD analysis was a linear regression analysis only. The regression analysis uses ambient data from a nearby monitor that closely correlates to readings from the monitor with the missing days. In accordance with appendix P, where the regression analysis projects that monitored values on the missing days would be less than the level of the NAAQS, EPA includes those in its completeness calculations.

*Comment 7:* The Commenter stated that the proposed rule is clear that it fails to include the data for Site ID 110010041 for all of 2014 and 2015 and fails to achieve the data completeness standards as required by 40 CFR part 50, appendix P.

*Response 7:* As discussed in Response 4, EPA explained in the NPR that the reason for lack of 2014 and 2015 data at the River Terrace monitor (AQS ID #11–001–0041) was a planned monitor shutdown approved into DC DOE's annual network monitoring plan. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan. See 40 CFR 58.10(a)(2). Therefore, this monitor was not relied on for this determination of attainment by the attainment date. See 82 FR 19013. The data completeness requirements of appendix P do not apply to this monitor.

*Comment 8:* EPA also received comments and an inquiry from a student supporting the environment and seeking more information regarding how air monitoring is performed and why the 2008 ozone standard is still discussed even though it is no longer 2008.

*Response 8:* More information regarding the ozone NAAQS and air monitoring standards is available at [www.epa.gov](http://www.epa.gov). For the Washington Area, the area had to attain the 2008 ozone NAAQS by the applicable attainment

date of July 20, 2016. As stated in the NPR, in a final rulemaking action published on May 4, 2016, EPA determined that the Washington Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012–2014 monitoring period. In that same action, EPA determined that the Washington Area qualified for a 1-year extension of its attainment date. See 81 FR 26697. This ruling determines that the Washington Area attained the 2008 ozone NAAQS by this extended attainment date, using the required 2013–2015 air quality data.

*Comment 9:* EPA also received comments that were not germane to this final ruling but referred generally to air quality standards and regulations. The comments included support of keeping EPA regulations in place to protect human health and the environment.

*Response 9:* EPA appreciates the supportive comments, and notes that ozone air quality monitoring will continue and existing air quality standards and regulations will remain in place. These include all standards and regulations that apply to the Washington Area marginal nonattainment area, which include those pertaining to its membership in the ozone transport region (OTR). This determination of attainment by the attainment date does not reduce or revoke any existing ozone monitoring or control requirements.

#### IV. Final Action

EPA is making a final determination, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone NAAQS (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment or a clean data determination.

#### V. Statutory and Executive Order Reviews

##### A. General Requirements

This rulemaking action finalizes a determination of attainment by the attainment date for the 2008 ozone NAAQS based on air quality data and does not impose additional requirements. For that reason, this determination of attainment:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735,

October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

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

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

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

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

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the Washington Area marginal nonattainment area does not include any Indian country located in these states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

##### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 16, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action determining that the Washington Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: October 27, 2017.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

#### Subpart J—District of Columbia

■ 2. In § 52.475, paragraph (c) is added to read as follows:

##### § 52.475 Determinations of attainment.

(c) Based upon EPA’s review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area’s air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-

MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

#### Subpart V—Maryland

■ 3. In § 52.1082, paragraph (k) is added to read as follows:

##### § 52.1082 Determinations of attainment.

\* \* \* \* \*

(k) Based upon EPA’s review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area’s air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

#### Subpart VV—Virginia

■ 4. In § 52.2430, paragraph (c) is added to read as follows:

##### § 52.2430 Determinations of attainment.

\* \* \* \* \*

(c) Based upon EPA’s review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area’s air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2017–24537 Filed 11–13–17; 8:45 am]

**BILLING CODE 6560–50–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R01–OAR–2009–0436; FRL–9970–66–Region 1]

#### Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions include regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Rhode Island. The revised program includes a test and repair network consisting of on-board diagnostic (OBD2) testing for model year 1996 and newer vehicles and tailpipe exhaust test, using a dynamometer, for model year 1995 and older vehicles. The intended effect of this action is to approve the revised program into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This direct final rule will be effective January 16, 2018, unless EPA receives adverse comments by December 14, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R01–OAR–2009–0436 at [www.regulations.gov](http://www.regulations.gov), or via email to [garcia.ariel@epa.gov](mailto:garcia.ariel@epa.gov). For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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