

The EPA Administrator, Andrew R. Wheeler, signed the following notice on 4/14/2020, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's govinfo website (<https://www.govinfo.gov/app/collection/fr>) and on Regulations.gov (<https://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2017-0548. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

**[EPA–HQ–OAR–2017-0548; FRL–10007-89-OAR]**

### **Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards: Notice of Action Denying Petition for Reconsideration of Uinta Basin, Utah Designation**

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

**ACTION:** Notice of action denying petition for reconsideration.

**SUMMARY:** The Environmental Protection Agency (EPA) is providing notice that it has responded to a petition for reconsideration of a rule published in the **Federal Register** on June 4, 2018 titled, “Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards,” that promulgated initial ozone air quality designations for certain areas in the United States. The August 3, 2018, petition, submitted on behalf of Patel Industrial Park, requested that the EPA reconsider the nonattainment designation for the Uinta Basin, Utah area. The petition also requested that the EPA stay the designation rule as it applies to the Uinta Basin, Utah area, pending reconsideration. The EPA carefully considered the petition and supporting information, along with information contained in the rulemaking docket, in reaching its decision on the petition. The EPA denied the petition for reconsideration in a letter to the petitioner and the letter has been included in the rulemaking docket. The letter explains the EPA’s basis for the denial. Because the EPA denied the reconsideration request, the EPA also denied the stay request.

**FOR FURTHER INFORMATION CONTACT:** Carla Oldham, Office of Air Quality

Planning and Standards, U.S. Environmental Protection Agency, Mail Code C539-04, Research Triangle Park, N.C. 27711, phone number (919) 541-3347 or by email at:

*oldham.carla@epa.gov*.

**SUPPLEMENTARY INFORMATION:**

**I. Where Can I Get Copies of This Document and Other Related Information?**

This **Federal Register** notice, the petition for reconsideration,<sup>1</sup> and the response letter to the petitioner are available in the docket that the EPA established for the rulemakings to promulgate the air quality designations for the 2015 ozone standards, under Docket ID NO. EPA-HQ-OAR-2017-0548.

All documents in the docket are listed in the index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information 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. The EPA is temporarily suspending its Docket Center and Reading Room for public visitors to reduce the risk of transmitting COVID-19. Written comments submitted by mail will be delayed and no hand deliveries will be accepted. Our Docket Center staff will continue to provide remote customer service via email, phone, and webform. For

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<sup>1</sup> Although the petitioner framed its request under Clean Air Act (CAA) section 307(d)(7)(B), that provision is not applicable here because the Agency action at issue was not promulgated under CAA section 307(d). Therefore, we are responding to the request as a petition to revise or modify the EPA's final rule under the Administrative Procedure Act. Use of the term "petition for reconsideration" throughout this notice is solely to reflect the language used by the petitioner.

further information and updates on EPA Docket Center services, please visit us online at <https://www.epa.gov/dockets>.

The EPA continues to carefully and continuously monitor information from the Centers for Disease Control and Prevention, local area health departments, and our Federal partners so we can respond rapidly as conditions change regarding COVID-19.

In addition, the EPA has established a website for the ozone designations rulemakings at: <http://www.epa.gov/ozone-designations>. This **Federal Register** notice, the petition for reconsideration, and the response letter denying the petition are also available on this website along with other information relevant to the designation process.

## **II. Judicial Review**

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) when the agency action consists of “nationally applicable regulations promulgated, or final actions taken, by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

The EPA’s action is a denial of an administrative petition requesting reconsideration of an aspect of a nationally applicable action, “Additional Air Quality Designations for the 2015 Ozone National Ambient Air Quality Standards,” that is currently being challenged in the Court

of Appeals for the District of Columbia Circuit.<sup>2</sup> To the extent a court finds the EPA’s action denying the administrative petition to be locally or regionally applicable, the EPA finds that the action is based on a determination of “nationwide scope or effect” within the meaning of CAA section 307(b)(1). The action addresses an administrative petition for the EPA to reconsider its previous action that designated 51 nonattainment areas, 1 unclassifiable area, and numerous attainment/unclassifiable areas located in 32 states and the District of Columbia and 11 federal judicial circuits. This final action is also based on a common core of factual findings and analyses concerning the interaction between the EPA’s June 4, 2018, ozone designations rulemaking and the EPA’s Exceptional Event Rule, titled, “Treatment of Data Influenced by Exceptional Events” (81 FR 68216, October 3, 2016).

For these reasons, the action is nationally applicable or, alternatively, to the extent a court finds this action to be locally or regionally applicable, the Administrator has determined that the action is based on a determination of nationwide scope or effect for purposes of CAA section 307(b)(1). Thus, pursuant to CAA section 307(b), any petition for review of the final letter denying the petition for reconsideration from Patel Industrial Park must be filed in the Court of Appeals for the District of Columbia Circuit on or before **[INSERT DATE 60 DAYS FROM PUBLICATION IN THE FEDERAL REGISTER]**.

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Dated:

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<sup>2</sup> *Clean Wisconsin v. EPA*, No. 18-1203 (D.C. Cir., August 1, 2018).

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Andrew Wheeler,  
Administrator.