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60-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2021-0358; FRL-8686-01-R3]

Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standards Second Maintenance Plan for the Greene County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the "1997 ozone NAAQS") in the Greene County, Pennsylvania area (Greene County Area). This action is being taken under the Clean Air Act (CAA).

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-R03-OAR-2021-0358 at https://www.regulations.gov, or via email to gordon.mike@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, 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. EPA will generally not consider comments or comment contents located outside of the primary submission

(e.g., 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 https://www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Adam Yarina, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103. The telephone number is (215) 814-2108. Mr. Yarina can also be reached via electronic mail at yarina.adam@epa.gov.

SUPPLEMENTARY INFORMATION: On February 25, 2020, PADEP submitted a revision to the Pennsylvania SIP to incorporate a plan for maintaining the 1997 ozone NAAQS in the Greene County Area through April 20, 2029, in accordance with CAA section 175A.

I. Background

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),[1] EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004 (69 FR 23857), EPA designated the Greene County Area as nonattainment for the 1997

[1] In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

ozone NAAQS, effective June 15, 2004. The Greene County Area consists solely of Greene County in Pennsylvania.

Once a nonattainment area has three years of complete and certified air quality data that has been determined to attain the NAAQS, and the area has met the other criteria outlined in CAA section 107(d)(3)(E),[2] the state can submit a request to EPA to redesignate the area to attainment. Areas that have been redesignated by EPA from nonattainment to attainment are referred to as "maintenance areas." One of the criteria for redesignation is to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the standard for the period extending 10 years after redesignation, and it must contain such additional measures as necessary to ensure maintenance as well as contingency measures as necessary to assure that violations of the standard will be promptly corrected.

On March 19, 2009 (74 FR 11671, effective April 20, 2009), EPA approved a redesignation request and maintenance plan from PADEP for the Greene County Area. In accordance with CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years.

EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and provided that one consequence of revocation was that areas that had been redesignated to attainment (i.e., maintenance areas) for the 1997 ozone NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).[3] However, in *South Coast Air Quality Management District* v. *EPA*[4] (South Coast II), the United States Court of Appeals for the District of Columbia (D.C. Circuit) vacated EPA's interpretation that, because

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[2] The requirements of CAA section 107(d)(3)(E) include attainment of the NAAQS, full approval under section 110(k) of the applicable SIP, determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

[3] See 80 FR 12315 (March 6, 2015).

[4] 882 F.3d 1138 (D.C. Cir. 2018).

of the revocation of the 1997 ozone standard, second maintenance plans were not required for "orphan maintenance areas," (i.e., areas like the Greene County Area) that had been redesignated to attainment for the 1997 ozone NAAQS and were designated attainment for the 2008 ozone NAAQS. Thus, states with these "orphan maintenance areas" under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

As previously discussed, CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: 1) an attainment emissions inventory; 2) a maintenance demonstration; 3) a commitment for continued air quality monitoring; 4) a process for verification of continued attainment; and 5) a contingency plan. The 1992 Calcagni Memo[5] provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (i.e., attainment year inventory). See 1992 Calcagni Memo at p. 9. EPA further clarified in three subsequent guidance memos describing "limited maintenance plans" (LMPs)[6] that the requirements of CAA section 175A could be met by demonstrating that the area's design value[7] was well below the NAAQS and that the historical stability of the area's air quality levels showed that the area was unlikely to violate the NAAQS in the future. Specifically, EPA believes that if the most recent air quality design value for the area is at a level that is below 85% of the standard, or in this case

[5] "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (1992 Calcagni Memo).
[6] See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM10 Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.
[7] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

below 0.071 ppm, then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Accordingly, on February 25, 2020, PADEP submitted an LMP for the Greene County Area, following EPA's LMP guidance and demonstrating that the area will maintain the 1997 ozone NAAQS through April 20, 2029, i.e., through the entire 20-year maintenance period.

After PADEP's submittal of this LMP, it was determined that the most current certified design value period (2017-2019) was invalid due to incomplete data. PADEP operates and maintains one ozone monitor at the Holbrook ambient air monitoring station (AQS ID 42-059-0002) in Greene County, PA. During the 2018 and 2019 ozone monitoring seasons, the Holbrook ambient air monitoring station had missing ozone data for 35 and 39 days, respectively. The Holbrook ozone data was missing for a total of 74 days in the two-year span because of several reasons, including power outages and quality assurance criteria not being met. As a result of the frequency of missing data, the total valid ozone data capture at the Holbrook monitoring site was 86% in 2018 and 84% in 2019. With an ozone data capture of 93% in 2017, the three-year (2017-2019) average was 88%. According to 40 CFR part 50 appendix P, section 2.3(b), three consecutive years of ambient air ozone data with data availability of at least 90% of the days within the ozone monitoring season, on average, are required, with a minimum data completeness in any one year of at least 75% within the ozone monitoring season. Since the 2019 ozone design value average data completeness was 88%, it did not meet the 90% criteria outlined in 40 CFR part 50 appendix P, section 2.3(b).

PADEP submitted a data completeness substitution analysis for the Holbrook monitor on March 3, 2021, which included data substitutions for 41 of the missing days. The data substitution methodology relied on meteorological data, historical records for the Holbrook ozone monitoring site and surrounding monitoring sites, and daily maximum regional ozone monitoring values for the 2015-2019 period. PADEP used a conservative approach of replacing the missing data at Holbrook in 2018 and 2019 with the regional maximum 8-hour ozone

concentration and calculated updated design values for the 2017-2019 period. EPA analyzed PADEP's submittal and found it acceptable and provided PADEP with Regional Administrator review and approval as required by Appendix I on March 24, 2021. PADEP's data substitution brings the data capture rate to 90% for 2018, 91% for 2019, and 91% for the 2017-2019 design value, which meets the requirements of 40 CFR part 50 appendix P, section 2.3(b). For more information on PADEP's data substitution analysis, including PADEP's methodology, raw data, and design value calculations, as well as EPA's review and approval, please see the rulemaking docket.[8]

II. Summary of SIP Revision and EPA Analysis

PADEP's February 25, 2020 SIP submittal outlines a plan for continued maintenance of the 1997 ozone NAAQS which addresses the criteria set forth in the 1992 Calcagni Memo as follows.

A. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive and accurate inventory of actual emissions for an attainment year which identifies the level of emissions in the area which is sufficient to maintain the NAAQS. The inventory should be developed consistent with EPA's most recent guidance. For ozone, the inventory should be based on typical summer day's emissions of oxides of nitrogen (NO_x) and volatile organic compounds (VOC), the precursors to ozone formation. In the first maintenance plan for the Greene County Area, PADEP used 2004 for the attainment year inventory because 2004 was one of the years in the 2003-2005 three-year period when the area first attained the 1997 ozone NAAQS.[9] The Greene County Area continued to monitor attainment of the 1997 ozone NAAQS in 2014. Therefore, the emissions inventory from 2014 represents emissions levels conducive to continued attainment (i.e.,

[8] Specifically, the documents labeled "PADEP Transmittal Letter Greene County SIP," "EPA RA Approval Letter for PADEP Holbrook Missing Ozone Data Analysis," "EPA Holbrook 2017-2019 Design Value Report," and "EPA Holbrook 2018-2019 Raw Data Qualifier Report" in Docket ID # EPA-R03-OAR-2021-0358.

[9] For more information, see EPA's July 16, 2008 notice proposing to redesignate the Greene County Area to attainment for the 1997 ozone NAAQS (73 FR 40813).

maintenance) of the NAAQS. Thus, PADEP is using 2014 as representing attainment level emissions for its second maintenance plan. Pennsylvania used 2014 summer day emissions from EPA's 2014 version 7.0 modeling platform as the basis for the 2014 inventory presented in Table 1.[10]

Table 1. 2014 Typical Summer Day NO_x and VOC Emissions for the Greene County Area (tons/day)

Source Category	NO_x Emissions	VOC Emissions
Point	0.52	0.69
Nonpoint	8.55	10.89
Onroad	3.30	1.08
Nonroad	1.45	0.59

The data shown in Table 1 is based on the 2014 National Emissions Inventory (NEI) version 2.[11] The inventory addresses four anthropogenic emission source categories: Stationary (point) sources, stationary nonpoint (area) sources, nonroad mobile, and onroad mobile sources. Point sources are stationary sources that have the potential to emit (PTE) more than 100 tons per year (tpy) of VOC, or more than 50 tpy of NO_x, and which are required to obtain an operating permit. Data are collected for each source at a facility and reported to PADEP. Examples of point sources include kraft mills, electrical generating units (EGUs), and pharmaceutical factories. Nonpoint sources include emissions from equipment, operations, and activities that are numerous and in total have significant emissions. Examples include emissions from commercial and consumer products, portable fuel containers, home heating, repair and refinishing operations, and crematories. The onroad emissions sector includes emissions from engines used primarily to propel equipment on highways and other roads, including passenger vehicles, motorcycles, and heavy-duty diesel trucks. The nonroad emissions sector includes emissions from engines that are not primarily used to propel transportation equipment, such as generators, forklifts, and marine pleasure craft. EPA reviewed the emissions inventory submitted by PADEP and proposes to

[10] For more information, visit https://www.epa.gov/sites/production/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx.

[11] The NEI is a comprehensive and detailed estimate of air emissions of criteria pollutants, criteria precursors, and hazardous air pollutants from air emissions sources. The NEI is released every three years based primarily upon data provided by State, Local, and Tribal air agencies for sources in their jurisdictions and supplemented by data developed by EPA.

conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

B. Maintenance Demonstration

To attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily average ozone concentrations (design value, or "DV") at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, appendix I, the standard is attained if the DV is 0.084 or below. CAA section 175A requires a demonstration that the area will continue to maintain the NAAQS throughout the duration of the requisite maintenance period. Consistent with the prior guidance documents discussed previously in this document as well as EPA's November 20, 2018 "Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans" (2018 Resource Document),[12] EPA believes that if the most recent DV for the area is well below the NAAQS (i.e., below 85%, or in this case below 0.071 ppm), the section 175A demonstration requirement has been met, provided that Prevention of Significant Deterioration (PSD) requirements, any control measures already in the SIP, and any Federal measures remain in place through the end of the second 10-year maintenance period (absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating continued maintenance with the 1997 ozone NAAQS, PADEP provided 3-year DVs at the monitor located in the Greene County Area from 2007 to 2018. This includes DVs for 2005-2007, 2006-2008, 2007-2009, 2008-2010, 2009-2011, 2010-2012, 2011-2013, 2012-2014, 2013-2015, 2014-2016, 2015-2017, and 2016-2018, which are shown in Table 2.[13] In addition, EPA has reviewed the most recent ambient air quality monitoring data for ozone in the Greene County Area, as submitted by Pennsylvania and

[12] This resource document is included in the docket for this rulemaking available online at https://www.regulations.gov, Docket ID: EPA-R03-OAR-2020-0316 and is also available at https://www.epa.gov/sites/production/files/2018-11/documents/ozone_1997_naaqs_lmp_resource_document_nov_20_2018.pdf.

[13] See also Table II-2 of PADEP's February 25, 2020 submittal, included in the docket for this rulemaking available online at https://www.regulations.gov, Docket ID: EPA-R03-OAR-2021-0358.

recorded in EPA's Air Quality System (AQS). The most recent DVs (i.e., 2017-2019) at monitors located in the Greene County Area are also shown in Table 2.[14]

Table 2. 1997 Ozone NAAQS Design Values (ppm) for the Greene County Area

County	AQS Site ID	2005 - 2007	2006 - 2008	2007 - 2009	2008 - 2010	2009 - 2011	2010 - 2012	2011 - 2013	2012 - 2014	2013 - 2015	2014 - 2016	2015 - 2017	2016 - 2018	2017 - 2019
Greene	42-059-0002	.08	.076	.072	.072	.069	.071	.067	.068	.067	.067	.068	.066	.063

The data in Table 2 show that the DVs for the Greene County Area have been below 85% of the 1997 ozone NAAQS (i.e., less than or equal to 0.071 ppm) since the 2009-2011 period. The highest DV for the 2017-2019 period at the monitor in the Greene County Area is 0.064 ppm, which is well below 85% of the 1997 ozone NAAQS.

States can also support the demonstration of continued maintenance by showing stable or improving air quality trends, and according to EPA's 2018 Resource Document, several kinds of analyses can be performed by states wishing to make such a showing. One approach is to take the most recent DV at a monitor located in the area and add the maximum DV increase over one or more consecutive years that has been observed in the area over the past several years. A sum of these two values that does not exceed the level of the 1997 ozone NAAQS may be a good indicator of expected continued attainment. The data in Table 2 of this document show that the largest DV increase at the monitor located in the Greene County Area was 0.002 ppm, which occurred between the 2009-2011 (0.069 ppm) and 2010-2012 (0.071 ppm) DVs. Adding 0.002 ppm to the DV for the 2017-2019 period (0.064 ppm) results in 0.066 ppm, a sum that is still below the 1997 ozone NAAQS.

The Greene County Area has maintained air quality levels below the 1997 ozone NAAQS since the Area first attained the NAAQS in 2009, and maintained air quality levels at or below 85% of the NAAQS since 2011.[15] Additional supporting information that the area is

[14] This data is also included in the docket for this rulemaking available online at https://www.regulations.gov, Docket ID: EPA-R03-OAR-2021-0358 and is also available at https://www.epa.gov/air-trends/air-quality-design-values#report .

[15] As explained in EPA's July 16, 2008 notice proposing to redesignate the Greene County Area as attainment for the 1997 ozone NAAQS (73 FR 40813), the 2003-2005 DV for the Greene County Area was 0.081 ppm.

expected to continue to maintain the standard can be found in projections of future year DVs that EPA recently completed to assist states with the development of interstate transport SIPs for the 2015 8-hour ozone NAAQS. Those projections, made for the year 2023, show that the DV at the monitor located in the Greene County Area is expected to be 0.0565 ppm.[16] Therefore, EPA proposes to determine that future violations of the 1997 ozone NAAQS in the Greene County Area are unlikely.

C. Continued Air Quality Monitoring and Verification of Continued Attainment

Once an area has been redesignated to attainment, the state remains obligated to maintain an air quality network in accordance with 40 CFR part 58 to verify the area's attainment status. In the February 25, 2020 submittal, PADEP commits to continue to operate their air monitoring network in accordance with 40 CFR part 58. PADEP also commits to track the attainment status of the Greene County Area for the 1997 ozone NAAQS through the review of air quality and emissions data during the second maintenance period. This includes an annual evaluation of vehicles miles traveled (VMT) and stationary source emissions data compared to the assumptions included in the LMP. PADEP also states that it will evaluate the periodic (i.e., every three years) emission inventories prepared under EPA's Air Emission Reporting Requirements (40 CFR part 51, subpart A). Based on these evaluations, PADEP will consider whether any further emission control measures should be implemented for the Greene County Area. EPA has analyzed the commitments in PADEP's submittal and is proposing to determine that they meet the requirements for continued air quality monitoring and verification of continued attainment.

D. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation

[16] See U.S. EPA, "Air Quality Modeling Technical Support Document for the Updated 2023 Projected Ozone Design Values," Office of Air Quality Planning and Standards, dated June 2018, available at https://www.epa.gov/airmarkets/air-quality-modeling-technical-support-document-updated-2023-projected-ozone-design.

of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must require that the state will implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175(A)(d) of the CAA.

PADEP's February 25, 2020 submittal includes a contingency plan for the Greene County Area. In the event that the fourth highest eight-hour ozone concentrations at a monitor in the Greene County Area exceeds 84 parts per billion (ppb) (equivalent to 0.084 ppm) for two consecutive years, but prior to an actual violation of the NAAQS, PADEP will evaluate whether additional local emission control measures should be implemented that may prevent a violation of the NAAQS.[17] After analyzing the conditions causing the excessive ozone levels, evaluating the effectiveness of potential corrective measures, and considering the potential effects of Federal, state, and local measures that have been adopted but not yet implemented, PADEP will begin the process of implementing selected measures so that they can be enacted as expeditiously as practicable following a violation of the NAAQS. In the event of a violation, PADEP commits to adopting additional emission reduction measures as expeditiously as practicable in accordance with the schedule included in the contingency plan as well as the CAA and applicable Pennsylvania statutory requirements.

PADEP will use the following criteria when considering additional emission reduction measures to adopt to address a violation of the 1997 ozone NAAQS in the Greene County Area:

[17] A violation of the NAAQS occurs when an area's 3-year design value exceeds the NAAQS.

1) air quality analysis indicating the nature of the violation, including the cause, location, and source; 2) emission reduction potential, including extent to which emission generating sources occur in the nonattainment area; 3) timeliness of implementation in terms of the potential to return the area to attainment as expeditiously as practicable; and 4) costs, equity, and cost-effectiveness. The measures PADEP would consider pursuing for adoption in the Greene County Area include, but are not limited to, those summarized in Table 3. If additional emission reductions are necessary, PADEP commits to adopt additional emission reduction measures to attain and maintain the 1997 ozone NAAQS.

Table 3. Greene County Area Second Maintenance Plan Contingency Measures

Non-Regulatory Measures
Voluntary diesel engine "chip reflash" (installation software to correct the defeat device option on certain heavy-duty diesel engines)
Diesel retrofit (including replacement, repowering or alternative fuel use) for public or private local onroad or offroad fleets
Idling reduction technology for Class 2 yard locomotives
Idling reduction technologies or strategies for truck stops, warehouses, and other freight-handling facilities
Accelerated turnover of lawn and garden equipment, especially commercial equipment, including promotion of electric equipment
Additional promotion of alternative fuel (e.g., biodiesel) for home heating and agricultural use
Regulatory Measures[18]
Additional control on consumer products[19]
Additional controls on portable fuel containers[20]

The contingency plan includes schedules for the adoption and implementation of both non-regulatory and regulatory contingency measures, which are summarized in Tables 4 and 5, respectively.

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[18] These regulatory measures were considered potential cost-effective and timely control strategies by the Ozone Transport Commission (OTC) as well as the Mid-Atlantic Regional Air Management Association and the Mid-Atlantic/Northeast Visibility Union. The OTC is a multi-state organization responsible for developing regional solutions to ground-level ozone pollution in the Northeast and Mid-Atlantic, including the development of model rules that member states may adopt. OTC member states include: Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia. For more information on the OTC, visit https://otcair.org/index.asp. To view the model rules developed by the OTC, including those for consumer products and portable fuel containers, visit https://otcair.org/document.asp?fview=modelrules.

[19] Pennsylvania's existing controls on consumer products are under 25 Pa. Code Chapter 130, Subchapters B and C (38 Pa.B. 5598). This contingency measure includes the adoption of additional controls on consumer products such as VOC limits for adhesive removers.

[20] Existing controls on portable fuel containers can be found under 40 CFR part 59, subpart F – Control of Evaporative Emissions From New and In-Use Portable Fuel Containers.

Table 4. Implementation Schedule for Greene County Area Non-Regulatory Contingency Measures

Time after Triggering Event	Action
Within 2 months	PADEP will identify stakeholders for potential non-regulatory measures for further development.
Within 3 months	If funding is necessary, PADEP will identify potential sources of funding and the timeframe for when funds would be available.
Within 9 months	If state loans or grants are required, PADEP will enter into agreements with implementing organizations. PADEP will also quantify projected emission benefits.
Within 12 months	PADEP will submit revised SIP to EPA.
Within 12-24 months	PADEP will implement strategies and projects.

Table 5. Implementation Schedule for Greene Area Regulatory Contingency Measures

Time after Triggering Event	Action
Within 1 month	PADEP will submit request to begin regulatory development process.
Within 3 months	Request will be reviewed by the Air Quality Technical Advisory Committee (AQTAC), Citizens Advisory Council, and other advisory committees as appropriate.
Within 6 months	Environmental Quality Board (EQB) meeting/action.
Within 8 months	PADEP will publish regulatory measure in the Pennsylvania Bulletin for comment as proposed rulemaking.
Within 10 months	PADEP will hold a public hearing and comment period on proposed rulemaking.
Within 11 months	House and Senate Standing Committee and Independent Regulatory Review Commission (IRCC) comment on proposed rulemaking.
Within 13 months	AQTAC, Citizens Advisory Council, and other committees will review responses to comment(s), if applicable, and the draft final rule.
Within 16 months	EQB meeting/action.
Within 17 months	The IRCC will take action on final rule
Within 18 months	Attorney General's review/action.
Within 19 months	PADEP will publish the regulatory measure as a final rule in the Pennsylvania Bulletin and submit to EPA as a SIP revision. The regulation will become effective upon publication in the Pennsylvania Bulletin.

EPA proposes to find that the contingency plan included in PADEP's February 25, 2020 submittal satisfies the pertinent requirements of CAA section 175A(d). EPA notes that while five of the potential contingency measures included in the Commonwealth's second maintenance plan are non-regulatory, their inclusion among other measures is overall SIP-strengthening, and their inclusion does not alter EPA's proposal to find the LMP is fully approvable. EPA also

finds that the submittal acknowledges Pennsylvania's continuing requirement to implement all pollution control measures that were contained in the SIP before redesignation of the Greene County Area to attainment.

E. Transportation Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS (CAA 176(c)(1)(B)). EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs and projects conform to SIPs and establish the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP) are consistent with the motor vehicle emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan (40 CFR 93.101, 93.118, and 93.124). An MVEB is defined as "that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions (40 CFR 93.101)."

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs, and projects. Specifically, for such determination, RTPs, TIPs, and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105 and 93.112) and transportation control measure implementation in the conformity rule provisions (40 CFR 93.113). Additionally, conformity determinations for RTPs and TIPs must be determined no less

frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved, they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115). The Greene County Area remains under the obligation to meet the applicable conformity requirements for the 1997 ozone NAAQS.

III. Proposed Action

EPA's review of PADEP's February 25, 2020 submittal indicates that it meets all applicable CAA requirements, specifically the requirements of section 175A. EPA is proposing to approve the second maintenance plan for the Greene County Area as a revision to the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 if they meet the criteria of the CAA. Accordingly, this 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 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 proposed rulemaking, proposing approval of Pennsylvania's second maintenance plan for the Greene County Area, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

Dated: July 7, 2021

Diana Esher,
Acting Regional Administrator,
Region III.

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