6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2021-0615; EPA-R05-OAR-2021-0616; EPA-R05-OAR-2021-0617; FRL-11003-01-R5]

Air Plan Approval; Ohio; Canton, Cleveland, and Steubenville Second 10-Year 2006 24-hour $PM_{2.5}$ Limited Maintenance Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), the limited maintenance plans (LMP) submitted on September 8, 2021, by the Ohio Environmental Protection Agency (OEPA) for the Canton-Massillon (Stark County), Cleveland-Akron-Lorain (Cuyahoga, Lake, Lorain, Medina, Portage, and Summit Counties) and Steubenville-Weirton (Ohio-West Virginia, Jefferson County) maintenance areas. The plans address the second 10-year maintenance periods for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers ($PM_{2.5}$). EPA is proposing to approve Ohio's LMP submissions for Canton-Massillon, Cleveland-Akron-Lorain, and Steubenville-Weirton because they provide for the maintenance of the 2006 24-hour $PM_{2.5}$ national ambient air quality standard (NAAQS) through the end of the second 10-year portion of the maintenance periods. In addition, EPA is initiating the process to find the Canton-Massillon, Cleveland-Akron-Lorain, and Steubenville-Weirton $PM_{2.5}$

LMPs adequate for transportation conformity purposes.

DATES: 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-R05-OAR-2021-0615 (Canton-Massillon), EPA-R05-OAR-2021-0616 (Cleveland-Akron-Lorain), or EPA-R05-OAR-2021-0617 (Steubenville-Weirton) at *https://www.regulations.gov*, or via email to *arra.sarah@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 (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 *https://www2.epa.gov/dockets/commenting-epa-*

dockets.

FOR FURTHER INFORMATION CONTACT: Olivia Davidson, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0266, *davidson.olivia@epa.gov*. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background.

A. The $PM_{2.5}$ National Ambient Air Quality Standards (NAAQS)

Particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, known as $PM_{2.5}$, is one of the criteria pollutants for which a NAAQS is established to protect human health and the environment. In 1997, EPA established the first $PM_{2.5}$ standards based on significant scientific evidence and health studies demonstrating the serious health effects associated with exposure to $PM_{2.5}$. EPA set an annual standard of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour (or daily) standard of 65 $\mu g/m^3$. In 2006, EPA strengthened the 24-hour $PM_{2.5}$ NAAQS by revising it to 35 $\mu g/m^3$ and retained the level of the annual $PM_{2.5}$ standard at 15.0 $\mu g/m^3$. Subsequently, in 2012, EPA established an annual primary $PM_{2.5}$ NAAQS at 12 $\mu g/m^3$ and retained the 2006 24-hour $PM_{2.5}$ NAAQS at 35 $\mu g/m^3$.

B. Regulatory Actions in Canton-Massillon, Cleveland-Akron-

Lorain, and Steubenville-Weirton

On November 13, 2009, EPA designated the Canton-Massillon (Canton), Cleveland-Akron-Lorain (Cleveland), and Steubenville-Weirton (Steubenville) areas as $PM_{2.5}$ nonattainment areas due to measured violations of the 2006 24-hour $PM_{2.5}$ NAAQS (74 FR 58688). On June 18, May 30, and May 25, 2012, OEPA submitted to EPA requests to redesignate the Canton, Cleveland, and Steubenville nonattainment areas, respectively, to attainment of the 2006 24-hour $PM_{2.5}$ NAAQS. These submissions included plans to provide for maintenance of the 2006 24-hour $PM_{2.5}$ NAAQS in the areas for 10 years. EPA redesignated the Canton, Cleveland, and Steubenville areas to attainment for the 2006 24-hour $PM_{2.5}$ NAAQS on October 22, 2013 (78 FR 62459), September 18, 2013 (78 FR 57270 and 78 FR 57273), respectively, and approved the associated maintenance plans into the Ohio State Implementation Plan (SIP). The purpose of OEPA'S September 8, 2021, LMP submissions is to fulfill the second 10-year planning requirement of CAA section 175A(b) to ensure $PM_{2.5}$ NAAQS compliance through 2033.

II. The Limited Maintenance Plan Option.

A. Demonstration of Maintenance Using the Limited Maintenance Plan Option.

Section 175A of the CAA sets forth the elements of a maintenance plan. Under section 175A, a state must submit a revision to the SIP that provides for maintenance of the applicable NAAQS for at least 10 years after an area is redesignated to attainment. Section 175A also requires that

eight years into the first maintenance period, the state must submit a second maintenance plan demonstrating that the area will continue to attain for the following 10-year period.

EPA has published long-standing guidance for states on developing maintenance plans.[1] The Calcagni memo 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). EPA clarified in subsequent guidance memos that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that the area's design value 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.[2]

Most recently, in October 2022, EPA released guidance extending this streamlined option for demonstrating maintenance under CAA section 175A to certain $PM_{2.5}$ areas, titled "Guidance on Limited Maintenance Plan Option for Moderate $PM_{2.5}$

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[1] Calcagni, John, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992 (Calcagni memo).

[2] 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 PM_{10} Nonattainment Areas" (PM_{10} LMP Guidance) from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

Nonattainment Areas and $PM_{2.5}$ Maintenance Areas" ($PM_{2.5}$ LMP Guidance).[3]

EPA refers to this streamlined demonstration of maintenance as an LMP. EPA has interpreted CAA section 175A as permitting this option because section 175A of the Act defines few specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for a LMP and have approved LMPs have rarely, if ever, experienced subsequent violations of the NAAQS. As noted in the LMP guidance, states seeking an LMP should still submit the other maintenance plan elements outlined in the Calcagni memo, including: an attainment emissions inventory, provisions for the continued operation of the ambient air quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their section 175A maintenance plan as a revision to their SIP, with all attendant notice and comment procedures.

The $PM_{2.5}$ LMP Guidance, similar to qualification for a LMP under the PM_{10} LMP Guidance, allows states to demonstrate that areas qualify for a LMP by showing that, based on their recent measured air quality, they are unlikely to violate the NAAQS in the future.

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[3] The guidance document developed by the Office of Air Quality Planning and Standards, the Office of Transportation and Air Quality, and the Office of Air and Radiation titled "Guidance on the Limited Maintenance Plan Option for Moderate $PM_{2.5}$ Nonattainment Areas and $PM_{2.5}$ Maintenance Areas" can be found at *https://www.epa.gov/system/files/documents/2023-03/PM%202.5%20Limited%20Maintenance%20Plan%20Guidance.pdf.*

Specifically, the $PM_{2.5}$ LMP Guidance relies on the critical design value (CDV) concept. The Guidance directs states to calculate a site-specific CDV for the monitoring site in an area with the highest design value, and also for all other active monitoring sites in the area with complete data. The Guidance states that areas should show that the average design value (ADV) for each monitoring site in the area, i.e., the average of at least the most recent consecutive 5 years of $PM_{2.5}$ design values, does not exceed the associated CDV for each site[4]. The CDV calculation for a monitoring site involves parameters including: 1) the level of the relevant NAAQS; 2) the co-efficient of variation of recent design values measured at that site; and 3) a statistical parameter corresponding to a 10 percent probability of exceedance, such that sites with historically high variability in design values result in a lower (or more stringent) CDV. Evaluating if the ADV for each monitoring site in the area is below the CDV demonstrates that the probability of a future exceedance, based on the area's historical air quality and variability, is less than 10 percent. Per EPA's transportation conformity regulations, areas with LMPs must also "demonstrate that it would be unreasonable to expect that such an area would experience enough motor vehicle emissions growth for a violation of the NAAQS to occur."[5]

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[4] EPA recommends that the ADV be calculated using at least five years of design values, each representing a three-year period, because this approach would rely on a more robust dataset. However, we acknowledge that an alternative interpretation may be acceptable, where these variables could be calculated using three years of design values, collectively representing five years of air quality data.

[5] *See* 40 CFR 93.109(e).

B. Transportation Conformity Under Limited Maintenance Plan Option.

Transportation conformity is required by section 176(c) of the CAA. Under that provision, conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any required interim emission reductions or other milestones in any area. *See* CAA 176(c)(1)(A) and (B). EPA's transportation conformity rule at 40 CFR part 93 subpart A establishes the criteria and procedures to determine whether metropolitan transportation plans, transportation improvement programs, and federally supported highway and transit projects conform to the purpose of the SIP.

While qualification for the LMP option does not exempt an area from the need to determine conformity, in an area with an LMP, conformity may be demonstrated without a regional emissions analysis for the relevant NAAQS and pollutant (40 CFR 93.109(e)). An LMP must demonstrate that it is unreasonable to expect that the qualifying areas would experience so much growth in on-road emissions during the maintenance period that a violation of the relevant NAAQS would occur (40 CFR 93.109(e)). Hence, because no such impact is expected, areas with LMPs are not required to do a regional emissions analysis as part of a transportation conformity determination. *See* 40 CFR 93.109(e). Therefore, an LMP does not include motor vehicle emissions budgets.

While areas with maintenance plans approved or found adequate under the LMP option are not required to do a regional emissions analysis (and are not subject to the budget test in 40 CFR 93.118), the areas remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A, including fulfilling project-level conformity analyses requirements and consultation requirements. Ohio has established transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures. Updates to the OEPA transportation conformity SIP were approved March 3, 2015 (80 FR 11133), which addresses the consultation requirements for the purpose of evaluating the conformity of transportation plans. The LMP SIP submissions for Canton, Cleveland, and Steubenville were developed as part of an interagency consultation process which includes Federal, state, and local agencies.

The $PM_{2.5}$ LMP Guidance notes that an LMP may be particularly appropriate for a second maintenance plan, as the area will have demonstrated attainment of the $PM_{2.5}$ NAAQS for at least 8 years. To demonstrate that it would be unreasonable to expect that the area would experience enough motor vehicle growth for a NAAQS violation to occur, the guidance states that an LMP submissions should address the $PM_{2.5}$ air quality trends and the historical and projected vehicle miles traveled (VMT). Further, if re-entrained road dust has been found to be significant for $PM_{2.5}$

transportation conformity purposes under 40 CFR 93.102(b)(3), the plan should include an on-road $PM_{2.5}$ emissions analysis consistent with the methodology provided in attachment B of the PM_{10} LMP Guidance, which is included in the appendix for the $PM_{2.5}$ LMP Guidance. The on-road emissions analysis would include a demonstration that for each monitoring site in the area, the ADV plus the expected on-road emissions growth estimate does not exceed the CDV.

In addition to these proposed actions, EPA is notifying the public that the Agency is initiating the adequacy process for the Canton, Cleveland, and Steubenville LMPs. *See* 40 CFR 93.118(e)(4). Since LMPs do not include motor vehicle emissions budgets, in the case of an LMP, EPA's adequacy review is to assess whether the demonstration required by 40 CFR 93.109(e) is met. Any comments on the adequacy of the submitted OH LMPs should be submitted to the docket established for this rulemaking. If EPA approves the second 10-year LMPs or finds them adequate, the Canton, Cleveland, and Steubenville maintenance areas will not be required to perform regional emissions analyses but must meet project-level conformity analyses requirements as well as the other transportation conformity criteria. We will complete the adequacy determination process either in the final action on this proposal or by notifying the state in writing, publishing a notice in the *Federal Register,* and by posting the finding on EPA's adequacy web page. *See* 40 CFR 93.118(f).

C. General Conformity Under Limited Maintenance Plan Option.

The general conformity rule of November 30, 1993 (58 FR 63214) applies to nonattainment areas and redesignated attainment areas operating under maintenance plans (*i.e.*, maintenance areas). General conformity requires compliance to the purpose of a SIP, which means that Federal activities not related to transportation plans, programs, and projects will not cause or contribute to any new violation of any standard in any area, increase the frequency or severity of any existing violation of any standard in any area, or delay timely attainment of any standard or any required interim emission reductions or other milestones in any area (CAA section 176(c)(1)(A)and(1)(B)). As noted in the $PM_{2.5}$ LMP Guidance, EPA's general conformity regulations do not distinguish between maintenance areas with an approved "full maintenance plan" and those with an approved LMP. Thus, maintenance areas with an approved LMP are subject to the same general conformity requirements under 40 CFR part 93 subpart B, as those covered by a "full maintenance plan." Nothing less than full compliance with the general conformity program is required within an LMP.

III. EPA's Analysis of the State's Submittal.

A. Demonstration of qualification for the Limited Maintenance Plan Option.

EPA redesignated the Cleveland and Steubenville areas to attainment of the NAAQS on September 18, 2013 (78 FR 57270 and 78 FR 57273) and the Canton area on October 22, 2013 (78 FR

62459). Table 1 below shows the historical design values for each area since the areas were redesignated in 2013.[6] The 2006 24-hour $PM_{2.5}$ NAAQS is attained when the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations is equal to or less than 35 µg/m^3, and as shown in table 1, these three areas have been measuring air quality well below the 2006 standard with decreasing $PM_{2.5}$ concentrations over time.

Table 1. $PM_{2.5}$ Design Values in Canton, Cleveland, and Steubenville Since Redesignation to Attainment in µg/m^3 (2013-2022).

Design Value Period	Canton $PM_{2.5}$ Design Value	Cleveland $PM_{2.5}$ Design Value	Steubenville $PM_{2.5}$ Design Value
2011-2013	27	28	26
2012-2014	26	27	26
2013-2015	26	27	27
2014-2016	24	25	27
2015-2017	22	25	25
2016-2018	21	23	22
2017-2019	21	24	21
2018-2020	22	25	29
2019-2021	22	23	20
2020-2022	22	24	19

We propose to find that the Canton, Cleveland, and Steubenville areas meet the critical design value demonstration for a limited maintenance plan. As noted above, the parameters of the CDV calculation, outlined in the $PM_{2.5}$ LMP Guidance, include the level of the relevant NAAQS, the co-efficient of variation of recent design values, and a statistical parameter corresponding to a 10 percent probability of exceedance. The CDV demonstration is designed such that if a site's ADV is lower than the site's CDV, the probability of a future exceedance is less than 10%.[7] Table 2 below contains the CDV and ADV for each

[6] *See https://www.epa.gov/air-trends/air-quality-design-values#map.*
[7] *See the "Example Site Calculation", page 7 of the October 2022* $PM_{2.5}$ LMP guidance (*https://www.epa.gov/system/files/documents/2022-10/420b22044.pdf*).

monitor in the Canton, Cleveland, and Steubenville maintenance areas. EPA reviewed the data and methodology provided by the State and finds that each monitor's 5-year average design value is well below the corresponding site-specific CDV.[8] Due to data completeness issues in 2020 at the design value monitors in the areas[9], the design values from 2015 through 2019 were used to determine the ADV and CDV at all monitors where possible for purposes of comparison. Monitoring data issues were related to COVID-19 restrictions preventing field operations, including travel restrictions barring staff from visiting and maintaining monitoring stations, resulting in data loss.[10]

Table 2. Qualification of Monitors for LMP in Canton, Cleveland and Steubenville, Ohio in µg/m^3 (2015-2019).

Monitor	ADV (2015-2019)	CDV (2015-2019)	Qualify for LMP?
Canton			
39-151-0017	22.8	30.5	Yes
39-151-0020	21.4	31.3	Yes
Cleveland			
39-35-0065	24.4	33.1	Yes
39-035-0034	19.6	30.1	Yes
39-035-0038	24.0	30.8	Yes
39-035-0045	22.2	30.9	Yes
39-035-0060[1]	23.7	31.8	Yes
39-035-1002	19.6	31.3	Yes
39-085-0007	17.0	31.5	Yes
39-093-3002	19.2	30.3	Yes
39-103-0004	19.8	31.4	Yes
39-133-0002[2]	17.3	31.1	Yes
39-153-0017	22.2	30.2	Yes

[8] The submission from OEPA uses a different standard deviation formula in excel to calculate the CDV than EPA. EPA recommends using the STDEV.S() formula whereas WDNR used the STDEV.P() formula. EPA has corrected this for the proposed rule and the spreadsheet in the docket of this rulemaking contains the calculations with the revised formula. *See* Appendix C in each submission for Canton, Cleveland, and Steubenville, contained in the docket of this rulemaking for OEPA's calculations.

[9] Typically, the design value for each area is the highest among monitors with valid design values. Here, because the historically highest (design value) monitors were invalid in 2020 due to setbacks from COVID, we rely on data up to 2019 for this test.

[10] OEPA provided additional information about data loss due to COVID in and annual air quality report for 2020, available at *https://epa.ohio.gov/divisions-and-offices/air-pollution-control/reports-and-data/air-monitoring.*

39-153-0023	20.0	30.6	Yes
Steubenville			
39-081-0017	24.4	29.8	Yes
54-009-0005	21.2	29.7	Yes
54-009-0011	22.0	31.5	Yes

[1]Design values for 2018, 2019, and 2020 used for calculation due to data completeness issues.
[2]Design values for 2017, 2018, and 2019 used for calculation due to data completeness issues.

We also propose to find that Ohio has adequately demonstrated that it is unlikely there will be an increase in motor vehicle emissions growth sufficient to cause a NAAQS violation in any of these three areas. In its submission, Ohio included an on-road $PM_{2.5}$ emissions analysis consistent with the methodology provided in the 2001 PM_{10} LMP Guidance, because at the time of the state's submission, the $PM_{2.5}$ LMP Guidance had not yet been issued by EPA. That analysis, consistent with the on-road calculation in the PM_{10} LMP Guidance and as modified in the later $PM_{2.5}$ Guidance, examined the total projected growth in on-road motor vehicle $PM_{2.5}$ emissions through the end of the 20-year maintenance period, where the projected percentage increase in vehicle miles traveled (VMT_{pi}) over the next 10 years (through 2033) is multiplied by the motor vehicle design value (DV_{mv}) which is based on the on-road mobile portion of the attainment year inventory. Per the PM LMP Guidances, this test is met when ($VMT_{pi} \times DV_{mv}$) plus the design value for the most recent 5 years of quality assured air quality data, referred to as the future projected DV based on projected mobile source growth, is below the margin of safety, or in the case of $PM_{2.5}$, the CDV, for the relevant PM standard in $\mu g/m^3$ for a given area.

The site-specific 2006 24-hour $PM_{2.5}$ CDVs for the

historically highest monitors in each of the three areas is as follows: Canton (at Canton Fire St8 monitor 39-151-0017) is 30.5 µg/m^3, Cleveland (at Harvard Yards monitor, 39-35-0065) is 33.1 µg/m^3, and Steubenville (Steubenville monitor, 39-081-0017) is 29.8 µg/m^3.[11] *See* the Canton, Cleveland, and Steubenville LMP's, Chapter 5 and associated appendices, located in the docket for this action, for details of this computation. While re-entrained road dust was not identified as a significant contributor to $PM_{2.5}$ concentrations in any of the three areas, OEPA submitted the results of the motor vehicle regional emissions analysis (as described in attachment B of the PM_{10} LMP Guidance) as part of the LMPs for the areas. The motor vehicle regional emissions analysis test results adjusted for VMT growth for Canton, Cleveland, and Steubenville show a future projected DV based on projected mobile source growth of 23.0, 24.6, and 24.4 µg/m^3, respectively, and therefore are below the calculated site-specific CDVs of 30.5, 33.1, and 29.8 µg/m^3, respectively. Conservatively, OEPA considered all $PM_{2.5}$ precursors and direct $PM_{2.5}$ in their analysis.

As noted above, this specific on-road $PM_{2.5}$ emissions analysis is most critical for areas where re-entrained road dust has been identified as a significant contributor to $PM_{2.5}$ concentrations. While this is not the case in any of the three

[11] OEPA consulted with the Ohio Department of Transportation (ODOT), EPA, the Northeast Ohio Areawide Coordinating Agency, Stark County (Canton), Akron County (Cleveland), and the Brooke Hancock Jefferson Metropolitan Planning Commission (Steubenville) to generate the projected VMT growth from 2017 through 2033 for Canton, Cleveland, and Steubenville 2006 24-hour $PM_{2.5}$ maintenance areas.

areas, OEPA submitted the results of the motor vehicle regional emissions analysis (as described in Attachment B of the PM_{10} LMP Guidance) as part of the LMPs for the areas. EPA clarified in the 2022 $PM_{2.5}$ LMP Guidance, which was released after Ohio submitted its SIP revisions, that an area submitting the second 10-year maintenance plan may be eligible for the LMP option as long as monitored air quality data and VMT trends support the LMP option. We propose to find that the state's analysis of VMT using the on-road emissions test satisfies the obligation to demonstrate that motor vehicle emissions growth in the remaining maintenance period cannot reasonably be expected to cause a violation of the NAAQS.

We think this is particularly so given the air quality trends in each area provided in the state's submission. From the time the areas started attaining the NAAQS in 2013 through 2019, ambient $PM_{2.5}$ concentrations have decreased substantially. There has been a 19, 14.3, and 23.2 percent decrease in the annual 98^{th} percentile 24-hour $PM_{2.5}$ concentrations in Canton, Cleveland, and Steubenville, respectively, during this time period.[12] Given the current $PM_{2.5}$ design values in these 3 areas, and the demonstrated downward trend in $PM_{2.5}$ concentrations over the last 10 years, we propose to find that the state has

[12] Where available, 2019 and 2013 monitor data was used at each monitoring site to compare the percent decrease, averaged across the area. While 2020 monitoring data was provided in OEPA's submission, EPA chose to examine 2019 for any concerns of COVID disproportionally decreasing emissions. Where 2013 data was not available due to data completeness issues, 2012 data was used and where 2019 data was not available, the closest year prior to 2019 with available data was used, and no earlier than 2017. *See* "EPA_analysis_CantonClevelandSteubenville_PM2.5LMP.xlsx" provided in the docket of this rulemaking.

adequately demonstrated that, consistent with 40 CFR 93.109(e) and the $PM_{2.5}$ Guidance, it would be unreasonable to expect that these areas will experience a growth in motor vehicle emissions sufficient to cause a violation of the 2006 24-hour $PM_{2.5}$ NAAQS.

EPA therefore proposes to find that the Canton, Cleveland, and Steubenville 2006 24-hour $PM_{2.5}$ maintenance areas meet the qualification criteria set forth in the $PM_{2.5}$ LMP Guidance. Under the LMP option, the state will be expected to determine on a regular basis that the criteria are still being met. If the state determines that the LMP criteria are not being met, it should take action to reduce $PM_{2.5}$ concentrations enough to requalify. One possible approach the state could take is to implement the contingency measures contained in its maintenance plan. *See* Chapter 7 of each of the state's submittals, placed in the docket for this action, for a description of the contingency measures. If the attempt to reduce $PM_{2.5}$ concentrations fails, or if it succeeds but in future years it becomes necessary again to address increasing $PM_{2.5}$ concentrations in an area, that area will no longer qualify for the LMP option.

B. Attainment Inventory

As noted above, states that qualify for an LMP must still meet the other elements of a maintenance plan, as articulated in the Calcagni Memo. This includes an attainment year emissions inventory.

OEPA's Canton, Cleveland, and Steubenville $PM_{2.5}$ LMP

submissions include emissions inventories, with a base year of 2017. These inventories were prepared as part of the 2017 National Emissions Inventory[13] Version 2 under EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The 2017 base year represents the most recent emissions inventory data available when the state prepared the submissions, is representative of the level of emissions during a period of time that the areas show monitored attainment of the NAAQS, and is consistent with the data used to determine applicability of the LMP option (*i.e.,* having no violations of the NAAQS during the 5-year period used to calculate the design value).

C. Air Quality Monitoring Network

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. OEPA continues to operate a $PM_{2.5}$ monitoring network sited and maintained in accordance with Federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 5. OEPA submitted the 2022-2023 Annual Monitoring Network Plan[14], which EPA approved on November 28, 2022.[15]

In its submission, OEPA commits to continued operation of at least one EPA-approved $PM_{2.5}$ monitoring site in the Canton and Steubenville maintenance areas and 3 in the Cleveland

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[13] *See https://www.epa.gov/air-emissions-inventories/2017-national-emissionsinventory-nei-data.*

[14] *See* OEPA's Air Monitoring website containing the annual network plans at *https://epa.ohio.gov/divisions-and-offices/air-pollution-control/reports-and-data/air-monitoring.*

[15] *See* EPA'S Approval Letter for OEPA'S 2022-2023 Annual Network Monitoring Plan in the docket of this rulemaking.

maintenance area through the end of the maintenance planning periods, 2033, and will continue to operate the monitors consistent with the EPA-approved OEPA annual network plan in order to meet the EPA requirements at 40 CFR part 58. Currently, there are 2 monitors in the Canton maintenance area, 11 monitors in the Cleveland maintenance area, and 3 monitors in the Steubenville maintenance area.

D. Verification of Continued Attainment

The level of the 2006 24-hour $PM_{2.5}$ NAAQS is 35 µg/m^3. The NAAQS is attained when the 3-year average of the 98th percentile of 24-hour $PM_{2.5}$ concentrations is equal to or less than 35 µg/m^3 (40 CFR 50.6). As stated previously, OEPA commits to continue to operate a monitoring network in accordance with 40 CFR part 58. In addition, OEPA commits to verifying continued attainment of the $PM_{2.5}$ standard through the maintenance plan period with the operation of an appropriate $PM_{2.5}$ monitoring network. In developing the second 10-year maintenance plan, OEPA evaluated the most recent 3 years of complete, quality-assured data for the Canton, Cleveland, and Steubenville maintenance areas at the time the submissions were made (2017 through 2019) to verify continued attainment of the standard. Air quality data from 2020, 2021, and preliminary air quality data from 2022 confirm continued attainment of the standard as described in Table 1.

E. Contingency Provisions

CAA section 175A(d) states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt

correction of any violation of the relevant NAAQS which may occur after redesignation of the area to attainment. As explained in the Calcagni Memo, these contingency provisions are an enforceable part of the federally approved SIP. The maintenance plan should clearly identify the events that would "trigger" the adoption and implementation of a contingency provision, the contingency provision(s) that would be adopted and implemented, and the schedule indicating the time frame by which the State would adopt and implement the provision(s). The Calcagni Memo states that EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, the plan must require that the state implement all measures contained in the CAA part D nonattainment plan for the area prior to redesignation.

In the Canton, Cleveland, and Steubenville $PM_{2.5}$ LMP submissions, OEPA included maintenance plan contingency provisions to ensure the areas will continue to meet the 2006 24-hour $PM_{2.5}$ NAAQS. The submissions describe a process and a timeline to identify, evaluate, and select the appropriate contingency measure(s) from a list of measures in the event of a violation of the $PM_{2.5}$ NAAQS. The contingency measures that may be implemented to reduce emissions are listed in Chapter 7 of the LMP submissions in the docket for this action. The submissions describe the metropolitan planning organization or regional council of government consultation that will occur after a violation in order to determine the control measures

necessary to assure attainment of the NAAQS that can be implemented within 18 months from the close of the calendar year that prompted the violation.

IV. What Action is EPA Taking?

EPA is proposing to approve the second 10-year $PM_{2.5}$ LMPs for Canton, Cleveland, and Steubenville 2006 24-hour $PM_{2.5}$ maintenance areas submitted by OEPA. EPA's review of the air quality data for the maintenance areas indicates that they continue to show attainment well below the level of the 2006 24-hour $PM_{2.5}$ NAAQS and meet all the LMP qualifying criteria as described in this action. If finalized, EPA's approval of these LMPs will satisfy the CAA section 175A requirements for the second 10-year period for the Canton, Cleveland, and Steubenville 2006 24-hour $PM_{2.5}$ maintenance areas. EPA is also initiating the process to determine if the LMPs are adequate for transportation conformity purposes. As discussed in Section II.B, EPA may complete that process either in its final action on these LMPs or through a separate process provided for in the transportation conformity regulations. *See* 40 CFR 93.118(f).

V. Environmental Justice Considerations.

To identify environmental burdens and potentially susceptible populations in Canton, Cleveland, and Steubenville, EPA performed a screening-level analysis using EPA's environmental justice (EJ) screening and mapping tool (EJSCREEN).[16] The results of EPA's screening analysis are being

[16] *See https://www.epa.gov/ejscreen.*

provided for informational and transparency purposes, and EPA did not rely on these findings in its action on Ohio's submissions. EPA utilized the EJSCREEN tool to evaluate environmental and demographic indicators within each county contained in the Canton, Cleveland, and Steubenville maintenance areas including Stark County in Canton, Cuyahoga, Lake, Lorain, Medina, Portage, and Summit Counties in Cleveland, and Jefferson County in Steubenville. Each of the tool output reports are contained in the docket for this action. EPA's screening-level analysis indicates that communities affected by this action score below the national average for the EJSCREEN "Demographic Index", which is the average of an area's percent minority and percent low-income populations, i.e., the two demographic indicators explicitly named in Executive Order 12898, apart from Cuyahoga County in Cleveland, where the demographic index is two percent higher than the national average. Additionally, the results indicate that most of the counties in these areas score below the 80th percentile (in comparison to the nation as a whole) in the 12 EJ Indices established by EPA, which include a combination of environmental and demographic information. Cuyahoga, Lorain, Portage, and Summit counties are above the 80th percentile for the wastewater discharge EJ index, and Cuyahoga County is above the 80th percentile for the hazardous waste proximity index.

This proposed action would approve the second 10-year limited maintenance plans submitted by Ohio for the Canton,

Steubenville, and Cleveland areas. We expect that this action, which would, among other things, find that the state has adequately provided for maintenance of the NAAQS and approve the state's contingency plan to address any potential violations of the NAAQS in the future, will be generally neutral or contribute to reduced environmental and health impacts on all populations in the three areas, including people of color and low-income populations. At a minimum, this action would not worsen any existing air quality and is expected to ensure the areas are meeting requirements to maintain the air quality standards. Further, there is no information in the record indicating that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

VI. 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, provided that 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 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 14094 (88 FR 21879, April 11, 2023);

- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines EJ as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

OEPA did not evaluate EJ considerations as part of its SIP submittals; the CAA neither prohibits nor requires such an evaluation. Consistent with EPA's discretion under the CAA, EPA has evaluated the environmental justice considerations of this action, as is described above in the section title, "Environmental Justice Considerations." Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected

area. In addition, there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 28, 2023.

Debra Shore,
Regional Administrator, Region 5.

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