6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2025-0256; FRL-12788-01-R2]

Air Plan Approval; New York; New York Metropolitan Area Second Ten-Year Limited Maintenance Plan for the 2006 24-Hour PM2.5 Standard

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 plan (LMP) for the 2006 PM2.5 national ambient air quality standard (NAAQS) for ten counties which comprise the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) 2006 PM2.5 NAAQS maintenance area. This LMP was submitted on October 15, 2024 by the New York State Department of Environmental Conservation (NYSDEC). The plan addresses the second ten-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, known as PM2.5. The EPA is proposing approval of New York's LMP submission because it provides for the maintenance of the 2006 24-hour PM2.5 NAAQS through the end of the second ten-year portion of the maintenance period. In addition, the EPA completed the adequacy review process of this New York PM2.5 LMP for transportation conformity purposes on September 4, 2025.

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-R02-OAR-2025-0256 at *https://www.regulations.gov* (our preferred method) or the other submission methods identified in the link below. Once submitted, comments cannot be edited or

removed from the docket. EPA may publish any comment received to its public docket. Do not submit to EPA's docket at *https://www.regulations.gov* any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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). Please visit *https://www.epa.gov/dockets/commenting-epa-dockets* for additional submission methods; the full EPA public comment policy; information about CBI, PBI, or multimedia submissions; and general guidance on making effective comments.

FOR FURTHER INFORMATION CONTACT: Blythe Reder, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York, 10007-1866, telephone number: (212) 637-3678, email address: reder.blythe@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Background and Purpose

A. The PM2.5 National Ambient Air Quality Standards (NAAQS)

The EPA has established NAAQS for particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, known as PM2.5, to protect human health and the environment. In 1997, EPA established the first PM2.5 standards based on significant scientific evidence and health studies demonstrating the serious health effects associated with exposure to PM2.5. *See* 62 FR 38652, July 18, 1997. 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 PM2.5 NAAQS by revising it to 35 $\mu g/m^3$ and retained the level of the annual PM2.5 standard at 15.0 $\mu g/m^3$. *See* 71 FR 61144, October 17, 2006. Subsequently, in 2012, EPA established an annual primary PM2.5 NAAQS at 12.0 $\mu g/m^3$ and retained the 2006 24-hour PM2.5 NAAQS at 35 $\mu g/m^3$. *See* 78 FR 3086, January 15, 2013. In a rule that became effective on October 24, 2016, EPA revoked the 1997 primary annual PM2.5 standard in lieu of the more stringent 2012 primary annual PM2.5 NAAQS. *See* 81 FR 58010, August 24, 2016. In early 2024, EPA strengthened the level of the annual primary PM2.5 standard to 9.0 $\mu g/m^3$ and retained the 2006 24-hour PM2.5 NAAQS at 35 $\mu g/m^3$.[1] *See* 89 FR 16202, March 6, 2024.

B. Regulatory Actions in the New York Metropolitan Area

Hereafter, New York Metropolitan Area (NYMA) refers to the New York portion of the NY-NJ-CT maintenance area, which is comprised of the following counties: Bronx, Kings, Nassau, New York, Orange, Queens, Richmond, Rockland, Suffolk, and Westchester. EPA promulgated the designations for NYMA as a PM2.5 nonattainment area for the 1997 annual PM2.5 NAAQS on January 5, 2005 (70 FR 944, January 5, 2005) which was then supplemented on April 14, 2005 (70 FR 19844, April 14, 2005), due to measured violations of the standards.

[1] The PM 2.5 2024 NAAQS is currently being reconsidered. *See, e.g.*, "Trump EPA Announces Path Forward on National Air Quality Standards for Particulate Matter (PM2.5) to Aid Manufacturing, Small Businesses," Mar. 12, 2025, at *https://www.epa.gov/newsreleases/trump-epa-announces-path-forward-national-air-quality-standards-particulate-matter*.

On June 27, 2013, the New York State Department of Environmental Conservation (NYSDEC) submitted a request to EPA to redesignate the NYMA nonattainment area to attainment of both the 1997 annual and 2006 24-hour PM2.5 NAAQS. Concurrently, NYSDEC submitted a maintenance plan for the area as a State Implementation Plan (SIP) revision to ensure continued attainment. NYSDEC provided supplemental submissions to EPA on September 18, 2013, and February 27, 2014, to clarify portions of the redesignation request, maintenance plan, and emissions information. EPA redesignated the NYMA to attainment for the 1997 and 2006 PM2.5 NAAQS on April 18, 2014 (79 FR 21857, April 18, 2014) and approved the associated maintenance plan into the SIP. The purpose of NYSDEC's October 15, 2024, LMP submission is to fulfill the second ten-year planning requirement of CAA section 175A(b), thus ensuring PM2.5 NAAQS attainment through the end of the second maintenance period for PM2.5.

In its LMP submission, the NYSDEC has requested approval for both the 2006 24-hour standard and the 1997 annual standard. However, the EPA is addressing only the 2006 24-hour NAAQS, in accordance with the PM2.5 SIP Requirements Rule (81 FR 58010, August 24, 2016), as a second ten-year maintenance plan is not required for the revoked 1997 annual PM2.5 standard.

II. The Limited Maintenance Plan Option

A. Demonstration of Maintenance Using the Limited Maintenance Plan Option

Section 175A of the CAA, 42 U.S.C. 7505a, sets forth the elements of a maintenance plan. Maintenance means that the area is at or below the respective NAAQS. Under section 175A, a state must submit a revision to the SIP that provides for maintenance of the applicable NAAQS for at least ten 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 ten-year period.

EPA has published long-standing guidance for states on developing maintenance plans.[2] 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 memoranda that certain nonattainment areas could meet the CAA section 175A requirement to provide for maintenance by demonstrating that an area's design value is well below the NAAQS and that the historical stability of the area's air quality levels indicates that the area is unlikely to violate the NAAQS in the future.[3] Design values are calculated using the three-year averages of the annual mean PM2.5 concentrations, in which the annual mean concentrations are calculated using the mean of daily averages of each quarter in the given year.[4] Most recently, in October 2022, EPA released guidance extending this streamlined option for demonstrating maintenance under CAA section 175A to certain PM2.5 areas, titled "Guidance on Limited Maintenance Plan Option for Moderate PM2.5 Nonattainment Areas and PM2.5 Maintenance Areas" (PM2.5 LMP Guidance).[5] EPA refers to this streamlined demonstration of maintenance as an LMP. EPA has interpreted CAA section 175A as allowing this option because it defines specific content requirements for maintenance plans, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP and have approved LMPs have rarely experienced subsequent violations of the NAAQS. As noted in the PM2.5 LMP Guidance, states seeking an

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[2] *See* John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards ("OAQPS"), "Procedures for Processing Requests to Redesignate Areas to Attainment," Sept. 4, 1992 ("Calcagni memo"). A copy of the Calcagni memo can be found in the docket for this proposed rulemaking.

[3] *See* Sally L. Shaver, OAQPS, "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas," Nov. 16, 1994; Joseph Paisie, OAQPS, "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas," Oct. 6, 1995; and Lydia Wegman, OAQPS, "Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas" (PM_{10} LMP Guidance), Aug. 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

[4] Procedures for using the air quality data to determine whether a NAAQS violation has occurred are given in 40 CFR part 50 appendix N.

[5] *See* the EPA guidance, titled, "Guidance on the Limited Maintenance Plan Option for Moderate $PM_{2.5}$ Nonattainment Areas and $PM_{2.5}$ Maintenance Areas." A copy of this guidance can be found in the docket for this proposed rulemaking.

LMP should still submit the other maintenance plan elements outlined in the Calcagni memo, including the following: (1) An attainment emissions inventory; (2) provisions for the continued operation of the ambient air quality monitoring network; (3) verification of continued attainment; and (4) 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 PM2.5 LMP Guidance, similar to the PM10 LMP Guidance, allows states to demonstrate that certain areas qualify for an LMP by showing that, based on their most recent consecutive five years of measured air quality, they are unlikely to violate the NAAQS in the future. Specifically, the PM2.5 LMP Guidance relies on the critical design value (CDV) concept. This guidance directs states to calculate a site-specific CDV for the monitoring site in an area with the highest design value, and to monitor for all other active monitoring sites in the area with complete data. The highest design value is used because it represents the highest level of PM2.5 pollution an area has experienced over the past five years. The PM2.5 LMP 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 five years of PM2.5 design values, does not exceed the associated CDV for each site.[6] If the ADV for each monitoring site in the area is below the CDV, then the probability of a future exceedance, based on the area's historical air quality and variability, is less than ten percent. The CDV calculation for a monitoring site involves the following parameters: (1) the level of the relevant NAAQS; (2) the co-efficient of variation (relative difference in PM2.5 concentrations among grids within a ZIP code) of recent design values measured at that site; and (3) a statistical parameter corresponding to a ten-percent probability of exceedance, such that sites with historically high variability in design values result

[6] 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.

in a lower (or more stringent) CDV. The eligibility calculation equations for the CDV demonstration are shown in table 1.

Table 1–The Critical Design Value Calculation

Standard Deviation (σ)	$\sigma = \sqrt{\frac{\sum (x_i - ADV)^2}{n-1}}$
Coefficient of Variation (CV)	CV = σ/ADV
Critical Design Value (CDV)	CDV = NAAQS/(1+(t_c * CV))

ADV = Average of 3-year design values.
DV = Design value.
NAAQS = Applicable standard (35 μg/m^3).
t_c = Critical t-value (based on the one-tail student's t-distribution, at a significance level of 0.10).
x_i = a given three-year period design value for the area.
n = the total number of design values evaluated, which in this case is five.

B. Transportation Conformity Under Limited Maintenance Plan Option

Transportation conformity is required by section 176(c) of the CAA, 42 U.S.C. 7506(c). Under that provision, conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, 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 SIP. Transportation conformity applies for transportation-related criteria pollutants[7] in nonattainment areas and redesignated attainment areas with a CAA section 175A maintenance plan (*i.e.*, maintenance areas).

While qualification for the LMP option does not exempt an area from the need to

[7] Transportation-related criteria air pollutants are carbon monoxide, ground-level ozone, nitrogen dioxide, and particulate matter. *See* 40 CFR part 50 for EPA's definitions of these pollutants.

determine conformity, in an area with an adequate[8] or approved LMP, conformity may be demonstrated for a transportation plan or a transportation improvement program without a regional emissions analysis for the relevant NAAQS and pollutant (40 CFR 93.109(e)). However, transportation plan and transportation improvement program conformity determinations that meet applicable requirements continue to be required in these areas (*see* table 1 in 40 CFR 93.109), including a regional emissions analysis for other NAAQS for which the areas are nonattainment or maintenance (*e.g.*, the 2008 and 2015 ozone NAAQS). For the 2006 PM2.5 NAAQS, the areas also 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. In addition, the state's LMP must demonstrate that the qualifying area is not expected to experience growth in on-road emissions (during the maintenance period) that might violate relevant NAAQS (40 CFR 93.109(e)).

Separate from this proposed action, EPA completed the adequacy review process for NYMA's submitted LMP (*see* 90 FR 42762, September 4, 2025).[9] According to this previous document, EPA found that the LMP for the New York portion of the NY-NJ-CT PM2.5 maintenance area is adequate for transportation conformity purposes. *See* 90 FR 42762. Please note that an adequacy review is separate from the EPA's final decision on a transportation conformity SIP submission and should not be used to prejudge the EPA's ultimate action for the SIP. Even if the EPA finds that a limited maintenance plan is adequate for transportation conformity purposes, the SIP could be later disapproved.

C. General Conformity Under Limited Maintenance Plan Option

The general conformity rule of November 30, 1993 (58 FR 63214, November 30, 1993) applies to nonattainment areas and redesignated attainment areas operating under maintenance

[8] EPA's adequacy process is described in 40 CFR 93.118(e) and (f), and EPA's adequacy website is located at *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity*.

[9] *See* Transportation Adequacy Review attached in the docket.

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, will not 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 sections 176(c)(1)(A) and (1)(B)). As noted in the PM2.5 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." 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 NYMA to attainment of the PM2.5 NAAQS on April 18, 2014 (79 FR 21857, April 18, 2014). Table 2 below shows the historical design values for each monitoring site within the maintenance area since it was redesignated in 2014.[10]

The 2006 24-hour PM2.5 NAAQS is attained when the three-year average of the 98th percentile of 24-hour PM2.5 concentrations is equal to or less than 35 $\mu g/m^3$, and as shown in tables 2 and 3, the NYMA has been measuring air quality well below the 2006 PM2.5 NAAQS. The design values from the individual monitoring sites within the maintenance area demonstrate the relative stability of ambient PM2.5 concentrations over time. Furthermore, the design values for the individual sites are below the 35 $\mu g/m^3$ limit as well (*see* table 3).[11]

Table 2–Design Values (DV) (µg/m3) History of the 2006 24-Hour PM2.5 NAAQS in the New York-Northern New Jersey-Long Island, NY-NJ-CT Area Since Redesignation to Attainment [2012 to 2024]

[10] *See https://www.epa.gov/air-trends/air-quality-design-values*.

[11] Queens College Near Road (AQS ID: 36-081-0125) was not included in the analysis due to having incomplete data for most years.

Design Value Period	New York-Northern New Jersey-Long Island, NY-NJ-CT PM2.5 Design Value
2012-2014	27
2013-2015	28
2014-2016	24
2015-2017	23
2016-2018	23
2017-2019	23
2018-2020	22
2019-2021	22
2020-2022	21
2021-2023	27
2022-2024	23

Table 3–PM2.5 Design Values in the NYMA Since Redesignation to Attainment in µg/m^3 [2012 to 2024]

PM2.5 Monitoring Site	AQS ID	2012-2014	2013-2015	2014-2016	2015-2017	2016-2018	2017-2019	2018-2020	2019-2021	2020-2022	2021-2023	2022-2024
IS 52	360050110	INC	23	19	19	17	18	19	20	19	20	19
Pfizer Lab Site	360050133	26	26	24	21	20	20	INC	INC	INC	21	20
JHS 126	360470122	22	23	21	20	17	18	INC	INC	INC	20	19
JHS 45	360610079	22	24	23	20	18	18	INC	INC	INC	22	21
PS 19	360610128	26	26	24	23	23	INC	INC	INC	ND	INC	INC
Division Street	360610134	23	24	22	21	19	20	INC	INC	INC	ND	ND
Newburgh	360710002	20	20	17	16	14	15	INC	INC	INC	20	19
Queens College 2	360810124	22	22	19	19	18	18	18	18	18	22	22
Port Richmond	360850055	INC	INC	INC	19	18	19	INC	INC	INC	27	23
Babylon	361030002	20	21	19	17	15	16	INC	INC	INC	19	17

INC= Incomplete data (less than 75% data completeness based on the monitor's operating schedule and monitoring frequency). ND= No data available.

The EPA proposes to find that the NYMA meets the critical design value (CDV) demonstration for an LMP. As noted below, the parameters of the CDV calculation include the level of the relevant NAAQS, the co-efficient of variation of recent design values, and a statistical parameter corresponding to a ten-percent probability of future violation. The CDV demonstration is designed such that if a site's ADV is lower than the site's CDV, the probability of a future violation of the NAAQS is less than ten percent.[12] Section 2B of NYSDEC's LMP submission demonstrates the likelihood of continued attainment. EPA reviewed the data and

[12] *See* the "Guidance on the Limited Maintenance Plan Option for Moderate PM2.5 Nonattainment Areas and PM2.5 Maintenance Areas" at page 7, "Example Site Calculation," found in the docket for this rulemaking.

methodology provided by the State and finds that each monitor's five-year ADV is well below the corresponding site-specific CDV. EPA's analysis is shown below in table 4.

Table 4–Results of Calculation of CDV's at the NYMA Monitors for the 24-hour PM2.5 NAAQS[13]

Site	AQS ID	CDV $\mu g/m^3$ (2012-2024)	ADV $\mu g/m^3$ (2012-2024)[a]	Qualify for LMP?
IS 52	360050110	33.5	19.4	Yes
Pfizer Lab Site	360050133	29.5	22.2	Yes
JHS 126	360470122	29.5	19.8	Yes
IS 45	360610079	29.0	20.6	Yes
PS 19	360610128	32.0	24.4	Yes
Division Street	360610134	30.7	21.2	Yes
Newburgh	360710002	28.8	16.4	Yes
Queens College 2	360810124	29.9	19.6	Yes
Richmond Post Office	360850055	33.1	18.7[b]	Yes
Babylon	361030002	28.9	17.6	Yes

[a]=The design values averaged for the ADV span seven consecutive years of data between 2012-2024.
[b]= Only three years of design values (five years of data) were used for the Richmond Post Office monitor due to invalid data.

We propose to find that NYSDEC's submittal satisfies the transportation conformity regulation at 40 CFR 93.109(e). NYSDEC also analyzes the demonstration under 40 CFR 93.109(e) within its submittal in section II, Part F. This transportation conformity regulation requires that an LMP demonstrate that it would be unreasonable to expect that a maintenance

[13] The spreadsheet for our CDV and ADV calculations can be found in the docket for this rulemaking.

area would experience sufficient motor vehicle emissions growth for a NAAQS violation to occur (40 CFR 93.109(e)).

NYSDEC conducted an analysis of vehicle miles travelled (VMT) from 2022-2034 for the NYMA using linear annual growth rate inputs provided by the New York State Department of Transportation (NYSDOT) that were then entered into the MOVES3[14] version of EPA's motor vehicle emissions model. NYSDOT is part of the Metropolitan Planning Organization (MPO) with NYC, Long Island and lower Hudson Valley referred to as the New York Metropolitan Transportation Council. In consultation with NYSDOT, NYSDEC also provided county-level VMT yearly growth rates, which are all below 1.5%, indicating only slight increases in vehicle travel across the area.

In the October 2022 "Guidance on the Limited Maintenance Plan Option for Moderate PM2.5 Nonattainment Areas and PM2.5 Maintenance Areas," EPA clarifies that an area submitting the second ten-year maintenance plan may be eligible for the LMP option if monitored air quality data, and its historical and projected VMT, support the LMP option. Given that the air quality data demonstrates that the NYMA has been maintaining the 2006 PM2.5 NAAQS for at least ten years, the current PM2.5 design values in the area, and the State's analysis of projected VMT discussed above, we propose to find that NYSDEC's LMP submittal for the NYMA 2006 PM2.5 maintenance area meets the qualification criteria for an LMP, consistent with 40 CFR 93.109(e) and the October 2022 PM2.5 LMP Guidance. Furthermore, the design values from the individual monitoring sites within the maintenance areas demonstrate the stability of ambient PM2.5 concentrations over time.

The following is a summary of EPA's interpretation of the CAA section 175A requirements and EPA's evaluation of how each requirement is met. Under the LMP option, the state will be expected to determine annually that the criteria are still being met. If the state

[14] MOVES3 EPA, or Motor Vehicle Emission Simulator 3, is the latest version of the EPA's emissions modeling system used to estimate emissions from mobile sources.

determines that the LMP criteria are not being met, it should take action to reduce PM2.5 concentrations enough to requalify. One possible approach the state could take is to implement the contingency measures contained in its first maintenance plan (79 FR 21857, April 18, 2014), to which it will continue to adhere for the second maintenance period (*see* section 2E within the September 2024 state submittal). If the attempt to reduce PM2.5 concentrations fails, or if it succeeds, but in future years it becomes necessary again to address increasing PM2.5 concentrations in an area, the 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. NYSDEC's NYMA PM2.5 submission includes an emissions inventory with data for the base year of 2007, followed by 2008, 2011, 2014, 2017, and 2020. The 2017 inventory was prepared as part of the 2017 National Emissions Inventory 9, Version 2, under EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The 2017 periodic emission inventory represents the most recent emissions inventory data available when the state prepared the submission. The 2017 periodic emission inventory is also representative of the level of emissions during a period in which the area shows 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 five-year period used to calculate the design value). Table 5 shows the total 2017 emissions in the NYMA in tons per year in the state's submission.

Table 5–2017 Emissions (Tons/Year) in the NYMA

Pollutant	**Total Emissions**
NH_3	4,158
NO_x	120,684
PM2.5 (including road dust)	22,195
Road Dust	3,984
SO_2	5,657
VOC	163,311

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. NYSDEC continues to operate a PM2.5 monitoring network sited and maintained in accordance with federal siting and design criteria in 40 CFR part 58, and in consultation with EPA Region 2. NYSDEC submitted its 2023 Annual Monitoring Network plan[15] on June 16, 2023, which EPA approved on January 3, 2024.[16] In the LMP submittal, NYSDEC commits to continued operation of its PM2.5 monitors within the NYMA, consistent with the EPA-approved NYSDEC annual network plan. Currently, there are ten monitoring sites that produce data comparable to the PM2.5 NAAQS in the NYMA area.

D. Verification of Continued Attainment

The 2006 24-hour PM2.5 NAAQS is 35 μg/m^3 (40 CFR 50.13). The NAAQS is attained when the three-year average of the 98th percentile of PM2.5 concentrations is equal to or less than the NAAQS, which NYSDEC has proven in its LMP submittal. As stated previously, NYSDEC commits to verifying continued attainment of the PM2.5 standards through the maintenance plan period with the operation of an appropriate PM2.5 monitoring network. Certified air quality data from 2023, as shown in table 3, confirms continued attainment of the standard.[17]

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

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[15] *See* NYSDEC's 2023 Annual Air Monitoring Network Plan, found in the docket for this proposed rulemaking.
[16] *See* EPA's Approval Letter for NYSDEC's 2023 Annual Monitoring Network Plan, found in the docket for this proposed rulemaking.
[17] *See https://www.epa.gov/air-trends/air-quality-design-values*.

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 timeframe 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.

NYSDEC will continue to adhere to the contingency plan it submitted with its first maintenance plan, which includes the required contingency provisions to ensure the State will promptly correct any violation of the 2006 PM2.5 NAAQS in the area, *s*ee 79 FR 8133, February 11, 2014. According to the State's submittal, if an NYMA maintenance area monitor shows a 98^{th} percentile 24-hour concentration exceeding 35.5 $\mu g/m^3$ in any given year, NYSDEC will conduct an analysis to determine the cause of the exceedance, evaluate whether the exceedance is likely to continue, and implement necessary control measures. If any NYMA monitors show exceedances for two consecutive years, then NYSDEC will determine additional control measures and implement emissions reduction controls by regulation. EPA proposes to find that the contingency provisions in the current proposed rule for the PM2.5 LMP for the NYMA meet the requirements of section 175A(d) of the CAA.

IV. EPA's Proposed Action

EPA is proposing to approve the second ten-year PM2.5 LMP for the NYMA submitted by NYSDEC on October 15, 2024. EPA's review of the air quality data and VMT trends for the maintenance area indicates that it would be unreasonable to expect that the area will experience growth in motor vehicle emissions sufficient to cause a violation of the 2006 24-hour PM2.5 NAAQS over the second maintenance period. The area meets all the LMP qualifying criteria as described in this action. If finalized, EPA's approval of this LMP will satisfy the CAA section 175A requirements for the second ten-year maintenance period.

As discussed previously, EPA determined that the LMP is adequate for transportation conformity purposes. *See* 90 FR 42762, September,4, 2025. EPA completed this determination through a separate process provided for in the transportation conformity regulations. *See* 40 CFR 93.118(f).

V. 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, the 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 proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Michael Martucci,
Regional Administrator,
Region 2.

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