



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2025-3820; FRL-13143-01-R3]

Air Plan Approval; Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the Madison and Page Counties (Shenandoah National Park) 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 Virginia (the Commonwealth or Virginia). This revision pertains to the Commonwealth's plan, submitted by the Virginia Department of Environmental Quality (VADEQ), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the 1997 ozone NAAQS) in the Madison & Page Counties (Shenandoah NP), VA, Area (Shenandoah NP Area or Area) for the second 10-year maintenance period. 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-2025-3820 at 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, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be

accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or 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 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, Four Penn Center, 1600 John F. Kennedy Boulevard, Philadelphia, Pennsylvania 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 August 12, 2025, the VADEQ submitted a revision to the Virginia SIP to incorporate a plan for maintaining the 1997 ozone NAAQS for the Shenandoah NP Area through February 2, 2026, in accordance with CAA section 175A.

I. Background

In 1979, under section 109 of the CAA, the EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. *See* 44 FR 8202 (February 8, 1979). On July 18, 1997 (62 FR 38856),¹ the 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. The EPA set the 1997 ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over

¹ In March 2008, the 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, the EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.070 ppm. *See* 80 FR 65292 (October 26, 2015).

longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was established.

Following promulgation of a new or revised NAAQS, the 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 23858), the EPA designated the Shenandoah NP Area as a nonattainment area for the 1997 ozone NAAQS under title 1, part D, subpart 1 of the CAA. The Shenandoah NP Area consists of portions of both Madison and Page Counties located within the boundaries of Shenandoah National Park.

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 the EPA to redesignate the area to attainment. Areas that have been redesignated by the 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 initial period extending 10 years after redesignation (CAA section 175A(a)), 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 January 3, 2006 (71 FR 24), the EPA approved a redesignation request and maintenance plan from VADEQ for the Shenandoah NP Area for the 1997 ozone NAAQS. The EPA published final approval of the redesignation request and maintenance plan on January 3, 2006 (71 FR 24) with an effective date of February 2, 2006, and, as of that time, the area was designated as attainment for the 1997 ozone NAAQS.

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.

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. This proposed rule applies to this second maintenance plan.

The EPA's final implementation rule for the 2008 8-hour 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 vacated the EPA's interpretation that, because of the revocation of the 1997 ozone standard, second maintenance plans were not required for "orphan maintenance areas," (i.e., areas like the Shenandoah NP Area) that had been redesignated to attainment for the 1997 ozone NAAQS and were designated attainment for the 2008 8-hour 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, the EPA has published longstanding guidance⁵ 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 Memo⁶ 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

³ See 80 FR 12315 (March 6, 2015).

⁴ 882 F.3d 1138 (D.C. Cir. 2018).

⁵ 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.

⁶ "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (1992 Calcagni Memo).

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. The EPA further clarified in three subsequent guidance memos describing “limited maintenance plans” (LMPs)⁷ that the requirements of CAA section 175A could be met by demonstrating that the area’s design value⁸ 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, the EPA believes that for the 1997 ozone NAAQS 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 below 0.071 ppm, then the EPA considers the state to have met the CAA section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period.

Accordingly, on August 12, 2025, VADEQ submitted the Shenandoah NP Area second maintenance plan, following the LMP guidance, and demonstrating that the area will maintain the 1997 ozone NAAQS through February 2, 2026, i.e., through the entire second maintenance period. As of February 3, 2026, when the 20-year maintenance period ended, the Area is no longer required to meet the general conformity requirements and transportation conformity requirements outlined in section 176 of the CAA for the 1997 ozone NAAQS. EPA’s proposal to approve the area’s second maintenance plan is occurring after the end of the area’s 20-year maintenance period. The effective date of EPA’s approval of the area’s first 10-year maintenance plan was February 2, 2006. Based on the transportation conformity regulation at 40 CFR 93.102(b)(4), transportation conformity stopped applying in this area for the 1997 ozone

⁷ 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.

⁸ 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.

NAAQS on February 2, 2026.⁹

However, any other control programs will continue to be in effect, unless there is evidence to show that they are unnecessary for complying with the 1997 ozone NAAQS.

II. Summary of SIP Revision and EPA Analysis

VADEQ's August 12, 2025, 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 the 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 Shenandoah NP Area, VADEQ used 2004 for the attainment year inventory, because 2004 was one of the years in the 2002-2004 three-year period when the area first attained the 1997 ozone NAAQS.¹⁰ The Shenandoah NP Area continued to monitor attainment of the 1997 ozone NAAQS in 2022. Therefore, the emissions inventory from 2022 represents emissions levels conducive to continued attainment (i.e., maintenance) of the NAAQS.¹¹ Thus, VADEQ is using 2022 as representing attainment level emissions for its second maintenance plan. Virginia used 2022 summer day emissions from the EPA's 2022 modeling platform¹² as the basis for the 2022 inventory presented in Table 1 in this

⁹ See *Transportation Conformity Guidance for Areas Reaching the End of the Maintenance Period* (EPA-420-B-14-093, October 2014).

¹⁰ For more information, see the EPA's January 3, 2006, "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan" (71 FR 24).

¹¹ The design values for the Shenandoah NP maintenance area for each of the three-year averages containing 2022 are 0.058 ppm for 2020-2022, 0.062 ppm for 2021-2023, and 0.063 ppm for 2022-2024. Since these values are well beneath the 1997 ozone NAAQS of 0.08 ppm, the 2022 emissions inventory is a suitable inventory to use as an attainment inventory for this second maintenance plan.

¹² For more information, visit www.epa.gov/air-emissions-modeling/2022v1-emissions-modeling-platform.

document.

Table 1—Typical Summer Day 2022 NO_x and VOC Emissions (tons/day) for the Shenandoah NP Area

Name	Emissions Sector	NO_x Emissions	VOC Emissions
Madison County portion	Nonpoint	0.0077	0.1181
	Nonroad	0.0143	0.0201
	Onroad	0.0595	0.0354
	Open Burning	0.0024	0.0039
	Agricultural Fires	0.0012	0.0034
	Prescribed Burns	0.0020	0.0207
	Wildfires	0.0000	0.0000
	Residential Wood Combustion	0.0002	0.0026
	Subtotal	0.0873	0.2042
Page County portion	Nonpoint	0.0135	0.1555
	Nonroad	0.0431	0.0812
	Onroad	0.0709	0.0636
	Open Burning	0.0043	0.0072
	Agricultural Fires	0.0000	0.0000
	Prescribed Burns	0.0063	0.0589
	Wildfires	0.0000	0.0000
	RWC	0.0005	0.0053
	Subtotal	0.1386	0.3717
Total of Madison and Page County portions	Nonpoint	0.0212	0.2736
	Nonroad	0.0574	0.1013
	Onroad	0.1304	0.0990
	Open Burning	0.0067	0.0111
	Agricultural Fires	0.0012	0.0034
	Prescribed Burns	0.0083	0.0796
	Wildfires	0.0000	0.0000
	Residential Wood Combustion	0.0007	0.0079
	Total	0.2259	0.5759

The data shown in Table 1 in this document is based on the 2020 National Emissions Inventory (NEI).¹³ Virginia’s inventory addresses anthropogenic emission source categories or sectors that include ozone precursor emissions and are likely to be located within the Shenandoah NP Area, including: nonpoint emissions from stationary source fuel combustion,

¹³ 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 the EPA.

including industrial, commercial, and residential heaters, chemical manufacturing, storage, and transport, and industrial processes such as commercial cooking, metal production, mineral processes, petroleum refining, wood products, fabricated metals, and refrigeration; nonroad emissions from mobile nonroad equipment such as those used for construction, grounds maintenance, and earth moving, locomotives, and commercial marine vessels; onroad emissions from motorized vehicles operating on public roadways, including passenger cars, motorcycles, minivans, sport-utility vehicles, light-duty trucks, heavy-duty trucks, and buses; open burning emissions from the burning of yard waste, land clearing, and residential household waste; agricultural burning; prescribed burning in forests or rangeland; wildfires, and; residential wood combustion.

The EPA reviewed the emissions inventory submitted by VADEQ and proposes to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

B. Maintenance Demonstration

In order to attain the 1997 ozone NAAQS, the three-year average of the fourth-highest daily maximum 8-hour 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 ppm 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 the EPA's November 20, 2018 "Resource Document for 1997 Ozone NAAQS Areas: Supporting Information for States Developing Maintenance Plans" (2018 Resource Document),¹⁴ the 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

¹⁴ This resource document is included in the docket for this rulemaking available online at www.regulations.gov, Docket ID: EPA-R03-OAR-2025-3820 and is also available at: www.epa.gov/sites/default/files/2018-11/documents/ozone_1997_naaqs_lmp_resource_document_nov_20_2018.pdf.

CAA 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 maintenance period (absent a showing consistent with CAA section 110(1) that such measures are not necessary to assure maintenance).

For the purposes of demonstrating continued maintenance with the 1997 ozone NAAQS, VADEQ provided 3-year DVs for the Shenandoah NP Area from 2001 to 2024. This includes DVs for 2001-2003, 2002-2004, 2003-2005, 2004-2006, 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, 2018-2020, 2019-2021, 2020-2022, 2021-2023, and 2022-2024. 2007-2009 through 2022-2024 are shown in Table 2 of this document.¹⁵ In addition, EPA has reviewed the most recent ambient air quality monitoring data for ozone in the Shenandoah NP Area, as submitted by Virginia and recorded in the EPA’s Air Quality System (AQS). The most recent DV (i.e., 2022-2024) at monitors located in the Shenandoah NP Area are also shown in Table 2 in this document.¹⁶ There is currently one operating ozone monitoring site in the Shenandoah NP Area (monitor 511130003). As can be seen in Table 2 in this document, DVs at all monitors located in the Shenandoah NP Area have been below 85% of the 1997 ozone NAAQS (i.e., 0.071 ppm) since the 2011-2013 period. The DV for the 2022-2024 period in the Shenandoah NP Area is 0.063 ppm, which is well below the 1997 ozone NAAQS.

Table 2–Recent 1997 Ozone NAAQS Design Values (ppm) at Monitoring Sites in the Shenandoah NP Area

Jurisdiction	Madison County
AQS Site ID	511130003
2007-2009	0.072

¹⁵ See also Figure 2 of VADEQ’s August 12, 2025, submittal, “Commonwealth of Virginia State Implementation Plan Revision Second Maintenance Plan Shenandoah National Park 1997 Ozone Maintenance Area,” included in the docket for this rulemaking available online at: www.regulations.gov, Docket ID: EPA-R03-OAR-2025-3820.

¹⁶ This data is also included in the docket for this rulemaking available online at www.regulations.gov, Docket ID: EPA-R03-OAR-2025-3820 and is also available at: www.epa.gov/air-trends/air-quality-design-values#report.

2008-2010	0.072
2009-2011	0.071
2010-2012	0.072
2011-2013	0.069
2012-2014	0.065
2013-2015	0.062
2014-2016	0.063
2015-2017	0.063
2016-2018	0.063
2017-2019	0.060
2018-2020	0.057
2019-2021	0.057
2020-2022	0.058
2021-2023	0.062
2022-2024	0.063

Additionally, states can support the demonstration of continued maintenance by showing stable or improving air quality trends. According to the 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 for 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. For an area with multiple monitors, the highest of the most recent DVs should be used. A sum that does not exceed the level of the 1997 ozone NAAQS may be a good indicator of expected continued attainment. As shown in Table 2 in this document, the largest DV increase in the Shenandoah NP Area was 0.004 ppm, which occurred between the 2020-2022 (0.058 ppm) and 2021-2023 (0.062 ppm) design value periods. Adding 0.004 ppm to the highest DV for the 2022-2024 period (0.062 ppm) results in 0.066 ppm, a sum that is still below the 1997 ozone NAAQS.

DVs at all monitors located in the Shenandoah NP Area have been below 85% of the 1997 ozone NAAQS (i.e., 0.071 ppm) since the 2009-2011 period. Additional supporting information that the Area is expected to continue to maintain the standard can be found in projections of future year DVs that the 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 highest DV at a monitor located in the Shenandoah NP Area is expected to be 0.063 ppm.¹⁷ The Shenandoah NP Area has maintained the air quality levels well below the 1997 ozone NAAQS since the Area first attained the NAAQS in the 2002-2004 timeframe.¹⁸ Therefore, the EPA proposes to determine that future violations of the 1997 ozone NAAQS in the Shenandoah NP 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, in order to verify the area's attainment status. In its August 12, 2025 submittal, VADEQ commits to continue to operate their air monitoring network in accordance with 40 CFR part 58. VADEQ also commits to track the attainment status of the Shenandoah NP Area for the 1997 ozone NAAQS through the review of air quality and emissions data during the second maintenance period. The EPA has analyzed the commitments in VADEQ'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 of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the

¹⁷ 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: www.epa.gov/sites/default/files/2018-06/documents/aq_modelingtsd_updated_2023_modeling_o3_dvs.pdf.

¹⁸ As explained in the EPA's November 4, 2005 document proposing "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Redesignation of the Shenandoah National Park Ozone Nonattainment Area To Attainment and Approval of the Area's Maintenance Plan" (70 FR 67109), the 2002-2004 average DV for the Shenandoah NP Area was 0.082 ppm.

CAA requires that a maintenance plan include such contingency measures as the 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 the state to implement all pollution control measures that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA.

The VADEQ's August 12, 2025, submittal includes a contingency plan for the Shenandoah NP Area. Virginia has pledged to execute all actions related to the regulation of NOx and VOC contained in the SIP for the Shenandoah NP Area before redesignation to attainment and demonstration of maintenance status. As of the end of the maintenance period on February 2, 2026, general conformity and transportation conformity requirements stopped applying for the 1997 ozone NAAQS. To avoid future violation of ozone NAAQS,¹⁹ the maintenance plan has included contingency measures that VADEQ will implement if triggered under two main scenarios.

First, if there is an actual increase in the emissions of VOC or NOx above the inventory of the attainment year, such surges will be detected or predicted through the development of a comprehensive period tracking inventory, such as the NEI. Tracking this information is important because an increase in emissions of VOC and NOx above the attainment year inventory could be an early warning sign of a possible NAAQS exceedance or violation. VADEQ will track the observed growth rates for vehicle miles traveled, population, and point source VOC and NOx emissions annually. Comprehensive tracking of inventories as part of the NEI will also be developed in collaboration with the EPA every three years using current EPA-

¹⁹ A violation of the NAAQS occurs when an area's 3-year design value exceeds the NAAQS.

approved methods for estimating emissions. In the improbable event that estimated emissions in the Shenandoah NP Area increase above the attainment year budget, VADEQ will perform a complete VOC and NO_x emissions inventory assessment. If this analysis indicates that regional emissions of NO_x or VOC surpass the attainment year levels, VADEQ will put in place one or more control measures which are mentioned in Table 3 in this document but are not yet implemented.

Second, VADEQ will use recorded ozone readings to monitor for ozone NAAQS exceedances and violations. The 1997 ozone NAAQS is *exceeded* when an annual fourth-highest, eight-hour average of 0.085 ppm or higher is recorded by any ozone monitor in the area. In the unlikely event that monitor registers an exceedance, VADEQ will implement one yet unimplemented control measure listed in Table 3 in this document. The 1997 ozone NAAQS is violated when a three-year average of each annual fourth-highest, eight-hour average of 0.085 ppm or higher is recorded by any ozone monitor in the area. In the unlikely event that a monitor registers a violation, VADEQ will implement one yet unimplemented control measure listed in Table 3 in this document. If an ozone monitor registers a second violation after the implementation of a contingency measure in response to the first violation, VADEQ will implement one additional yet unimplemented control listed in Table 3 in this document.

Table 3—Shenandoah NP Area Second Maintenance Plan Contingency Measures

Program	Description
OTC Architectural and Industrial (AIM) Coating Model Rule dated October 13, 2014 ²⁰	Rule provides additional requirements reducing emissions from the AIM source category.
OTC Model Rule for Consumer Products dated May 21, 2013 ²¹	Rule provides additional requirements reducing emissions from the Consumer Product source category.
OTC Model Rule for Solvent Degreasing	Rule provides additional requirements

²⁰ Model Rule Preamble: Architectural and Industrial Maintenance Coatings at: otcair.org/upload/Documents/Model%20Rules/AIM_Preamble_Model_Rule.pdf.

²¹ OTC Model Rule for Consumer Products available at: otcair.org/upload/Documents/Model%20Rules/OTC%20CP%20Model%20Rule%20Final%20Clean%202013%20Revision%20Clean.pdf.

dated 2012 ²²	reducing emissions from the solvent degreasing category.
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The following schedule applies to contingency measures should they need to be implemented due to exceedances or violations of the 1997 ozone NAAQS:

- Notification received from the EPA that a contingency measure must be implemented or three months after a recorded exceedance or violation is certified.
- Applicable regulation to be adopted 6 months after this date.
- Applicable regulation to be implemented 6 months after adoption.
- Compliance with regulation to be achieved within 12 months of adoption.

The EPA proposes to find that the contingency plan included in VADEQ's August 12, 2025, submittal satisfies the pertinent requirements of CAA section 175A(d). The EPA also finds that the submittal acknowledges Virginia's continuing requirement to implement all pollution control measures that were contained in the SIP before redesignation of the Shenandoah NP Area to attainment.

Virginia's Department of Environmental Quality also assessed historical and future projected Vehicle Miles Traveled (VMT) to determine VMT growth trends. The VMT projections considered by Virginia were based on transportation models provided by the Virginia Department of Transportation (VDOT). The VDOT used MOVES4²³ (Motor Vehicle Emission Simulator) runs using the most recent 10 years of Highway Performance Monitoring System (HPMS) data for Page County and Madison County. When comparing historical VMT and future VMT projections, VADEQ estimates the projected percentage increase in VMT between 2022 and 2038 to be 12.7% on average in Page County and Madison County, as shown in Table 4 in this document.

²² OTC Model Rule for Solvent Degreasing 2012 available at otcair.org/upload/Documents/Model%20Rules/2011%20OTC%20Model%20Rule%20for%20Solvent%20Degreasing.pdf.

²³ The EPA's MOVES4 Technical Guidance: Using MOVES to Prepare Emission Inventories for State Implementation Plans and Transportation Conformity is located in the EPA's guidance portal at www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation.

Table 4. VMT Estimates for Page and Madison Counties

Jurisdiction	2022 VMT	2038 VMT	% increase
Madison County	218,221,820	235,135,205	7.8%
Page County	173,692,915	206,461,231	18.9%
Total:	391,914,735	441,596,436	12.7%

The EPA is proposing to conclude that the VMT growth rate of 12.7 percent between the 10-year LMP period should not cause a violation of the NAAQS. Given the results of the VMT analysis and the downward trend of DVs as shown in Table 2 in this document, the State has adequately demonstrated that it would be unreasonable to expect that this area will experience growth in motor vehicle emissions sufficient to cause a violation of the 1997 8-hour ozone NAAQS, and therefore, the Shenandoah National Park Area would qualify for the LMP option.

III. Proposed Action

The EPA's review of VADEQ's August 12, 2025, submittal indicates that the Shenandoah NP Area second maintenance plan meets the CAA section 175A and all applicable CAA requirements. The EPA is proposing to approve the second maintenance plan for the Shenandoah NP Area as a revision to the Virginia SIP. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. General Information Pertaining to SIP Submittals from the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary

Environmental Assessment Privilege Law, Va. Code Sec. 10.11198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information that: (1) are generated or developed before the commencement of a voluntary environmental assessment; (2) are prepared independently of the assessment process; (3) demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege Law, Va. Code Sec. 10.11198, precludes granting a privilege to documents and information “required by law,” including documents and information “required by Federal law to maintain program delegation, authorization or approval,” since Virginia must “enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts... .” The opinion concludes that “[r]egarding § 10.1-1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.”

Virginia’s Immunity law, Va. Code Sec. 10.11199, provides that “[t]o the extent consistent with requirements imposed by Federal law,” any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General’s January 12, 1998, opinion states that the quoted language renders this statute inapplicable to enforcement of any federally authorized programs, since “no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.”

Therefore, EPA has determined that Virginia’s Privilege and Immunity statutes will not

preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act 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 Clean Air Act. 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);
- 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 Clean Air Act.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the 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, Ozone, Volatile organic compounds.

Amy Van Blarcom-Lackey,
Regional Administrator,
Region III.