

text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the MDAQMD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. 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 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 proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 rules do 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, Intergovernmental relations, Ozone, PM, Reporting and recordkeeping requirements, VOC.

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

Dated: November 19, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2019-0467; FRL-10002-82-Region 5]

Air Plan Approval; Michigan; Second Limited Maintenance Plans for 1997 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Michigan. On July 24, 2019, the state submitted the 1997 ozone National Ambient Air Quality Standard (NAAQS) Limited Maintenance Plans (LMPs) for the Benzie County, Flint (Genesee and Lapeer Counties), Grand Rapids (Ottawa and Kent Counties), Huron County, Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), and Mason

County areas. EPA proposes to approve these Michigan LMPs because they provide for the maintenance of the 1997 ozone NAAQS through the end of the second 10-year portion of the maintenance period. Approval will make certain commitments related to maintenance of the 1997 ozone NAAQS in these areas are federally enforceable as part of the Michigan SIP.

DATES: Comments must be received on or before January 3, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2019-0467 at <http://www.regulations.gov>, or via email to blakley.pamela@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What action is EPA taking?
- II. What is the background for these actions?
- III. What is EPA's evaluation of Michigan's submission?
 1. Attainment Emissions Inventory
 2. Maintenance Demonstration
 3. Monitoring Network and Verification of Continued Attainment

- 4. Contingency Plan
- IV. Does the plan show transportation conformity?
- V. What action is proposed?
- VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

Under the CAA, EPA is proposing to approve the 1997 ozone NAAQS LMPs for the Benzie County, Flint, Grand Rapids, Huron County, Kalamazoo-Battle Creek, Lansing-East Lansing, and Mason County areas, submitted by Michigan on July 24, 2019. The LMPs for these areas are designed to maintain the 1997 ozone NAAQS through the end of the second 10-year portion of the 20-year maintenance period. EPA reviewed Michigan's submission and found the LMPs meet all applicable requirements under CAA sections 110 and 175A. Therefore, EPA is proposing to approve the LMPs.

II. What is the background for these actions?

Ground-level ozone is formed when oxides of nitrogen (NO_x) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of pollution sources, including on-road and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

Ozone exposure has been associated with increased susceptibility to respiratory infections, medication use, doctor visits, and emergency department visits and hospital admissions for individuals with lung disease. Ozone exposure also increases the risk of premature death from heart or lung disease. Children are at increased risk from exposure to ozone because their lungs are still developing and they are more likely to be active outdoors, which increases their exposure.¹

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. 44 FR 8202 (February 8, 1979). On July 18, 1997, 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. 62 FR 38856 (July 18, 1997).² EPA established the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. EPA determined that the 1997 ozone standard would be more protective of human health, especially for children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004, EPA designated the Michigan areas as nonattainment for the 1997 ozone NAAQS, and the designations became effective on June 15, 2004. Under the CAA, states are also required to adopt and submit SIPs to implement, maintain, and enforce the NAAQS in designated nonattainment areas and throughout the state.

When a nonattainment area has three years of complete, certified air quality data that has been determined to attain the 1997 8-hour ozone NAAQS, and the area has met other required criteria described in section 107(d)(3)(E) of the CAA, the state can submit to EPA a request to be redesignated to attainment, referred to as a "maintenance area".³ 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 a period extending 10 years after redesignation and contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the standard

will be promptly corrected. 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. See CAA section 175A.

EPA has published long-standing guidance for states on developing maintenance plans.⁴ 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). See Calcagni memo at 9. EPA clarified in three 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 value⁵ 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.⁶ EPA refers to this streamlined demonstration of maintenance as a LMP. EPA has interpreted CAA section 175A as permitting this option because section 175A of the CAA 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 memoranda, states seeking a LMP must 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

⁴ 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).

⁵ 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.

⁶ See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

¹ See "Fact Sheet, Proposal to Revise the National Ambient Air Quality Standards for Ozone," January 6, 2010 and 75 FR 2938 (January 19, 2010).

² In March 2008, EPA completed another review of the primary and secondary ozone standards and tightened them further by lowering the level for both to 0.075 ppm. 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed a review of the primary and secondary ozone standards and tightened them by lowering the level for both to 0.70 ppm. 80 FR 65292 (October 26, 2015).

³ Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation. They 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.

network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking a LMP must still submit their section 175A maintenance plan as a revision to their state implementation plan, with all attendant notice and comment procedures.

While the LMP guidance memoranda was originally written with respect to certain NAAQS,⁷ EPA has extended the LMP interpretation of section 175A to other NAAQS and pollutants not specifically covered by the previous guidance memos.⁸ In this case, EPA is proposing to approve the Michigan LMPs, because the state has made a showing, consistent with EPA's prior LMP guidance, that each of the Michigan area's ozone concentrations are well below the 1997 ozone NAAQS and have been historically stable. Michigan has submitted LMPs for the areas of Benzie County, Flint (Genesee and Lapeer Counties), Grand Rapids (Ottawa and Kent Counties), Huron County, Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), and Mason County to fulfill the second 1997 ozone NAAQS maintenance plan requirement in the CAA. EPA's evaluation of these 1997 ozone NAAQS LMPs is presented in section III.

Under CAA section 175A(b), states must submit a revision to the first maintenance plan eight years after redesignation to provide for

maintenance of the NAAQS for 10 additional years following the end of the first 10-year period. EPA's final implementation rule for the 2008 ozone NAAQS revoked the 1997 ozone NAAQS and stated that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 standard no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).⁹ In *South Coast Air Quality Management District v. EPA*, the D.C. Circuit vacated 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 that had been redesignated to attainment for the 1997 ozone NAAQS maintenance areas and were designated attainment for the 2008 ozone NAAQS. *South Coast*, 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with these "orphan maintenance areas" under the 1997 ozone NAAQS must submit maintenance plans for the second maintenance period.

Accordingly, on July 24, 2019, Michigan submitted a second maintenance plan in the form of a LMP for the areas of Benzie County, Flint (Genesee and Lapeer Counties), Grand Rapids (Ottawa and Kent Counties), Huron County, Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), and Mason County. These LMPs show that each area is expected to remain in attainment

of the 1997 ozone NAAQS through the end of the last year of the second 10-year maintenance period, *i.e.*, through the end of the full 20-year maintenance period.

III. What is EPA's evaluation of Michigan's submission?

EPA has reviewed the 1997 ozone LMPs, which are designed to maintain the 1997 ozone NAAQS within the Benzie County, Flint (Genesee and Lapeer Counties), Grand Rapids (Ottawa and Kent Counties), Huron County, Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), and Mason County through the end of the 20-year maintenance period beyond redesignation, as required by under CAA section 175A(b). A summary of EPA's interpretation of the requirements¹⁰ and EPA's evaluation of how each requirement is met follows.

1. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A state should develop this inventory consistent with EPA's most recent guidance on emissions inventory development. For ozone, the inventory should be based on typical summer day emissions of VOCs and NO_x, as these pollutants are precursors to ozone formation.

TABLE 1—TYPICAL 2014 SUMMER DAY VOC AND NO_x EMISSIONS
[Tons/day]

Maintenance area	VOC emissions	NO _x emission
Benzie County	647	374
Flint	6,361	4,834
Grand Rapids	12,584	11,220
Huron County	1,080	1,558
Kalamazoo-Battle Creek	6,913	5,495
Lansing-East Lansing	5,680	5,403
Mason County	1,004	706

Michigan used 2014 summer season (May through September) emissions from "the EPA 2014 version 7.0" modeling platform as the basis for the attainment inventory. These data are based on the 2014 National Emissions Inventory version 2.

Based on our review of the methods, models, and assumptions used by Michigan to develop the VOC and NO_x estimates, EPA proposes to find that the Michigan 1997 ozone NAAQS LMP areas include a comprehensive, reasonably accurate inventory of actual ozone precursor emissions in attainment

year 2014, and propose to conclude that the plan's inventory is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

2. Maintenance Demonstration

The maintenance plan demonstration requirement is considered to be satisfied

⁷ The prior memos addressed: Unclassifiable areas under the 1-hour ozone NAAQS, nonattainment areas for the PM₁₀ (particulate matter with an aerodynamic diameter less than 10

microns) NAAQS, and nonattainment areas for the carbon monoxide (CO) NAAQS.

⁸ See, *e.g.*, 79 FR 41900 (July 18, 2014) (Approval of second ten-year LMP for Grant County 1971 sulfur dioxide maintenance area).

⁹ See 80 FR 12315 (March 6, 2015).

¹⁰ See Calcagni memo.

in a LMP if the state can provide sufficient weight of evidence indicating that air quality in the area is well below the level of the standard, that past air quality trends have been shown to be stable, and that the probability of the area experiencing a violation over the second 10-year maintenance period is low.¹¹ These criteria are evaluated below with regard to the Michigan areas.

a. Evaluation of Ozone Air Quality Levels

To attain the 1997 8-hour ozone NAAQS, the three-year average of the fourth-highest daily maximum 8-hour average ozone concentrations (design value) 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 design value is 0.084 ppm or below. Consistent with prior guidance, EPA believes that if the most recent air quality design value for the area is at a level that is well below the NAAQS (e.g., below 85% of the standard, or in this case below 0.071 ppm), then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Such a demonstration assumes continued applicability of Prevention of Significant Deterioration requirements, any control measures already in the SIP, and Federal measures will remain in

place through the end of the second 10-year maintenance period, absent a showing consistent with section 110(l) that such measures are not necessary to assure maintenance.

Table 2 presents the design values for each monitor site in the subject areas over the 2015–2017 period to address whether the entire area is at or below 85 percent of the NAAQS. These monitoring sites have been well below the level of the 1997 ozone NAAQS over the entire first 10-year maintenance period. As shown on the table, the most current design value for all sites continues to be below the level of 85% of the NAAQS, consistent with prior LMP guidance.

TABLE 2—1997 OZONE NAAQS DESIGN VALUES

[Part per million]

Maintenance area	County	AQS Site ID	Design value (DV) 2015–2017	DV <0.071 ppm eligible LMP
Benzie County	Benzie	26–019–0003	0.067	Yes.
Flint	Genesee	26–049–2001	0.067	Yes.
	Lapeer	26–049–0021	0.067	Yes.
Grand Rapids	Kent	26–081–0020	0.068	Yes.
	Kent	26–081–0022	0.067	Yes.
	Ottawa	26–139–0005	0.068	Yes.
Huron County	Huron	26–063–0007	0.067	Yes.
Kalamazoo-Battle Creek	Kalamazoo	26–077–0008	0.069	Yes.
Lansing-East Lansing	Ingham	26–037–0001	0.062	Yes.
	Ingham	26–065–0012	0.067	Yes.
Mason County	Mason	26–105–0007	0.068	Yes.

Therefore, the Benzie County, Flint, Grand Rapids, Huron County, Kalamazoo-Battle Creek, Lansing-East Lansing, and Mason County areas are eligible for the LMP option, and EPA proposes to find that the long record of monitored ozone concentrations that attain the NAAQS, together with the continuation of existing VOC and NO_x emissions control programs, adequately provide for the maintenance of the 1997 ozone NAAQS in the Michigan areas through the second 10-year maintenance period and beyond.

Additional supporting information that these areas are expected to continue to maintain the standard can be found in EPA modeling projections of future year design values. This modeling was completed to assist states with development of interstate transport SIPs for the 2015 ozone NAAQS. Those projections, made for the year 2023, show design values for the Michigan

areas that are well below the 1997 8-hour ozone NAAQS. See Table 3.

TABLE 3—2023 PROJECTED OZONE DESIGN VALUES

Maintenance area	Highest projected design value for the maintenance areas (ppm)
Benzie County	0.061
Flint	0.060
Grand Rapids	0.062
Huron County	0.059
Kalamazoo-Battle Creek	0.060
Lansing-East Lansing	0.057
Mason County	0.061

3. Monitoring Network and Verification of Continued Attainment

EPA periodically reviews the ozone monitoring network that Michigan operates and maintains, in accordance with 40 CFR part 58. This network is

consistent with the ambient air monitoring network assessment and plan developed by Michigan that is submitted annually to EPA and that follows a public notification and review process. Michigan has committed to continue to maintain a network in accordance with EPA requirements.

4. 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 CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency

¹¹ “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.

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 include a requirement that the state will 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.

Michigan adopted the list of contingency measures from its first maintenance plan with one revision. The Cross-State Air Pollution Control rule replaces the Clean Air Interstate rule.

Contingency measures to be considered will be selected from a comprehensive list of measures deemed appropriate and effective at the time the selection is made. Listed below are example measures that may be considered. The selection of measures will be based upon cost-effectiveness, emission reduction potential, economic and social considerations or other factors that Michigan deems appropriate. Michigan will solicit input from all interested and affected persons in the maintenance area prior to selecting appropriate contingency measures. The listed contingency measures are potentially effective or proven methods of obtaining significant reductions of ozone precursor emissions. Because it is not possible at this time to determine what control measure will be appropriate at an unspecified time in the future, the list of contingency measures outlined below is not exhaustive. Michigan's potential contingency measures:

1. Lower Reid Vapor Pressure gasoline program
2. Reduced VOC content in Architectural, Industrial, and Maintenance coatings rule
3. Auto body refinisher self-certification audit program
4. Reduced VOC degreasing/solvent cleaning rule
5. Transit improvements
6. Diesel retrofit program
7. Reduced VOC content in commercial and consumer products
8. Cross-State Air Pollution Control rule reductions
9. Tier II reductions including low sulfur fuel and vehicle standards
10. Reduce idling program
11. Portable fuel container replacement rule
12. Reduced VOC content for emulsified asphalt rule
13. Stage II vapor recovery rule for marinas

EPA proposes to find that Michigan's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of CAA section 175A.

IV. Does the plan show transportation conformity?

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

Under the conformity rule, LMP areas may demonstrate conformity without a regional emission analysis (40 CFR 93.109(e)). Michigan confirmed that its LMP areas are considered to have already satisfied the regional emissions analysis and budget test requirements in 40 CFR part 93.

However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs and projects. Specifically, for such determinations, RTPs, TIPs and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108), meet the criteria for consultation (40 CFR 93.105) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.112 and 40 CFR 93.113, respectively). Additionally, conformity determinations for RTPs and TIPs must be determined no less

frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, for projects to be approved they must come from a currently conforming RTP and TIP (40 CFR 93.114 and 93.115).

V. What action is proposed?

Under sections 110(k) and 175A of the CAA, for the reasons set forth above, EPA is proposing to approve the LMPs for the Benzie County, Flint (Genesee and Lapeer Counties), Grand Rapids (Ottawa and Kent Counties), Huron County, Kalamazoo-Battle Creek (Calhoun, Kalamazoo, and Van Buren Counties), Lansing-East Lansing (Clinton, Eaton, and Ingham Counties), and Mason County areas in Michigan for the 1997 ozone NAAQS. Michigan submitted these LMPs on July 24, 2019. EPA finds that the 1997 ozone NAAQS LMPs are sufficient to provide for maintenance of the 1997 ozone NAAQS in these areas through the second 10-year portion of the maintenance period.

VI. Statutory and Executive Order Reviews

Under section 175A of 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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: November 20, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2019-0419; FRL-10002-37-Region 8]

Promulgation of State Implementation Plan Revisions; Infrastructure Requirements for the 2015 Ozone National Ambient Air Quality Standards; Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On October 1, 2015, the Environmental Protection Agency (EPA) promulgated the 2015 ozone NAAQS, revising the standard to 0.070 parts per million. Whenever a new or revised National Ambient Air Quality Standard (NAAQS) is promulgated, the Clean Air Act (CAA or Act) requires each state to submit a State Implementation Plan (SIP) revision for the implementation, maintenance and enforcement of the new standard. This submission is commonly referred to as an infrastructure SIP. In this action we are proposing to act on multiple elements of the Wyoming infrastructure SIP submission with respect to infrastructure requirements for the 2015 ozone NAAQS, which was submitted to the EPA on January 3, 2019.

DATES: Written comments must be received on or before January 3, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R08-OAR-2019-0419, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from www.regulations.gov. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Air and Radiation Division, Environmental Protection Agency

(EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT:

Clayton Bean, (303) 312-6143, bean.clayton@epa.gov. Mail can be directed to the Air and Radiation Division, U.S. EPA, Region 8, Mail-code 8ARD-QP, 1595 Wynkoop Street, Denver, Colorado, 80202-1129.

SUPPLEMENTARY INFORMATION:

Throughout this document, “reviewing authority,” “we,” “us,” and “our” refer to the EPA.

I. Background

On March 12, 2008, the EPA promulgated a new NAAQS for ozone, revising the levels of the primary and secondary 8-hour ozone standards from 0.08 parts per million (ppm) to 0.075 ppm (73 FR 16436). More recently, on October 1, 2015, the EPA promulgated and revised the NAAQS for ozone, further strengthening the primary and secondary 8-hour standards to 0.070 ppm (80 FR 65292) (referred to as the “2015 ozone NAAQS”). This revision triggered the CAA requirement for states to submit SIPs addressing basic infrastructure elements required to implement, maintain and enforce the 2015 ozone NAAQS. See CAA section 110(a)(1) and (2); see also “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and (2),” September 13, 2013 (2013 Memo).

What infrastructure elements are required under Sections 110(a)(1) and (2)?

CAA section 110(a)(1) provides the procedural and timing requirements for SIP submissions after a new or revised NAAQS is promulgated. Section 110(a)(2) lists specific elements the SIP must contain or satisfy. These infrastructure elements include requirements such as modeling, monitoring and emissions inventories, which are designed to ensure attainment and maintenance of the NAAQS. The elements that are the subject of this action are listed below.

- 110(a)(2)(A): Emission limits and other control measures.
- 110(a)(2)(B): Ambient air quality monitoring/data system.
- 110(a)(2)(C): Program for enforcement of control measures.
- 110(a)(2)(D): Interstate transport.