

Quality (DEQ) transitioned from the North Dakota Department of Public Health, their Conflict of Interest requirements changed. This revision updates section 2.15 of the SIP to match the current DEQ requirements.

### III. Proposed Action

For the reasons described in section II of this proposed rulemaking, the EPA is proposing to approve North Dakota's August 3, 2020, submittal revisions to NDAC, Article 33.1–15 (Air Pollution Control) except for revisions to 33.1–15–25 (Regional Haze Requirements) which were addressed in a separate rulemaking. The EPA is also proposing to approve North Dakota's revisions to section 2.15 (Respecting Boards) located in North Dakota's EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures. Our action is based on an evaluation of North Dakota's revisions against the requirements of CAA section 110(a)(2)(c) and regulatory requirements under 40 CFR 51.160–164 and 40 CFR 51.166.

### IV. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text in an EPA final rule that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the revisions described in section II. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 8 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

### 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 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 CAA. Accordingly, this 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 action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (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 proposed 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 7249, November 9, 2000).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: July 22, 2021.

**Debra H. Thomas,**

*Acting Regional Administrator, Region 8.*

[FR Doc. 2021–16093 Filed 7–30–21; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R09–OAR–2021–0242; FRL–8725–01–R9]

### Air Plan Approval; Nevada, Las Vegas Valley; Second 10-Year Carbon Monoxide Limited Maintenance Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a Nevada State Implementation Plan (SIP) revision submitted by the Nevada Department of Environmental Protection (NDEP). On September 27, 2010, the EPA redesignated the Las Vegas Valley area from nonattainment to attainment for the carbon monoxide (CO) national ambient air quality standard (NAAQS or "standard") and approved the State's CO maintenance plan ensuring the area would maintain the NAAQS for ten years through 2020. On June 18, 2019, NDEP submitted to the EPA a second 10-year limited maintenance plan (LMP) for the Las Vegas Valley area for the CO NAAQS. The LMP addresses maintenance of the CO NAAQS for a second 10-year period ending in 2030.

**DATES:** Any comments must arrive by September 1, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R09–OAR–2021–0166 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit

<https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:**

Jonathan Szeto, Air Planning Office (AIR-2), EPA Region IX, (415) 947-4278, [szeto.jonathan@epa.gov](mailto:szeto.jonathan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. Background**

Carbon monoxide is a colorless, odorless gas that is generally emitted from the incomplete combustion of carbon-containing fuels. The largest sources of CO in ambient environments are cars, trucks, and other vehicles and machineries that burn fossil fuels. Inhalation of CO can impair oxygen delivery to vital organs and tissues. Those with pre-existing heart disease or other conditions that make one unable to compensate for tissue hypoxia are particularly vulnerable to the cardiovascular effects of ambient CO, especially during exercise or when under increased stress. At high levels, CO exposure can also lead to dizziness, confusion, and unconsciousness.<sup>1</sup>

In 1971 the EPA established primary and secondary NAAQS for CO at 9 parts per million (ppm), averaged over an 8-hour period, and at 35 ppm, averaged over a 1-hour period.<sup>2</sup> On September 13, 1985, the EPA retained the primary standards without revision and revoked the secondary standards.<sup>3</sup> The EPA retained the primary standards without revision again in both 1994<sup>4</sup> and 2011.<sup>5</sup> The EPA retained the primary standards based on scientific evidence demonstrating that the existing standards are requisite to protect public health with an adequate margin of safety. The EPA also found that analysis of both the non-climate and climate welfare effects of CO are insufficient to

provide support for a secondary standard.

Following the enactment of the Clean Air Act (CAA or “Act”) Amendments of 1990, the EPA designated the Las Vegas Valley area as a “Moderate” nonattainment area.<sup>6</sup> The area was reclassified as a “Serious” nonattainment area on October 2, 1997, when the EPA determined the area had not attained the standard after receiving a one-year extension of the 1995 attainment date.<sup>7</sup> Under the CAA, states are required to adopt and submit SIPs to attain the NAAQS in nonattainment areas within their state.

Under CAA section 175A, one of the criteria for an area to be redesignated from nonattainment to attainment is the approval of a maintenance plan. The maintenance plan must, among other requirements, ensure control measures are in place such that the area will continue to maintain the standard for the period extending 10 years after redesignation, and include contingency provisions to assure that violations of the NAAQS will be promptly remedied.

In 1994, the EPA set forth new guidelines establishing a streamlined process for certain nonattainment areas to meet CAA section 175A maintenance plan requirements.<sup>8</sup> This process provides for maintenance by demonstrating that future violations of the standard are unlikely to occur because the area’s design values<sup>9</sup> are well below the NAAQS, and based on the historical stability of the area’s air quality. A design value is considered well below the NAAQS when it is less than or equal to 85 percent of the standard. For CO specifically, this would be 85 percent of the 9 ppm 8-hour CO standard, or 7.65 ppm. The EPA refers to this streamlined demonstration as a limited maintenance plan (LMP). Although the LMP guidelines originally addressed the ozone NAAQS, the EPA extended the provisions to apply to other pollutants and issued guidance specific for CO nonattainment areas.<sup>10</sup> The LMP must be submitted as a SIP revision and

<sup>6</sup> 56 FR 56694 (November 6, 1991).

<sup>7</sup> 62 FR 51604 (October 2, 1997).

<sup>8</sup> Memorandum dated November 16, 1994, from Sally L Shaver, Director, Air Quality Strategies & Standards Divisions (MD-15) to Air Branch Directors, Regions I-X, “Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas.”

<sup>9</sup> A design value is a statistic that describes the air quality status of a certain pollutant for a given location relative to its NAAQS.

<sup>10</sup> Memorandum dated October 6, 1995, from Joseph W. Paisie, Group Leader, Air Quality Management Division (MD-15) to Air Branch Chiefs, Regions I-X, “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” (“Paisie Memo”).

should include an attainment emissions inventory, maintenance demonstration, provisions for the continued operation of the ambient air quality monitoring network for verification of continued attainment, a contingency plan in the event of a future violation of the NAAQS, and conformity determination provisions.<sup>11 12</sup>

In September 2010, the EPA approved the “Carbon Monoxide Redesignation Request and Maintenance Plan, Las Vegas Valley Nonattainment Area, Clark County, Nevada (September 2008)” for the Las Vegas Valley area and redesignated the area to attainment.<sup>13</sup> Under CAA section 175A, at the end of the eighth year after the effective date of redesignation, the state must submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional ten years. On June 18, 2019, the State of Nevada submitted the “Second 10-Year Carbon Monoxide Limited Maintenance Plan: Las Vegas Valley Maintenance Area, Clark County, Nevada (May 2019)” (“2019 LMP”) for the Las Vegas Valley area to fulfill the second maintenance plan requirement in CAA section 175A.<sup>14</sup> The 2019 LMP includes a demonstration that the area is expected to remain in attainment of the CO NAAQS through the last year of the second 10-year maintenance period, that is, through the remainder of the area’s full 20-year maintenance period.

**II. Nevada’s SIP Submittal**

On June 18, 2019, NDEP submitted the 2019 LMP to the EPA as a revision to the Nevada SIP. The submittal includes the LMP and appendices. Appendices to the plan include air quality data, emissions inventory information, air quality monitoring information, and documentation of the public review process.

**III. The EPA’s Evaluation of Nevada’s SIP Submittal**

*A. Procedural Requirements*

Sections 110(a)(2) and 110(l) of the CAA require that a reasonable notice and public hearing occur before revisions to a SIP can be adopted by the state. Specifically, under 40 CFR part 51, subpart F, the EPA requires that

<sup>11</sup> Id. at 3–5.

<sup>12</sup> Memorandum dated September 4, 1992, from John Calcagni, Director, Air Quality Management Division (MD-15), Regional Air Division Directors, Regions I-X, “Procedures for Processing Requests to Redesignate Areas to Attainment.”

<sup>13</sup> 75 FR 59090 (September 27, 2010).

<sup>14</sup> Letter of submittal dated June 13, 2019, from Greg Lovato, Administrator, Nevada Division of Environmental Protection, to Elizabeth Adams, Air Division Director, U.S. Environmental Protection Agency Region IX (submitted electronically June 18, 2019).

<sup>1</sup> 76 FR 54294 (August 31, 2011).

<sup>2</sup> 36 FR 8186 (April 30, 1971).

<sup>3</sup> 50 FR 37484 (September 13, 1985).

<sup>4</sup> 59 FR 38906 (August 1, 1994).

<sup>5</sup> 75 FR 54194 (August 31, 2011).

there must be a publication of a notice by prominent advertisement in the relevant geographic area of the proposed SIP revision, a public comment period of at least 30 days, and an opportunity for a public hearing.

The Clark County Department of Environment and Sustainability (CCDES) <sup>15</sup> published a notice of a 30-day comment period and notice of a public hearing for the 2019 LMP on the Clark County website, and the department’s website, Twitter, and Facebook pages. An email notice was distributed to officials in relevant cities as well as in state and local-level departments, districts, authorities, commissions, and associations. The CCDES held a public comment period from February 15, 2019 to March 18, 2019. No formal comments were submitted. On May 7, 2019, the Clark County Board of County Commissioners held a public hearing on the 2019 LMP. No formal comments were submitted during this hearing. The CCDES then forwarded the 2019 LMP to the State of Nevada and the State submitted the plan to the EPA as a revision to the Nevada SIP. The process followed by the CCDES adheres with procedural requirements for SIP revisions outlined under CAA section 110 and the EPA’s implementing regulations.

**B. LMP Requirements**

The EPA reviewed the 2019 LMP that addresses maintenance of the CO NAAQS within the Las Vegas Valley area through the end of the 20-year period following the area’s redesignation, as required under CAA section 175A(b).

**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 sufficient to maintain the NAAQS. For CO, the inventory should represent the typical winter day

emissions of CO for the time period associated with the monitoring data showing attainment.<sup>16</sup> The 2019 LMP includes a CO attainment inventory for the Las Vegas Valley area that reflects typical winter weekday emissions in 2017. Table 1 presents a summary of the inventory for the year contained in the maintenance plan. Under an LMP, states are not required to project emissions over the maintenance period.

**TABLE 1—2017 AVERAGE WINTER WEEKDAY CO EMISSIONS FOR THE LAS VEGAS VALLEY AREA**  
[Tons per day]

Point .....	0.93
Nonpoint .....	43.48
Aviation .....	12.53
Onroad Mobile .....	217.18
Nonroad Mobile .....	114.35
<b>Total .....</b>	<b>448.96</b>

CCDES derived point source emissions using semiannual compliance reports submitted to the agency by stationary sources located in the Las Vegas Valley area. These reports are required by CCDES’ federally-approved CAA title V operating permits program and include monthly reporting data for the facility.<sup>17</sup> CCDES derived the nonpoint source emissions from the EPA’s 2016 modeling platform (alpha version) and used 2016 as a surrogate for 2017 because the 2017 National Emissions Inventory (NEI) for nonpoint sources was not available at the time CCDES developed the 2019 LMP. CCDES determined that the differences between 2016 and 2017 would be insignificant. Aviation operation data for 2014 and 2017 were obtained from the Federal Aviation Administration’s air traffic activity system and terminal area forecast databases and used in conjunction with the 2014 NEI to estimate aviation CO emissions for 2017. Onroad and nonroad mobile source data were generated using the

latest release of the EPA’s Motor Vehicle Emission Simulator (MOVES) model version MOVES2014b.

Based on our review of the methods, models, and assumptions used by CCDES to develop the CO estimates, we find that the 2019 LMP for the Las Vegas Valley CO maintenance area includes a comprehensive, accurate inventory of CO emissions in the year 2017, and conclude that the plan’s inventories are acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

**2. Maintenance Demonstration**

Consistent with prior EPA guidance, if a maintenance area demonstrates a maximum 8-hour CO design value of less than or equal to 85 percent of the CO NAAQS, or 7.65 ppm, for eight consecutive quarters, then the EPA considers the area to have met the maintenance plan demonstration requirement and that the area will maintain the NAAQS for the second 10-year maintenance period.<sup>18</sup> Such a demonstration also assumes continued applicability of prevention of significant deterioration (PSD) requirements,<sup>19</sup> continued implementation of any existing control measures in the SIP, and that federal measures will remain in place through the end of the second 10-year maintenance period. The EPA does not require areas using the LMP option to project emissions over the maintenance period.

Table 2 presents the design values for the Las Vegas Valley area over the 2012–2020 period. As shown in Table 2, historically, the area has consistently been well below 85 percent of the NAAQS. Because the CO design values in the Las Vegas Valley area are below the LMP threshold over the most recent eight quarters, the EPA finds that the State has adequately demonstrated that the area will continue to maintain the CO NAAQS over the second 10-year maintenance period and in the future.

**TABLE 2—CURRENT AND HISTORICAL CO DESIGN VALUES (DV) FOR THE LAS VEGAS VALLEY AREA**

Year	Highest second maximum 8-hour CO value (ppm)				DV (ppm)	Is DV less than 7.65 ppm?
	Jerome Mack (320030540)	J.D. Smith (320032002)	Rancho & Teddy (320031501)	Sunrise Acres (320030540)		
2012 .....	2.8	2.1	.....	3.1	3.1	Yes.
2013 .....	2.8	2.4	.....	3.1	3.1	Yes.

<sup>15</sup> Formerly Clark County Department of Air Quality.

<sup>16</sup> Paisie Memo, 3.

<sup>17</sup> CCDES used reporting data for the CO season months January, February, and December 2017 to

develop emissions for those months and convert to daily emissions. See 2019 LMP, 18.

<sup>18</sup> Paisie Memo, 3.

<sup>19</sup> PSD applies to new major sources or major modifications at existing sources for pollutants where the area of the source’s location is designated

by the EPA as attainment or unclassifiable with the NAAQS. Its requirements include, but are not limited to, the following: Installation of best available control technology, an air quality analysis, an additional impact analysis, and public involvement.

TABLE 2—CURRENT AND HISTORICAL CO DESIGN VALUES (DV) FOR THE LAS VEGAS VALLEY AREA—Continued

Year	Highest second maximum 8-hour CO value (ppm)				DV (ppm)	Is DV less than 7.65 ppm?
	Jerome Mack (320030540)	J.D. Smith (320032002)	Rancho & Teddy (320031501)	Sunrise Acres (320030540)		
2014 .....	2.7	2.4	.....	2.9	2.9	Yes.
2015 .....	2.7	2.2	.....	2.8	2.8	Yes.
2016 .....	2.3	2	.....	2.6	2.6	Yes.
2017 .....	2.35	2	<sup>c</sup> 1.5	2.8	2.8	Yes.
2018 .....	2.5	<sup>b</sup> 1.9	1.5	2.8	2.8	Yes.
2019 .....	2.3	.....	1.4	2.8	2.8	Yes.
2020 <sup>a</sup> .....	2.1	.....	1.4	2.4	2.4	Yes.

Source: EPA, Air Quality System, Design Value Report, March 16, 2021.

<sup>a</sup> CO design values have no annual completeness requirement.

<sup>b</sup> The J.D. Smith station was permanently shut down with the EPA's approval on December 31, 2017, due to measurement challenges posed by siting obstructions.

<sup>c</sup> The Rancho & Teddy station opened in 2015 and began monitoring CO in January 2017.

### 3. Monitoring Network and Verification of Continued Attainment

The EPA periodically reviews the CO monitoring network operated and maintained by CCDES in accordance with 40 CFR part 58. This network is consistent with the Clark County ambient air monitoring network plan (AMNP) submitted annually to the EPA after a public notification and comment process. The EPA has reviewed and approved the AMNP every year for the past three years from 2018–2020. The EPA is also required to conduct technical systems audits (TSA) every three years to ensure quality assurance of monitoring organizations.<sup>20</sup> The most recent TSA for CCDES was in 2018, and the EPA found that CCDES's air monitoring program meets EPA's requirements.<sup>21</sup>

To verify the attainment status of the area over the maintenance period, the maintenance plan should contain provisions for continued operations of an EPA-approved monitoring network in accordance with 40 CFR part 58. The CCDES's network in the Las Vegas Valley area has been approved by the EPA in accordance with 40 CFR part 58.<sup>22</sup> Furthermore, the CCDES has committed to continue to operate an air quality monitoring network in the Las Vegas Valley area in accordance with the EPA requirements to verify continued attainment of the CO

NAAQS.<sup>23</sup> For the reasons stated in this section of the notice, we find Clark County's monitoring network adequate to verify continued attainment of the CO NAAQS in the Las Vegas Valley area.

### 4. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. The purpose of these provisions is to prevent future violations of the NAAQS or promptly remediate any NAAQS violations that might occur during the maintenance period. These contingency provisions need not be fully adopted regulations at the time of the redesignation. However, the contingency plan is an enforceable part of the SIP and should ensure that contingency measures are adopted quickly once the contingency plan is triggered. The contingency plan should also identify the measures to be expeditiously adopted and provide a schedule and procedure for adoption and implementation. The state is also required to identify triggers that will be used to determine when contingency measures will need to be implemented.

In the 2019 LMP, the CCDES retains the reduced Reid vapor pressure (RVP) gasoline program contingency measure from its first CO maintenance plan as a contingency measure. The RVP gasoline program relaxed the RVP from wintertime fuels sold in Clark County from 9.0 pounds per square inch (psi) to 13.5 psi, thereby increasing fuel volatility and therefore fuel-related emissions. The EPA approved this measure, finding that relaxation of RVP would not interfere with maintenance of the CO standard in the area.<sup>24</sup> The RVP gasoline program contingency measure

would reinstate the prior, lower RVP level. That is, if future CO levels trigger contingency measures, the CCDES will seek reinstatement and tightening of the RVP standard back to 9.0 psi. This contingency measure would be triggered by a verified second exceedance over 9 ppm during the winter season (October 1 through March 31) within a consecutive two-year period.

The EPA proposes to find that the contingency provisions in the 2019 LMP satisfy the contingency measure requirements of CAA section 175A for the second 10-year maintenance plan period.

### IV. 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. The EPA's conformity rule at 40 CFR part 93 requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining conformity. The conformity rule generally requires a demonstration that emissions from the regional transportation plan (RTP) and the transportation improvement plan (TIP) are consistent with the motor vehicle emissions budget (MVEB or "budget") contained in the control strategy SIP revision or maintenance plan.<sup>25</sup> A budget is defined as the level of mobile source emissions of a pollutant relied upon in the attainment or maintenance demonstration to attain or maintain compliance with the

<sup>20</sup> 40 CFR 58 Appendix A, section 2.5.

<sup>21</sup> Letter dated August 23, 2018 from Elizabeth J. Adams, Acting Director, Air Division Region IX, to Marci Henson, Director, Clark County Department of Air Quality with attached "Technical Systems Audit of the Ambient Air Monitoring Program: Clark County Department of Air Quality October 23–25, 2017 and January 16–18, 2018."

<sup>22</sup> For further details, see CCDES's 2020 Annual Monitoring Network Plan (AMNP), the EPA's approval letter for the 2020, 2019 and 2018 AMNP, as well as the EPA's Clark County 2018 TSA report, in the docket for this action.

<sup>23</sup> See 2019 LMP, Section 3.3, "Monitoring Network/Verification of Continued Attainment," 21.

<sup>24</sup> 75 FR 59090.

<sup>25</sup> See 40 CFR 93.101, 93.118, and 93.124.

NAAQS in the nonattainment or maintenance area.<sup>26</sup>

Under the conformity rule, areas submitting an LMP for the second 10-year maintenance plan may demonstrate conformity without a regional emissions analysis as outlined in 40 CFR 93.109(e). When the EPA approves an LMP, the EPA is concluding that a budget may be treated as essentially not constraining for the length of the maintenance period. Areas that qualify for an LMP may demonstrate conformity without a regional emissions analysis because it is unreasonable to expect that such an area will experience so much growth in the 10-year period of the LMP that a violation of the CO NAAQS would result.<sup>27</sup> All actions that would require transportation conformity determinations for the Las Vegas Valley area under the transportation conformity rule provisions would be considered to have already satisfied the regional emissions analysis and “budget test” requirements in 40 CFR 93.118 as a result of our final approval of the 2019 LMP.

However, because LMP areas are still maintenance areas, approval of the 2019 LMP would not relieve transportation agencies of certain determinations still required for transportation plans, programs, and projects. Specifically, RTPs, TIPs and transportation projects must still demonstrate that they are fiscally constrained,<sup>28</sup> meet the criteria for consultation,<sup>29</sup> and provide for timely implementation of transportation control measures from the applicable implementation plan.<sup>30</sup> Conformity determinations for RTPs and TIPs must also be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. For projects to be approved they must be listed in a currently conforming RTP and TIP.<sup>31</sup> In addition, projects in LMP areas are required to meet the applicable criteria for CO hot spot analyses to satisfy “project level” conformity determinations,<sup>32</sup> which must also incorporate the latest

planning assumptions and models available.<sup>33</sup>

If the area should monitor CO concentrations at or above the limited maintenance eligibility criteria, or 7.65 ppm, then that maintenance area would no longer qualify for a LMP and would revert to a full maintenance plan. In this event, the LMP would remain applicable for conformity purposes only until the full maintenance plan is submitted and the EPA has either found its motor vehicle emissions budget adequate for conformity purposes or approves the full maintenance plan SIP revision. At that time regional emissions analyses would resume as a transportation conformity criterion.

The EPA posted Las Vegas Valley’s 2019 LMP for CO on its adequacy review website on June 23, 2021.<sup>34</sup> The EPA will accept comments from the public for up to 30 days after the LMP has been posted on the website. The EPA will consider the comments and then may elect to proceed with finding the 2019 LMP adequate for transportation conformity purposes either as part of the SIP’s final approval or in a separate notice of adequacy. The EPA’s adequacy review process is described in 40 CFR part 93.118(f).

If finalized, our approval of the 2019 LMP would effectively affirm our adequacy finding such that no regional emissions analysis for future transportation CO conformity determinations are required for the 2019 LMP period and beyond. The other transportation conformity requirements listed above would continue to apply.

In addition to transportation conformity, approval of the 2019 LMP would have implications for general conformity.<sup>35</sup> Federal actions subject to general conformity would be presumed to conform under a limited maintenance plan as actions in this area will automatically satisfy the budget test of 40 CFR 93.158(a)(5)(i)(A), as described in in an EPA memorandum entitled “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas” on limited maintenance plans for CO nonattainment areas.<sup>36</sup>

#### V. Proposed Action and Public Comment

Under section 110(k)(3) of the CAA, the EPA is proposing to approve the 2019 LMP as a revision to the Nevada SIP because we find that it satisfies the

requirements of section 175A of the CAA.

The 2019 LMP adequately demonstrates maintenance of the CONAAQS well below the standard through documentation of monitoring data showing the historical CO design values of the area. It also satisfies the other core provisions of an LMP: It has an accurate and comprehensive emissions inventory representing attainment, a contingency plan, and a commitment to continue operation of an acceptable ambient monitoring network to verify continued attainment over the second 10-year period. We find the 2019 LMP to be sufficient to provide for maintenance of the CO NAAQS in the Las Vegas Valley area over the second 10-year maintenance period (through 2030) and thereby satisfy the requirements for such a plan under CAA section 175A(b).

The EPA is soliciting public comments on the issues discussed in this notice. We will accept comments from the public on this proposal for the next 30 days and will consider these comments before taking final action.

#### VI. 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);
- 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

<sup>26</sup> Further information concerning the EPA’s interpretations regarding MVEBs can be found in the preamble to the EPA’s November 24, 1993, transportation conformity rule. See 58 FR 62193–62196, November 24, 1993.

<sup>27</sup> Paisie Memo, 3–4.

<sup>28</sup> 40 CFR 93.108.

<sup>29</sup> 40 CFR 93.105 and 40 CFR 93.112.

<sup>30</sup> 40 CFR 93.113.

<sup>31</sup> 40 CFR 93.114 and 93.115.

<sup>32</sup> 40 CFR 93.116 and 40 CFR 93.123.

<sup>33</sup> 40 CFR 93.110 and 40 CFR 93.111, respectively. See 40 CFR 93.109(b), Table 1.

<sup>34</sup> <https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity>.

<sup>35</sup> 40 CFR part 93 Subpart B.

<sup>36</sup> Paisie Memo, 4–5.

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 2019 LMP is not proposed 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. The Las Vegas Tribe of Paiute Indians has areas of Indian country located in the Las Vegas Valley CO maintenance area. In those areas of Indian country, the 2019 LMP does not apply, and therefore, this proposed action does not have tribal implications and would not, if approved, 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, Carbon Monoxide, Pollution.

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

Dated: July 22, 2021.

**Deborah Jordan,**

*Acting Regional Administrator, Region IX.*

[FR Doc. 2021-16453 Filed 7-30-21; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2021-0217; FRL-8690-01-R3]

#### Approval and Promulgation of Air Quality Plans; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for fourteen major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO<sub>x</sub>) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rulemaking action, EPA is proposing to approve source-specific (also referred to as "case-by-case") RACT determinations for sources at fourteen major sources submitted by PADEP. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before September 1, 2021.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2021-0217 at <https://www.regulations.gov>, or via email to [opila.marycate@epa.gov](mailto:opila.marycate@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://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:** Ms. Gwendolyn Supplee, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2763. Ms. Supplee can also be reached via electronic mail at [supplee.gwendolyn@epa.gov](mailto:supplee.gwendolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:** On May 7, 2020, PADEP submitted a revision to its SIP to address case-by-case NO<sub>x</sub> and/or VOC RACT for sources at fourteen major facilities. This SIP revision is intended to address the NO<sub>x</sub> and/or VOC RACT requirements under sections 182 and 184 of the CAA for the 1997 and 2008 8-hour ozone NAAQS. Table 1 of this document lists the SIP submittal date and the facilities included in PADEP's submittal. Although submitted in one SIP revision by PADEP, EPA views each facility as a separable SIP revision and may take separate final action on one or more facilities.

For additional background information on Pennsylvania's "presumptive" RACT II SIP see 84 FR 20274 (May 9, 2019) and on Pennsylvania's source-specific or "case-by-case" RACT determinations see the appropriate technical support document (TSD) which is available online at <https://www.regulations.gov>, Docket No. EPA-R03-OAR-2021-0217.