PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart S—Kentucky

■ 2. In § 52.920(d), amend the table by:

■ a. Removing the entries for ''Operating Permits for nine presses at the Alcan Foil Products facility—Louisville'' and ''Reynolds Metals Company''; and

■ b. Adding a new entry for ''Board Order for LL Flex, LLC'' at the end of the table.

The addition reads as follows:

§ 52.920 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
*	*	*	*	*
Board Order for LL Flex, LLC	N/A	11/18/2020	9/30/2022, [Insert citation of publication].	
*	*	*	*	*

* * * * *

[FR Doc. 2022–20431 Filed 9–29–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2022–0167; FRL–10150–02–R4]

Air Plan Approval; Kentucky; Boyd and Christian County Limited Maintenance Plans for the 1997 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving state implementation plan (SIP) revisions submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet), on March 29, 2021. The SIP revisions include the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) Limited Maintenance Plans (LMPs) for the Kentucky portion (hereinafter referred to as the Boyd County Area) of the Huntington-Ashland, WV-KY 1997 8-hour ozone maintenance area (hereinafter referred to as the Huntington-Ashland, WV-KY Area) and the Kentucky portion (hereinafter referred to as the Christian County Area) of the Clarksville-Hopkinsville, TN-KY 1997 8-hour ozone maintenance area (hereinafter referred to as the Clarksville-Hopkinsville, TN-KY Area). EPA is approving Kentucky's LMPs for the Boyd County and Christian County Areas because they provide for the maintenance of the 1997 8-hour ozone NAAQS within these Areas through the end of the second 10-year portion of the maintenance period. The effect of this action would be to make certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Boyd County and Christian County Areas federally enforceable as part of the Kentucky SIP.

DATES: This rule is effective October 31, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2022–0167. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials can either be retrieved electronically via *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Josue Ortiz Borrero, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8085. Mr. Ortiz Borrero can also be reached via electronic mail at *ortizborrero.josue@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

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. *See* 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. *See* 62 FR 38856 (July 18, 1997).[1] EPA set 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 8-hour NAAQS would be more protective of human health, especially for children and adults who are active outdoors, and for 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 15, 2004, EPA designated the Huntington-Ashland, WV-KY Area, which consists of Boyd County in Kentucky and Cabell County and Wayne County in West Virginia, and the Clarksville-Hopkinsville, TN-

[1] In March 2008, EPA completed another review of the primary and secondary ozone NAAQS and tightened them further by lowering the level for both to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed another review of the primary and secondary ozone NAAQS and tightened them by lowering the level for both to 0.070 ppm. *See* 80 FR 65292 (October 26, 2015).

KY Area, which consists of Christian County in Kentucky and Montgomery County in Tennessee, as nonattainment for the 1997 8-hour ozone NAAQS. Those designations became effective on June 15, 2004. *See* 69 FR 23858 (April 30, 2004).

Similarly, on May 21, 2012, EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS. EPA designated the Boyd County and Christian County Areas as unclassifiable/attainment for the 2008 8-hour ozone NAAQS. These designations became effective on July 20, 2012. *See* 77 FR 30088 (May 21, 2012). On November 16, 2017, areas were designated for the 2015 8-hour ozone NAAQS. The Boyd County and Christian County Areas were again designated attainment/unclassifiable for the 2015 8-hour ozone NAAQS, with an effective date of January 16, 2018, for both areas. *See* 82 FR 54232 (November 16, 2017).

Pursuant to the CAA, a state may submit a request that EPA redesignate a nonattainment area that is attaining a NAAQS to attainment, and, if the area has met the criteria described in section 107(d)(3)(E) of the CAA, EPA may approve the redesignation request.[2] One of the criteria for redesignation is for the area to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the NAAQS for the period extending ten years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the NAAQS will be promptly corrected. Eight years after the effective date of redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the NAAQS for an additional ten years pursuant to CAA section 175A(b) (*i.e.,* ensuring maintenance for 20 years after redesignation).

EPA has published long-standing guidance for states on developing maintenance plans. The Calcagni memo [3] 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 projected 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 page 9. EPA clarified in three subsequent guidance memos that certain areas can meet the CAA section 175A requirement to provide for maintenance by showing that they are unlikely to violate the NAAQS in the future, using information such as the area design values [4] when they are well below the standard and have been historically stable.[5] EPA refers to a maintenance plan containing this streamlined demonstration as an LMP.

EPA has interpreted CAA section 175A as permitting the LMP option because section 175A of the Act does not define how areas may demonstrate maintenance, and in EPA's experience implementing the various NAAQS, areas that qualify for an 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 network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, a state seeking a LMP must still submit its section 175A maintenance plan as a revision to its SIP, with all attendant notice and comment procedures. While the LMP guidance memoranda were originally written with respect to certain NAAQS,[6] EPA has extended the LMP interpretation of section 175A to other NAAQS and pollutants not specifically covered by the previous guidance memos.[7]

In this case, EPA is approving Kentucky's LMPs because the Commonwealth has made a showing, consistent with EPA's prior LMP guidance, that ozone concentrations in the Huntington-Ashland, WV-KY and Clarksville-Hopkinsville, TN-KY Areas are well below the 1997 8-hour ozone NAAQS and have been historically stable and that the Commonwealth has met the other maintenance plan requirements. The Cabinet submitted the LMPs for the Boyd County and Christian County Areas to fulfill the CAA's second maintenance plan requirement.

On May 20, 2005, and September 29, 2006, the Cabinet submitted requests to EPA to redesignate the Christian County and Boyd County Areas, respectively, to attainment for the 1997 8-hour ozone NAAQS. Those submittals included plans, for inclusion in the Kentucky SIP, to provide for maintenance of the 1997 8-hour ozone NAAQS in the Clarksville-Hopkinsville, TN-KY Area through 2016 and in the Huntington-Ashland, WV-TN Area through 2018. EPA approved the Boyd County and the Christian County Areas' Maintenance Plans and the Commonwealth's requests to redesignate these Areas to attainment for the 1997 8-hour ozone NAAQS, effective September 4, 2007, and February 24, 2006, respectively. *See* 72 FR 43172 (August 3, 2007) and 71 FR 4047 (January 25, 2006), respectively. Kentucky's March 29, 2021, submittal contains the second 10-year maintenance plans for the 20-year maintenance period of the 1997 8-hour ozone NAAQS to ensure continued maintenance for the Clarksville-Hopkinsville, TN-KY and Huntington-Ashland, WV-TN Areas.

Section 175A(b) of the CAA requires states to submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. However, EPA's final implementation rule for the 2008 8-hour ozone NAAQS revoked the 1997 8-hour ozone NAAQS and stated that one consequence of revocation was that areas that had been redesignated to attainment (*i.e.,* maintenance areas) for

[2] Section 107(d)(3)(E) of the CAA sets out the requirements for redesignating a nonattainment area to attainment. They include attainment of the NAAQS, full approval of the applicable SIP pursuant to CAA section 110(k), 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.

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

[4] 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 area is the highest design value of any monitoring site in the area.

[5] See ''Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas,'' from Sally L. Shaver, OAQPS, November 16, 1994; ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas,'' from Joseph Paisie, OAQPS, October 6, 1995; and ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas,'' from Lydia Wegman, OAQPS, August 9, 2001.

[6] The prior memos addressed: unclassifiable areas under the 1-hour ozone NAAQS, nonattainment areas for the PM_{10} (particulate matter with an aerodynamic diameter less than 10 microns) NAAQS, and nonattainment for the carbon monoxide (CO) NAAQS.

[7] *See, e.g.,* 79 FR 41900 (July 18, 2014) (approval of the second ten-year LMP for the Grant County 1971 SO_2 maintenance area).

the 1997 NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b). *See* 80 FR 12264, 12315 (March 6, 2015).

In *South Coast Air Quality Management District* v. *EPA,* the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated the EPA's interpretation that, because of the revocation of the 1997 8-hour ozone NAAQS, second maintenance plans were not required for ''orphan maintenance areas,'' *i.e.,* areas that had been redesignated to attainment for the 1997 8-hour 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 8-hour ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, on March 29, 2021, Kentucky submitted second maintenance plans for the Boyd County and Christian County Areas that show that the Areas are expected to remain in attainment of the 1997 8-hour ozone NAAQS through 2027 and 2026, respectively.

In recognition of the continuing record of air quality monitoring data showing ambient 8-hour ozone concentrations well below the 1997 8-hour ozone NAAQS in the Huntington-Ashland, WV-KY and Clarksville-Hopkinsville, TN-KY Areas, the Cabinet chose the LMP option for the development of second 1997 8-hour ozone NAAQS maintenance plans. On March 29, 2021, the Cabinet adopted the second 10-year 1997 8-hour ozone maintenance plans and also submitted the Boyd County and the Christian County Areas' LMPs to EPA as revisions to the Kentucky SIP.

In a notice of proposed rulemaking (NPRM), published on August 24, 2022 (87 FR 51933), EPA proposed to approve Kentucky's LMP because the State made a showing, consistent with EPA's prior LMP guidance, that the Area's ozone concentrations are well below the 1997 8-hour ozone NAAQS and have been historically stable and that it met the other maintenance plan requirements. The details of Kentucky's submission and the rationale for EPA's action are explained in the NPRM. Comments on the August 24, 2022, NPRM were due on or before September 14, 2022. EPA did not receive any comments on the August 24, 2022, NPRM.

II. Final Action

EPA is approving the Boyd County and Christian County Areas' LMPs for the 1997 8-hour ozone NAAQS, submitted by the Cabinet on March 29, 2021, as revisions to the Kentucky SIP. EPA is approving the Boyd County and Christian County Areas' LMPs because they include an acceptable update of the various elements of the 1997 8-hour ozone NAAQS Maintenance Plan approved by EPA for the first 10-year period (including emissions inventory, assurance of adequate monitoring and verification of continued attainment, and contingency provisions), and essentially carry forward all of the control measures and contingency provisions relied upon in the earlier plans.

EPA also finds that the Boyd County and Christian County Areas qualify for the LMP option and that the Boyd County and Christian County Areas' LMPs adequately demonstrate maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. EPA believes that the Boyd County and Christian County Areas' 1997 8-Hour Ozone LMPs are sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Huntington-Ashland, WV-KY and Clarksville-Hopkinsville, TN-KY Areas, respectively, over the second 10-year maintenance period, through 2027 and 2026, respectively, and thereby satisfy the requirements for such a plan under CAA section 175A(b).

III. 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. *See* 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. 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);
- 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 29, 2022. Filing a petition for reconsideration by the Administrator of this final rule does not

affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart S—Kentucky

■ 2. In § 52.920(e), amend the table by adding at the end of the table entries for ''1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Huntington-Ashland, WV-KY Maintenance Area'' and ''1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Clarksville-Hopkinsville, TN-KY Maintenance Area'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
* * *	*	*	*	*
1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Huntington-Ashland, WV-KY Maintenance Area.	Boyd County	3/29/2021	9/30/2022, [Insert citation of publication].	
1997 8-Hour Ozone Second 10-Year Limited Maintenance Plan for the Kentucky portion of the Clarksville-Hopkinsville, TN-KY Maintenance Area.	Christian County	3/29/2021	9/30/2022, [Insert citation of publication].	

[FR Doc. 2022–21234 Filed 9–29–22; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2022–0416; FRL–9820–02–R9]

Limited Approval, Limited Disapproval of California Air Plan Revisions; California Air Resources Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing a limited approval and limited disapproval of California Code of Regulations, Title 17, Division 3, Chapter 1, Subchapter 10 Climate Change, Article 4, Subarticle 13: Greenhouse Gas Emission Standards for Crude Oil and Natural Gas Facilities (Oil and Gas Methane Rule) into the California State Implementation Plan (SIP). These revisions concern emissions of volatile organic compounds (VOCs) from crude oil and natural gas facilities. Under the authority of the Clean Air Act (CAA or the Act), this action simultaneously approves a state rule that regulates these emission sources and identifies deficiencies with the rule that must be corrected for the EPA to grant full approval of the rule. We are also finalizing disapprovals of the reasonably available control technology (RACT) demonstrations for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS) for sources covered by the EPA's 2016 Control Techniques Guidelines for the Oil and Natural Gas Industry (Oil and Gas CTG) for the Sacramento Metropolitan Air Quality Management District (SMAQMD), San Joaquin Valley Air Pollution Control District (SJVAPCD), South Coast Air Quality Management District (SCAQMD), Ventura County Air Pollution Control District (VCAPCD), and the Yolo-Solano Air Quality Management District (YSAQMD).

DATES: This rule will be effective on October 31, 2022.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–R09–OAR–2022–0416. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information. 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: Nicole Law, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4126 or by email at *law.nicole@epa.gov.* Donnique Sherman, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4129 or by email at *sherman.donnique@epa.gov.* Sina Schwenk-Mueller, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947–4100 or by email at *SchwenkMueller.Sina@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us,'' and ''our'' refer to the EPA.

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