

■ **Par 4.** Section 1.987–9 is amended by revising paragraphs (b)(5) and (6) to read as follows:

§ 1.987–9 Recordkeeping requirements.

* * * * *

(b) * * *

(5) The amount of assets and liabilities transferred by the owner to the section 987 QBU determined in the functional currency of the owner and the section 987 QBU (to the extent those amounts are taken into account in applying § 1.987–4 or § 1.987–5).

(6) The amount of assets and liabilities transferred by the section 987 QBU to the owner determined in the functional currency of the owner and the section 987 QBU (to the extent those amounts are taken into account in applying § 1.987–4 or § 1.987–5).

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■ **Par 5.** Section 1.987–15 is amended by adding paragraph (e) to read as follows:

§ 1.987–15 Applicability date.

* * * * *

(e) *Recurring transfer group election.* Sections 1.987–2(f), 1.987–4(d)(10)(ii)(D), and 1.987–9(b)(5) and (6) apply to taxable years beginning after [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER].

Douglas W. O'Donnell,

Deputy Commissioner.

[FR Doc. 2024–28371 Filed 12–10–24; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2024–0417; FRL–12279–01–R9]

Air Plan Conditional Approval; California; Bay Area Air Quality Management District

Correction

In Proposed Rule document 2024–27518 beginning on page 94633 in the issue of Friday, November 29th, 2024, make the following correction:

On page 94633, in the first column, in the **DATES** section, in the second line, “December 30, 2025” should read “December 30, 2024”.

[FR Doc. C1–2024–27518 Filed 12–10–24; 8:45 am]

BILLING CODE 0099–10–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2024–0316; FRL–11777–01–R3]

Air Plan Approval; Pennsylvania; Redesignation of the Allegheny County Nonattainment Area to Attainment and Approval of the Area’s Maintenance Plan for the 2010 1-Hour Primary Sulfur Dioxide National Ambient Air Quality Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision and redesignation request submitted on November 14, 2023, by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). The SIP revision asks the EPA to redesignate the Allegheny County, Pennsylvania area from nonattainment to attainment for the 2010 1-hour primary sulfur dioxide (SO₂) national ambient air quality standard (NAAQS). The revision also asks the EPA to approve into the SIP Allegheny County’s maintenance plan for the 2010 1-hour primary SO₂ standard for the Allegheny County area. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 10, 2025.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2024–0316 at www.regulations.gov, or via email to talley.david@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For

additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT:

Philip McGuire, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1600 John F Kennedy Boulevard, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2251. Mr. McGuire can also be reached via electronic mail at m McGuire.philip@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. Nonattainment Designation

On June 22, 2010, the EPA revised the primary SO₂ NAAQS, establishing a new 1-hour primary standard of 75 parts per billion (ppb).¹ Under the EPA’s regulations at title 40 of the Code of Federal Regulations (CFR) part 50, the 2010 1-hour SO₂ NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T).² Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including State-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.³

Upon promulgation of a new or revised NAAQS, the CAA requires the EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS.⁴ On August 5, 2013, the EPA designated a portion of Allegheny County, Pennsylvania (hereafter the “Allegheny County NAA”), as nonattainment for the 2010 1-hour primary SO₂ NAAQS, effective October

¹ 75 FR 35520, June 22, 2010.

² 40 CFR 50.17.

³ 40 CFR part 50, appendix T, section 3(b).

⁴ CAA section 107(d)(1)(A)(i).

4, 2013.⁵ The designation was based on violating air quality monitoring data for calendar years 2009–2011. The Allegheny County NAA consists of 22 municipalities including: the Borough of Braddock, Borough of Dravosburg, Borough of East McKeesport, Borough of East Pittsburgh, Borough of Elizabeth, Borough of Glassport, Borough of Jefferson Hills, Borough of Liberty, Borough of Lincoln, Borough of North Braddock, Borough of Pleasant Hills, Borough of Port Vue, Borough of Versailles, Borough of Wall, Borough of West Elizabeth, Borough of West Mifflin, City of Clairton, City of Duquesne, City of McKeesport, Elizabeth Township, Forward Township, and North Versailles Township.⁶ This action established an attainment date five years after the effective date for the areas designated as nonattainment for the 2010 SO₂ NAAQS (*i.e.*, by October 4, 2018). The Commonwealth was also required to submit an attainment SIP revision for the Allegheny County NAA to the EPA that meets the requirements of CAA sections 110, 172(c) and 191–192 within 18 months following the October 4, 2013, effective date of designation (*i.e.*, by April 6, 2015).

B. Relevant Historical SIP Actions

The EPA did not receive an attainment SIP revision for the Allegheny County NAA by the April 6, 2015 deadline and subsequently on March 18, 2016, the EPA published a finding of failure to submit indicating that Pennsylvania did not submit the required SO₂ attainment plan.⁷ This finding initiated a clock under CAA section 179(a) for the potential imposition of new source review sanctions 18 months after the effective date of the finding and the potential imposition of highway funding sanctions 6 months following that, in accordance with CAA section 179(b) and 40 CFR 52.31. Additionally, under CAA section 110(c), the finding triggered a requirement for the EPA to promulgate a Federal implementation plan (FIP) within two years of the effective date of the finding unless, by that time, Pennsylvania made the necessary complete submittal, and the EPA approved the submittal.

Pursuant to Pennsylvania's October 3, 2017 attainment plan submittal, and the EPA's October 6, 2017 letter to Pennsylvania finding the submittal complete and noting the stopping of the

sanctions' deadline, these CAA section 179(b) sanctions were not imposed as Pennsylvania did not miss the original deadline.⁸ The EPA proposed approving the SIP revision submittal on November 19, 2018,⁹ and issued a final approval on April 23, 2020.¹⁰ This approval ended the requirement for the EPA to promulgate a FIP under CAA section 110(c). On November 14, 2023, PADEP, on behalf of ACHD, submitted a revision to its SIP for the inclusion of a maintenance plan for the 2010 1-hour primary SO₂ NAAQS and requested a concurrent redesignation of the Allegheny County NAA to attainment for the 2010 1-hour primary SO₂ NAAQS.

C. Redesignation to Attainment Criteria

After a State has submitted a redesignation request for a nonattainment area, the EPA must assess if the statutory criteria identified in CAA section 107(d)(3)(E) have been met to redesignate the area to attainment. These conditions include: (1) the EPA has determined that the applicable NAAQS has been attained; (2) the applicable SIP has been fully approved by the EPA under CAA section 110(k); (3) the EPA has determined that the improvement in the area's air quality is due to permanent and enforceable reductions in emissions; (4) the area has a fully approved maintenance plan, including a contingency plan, under CAA section 175A; and (5) the State has met all applicable requirements for the area under CAA section 110 and part D. The EPA has provided direction for how it would consider if these conditions have been met in the April 23, 2014 memorandum "Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions" (2014 SO₂ Guidance).¹¹

D. Maintenance Plan Approval Criteria

CAA section 175A and additional EPA guidance, including the September 4, 1992 memorandum "Procedures for Processing Requests to Redesignate Areas to Attainment" (Calcagni Memo),¹² identify the required elements

for an approvable maintenance plan for areas seeking redesignation from nonattainment to attainment. Under CAA section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation request to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for an additional 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as the EPA deems necessary, to assure prompt correction of any future 2010 1-hour SO₂ violations. The Calcagni Memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: (1) an attainment emissions inventory that identifies the level of emissions in the area which is sufficient to attain the NAAQS; (2) a maintenance demonstration that shows future emissions of a pollutant will not exceed the level of the attainment inventory; (3) the continued operation of a monitoring network that conforms to 40 CFR part 58; (4) a means for verifying the continued attainment of the NAAQS; and (5) a contingency plan to correct any violation of the NAAQS in the area following redesignation of the area.

II. Summary of SIP Revision and EPA Analysis

The EPA's evaluation of Pennsylvania's redesignation request and maintenance plan is based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E) and relevant guidance, including the aforementioned 2014 SO₂ Guidance and Calcagni Memo.

A. Criterion (1)—The Allegheny County SO₂ Nonattainment Area Has Attained the 2010 1-Hour SO₂ NAAQS

CAA section 107(d)(3)(E)(i) requires that the EPA determine if a nonattainment area has attained the applicable NAAQS in order to redesignate the area to attainment. In assessing if the area has attained the NAAQS, the 2014 SO₂ Guidance stipulates that the EPA can interdependently consider two components to support an attainment

procedures_for_processing_requests_to_redesignate_areas_to_attainment_090492.pdf.

⁵ 78 FR 47191, August 5, 2013.

⁶ A list of Pennsylvania's attainment status designations is available at 40 CFR 81.339.

⁷ 81 FR 14736, March 18, 2016.

⁸ Both the 2017 attainment plan submittal and EPA completeness letter are available in the docket for this action and are titled *Allegheny County September 2017 Attainment Demonstration and EPA Letter of Completeness dated October 6, 2017*, respectively.

⁹ 83 FR 58206, November 19, 2018.

¹⁰ 85 FR 22593, April 23, 2020.

¹¹ Available in the docket for this action as *2014 SO₂ Guidance* and at www.epa.gov/sites/default/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf.

¹² Available in the docket for this action as *Calcagni Memo* and at www.epa.gov/sites/default/files/2016-03/documents/calcagni_memo_

determination: air quality monitoring data and air quality modeling data.¹³

The Allegheny County NAA contains two operational SO₂ monitor sites: the Liberty site (Air Quality System (AQS) Site ID 42-003-0064) and the North Braddock site (AQS Site ID 42-003-1301). The Liberty monitor is located centrally within the Allegheny County NAA and has been in operation since 1969, while the North Braddock monitor

is located in the northern segment of the Allegheny County NAA and has been in operation since 2014. Both monitors have been in attainment of the 2010 1-hour primary SO₂ NAAQS since the 2019-2021 period, with Liberty recording a design value of 63 ppb for the 2021-2023 period and North Braddock recording a design value of 54 ppb for the 2021-2023 period.¹⁴ Design values for the past 10 years are reported

in Table 1 in this document. Although both monitors are currently in attainment of the NAAQS, prior analysis has determined that neither of these monitoring sites are located in the area of maximum concentration,¹⁵ and as such, additional air quality modeling is generally needed to estimate SO₂ concentrations within the area.

TABLE 1—2014–2023 SO₂ DESIGN VALUES FOR ALLEGHENY COUNTY NONATTAINMENT AREA MONITOR SITES
[Parts per billion]

Monitor site	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019	2018–2020	2019–2021	2020–2022	2021–2023
Liberty	101	99	94	97	103	109	85	59	56	63
North Braddock*	89	71	64	55	61	63	64	58	56	54

* North Braddock design values from the 2012–2014 and 2013–2015 periods are comprised of less than three years of data as the monitor began operating in 2014.

Pennsylvania’s 2017 attainment plan contained an attainment demonstration which utilized allowable SO₂ emission limits from stationary sources within the Allegheny County NAA to inform several modeling analyses for SO₂ emissions.¹⁶ These modeling analyses were based on emissions limits for large, stationary sources of SO₂, which, if enacted, would ensure that the Allegheny County NAA would attain the 2010 1-hour primary SO₂ NAAQS. The 2014 SO₂ Guidance states that the EPA may make a determination of attainment based on this attainment plan modeling, eliminating the need for separate actual emissions-based modeling to support a redesignation request—provided that the source characteristics are still reasonably represented.¹⁷ The source characteristics are still reasonably represented¹⁸ and from 2020–2021, large, stationary SO₂ sources¹⁹ within the Allegheny County NAA were meeting their allowable emission limits for attainment.²⁰ As such, the 2017 attainment demonstration modeling submitted by Pennsylvania will allow for the EPA’s determination of attainment. The 2014 SO₂ Guidance further states that a demonstration that the control strategy in the SIP has been fully implemented will also be pertinent for making the determination of

attainment.²¹ Pennsylvania has submitted information detailed in its redesignation request and maintenance plan to confirm that the control strategy outlined in the SIP has been fully implemented. The specific measures identified in the control strategy include upgrades to the Vacuum Carbonate Unit equipment at the U.S. Steel (USS) Clairton Plant, the implementation of a tail gas recycling project at the USS Clairton Plant, and a new stack and combined flue system for select boilers at the USS Edgar Thomson Plant.²² Additionally, lower permitted SO₂ emission rates were implemented for nearly all processes at the primary stationary SO₂ sources in the Allegheny County NAA, including the USS Clairton Plant, the USS Edgar Thomson Plant, the USS Irvin Plant, and Harsco Metals. These implemented, permanent and federally enforceable control measures have aided in reducing the actual total emissions from large, stationary USS SO₂ sources to 2,373 tons per year (as of 2021),²³ which is below the revised total emissions limits proposed for USS facilities in the 2017 attainment demonstration modeling (2,669 tons per year),²⁴ thus contributing to bringing the Allegheny County NAA into attainment.

In this action, the EPA proposes to find that the air quality monitoring data

and air quality modeling data demonstrate that the Allegheny County NAA has attained the 2010 1-hour primary SO₂ NAAQS.

B. Criterion (2)—Pennsylvania Has a Fully Approved SIP Under Section 110(k)

CAA section 107(d)(3)(E)(ii) requires that the EPA fully approve the applicable implementation plan for the area under CAA section 110(k) in order to redesignate that area to attainment. The EPA has fully approved the applicable Pennsylvania SIP for the Allegheny County NAA under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. An area cannot be redesignated to attainment if a required element of the SIP is the subject of a disapproval; a finding of failure to submit, or failure to implement the SIP; or a partial, conditional, or limited approval.²⁵ The 2017 attainment plan SIP was initially proposed for EPA approval on November 19, 2018²⁶ and received final EPA approval on April 23, 2020.²⁷ The approved elements from the 2017 attainment plan include a 2011 base year emissions inventory, a control strategy and air quality modeling demonstration, a reasonable available control measures/reasonably available control technology (RACM/RACT)

¹³ See 2014 SO₂ Guidance, at 62.

¹⁴ Design values are calculated by computing the three-year average of the annual 99th percentile daily maximum 1-hour average concentrations. An SO₂ 1-hour primary standard design value is valid if it encompasses three consecutive calendar years of complete data. The data completeness requirements were previously described in the *Nonattainment Designation* section I.A. of this document above.

¹⁵ See *Allegheny County EPA Modeling TSD* at pp. 16–17, available in the docket for this action.

¹⁶ See *Allegheny County September 2017 Attainment Demonstration*.

¹⁷ See 2014 SO₂ Guidance, at 50.

¹⁸ See *ACHD Email Source Characteristics*, available in the docket for this action.

¹⁹ Large, stationary sources specifically include US Steel Clairton, US Steel Edgar Thomson, and US Steel Irvin, which collectively account for over 99% of all point source SO₂ emissions within the Allegheny County NAA.

²⁰ See *Allegheny County September 2017 Attainment Demonstration*, at 15, and *ACHD_SO₂*

RR and MP App B Emissions Inv, at 2, available in the docket for this action.

²¹ See supra Note 17.

²² See *ACHD_SO₂ RR and MP*, at 15.

²³ See *ACHD_SO₂ RR and MP App B Emissions Inv*, at 2.

²⁴ See *Allegheny County September 2017 Attainment Demo App D*, at 2, available in the docket for this action.

²⁵ See 2014 SO₂ Guidance, at 64.

²⁶ 83 FR 58206, November 19, 2018.

²⁷ 85 FR 22593, April 23, 2020.

analysis, a reasonable further progress (RFP) analysis, contingency measures, and nonattainment new source review (NNSR) regulations.

C. Criterion (3)—The Air Quality Improvement in the Allegheny County SO₂ Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions

For redesignating a nonattainment area to attainment, CAA section 107(d)(3)(E)(iii) requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions. The EPA proposes to find that Pennsylvania has demonstrated that the requirements of CAA section 107(d)(3)(E)(iii) have been met.

Specifically, the implementation of multiple permanent and federally enforceable control measures at stationary point sources of SO₂ identified in the EPA-approved 2017 attainment demonstration aided in a substantial decrease in SO₂ emissions, and consequently lower SO₂ concentrations in the Allegheny County NAA. These measures include upgrades to the Vacuum Carbonate Unit equipment at the USS Clairton Plant, the implementation of a tail gas recycling project at the USS Clairton Plant, and a new stack and combined flue system for select boilers at the USS Edgar Thomson Plant. Furthermore, the Guardian Glass Plant ceased operations in August 2015 and its operating permit was terminated in November 2015.²⁸ The Calcagni Memo states that “[e]mission reductions from source shutdowns can be considered permanent and enforceable to the extent that those shutdowns have been reflected in the SIP and all applicable permits have been modified accordingly,” and therefore the Guardian shutdown is considered permanent and enforceable.²⁹ Any future operations at this location would require a new permit and a new source evaluation, as described in ACHD Article XXI, sections 2102.04 and 2103.13.³⁰ Additionally, Emissions

Reductions Credits for SO₂ were not requested for the Guardian Glass Plant, preventing the transfer or sale of associated emission credits to another entity in Pennsylvania or some surrounding states.

Allegheny County also established lower SO₂ emissions limits for nearly all processes at the USS facilities in the Allegheny County NAA, including USS Clairton, USS Edgar Thomson, and USS Irvin, as well as the Harsco (Braddock Recovery) facility, located on the property of USS Edgar Thomson. These emissions limits are embedded in the installation permits issued by ACHD for these facilities and are federally enforceable as they have been approved into Pennsylvania’s SIP, and they are permanent because they cannot be altered without an additional SIP submittal.³¹ Details on the imposed emissions limits were included as copies of the installation permits in Appendix K of the 2017 attainment plan submittal and are available in the docket for this action.³²

Collectively, the implemented controls and lower permitted SO₂ emissions rates resulted in an actual decrease of 835 tons of SO₂ emitted per year from 2011 to 2017. This is approximately a 25% reduction from 2011 levels of 3,418 tons of SO₂ emitted per year.³³ As this reduction comes from EPA-approved SIP controls and permit-controlled emission limits, the EPA finds the air quality improvement in the Allegheny County NAA to be due to permanent and enforceable reductions in emissions.

D. Criterion (4)—The Allegheny County SO₂ Nonattainment Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

To redesignate a NAA to attainment, CAA section 107(d)(3)(E)(iv) requires the EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. In conjunction with its request to redesignate the Allegheny County NAA to attainment for the 2010 1-hour primary SO₂ NAAQS, the State submitted a SIP revision to provide for the maintenance of the 2010 1-hour primary SO₂ NAAQS for at least 10 years after the effective date of redesignation to attainment. The EPA is proposing to find that this maintenance plan meets the requirements for

approval under section 175A of the CAA.

1. What is required in a maintenance plan?

CAA section 175A sets forth the elements of a maintenance plan. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation request to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for an additional 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems necessary to assure prompt correction of any future 2010 1-hour primary SO₂ NAAQS violations. The Calcagni Memo provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan.³⁴ As is discussed more fully later in this section, the EPA is proposing to determine that Pennsylvania’s maintenance plan meets the requirements in CAA section 175A and is thus proposing to approve it as a revision to the Allegheny County portion of the Pennsylvania SIP.

2. Attainment Emissions Inventory

In a maintenance plan, states are required to submit an emissions inventory to identify the level of emissions in the area which is sufficient to attain and maintain the SO₂ NAAQS, which is called the attainment inventory. This inventory is used as the basis for future, projected emission inventories that are used to show the area will remain in attainment. Pennsylvania submitted a 2017 SO₂ emissions inventory as the attainment inventory with its maintenance plan. The year 2017 was selected because it was the first year in which emissions were at levels required to demonstrate attainment of the 2010 SO₂ NAAQS, with the exception of emissions associated with malfunctions of the desulfurization facility at the USS Clairton Plant. Additionally, 2017 was a year in which a fully reviewed National Emission Inventory (NEI) was released. The NEI is a comprehensive, triennial estimate of emissions. Generally, the

²⁸ Documentation of this closure is in *Guardian_closure-App J*, available in the docket for this action.

²⁹ See *Calcagni Memo*, at 10.

³⁰ See *Allegheny County Article XXI*, available in the docket for this action and at www.alleghenycounty.us/files/assets/county/v/1/government/health/documents/air-quality/article-21-air-pollution-control.pdf.

³¹ 85 FR 22593, April 23, 2020 and 40 CFR 52.2020(d)(3).

³² See *Installation Permits with emission limits-App K*, available in the docket for this action.

³³ See *ACHD_SO2_RR_and_MP*, at 16.

³⁴ See *Calcagni Memo*, at pp. 8–12.

attainment year is selected as a year within the attaining design value period (*i.e.*, 2019–2021). However, alternate years from 2018–2022 were less ideal than 2017 for the attainment year for a variety of factors, including excess emissions from sources due to equipment breakdowns, atypical emissions during the COVID pandemic, and incomplete emissions compilations for recent years. Additional details for choosing 2017 as the attainment year are available in the submitted redesignation request.³⁵

For the 2017 attainment year inventory, Pennsylvania directly used point and area source emissions reported in the 2017 NEI, except for corrections identified in Appendix B of the submitted redesignation request.³⁶ The point source emissions for the Allegheny County NAA were verified against the EPA’s emissions inventory system (EIS) and the EPA found them to be acceptable.³⁷ Area source emissions were estimated based on the relative percentage of the Allegheny County population residing in the Allegheny County NAA and the resulting factor allocated the appropriate fraction of the County’s total emissions to the Allegheny County NAA.

Nonroad and onroad mobile source emissions for 2017 were obtained from the EPA’s Motor Vehicle Emissions Simulator (MOVES) model, specifically the MOVES3 version. PADEP executed the MOVES3 modeling runs for nonroad mobile sources and utilized a contractor

to run the model for onroad mobile source emissions.

Natural SO₂ emission sources, such as fires and biogenics, were also compiled. Fire emissions data was pulled from the EPA’s Fires³⁸ inventory, while biogenic emissions from soils and vegetation were predicted by the Biogenic Emission Inventory System³⁹ (BEIS) model.

Projection inventories predicted from the attainment inventory demonstrate that the area will continue to remain in attainment during the maintenance period. Pennsylvania developed 2026 and 2035 emission projections for the interim and maintenance plan end year, respectively. Projected emissions for these years—as well as the base year inventory—are available in Table 2 in this document. Projected emissions for point and area sources were estimated from the 2017 base year emissions and growth factors developed by the Mid-Atlantic Regional Air Management Association, Inc., and other sources. These growth factors are developed based on forecasts from various databases and tools, including the Energy Information Administration’s Annual Energy Outlook 2022, Pennsylvania Industry Employment 2018–2028 Long-Term Projections, National Inventory Collaborative 2016v1 Emissions Modeling Platform, and the Federal Aviation Administration’s Terminal Area Forecast. Projected emissions were subject to the same corrections utilized in the 2017 base year inventory for consistency.

Furthermore, point sources with implemented enforceable controls or shutdowns since the 2017 base year were excluded from the 2026 and 2035 projections. Specifically, the Koppers Clairton tar refining facility ceased operation in 2017 and its permit expired in 2021. Additionally, Coke Batteries 1, 2, and 3 at the USS Clairton Plant ceased operation in March 2023. Conversely, projections for the 2026 and 2035 inventories included the permitted plantwide SO₂ emissions limit of 23.89 tons/year for a new major source facility—the Invenergy Allegheny Energy Center. However, the permit for this facility was terminated on November 9, 2023,⁴⁰ and construction of this facility is not expected to proceed at this time. As such, the actual emissions in 2026 and 2035 should be even lower than the anticipated values reported in the maintenance year projections. Nonroad and onroad mobile source emissions for the projected years 2026 and 2035 were also obtained from the MOVES3 version. MOVES3 modeling runs were once again executed by PADEP for nonroad mobile source emissions and by the contractor for onroad mobile source emissions. Additional details on some of the assumptions and inputs to the model are available in the redesignation request and its associated Appendix B.⁴¹ Fire and biogenic sources are typically not projected for future case scenarios and therefore emissions were held constant from 2017 to 2026 and 2035.

TABLE 2—EMISSIONS INVENTORIES FOR THE ALLEGHENY COUNTY NONATTAINMENT AREA
[Tons per year]

Sector	2017 Actual emissions (base year)	2026 Projected emissions (interim year)	2035 Projected emissions (maintenance year)
Point Sources	2,556	2,511	2,472
Area Sources	22	26	27
Nonroad Mobile Sources	0	0	0
Onroad Mobile Sources	5	2	2
Fires	0	0	0
Biogenics	0	0	0
Total	2,583	2,539	2,501

3. Maintenance Demonstration

The Calcagni memo describes two ways for a State to demonstrate maintenance of the NAAQS for a period of at least 10 years following the

redesignation of the area: (1) the State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can model to show that the future mix

of sources and emission rates will not cause a violation of the standard.⁴² Pennsylvania’s projected actual emissions for the interim year of 2026 and for the maintenance year of 2035

³⁵ See *ACHD_SO2_RR_and_MP*, at 19.

³⁶ See *ACHD_SO2_RR_and_MP_App_B_Emissions_Inv*, at pp. 1–2.

³⁷ See *EI_TSD_ACHD_SO2_RR_and_MP*, available in the docket for this action.

³⁸ EPA Fires: www3.epa.gov/ttn/chief/ap42/ch13/related/fire rept.pdf.

³⁹ EPA BEIS: www.epa.gov/air-emissions-modeling/biogenic-emission-inventory-system-beis.

⁴⁰ See *Allegheny County Energy Center Termination Letter*, available in the docket for this action.

⁴¹ See *ACHD_SO2_RR_and_MP*, at 22 and *ACHD_SO2_RR_and_MP_App_B_Emissions_Inv*.

⁴² See *Calcagni Memo*, at 9.

are both below the total attainment inventory, which is acceptable for showing maintenance in the Allegheny County NAA.

4. Monitoring Network

The 2014 SO₂ Guidance indicates that once an area has been redesignated to attainment, the state should continue to operate an appropriate air quality monitoring network as provided under 40 CFR part 58 to verify the attainment status of the area. ACHD has committed to continued operation of its SO₂ monitoring network in the Allegheny County NAA to verify the attainment status. Also, ACHD will continue to submit an annual monitoring network plan to the EPA for approval, in accordance with 40 CFR 58.10. No changes will be made to the existing network unless pre-approved by the EPA.

5. Verification of Continued Attainment

The 2014 SO₂ Guidance states that each air agency should ensure that it has the legal authority to implement and enforce all measures necessary to attain and maintain the 2010 SO₂ NAAQS. The air agency's submittal should indicate how it will track the progress of the maintenance plan for the area either through air quality monitoring or modeling.

Article XXI, section 2101.07(a) grants the ACHD legal authority to implement and enforce all measures necessary to maintain the 2010 1-hour primary SO₂ NAAQS. In addition, ACHD has indicated it will track the progress of the maintenance plan through an integrated approach utilizing monitoring data and emissions inventories.

As previously indicated, ACHD will continue to operate its SO₂ monitoring network to verify the attainment status of the Allegheny County NAA. Monitored concentrations will serve as the primary indicator for verifying continued attainment and will also act as the triggering mechanism for contingency measures.

ACHD will also use emissions inventories—developed annually by ACHD for point sources and triennially by PADEP for area and mobile sources—and compare these inventories to the 2017 attainment inventory for assessing continued attainment. It is anticipated that future inventories will remain below the levels of the attainment inventory. However, if future inventories exceed the attainment inventory levels, ACHD will conduct a study to evaluate if the increased emissions have caused increased monitored concentrations within the Allegheny County NAA and, if so,

ACHD will determine if any additional emission control measures should be enacted. Emissions data will not serve as a triggering mechanism for contingency measures for two reasons. Primarily, increased emissions may not directly affect monitored concentrations, as SO₂ concentrations can be impacted by meteorological conditions. Additionally, emissions inventory reporting is slower than monitoring data reporting, and the use of emissions data as a contingency initiator would not provide for a prompt response to any potential NAAQS violations.

Under ACHD's new source review program, any major new sources or modifications to existing sources that would affect emissions must provide a modeling demonstration that illustrates new emissions will not cause or contribute to a violation of the 2010 1-hour primary SO₂ NAAQS, as described in ACHD Article XXI, section 2102.04(b). ACHD will not approve any modifications that would lead to expected violations of the 2010 1-hour primary SO₂ NAAQS in the Allegheny County NAA.

The EPA proposes to find that these proposed measures will provide for verifying continued attainment within the Allegheny County NAA.

6. Contingency Measures

Section 175A(d) of the CAA requires that a maintenance plan include such contingency measures as the EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the State. A State should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a State will continue to implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment.

ACHD has committed to continuing implementation of all measures indicated in the SIP after redesignation of the Allegheny County NAA.⁴³ Furthermore, ACHD has identified triggering indicators for its contingency measures, a schedule for implementing these potential measures, and has

specified multiple potential options to correct any NAAQS violation.⁴⁴

Fully validated and quality assured SO₂ monitoring data will serve as the primary trigger for any responses to prevent or correct a NAAQS violation in the Area. ACHD has established both warning level and action level responses with specific triggering indicators for each.

Warning level responses are subdivided into two tiers. A first-level warning will occur when the 99th percentile daily maximum 1-hour SO₂ concentration exceeds 75 ppb at any monitor site in the Allegheny County NAA in a single calendar year. This first-level warning will prompt an ACHD study to determine if the trigger indicates a trend toward increasing SO₂ concentrations in the Allegheny County NAA. If there seems to be a rising trend in SO₂ concentrations, the study will examine if the trend is likely to continue and if so, the needed measures that could reverse the trend. A second-level warning will occur when the average of two consecutive years of 99th percentile daily maximum 1-hour SO₂ concentrations exceeds 75 ppb at any monitor in the Allegheny County NAA. This second-level warning will result in ACHD evaluating the chance of a violation of the NAAQS and the need for supplemental control measures to be activated. Both first- and second-level warnings will allow for ACHD to consider the early adoption of measures to permit the expeditious implementation of these measures in the event of a NAAQS violation. This early adoption could allow for implementation of the measures within 30 to 90 days following the potential occurrence of a NAAQS violation.

An action level response will occur when the 1-hour design value, based on the average of three consecutive years of 99th percentile daily maximum 1-hour SO₂ concentrations, violates the 2010 1-hour SO₂ NAAQS at any monitor site in the Allegheny County NAA. This response will include the adoption and implementation of additional control measures as needed to promptly correct the violation. If regulatory measures are selected, these measures will conform to all Federal, State, and local rules and regulations. Both non-regulatory and regulatory measures are expected to be implemented within one year following a violation of the NAAQS.⁴⁵

ACHD has specified multiple potential regulatory and non-regulatory

⁴⁴ See *ACHD_SO2_RR_and_MP*, at 28–31.

⁴⁵ Specific schedules and associated procedures for the adoption and implementation of regulatory and non-regulatory measures are available in the *ACHD_SO2_RR_and_MP* document at pp. 29–30.

⁴³ See *ACHD_SO2_RR_and_MP*, at 27.

contingency measures for this maintenance plan—including both area-wide and USS Mon Valley Works measures.⁴⁶ Selection will be based on several factors, including but not limited to, the degree of the violation, the emission reduction potential, and cost. ACHD has identified non-regulatory, area-wide measures such as wood burning-related programs and alternative fuel promotions as potential options for correcting a NAAQS violation. Additionally, ACHD has proposed USS Mon Valley Works regulatory measures, including but not limited to, additional desulfurization controls for coke oven gas at USS Clairton, additional fugitive controls at USS Mon Valley Works plants, and restrictions on fuel usage at USS Mon Valley Works plants. All of these measures can be individually implemented or in conjunction with others to ensure correction of any NAAQS violation.

The EPA proposes to find that ACHD's submitted maintenance plan meets the requirements set forth in CAA section 175A and EPA guidance and is proposing to approve the maintenance plan as a revision to the Pennsylvania SIP.

E. Criterion (5)—Pennsylvania Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

In accordance with section 107(d)(3)(E)(v) of the CAA, to redesignate the Allegheny County NAA to attainment, Pennsylvania must meet all requirements applicable to the Allegheny County NAA under CAA section 110 (general SIP requirements) and part D of title I of the CAA (SIP requirements for nonattainment areas).

1. Section 110 General Requirements for SIPs

Pursuant to CAA section 110(a)(1), whenever new or revised NAAQS are promulgated, the CAA requires States to submit a plan (*i.e.*, SIP) for the implementation, maintenance, and enforcement of such NAAQS. Section 110(a)(2) of title I of the CAA contains the general requirements for a SIP, also known as “infrastructure” requirements. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality;

⁴⁶ USS Mon Valley Works collectively refers to the USS Clairton, Edgar Thomson, and Irvin Plants located within the Allegheny County NAA.

implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, the EPA has required certain states to establish programs to address the interstate transport of air pollutants.⁴⁷ The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. The EPA has concluded that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, the EPA has concluded that the CAA's interstate transport requirements should not be construed to be applicable requirements for purposes of redesignation.

In addition, the EPA has concluded other section 110 elements—those that are neither connected with nonattainment plan submissions nor linked with an area's attainment status—are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with the EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rules (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rule (61 FR 20458, May 7, 1996); and Tampa, Florida, final rule (60 FR 62748, December 7, 1995). See also the

⁴⁷ See Nitrogen Oxides (NO_x) SIP Call and amendments to the NO_x SIP Call (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), and the Cross-State Air Pollution Rule (CSAPR) Update (81 FR 74504, October 26, 2016).

discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

The EPA approved elements of Pennsylvania's June 15, 2014 SO₂ infrastructure SIP submittal on August 5, 2015.⁴⁸ As explained previously, certain general requirements of CAA section 110(a)(2) are statewide requirements that are not linked to the nonattainment status of the Allegheny County NAA and are therefore not “applicable requirements” for the purpose of reviewing Pennsylvania's redesignation request. Because Pennsylvania satisfies the general SIP elements and requirements set forth in CAA section 110(a)(2) applicable to and necessary for SO₂ redesignation, the EPA proposes to conclude that Pennsylvania has satisfied the criterion of section 107(d)(3)(E)(v) related to section 110(a)(2) of the CAA.

2. Part D Requirements

In addition to the CAA section 110 requirements, section 107(d)(3)(E)(v) requires that the state meet all the requirements applicable to the nonattainment area “under part D of this subchapter” for the nonattainment area to be redesignated. Both section 107 and part D are within subchapter 1 of the CAA. Part D, entitled “Plan Requirements for Nonattainment Areas,” consists of six subparts, of which only subparts 1 and 5 are applicable to SO₂ nonattainment areas. Subpart 1 (sections 171 through 179B) contains provisions that can apply to all nonattainment areas for all criteria pollutants, while subpart 5 (sections 191 through 192) contains additional provisions for SO₂, NO_x, or lead nonattainment areas. The requirements applicable to this redesignation are discussed below.

a. Subpart 1 Requirements

1. Section 172 Requirements

CAA section 172 requires states with nonattainment areas to submit plans that provide for timely attainment of the NAAQS. More specifically, CAA section 172(c) contains general requirements for nonattainment plans. A thorough discussion of these requirements is found in the General Preamble for Implementation of title I.⁴⁹

As noted in the General Preamble, certain attainment-related planning requirements under section 172(c) no longer have meaning for an area that is already attaining the NAAQS, and

⁴⁸ 80 FR 46494, August 5, 2015.

⁴⁹ 57 FR 13498, April 16, 1992.

therefore are not applicable for purposes of redesignation. For example, for an area that is already attaining the NAAQS, there would be nothing for the State to provide to show reasonable further progress to attainment in that area. Similarly, the CAA section 172 requirements for the attainment demonstration, implementation of reasonably available control measures, including reasonably available control technology, and contingency measures that are triggered if an area fails to meet RFP or fails to attain are also not applicable for purposes of redesignation.

With respect to CAA section 172(c)(3), Pennsylvania was required to submit an actual current emissions inventory with its attainment plan. Pennsylvania had submitted a base year inventory with its attainment plan SIP on October 3, 2017 and the EPA approved this element on April 23, 2020.⁵⁰

2. Section 173 Requirements

Section 173 of the CAA includes requirements for permit programs that are required in a nonattainment area for new sources as required by section 172(c)(5), known as nonattainment new source review (NNSR). However, the EPA has a longstanding interpretation that because the NNSR permit program is replaced by the PSD permit program upon an area's redesignation to attainment, nonattainment areas seeking redesignation to attainment do not need a fully approved part D NNSR program to be redesignated. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment."⁵¹ Nevertheless, the EPA notes that the ACHD's Article XXI Rules and Regulations for Air Pollution Control have SIP-approved NNSR and PSD programs found in section 2102.06 for NNSR and section 2102.07 for PSD. Allegheny County has incorporated by reference Pennsylvania's NNSR provisions at 25 Pa. Code 127.201–127.218 and also Pennsylvania's PSD regulations found at 25 Pa. Code 127.81–127.83. Pennsylvania's PSD regulations merely incorporate by reference the Federal PSD regulations found at 40 CFR part 52. Allegheny County has therefore addressed all required provisions for the permitting of

sources in NAAs, including NNSR. See 40 CFR 52.2020(c). Pennsylvania's PSD program will become applicable for SO₂ in the Allegheny County NAA upon redesignation to attainment.

3. Section 175A Requirements

CAA section 175A requires that states seeking redesignation of an area to attainment submit a "maintenance plan" containing certain elements. Pennsylvania included a maintenance plan for the Allegheny County NAA with its November 14, 2023 redesignation request, which the EPA is proposing to approve in conjunction with the redesignation, and it is discussed in detail in section II, Criterion (4) of this document.

4. Section 176 Requirements

Section 176(c) of the CAA requires that Federal actions conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). Section 176(c) of the CAA also requires that states establish criteria and procedures to ensure that Federally-supported or funded transportation plans, transportation improvement programs (TIPs) and projects conform to the goals of the applicable SIP. This is referred to as a transportation conformity SIP. In the preamble to the January 1993 proposed transportation conformity rule, the EPA stated that, "Based on available emissions information, EPA believes highway and transit motor vehicles are not significant sources of lead or sulfur dioxide. Therefore, transportation plans, TIPs, and projects are presumed to conform to the applicable implementation plans for these pollutants."⁵² In November 1993, the EPA finalized its transportation conformity regulations. One section of those regulations addressed the geographic applicability of the transportation conformity regulations. The regulation stated at that time that, "The provisions of this subpart apply with respect to emissions of the following criteria pollutants: Ozone, carbon monoxide, nitrogen dioxide, and particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM₁₀)."⁵³ Based on this

provision, transportation conformity does not apply in nonattainment or maintenance areas for SO₂. Therefore, a transportation conformity SIP is not required for SO₂ nonattainment and maintenance areas and is not necessary for an SO₂ nonattainment area to be redesignated to attainment, and the EPA's transportation conformity rules do not apply to SO₂ for the Allegheny County NAA.

5. Section 179 Requirements

Section 179(a) of the CAA addresses potential sanctions for the failure of a State to submit certain required SIP elements by statutory deadlines. The EPA is not aware of any missing or incomplete Allegheny County planning elements subject to Section 179(a) of the CAA.

b. Subpart 5 Requirements

The subpart 5 requirements, which consist of sections 191 and 192 of the CAA, are specific provisions applicable to SO₂, NO₂ or lead nonattainment areas. Section 191 of the CAA requires states with areas designated nonattainment for SO₂, NO₂ or lead after November 15, 1990, to submit within 18 months of the designation an implementation plan meeting the requirements of part D. The substance of the required plans is established by section 172(c). Section 192 sets forth attainment dates for nonattainment areas under section 191.

For SO₂, section 192(a) requires that attainment plans provide for attainment of the primary standard as expeditiously as possible, but no later than five years from the date of the nonattainment designation. The EPA designated the Allegheny County NAA as nonattainment on August 5, 2013, with an attainment date of October 4, 2018. However, because the EPA is reviewing a redesignation request under section 107(d)(3)(E), rather than a determination of attainment under section 179(c), the determination of whether the Area attained by the attainment date set forth in section 192 is not applicable to this action proposing approval of Pennsylvania's redesignation request.

Based on the above, the EPA is proposing to find that Pennsylvania has satisfied the applicable requirements for the redesignation of the Allegheny County NAA under section 110 and part D of title I of the CAA.

III. Environmental Justice Concerns

Within its redesignation request and maintenance plan, ACHD provided

equal to a nominal 2.5 micrometers (PM_{2.5}). See 40 CFR 93.102(b)(1).

⁵⁰ 85 FR 22593, April 23, 2020.

⁵¹ Available in the docket for this action as *Nichols Memo* and at www.epa.gov/sites/default/files/2015-07/documents/101494m.pdf.

⁵² 58 FR 3776, January 11, 1993.

⁵³ This provision has been revised to include particles with an aerodynamic diameter less than or

supplemental information regarding environmental justice considerations within the Allegheny County NAA. Utilizing the Environmental Justice Index (EJI) tool developed by ACHD's Bureau of Assessment, Statistics, & Epidemiology, ACHD identified areas within the Allegheny County NAA with higher environmental health risks. The EJI tool uses Allegheny County-specific factors to evaluate environmental justice concerns, including the following indicators: race, education, median household income, housing vacancy, lead paint risk, greenness, air quality, and flood risk. Six municipalities within the Allegheny County NAA were designated as "highest need" areas according to EJI, while seven other municipalities were designated as "high need" areas. ACHD has indicated that its SO₂ monitoring network provides enhanced surveillance in vulnerable communities, and the two current SO₂ monitors in the Allegheny County NAA are located within or directly downwind of areas labeled as "highest need." Furthermore, ACHD states that the controls specified in its 2017 attainment demonstration as well as the shutdowns denoted in the maintenance demonstration illustrate the greatest emissions reductions in the "highest need" areas.

As explained in the EJ Legal Tools to Advance Environmental Justice 2022 document, the CAA provides states with the discretion to consider environmental justice in developing rules and measures related to redesignation requests and maintenance plans. In this instance, ACHD exercised this discretion, as is described above in summary. In reviewing ACHD's analysis, the EPA defers to ACHD's reasonable exercise of its discretion in considering EJ in this way. The EPA is taking proposed action to approve the SIP revision because it meets minimum requirements pursuant to the CAA and relevant implementing regulations. The EPA also finds that ACHD's consideration of EJ analyses in this context is reasonable. The EPA encourages air agencies generally to evaluate environmental justice considerations of their actions and carefully consider impacts to communities. The EJ analyses submitted by the air agency were considered but were not the basis for the EPA's decision making and the SIP met the minimum applicable requirements, as explained above.

IV. Proposed Action

The EPA's review of this material indicates that the Allegheny County NAA has met the criteria necessary

under CAA section 107(d)(3)(E) for the EPA to redesignate the Area from nonattainment to attainment for the 2010 1-hour primary SO₂ NAAQS. The EPA is proposing to approve the Pennsylvania redesignation request for the Allegheny County NAA, which was submitted on behalf of ACHD on November 14, 2023. Final approval of Pennsylvania's redesignation request would change the legal designation of the portion of Allegheny County designated nonattainment at 40 CFR 81.339 to attainment for the 2010 1-hour primary SO₂ NAAQS. The EPA is also proposing to approve ACHD's maintenance plan, which is designed to ensure that the potentially redesignated Allegheny County NAA will continue to maintain the SO₂ NAAQS. The EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

V. Statutory and Executive Order Reviews

Under the CAA, the redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive 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); and
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." The EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."
- ACHD evaluated environmental justice considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA's evaluation of ACHD's environmental justice considerations is described above in the section titled, "Environmental Justice Considerations." The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action under the CAA on bases independent of ACHD's evaluation of environmental justice. Due to the nature of the action

being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of Executive Order 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

In addition, this proposed rulemaking, for the redesignation and approval of the maintenance plan for the Allegheny County NAA, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and the EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

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

Adam Ortiz,

Regional Administrator, Region III.

[FR Doc. 2024-28536 Filed 12-10-24; 8:45 am]

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COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Parts 1515 and 1516

[CEQ-2024-001]

RIN 0331-AA02

Freedom of Information Act and Privacy Act Regulations

AGENCY: Council on Environmental Quality.

ACTION: Proposed rule.

SUMMARY: The Council on Environmental Quality (CEQ) is proposing to amend its Freedom of Information Act (FOIA) regulations to incorporate amendments to the FOIA set forth in the FOIA Improvement Act of 2016; to conform to guidance for Federal agencies from the Department of Justice;

to make them easier for the public to understand and use; and to better reflect CEQ's current policy and practice.

These proposed regulations reaffirm CEQ's commitment to providing the fullest possible disclosure of records to the public. In addition, CEQ is proposing to amend its regulations implementing the Privacy Act of 1974 (the Privacy Act) to make them easier for the public to understand and use and to better reflect CEQ's current policy and practice. The proposed regulations would also make administrative changes, including reorganizing, renumbering, and renaming the sections of CEQ's current FOIA and Privacy Act regulations.

DATES: Send comments on or before January 10, 2025.

ADDRESSES: You may submit comments, identified by docket number [CEQ-2024-0001], by any of the following methods:

- *Federal eRulemaking Portal:* Visit <https://www.regulations.gov> and follow the instructions for submitting comments.
- *Fax:* 202-456-6546.
- *Mail:* Council on Environmental Quality, 730 Jackson Place NW, Washington, DC 20503.

Instructions: Your submission must include the agency name, "Council on Environmental Quality," and the docket number for this rulemaking, [CEQ-2024-0001]. CEQ will post your comment without change, including any personal information you provide, to <https://www.regulations.gov>. Do not submit any information you consider to be private information, privileged or confidential commercial or financial information, or other information the disclosure of which is restricted by statute.

Docket: For access to the docket, visit <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Samuel Roth, Associate General Counsel, 202-395-5750, Samuel.E.Roth@ceq.eop.gov.

SUPPLEMENTARY INFORMATION:

I. Background

A. The FOIA

The FOIA, 5 U.S.C. 552, provides a right of access to certain records that Federal agencies maintain and control. The FOIA directs each Federal agency to publish regulations that describe how the agency will process FOIA requests it receives from members of the public.

CEQ first adopted its FOIA regulations in 1977.¹ In 2010, CEQ

amended its regulation to reflect legislative amendments to the FOIA, a 2009 Presidential Memorandum regarding FOIA policy, and additional guidance from the Department of Justice (DOJ) and the Office of Management and Budget (OMB).² CEQ's current FOIA regulation is codified at 40 CFR part 1515.

CEQ is proposing to revise and republish its FOIA regulation in its entirety in order to make several improvements to the current rule. First, CEQ is proposing updates to reflect a number of important changes to the FOIA made by the FOIA Improvement Act of 2016 (Pub. L. 114-185). Section 3(a) of the Act directs each agency to review its FOIA regulations and update them to implement the changes set forth in the Act. Second, CEQ is proposing to include a number of provisions to improve the usefulness and readability of its FOIA regulations consistent with DOJ's 2017 revised Template for Agency Regulations (the Template).³ CEQ modeled this proposed rule on the Template, which also incorporates the FOIA Improvement Act of 2016's amendments to the FOIA.

Third, CEQ is proposing updates to better convey the FOIA's and CEQ's requirements to members of the public who are interested in CEQ's operations and activities, so they can easily understand and use CEQ's FOIA process.⁴ Specifically, CEQ referred to the Plain Writing Act of 2010 and the Federal Plain Language Guidelines⁵ in preparing the proposed rule.

Finally, the proposed rule reflects updates to CEQ's FOIA policies and procedures, as well as the practical experience of CEQ's FOIA staff. As it does under its current regulations, CEQ would administer the FOIA under the proposed regulations with a presumption of openness, consistent with the Memorandum of the Attorney General dated March 15, 2022.⁶

B. The Privacy Act

The Privacy Act, 5 U.S.C. 552a, governs each Federal agency's

² CEQ, Revision of Freedom of Information Act Regulations, 75 FR 48585 (Sept. 10, 2010).

³ Template for Agency FOIA Regulations (February 22, 2017), <https://www.justice.gov/oip/template-agency-foia-regulations>.

⁴ See, e.g., E.O. 13563, *Improving Regulation and Regulatory Review*, (Jan. 18, 2011) ("regulations [must be] accessible, consistent, written in plain language, and easy to understand"), 76 FR 3821 (Jan. 21, 2011).

⁵ Federal Plain Language Guidelines (1st rev. May 2011), <https://www.plainlanguage.gov/media/FederalPLGuidelines.pdf>.

⁶ Department of Justice, *Freedom of Information Act Guidelines* (March 15, 2022), <https://www.justice.gov/media/1212566/dl>.

¹ CEQ, Freedom of Information Act Procedures; Final Rule, 42 FR 65158 (Dec. 30, 1977).