public confusion and an adverse impact on associated records requests. VA therefore for good cause finds that notice and public procedure for this minor, technical update is unnecessary under 5 U.S.C. 553(b)(B). For the same reasons, VA concludes there is good cause not to delay the effective date of the final rule under 5 U.S.C. 553(d)(3).

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. The Office of Information and Regulatory Affairs has determined that this final rule is not a significant regulatory action under Executive Order 12866.

VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its Regulatory Impact Analysis (RIA) are available on VA's website at *http://www.va.gov/orpm/,* by following the link for ''VA Regulations Published From FY 2004 Through Fiscal Year to Date.''

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The certification is based on the fact that the technical changes made by this rule do not affect entitlement to VA disability compensation, and in any event there is no impact on small entities or businesses. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.105, Pension to Veterans, Surviving Spouses, and Children; 64.109, Veterans Compensation for Service-Connected Disability; and 64.110, Veterans Dependency and Indemnity Compensation for Service-Connected Death.

Congressional Review Act

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (known as the Congressional Review Act) (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a major rule, as defined by 5 U.S.C. 804(2).

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Signing Authority

Denis McDonough, Secretary of Veterans Affairs, approved this document on March 11, 2021 and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

Jeffrey M. Martin,

Assistant Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons stated in the preamble, the Department of Veterans Affairs amends 38 CFR part 3 as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. Amend § 3.156 by revising paragraph (c)(2) to read as follows:

§ 3.156 New evidence.

* * * * *

(c) * * *

(2) Paragraph (c)(1) of this section does not apply to records that VA could not have obtained when it decided the claim because the records did not exist when VA decided the claim, or because the claimant failed to provide sufficient information for VA to identify and obtain the records from the respective service department or from any other official source.

* * * * *

[FR Doc. 2021–05875 Filed 3–22–21; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0317; FRL–10021–28–Region 3]

Air Plan Approval; Pennsylvania; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the State College Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision pertains to the Commonwealth's plan, submitted by the Pennsylvania Department of Environmental Protection (PADEP), for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) (referred to as the ''1997 ozone NAAQS'') in the Centre County, Pennsylvania area (State College Area). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 22, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0317. 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.

FOR FURTHER INFORMATION CONTACT: Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2053. Ms. Nichols can also be reached via electronic mail at *Nichols.Serena@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On October 14, 2020 (85 FR 65008), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of Pennsylvania's plan for maintaining the 1997 ozone NAAQS in the State College Area through December 14, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by PADEP on March 10, 2020.

II. Summary of SIP Revision and EPA Analysis

On April 30, 2004 (69 FR 23857, effective June 15, 2004), EPA approved a redesignation request (and maintenance plan) from PADEP for the State College Area. In accordance with CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District* v. *EPA,*[1] the D.C. Circuit held that this requirement cannot be waived for areas, like the State College Area, that had been redesignated to attainment for the 1997 8-hour ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.[2] PADEP's March 10, 2020 submittal fulfills Pennsylvania's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the October 14, 2020 NPRM, EPA allows the submittal of a limited maintenance plan (LMP) to meet the statutory requirement that the area will maintain for the statutory period. Qualifying areas may meet the maintenance demonstration by showing that the area's design value[3] is well below the NAAQS and that the historical stability of the area's air quality levels indicates that the area is unlikely to violate the NAAQS in the future. EPA evaluated PADEP's March 10, 2020 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the State College Area as a revision to the Pennsylvania SIP.

Other specific requirements of PADEP's March 10, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

EPA received comments on the October 14, 2020 NPRM from three commenters. All comments received are in the docket for this rulemaking action. A summary of the comments and EPA's responses are provided herein. The first commenter alleges that the plan should not be approved because ''PADEP's schedule is insufficient and the only two regulatory measures the state proposed are measures that have already been implemented,'' and provides specific comments in support of this assertion:

Comment 1: The commenter asserts that PADEP's schedule for promulgating and implementing the contingency measures is not fast enough to prevent a violation of the NAAQS. The commenter notes that the Pennsylvania LMP includes a requirement that Pennsylvania evaluate whether additional local emission control measures are necessary when a monitor in the area exceeds the level of the NAAQS for two consecutive years. Because an area's design value uses three years of data, the commenter argues that this requirement will not provide sufficient time for the State's measures to affect air quality in the third year, which, if above the level of the NAAQS, would lead to a violation. The commenter urges EPA to disapprove the LMP because the ''schedule does not ensure a violation of the NAAQS does not occur by the end of the third year.''

Response 1: EPA does not agree that the plan should be disapproved. CAA section 175A(d) mandates that a maintenance plan must contain ''such contingency provisions as the Administrator deems necessary to assure that the State will promptly *correct any violation* of the standard which occurs after the redesignation of the area as an attainment area.'' (emphasis added). The statute therefore does not include any requirement that a maintenance plan's contingency measures *prevent* a violation of the NAAQS, but rather only that those selected measures be available to address a violation of the NAAQS after it already occurs. As referred to in the comment, Pennsylvania also elected to adopt a ''warning level response,'' which states that PADEP will consider adopting contingency measures if, for two consecutive years, the fourth highest eight-hour ozone concentrations at any monitor in the area are above 84 parts per billion (ppb). But this warning level response is not required under the CAA, and therefore we do not agree with the commenter that the plan should be disapproved based on the commenter's allegation that the warning level response's implementation schedule is insufficient.

Moreover, as a general matter, we do not agree that the schedules for implementation of contingency provisions in the LMP are insufficient. As noted, the CAA provides some degree of flexibility in assessing a maintenance plan's contingency measures—requiring that the plan contain such contingency provisions ''as the Administrator deems necessary'' to assure that any violations of the NAAQS will be ''promptly'' corrected. EPA's longstanding guidance for redesignations, the Calcagni Memo, also does not provide precise parameters for what strictly constitutes ''prompt'' implementation of contingency measures, noting that, for purposes of CAA section 175A, ''a state is not required to have fully adopted contingency measures that will take

[1] 882 F.3d 1138 (D.C. Cir. 2018).

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

[3] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum

8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

effect without further action by the state in order for the maintenance plan to be approved.'' Calcagni memo at 12. However, the guidance does state that the plan should ensure that the measures are adopted ''expediently'' once they are triggered, and should provide ''a schedule and procedure for adoption and implementation, and a specific time limit for action by the state.'' *Id.* We think the State's plan, which provides specific lists of regulatory and non-regulatory measures that the state would consider after evaluating and assessing what it believed to be the cause of increased ozone concentrations, and the specific timeframes it would use to expediently implement the various measures, meets the requirements of CAA section 175A.

Comment 2: The commenter questions the validity of the two regulatory contingency measures. The commenter claims that previously implemented measures cannot be used as contingency measures, calling into question one of the contingency measures that was previously approved into Pennsylvania's SIP. The comment also states that another contingency measure regarding portable fuel containers is already in effect nationwide and that PA's SIP submission does not reference the national regulation at 40 CFR part 59, but notes that the Pennsylvania portable fuel container rule was repealed in 2012, and that the State's submission doesn't explain what is intended by this contingency measure. The commenter also states that EPA may not rely on the proposed non-regulatory control measures because those are only ''SIP-strengthening.''

Response 2: The commenter asserts that Pennsylvania cannot implement existing controls as contingency measures. However, as expressly noted in the LMP, Pennsylvania states that both of the contingency measures the commenter objects to, will be in addition to existing controls.

PADEP identifies the consumer products contingency measure as being ''additional controls'' on consumer products. While Pennsylvania already has in place volatile organic compounds (VOC) limits for certain consumer products in its regulations at 25 Pa. Code Chapter 130, EPA understands that PADEP would need to use its rulemaking process to enact additional controls on VOC emissions from consumer products that go beyond those already implemented under 25 Pa. Code Chapter 130. As the commenter points out, PADEP has not identified what those specific additional measures would be. EPA's interpretation of the CAA as stated in the Calcagni memo is that contingency measures are not required to be fully adopted in order to be approved. Therefore, it is reasonable to interpret the use of ''additional'' here as indicating that the State would be adopting new controls the go beyond those already on the books, by, *e.g.,* establishing limits for categories or types of consumer products not already regulated or possibly by regulating more stringently those products already regulated under 25 Pa. Code Chapter 30.

The commenter also objects to PADEP identifying controls on portable fuel containers as a contingency measure. As with the consumer products rule, PADEP clearly contemplates enacting, if the occasion arises, ''additional controls'' beyond any national or state rule already on the books and being implemented. Those ''additional controls'' would, like the consumer product rule, need to establish limits on VOC emissions on portable fuel containers that go beyond any regulations currently in effect in PA. Under the national rule codified 40 CFR 59.697, states are not precluded from adopting and enforcing any emission standard or limitation. EPA promulgates national regulations that provide a floor nationwide, but States have the legal authority under CAA section 116 to regulate more stringently.

We note that no maintenance plan can be expected to cover every possible contingency. *Greenbaum* v. *EPA,* 370 F.3d 527 (6th Cir. 2004). It is possible that PADEP may not complete promulgation of the regulatory measures in its estimated time frame. EPA believes that PADEP has prudently supported its proposed regulatory contingency measures with six non-regulatory contingency measures. It is EPA's belief that the presence of the non-regulatory measures enhances the Commonwealth's ability to respond to remedy any future violation of the NAAQS.

Comment 3: The commenter speculates that for PADEP to implement the non-regulatory measures it must need to identify timely sources of funding for those measures.

Response 3: This comment is purely speculative. The comment does not provide any specific facts or analysis that would call into question Pennsylvania's ability to identify timely sources of funding for the non-regulatory contingency measures if they ever needed to be implemented. As we noted previously, CAA section 175A(d) requires only that the plan contain contingency provisions that the Administrator deems necessary to assure that a violation will be promptly corrected. EPA's analysis is that by including a suite of eight regulatory and non-regulatory contingency measures in the LMP, the Commonwealth increases its opportunities to implement such measures as might ever prove necessary to promptly correct a violation of the NAAQS.

Comment 4: The second commenter claims that EPA must disapprove PADEP's SIP for several reasons. First, the commenter claims that PADEP ''cannot afford to maintain an (sic) SIP that has experienced a significant deterioration in safety under this management plan for more than six months.'' Then, the commenter states additional concerns that ''the agency may be obliged to undertake a higher maintenance program if the plan shows a serious deterioration in safety, due to a significant change in design standards, a significant increase in labor expenditures, or a substantial expansion of the number of workers employed in the SIP. See supra infra at 4–5. However, for the reasons set forth above, there is nothing in the applicable statute to prevent the agency from requiring the maintenance of an (sic) SIP with a plan less severe than what the State requires of a temporary SIP. See supra infra at 4–7.''

Response 4: EPA believes that this comment, although referring to both, maintenance plans and SIPs, appears to be using those terms to refer to something other than the particular maintenance plan and revision to the Pennsylvania SIP that is the subject of this rulemaking. The comment also appears to reference either another document or section of a document (''See supra infra at 4–5,'' etc.) that has not been provided and does not provide context for these comments. EPA believes that this comment is most likely intended to address something other than the subject of this rulemaking, and therefore is not relevant, and does not require a substantive response.

Comment 5: The third commenter claims that ''EPA should disapprove this SIP maintenance plan if the EPA confirms that the plan cannot meet the recommendations contained in Section 7 and 8.'' The commenter references regulations under Section 7, 8, 9, 10, and Part 2 throughout. They also state that the public must be assured that Section 8 and 9 requirements can be fulfilled and the ''CAA requirements are blessed by the OIG.''

Response 5: It is unclear what document the commenter is referencing. Additionally, the reference to the OIG, EPA understands to refer to the Office of Inspector General. The Office of

Inspector General has no role in EPA's SIP approval process. EPA believes that this comment is most likely intended to address something other than the subject of this rulemaking, and therefore is not relevant, and does not require a substantive response.

IV. Final Action

EPA is approving PADEP's second maintenance plan for the State College Area for the 1997 ozone NAAQS as a revision to the Pennsylvania SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule 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 EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

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).

C. Petitions for Judicial Review

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 May 24, 2021. 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, approving PADEP's second maintenance plan for the State College Area for the 1997 ozone NAAQS, 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 dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 15, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

For the reasons stated in the preamble, the 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 NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by adding the entry ''Second Maintenance Plan for the State College 1997 8-Hour Ozone Nonattainment Area'' at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
* *	* *	*	* *	*
Second Maintenance Plan for the State College 1997 8-Hour Ozone Nonattainment Area.	State College Area	3/10/20	3/23/2021, [insert **Federal Register** citation].	The State College area consists solely of Centre County.

* * * * *

[FR Doc. 2021–05866 Filed 3–22–21; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2016–0074; FRL–10021–23–Region 5]

Air Plan Approval; Wisconsin; Partial Approval and Partial Disapproval of the Rhinelander SO_2 Nonattainment Area Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is partially approving and partially disapproving a revision to the Wisconsin State Implementation Plan (SIP) intended to provide for attaining the 2010 primary, health-based 1-hour sulfur dioxide (SO_2) national ambient air quality standard (NAAQS or ''standard'') for the Rhinelander SO_2 nonattainment area. This SIP revision (hereinafter referred to as Wisconsin's Rhinelander SO_2 plan or plan) includes Wisconsin's attainment demonstration and other attainment planning elements required under the Clean Air Act (CAA). EPA is approving the base year emissions inventory and affirming that the nonattainment new source review requirements for the area have been met. EPA is also approving the Ahlstrom-Munksjö facility SO_2 emission limit as SIP strengthening. EPA is disapproving the attainment demonstration, since the plan relies on credit for more stack height than is creditable under the regulations for good engineering practice (GEP) stack height. Additionally, EPA is disapproving the plan for failing to meet the requirements for meeting reasonable further progress (RFP) toward attainment of the NAAQS, reasonably available control measures/reasonably available control technology (RACM/RACT), emission limitations and control measures as necessary to attain the NAAQS, and contingency measures.

DATES: This final rule is effective on April 22, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0074. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.,* 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 either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID–19. We recommend that you telephone Abigail Teener, Environmental Engineer, at (312) 353–7314 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Abigail Teener, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7314, *teener.abigail@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What actions did EPA propose on this SIP submission?

On November 25, 2020,[1] EPA proposed to partially approve and partially disapprove Wisconsin's Rhinelander SO_2 plan submitted on January 22, 2016 and supplemented on July 18, 2016 and November 29, 2016. EPA proposed to approve the base year emissions inventory and to affirm that the new source review requirements for the area had previously been met.[2] EPA also proposed to approve the Ahlstrom-Munksjö (formerly Expera Specialty Solutions LLC (Expera)) SO_2 emission limit as SIP strengthening. Specifically, EPA proposed to approve Wisconsin's Administrative Order AM–15–01, including emission limits and associated compliance monitoring, recordkeeping, and reporting requirements.

At that time, EPA also proposed to disapprove the attainment demonstration. EPA's notice of proposed rulemaking provided an explanation of the provisions in the CAA and in the implementing stack height regulations that limit the stack height that is creditable for attainment planning purposes. In particular, the proposed rulemaking underscored the provisions that allow credit for stack heights above ''formula GEP stack height'' only if suitable control requirements are established, and only to the extent that such credit is necessary to resolve any remaining violations of the air quality standard. In addition, EPA proposed to disapprove the plan for failing to meet the requirements for meeting RFP toward attainment of the NAAQS, RACM/RACT, emission limitations and control measures as necessary to attain the NAAQS, and contingency measures. EPA stated that final action to disapprove portions of the plan would start sanctions and Federal implementation plan (FIP) clocks for this area under CAA sections 179(a)–(b) and 110(c), respectively. EPA noted that the sanctions and FIP clocks would be terminated by an EPA rulemaking approving a revised plan.

II. What is EPA's response to comments received on the proposed rulemaking?

The proposed action described above provided a public comment period that closed on December 28, 2020. EPA received one adverse comment letter from the Wisconsin Department of Natural Resources (Wisconsin) and one anonymous, somewhat supportive comment on the proposed action. These comments are summarized below along with EPA's responses.

Wisconsin Comment: Wisconsin recommends that EPA not finalize the proposed action. Wisconsin stated that they worked cooperatively with EPA on the content of Wisconsin's Rhinelander SO_2 plan, and that EPA Region 5 staff and Wisconsin were in agreement when Wisconsin submitted their plan in January 2016. Wisconsin also asserted that after the facility raised the stack to the GEP height specified in Wisconsin's attainment plan submittal, the monitored SO_2 concentrations greatly decreased and have not recorded NAAQS violations since 2018. Additionally, Wisconsin stated that although they and the facility (Ahlstrom-Munksjö) do not agree with EPA's interpretation of the stack height regulations, they have been working closely with EPA on a submittal that would comply with the regulations. Finally, Wisconsin stated that they understand that EPA is taking this action due to a court-ordered deadline, but objected that they believe this action will create unnecessary burdens for EPA and Wisconsin and not accelerate the timeline for submitting a future plan for attaining the NAAQS, as Wisconsin plans to issue an order with a limit that complies with the EPA stack height regulations on April 1, 2021.

Response: At the time of Wisconsin's submittal in January 2016, EPA Region 5 staff informally shared their

[1] 85 FR 75273 (November 25, 2020).

[2] 79 FR 60064 (October 6, 2014).