

commercial operations or programs and policies.”

EPD did not evaluate EJ considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the action being proposed here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Dated: April 5, 2024.

Jeanne Gettle,

Acting Regional Administrator, Region 4.

[FR Doc. 2024-07703 Filed 4-11-24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2022-0631; FRL-10786-01-R2]

Partial Approval and Partial Disapproval of Air Quality State Implementation Plans; New Jersey; 2015 Ozone Infrastructure Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove certain elements of a State Implementation Plan (SIP) revision that New Jersey submitted to demonstrate that the State satisfies the infrastructure requirements of section 110(a)(1) and (2) of the Clean Air Act (CAA) for the 2015 8-hour Ozone National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components

of each State’s air quality management program are adequate to meet the State’s responsibilities under the CAA. Except as noted, this SIP revision satisfies the infrastructure requirements of the CAA for the 2015 ozone NAAQS.

DATES: Written comments must be received on or before May 13, 2024.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R02-OAR-2022-0631 at <https://www.regulations.gov>. 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 electronically through <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Edward Linky, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007-1866, at (212) 637-3764, or by email at Linky.Edward@epa.gov.

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

- I. What action is the EPA proposing?
- II. Background
- III. What infrastructure elements are required under section 110(a)(1) and (2)?
- IV. What is the EPA approach to review of infrastructure SIP Submissions?
- V. What did the State of New Jersey submit?

VI. How has the State addressed the elements of section 110(a)(1) and (2)?

VII. Environmental Justice Considerations

VIII. What action is the EPA taking?

IX. Statutory and Executive Order Reviews

I. What Action is the EPA Proposing?

The EPA is proposing to partially approve and partially disapprove elements of a SIP revision submitted by New Jersey on May 13, 2019, that address infrastructure SIP (iSIP) requirements for the 2015 8-hour ozone (2015 ozone) NAAQS. The EPA is proposing to approve the 2015 ozone infrastructure SIP revision for most elements. EPA is proposing to disapprove the portion of the submission that relates to prevention of significant deterioration (PSD). As explained more fully below, the disapproval portion of this action does not begin a new Federal Implementation Plan (FIP) clock, because the FIP is already in place.

This action does not address the portion of the submission pertaining to the interstate transport requirements of section 110(a)(2)(D)(i)(I) (otherwise known as the “good neighbor” provision) with respect to the 2008 ozone NAAQS or the 2015 ozone NAAQS, since each was addressed in a previous EPA rulemaking. *See* 87 FR 55692 (September 12, 2022) (addressing the good neighbor element of the 2008 ozone NAAQS) and 88 FR 9336, (February 13, 2023) (addressing the good neighbor element of the 2015 ozone NAAQS).

This action also does not address New Jersey’s negative declaration, demonstrating that no facilities exist in the State that are applicable to the Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry, which was included in this submittal but was addressed in a separate EPA rulemaking. *See* 85 FR 29627 (May 18, 2020). As explained below, the EPA is proposing to find that the State has the necessary infrastructure, resources, and general authority to implement the 2015 ozone NAAQS, except where specifically noted.

The EPA is proposing to approve the New Jersey infrastructure SIP revision for the 2015 ozone NAAQS for section 110(a)(2) infrastructure elements with the exception of elements, or portions of elements, C, D, and J as explained below. The proposed approval of the other section 110(a)(2) elements of the iSIP is principally based on the New Jersey Department of Environmental Protection (NJDEP) having the authority and resources to develop, enforce and maintain that the elements of an iSIP are in conformance with the requirements

of the CAA section 110(a)(1) and (2). EPA proposes to disapprove the PSD portions of elements (C), D(i)(II), as well as D(ii), and J since New Jersey, even though it accepted delegation of, and implements, the Federal PSD program, does not have a SIP-approved PSD program and is under a Federal Implementation Plan (FIP). See 40 CFR 52.1603. This determination is explained in Section VI of this document.

II. Background

On October 1, 2015, the EPA promulgated a revision to the ozone NAAQS.¹ section 110(a)(1) of the CAA provides the procedural and timing requirements for SIPs. Section 110(a)(2) of the CAA lists specific elements that States must meet for SIP requirements related to a newly established or revised NAAQS. Sections 110(a)(1) and (2) of the CAA require, in part, that States submit to the EPA plans to implement, maintain and enforce each of the NAAQS promulgated by the EPA. By statute, SIPs meeting the requirements of sections 110(a)(1) and (2) are to be submitted by States within three years after promulgation of a new or revised standard. The EPA refers to this type of SIP submission as the “infrastructure” SIP because the SIP ensures that States can implement, maintain and enforce the air standards.

On May 13, 2019, the NJDEP submitted to then Regional Administrator, Peter D. Lopez, a SIP revision that addresses infrastructure SIP requirements for the 2015 ozone NAAQS.² The submittal was deemed complete by operation of law. We propose to approve all elements of the submittal except a portion of Element (C), Elements (D)(i)(II) and (ii), and a portion of Element (J), which we propose to disapprove. New Jersey does

not have a SIP-approved PSD program and therefore has not addressed the PSD permit program requirements of part C if title I of the CAA. The EPA recognizes, however, that New Jersey has elected to comply with the Federal PSD requirements by accepting delegation of the Federal rules and has been successfully implementing this program for many years. New Jersey is already subject to a FIP which incorporates by reference the Federal PSD provisions as codified in 40 CFR 51.21, with the exception of paragraph (a)(1), into the implementation plan for the State. 40 CFR 52.1603. If the proposed disapproval of these aspects of the submittal is finalized, no further action is necessary, beyond the FIP which is in place, until such time as NJDEP submits, and EPA approves, a revision to its SIP regarding the PSD portions of those elements. The 2015 submission states there is no change to the status of these elements, and thus those portions are being disapproved.

The EPA does not anticipate any adverse consequences to New Jersey if this proposed disapproval of the PSD related portions of New Jersey’s 2015 ozone infrastructure SIP submittal is finalized. Mandatory sanctions would not apply to New Jersey under CAA section 179 because the failure to submit a PSD SIP is neither required under title I part D of the CAA, nor in response to a SIP call under section 110(k)(5) of the CAA. The EPA would not be subject to any further FIP duty because of the PSD FIP that has already been approved and that addresses the SIP deficiency.

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

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

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

interest, and oversight of local governments and regional agencies.

- Section 110(a)(2)(F): Stationary source monitoring and reporting.
- Section 110(a)(2)(G): Emergency powers.
- Section 110(a)(2)(H): Future SIP revisions.
- Section 110(a)(2)(J): Consultation with government officials; public notification; and PSD and visibility protection.
- Section 110(a)(2)(K): Air quality modeling/data.
- Section 110(a)(2)(L): Permitting fees.
- Section 110(a)(2)(M): Consultation/participation by affected local entities.

A description of how the State has met the requirements of these elements is more fully described in section VI.

IV. What is the EPA approach to review of infrastructure SIP submissions?

Due to the ambiguity of some of the language of CAA section 110(a)(2), the EPA believes it is appropriate to interpret these provisions in the specific context of acting on infrastructure SIP submissions. The EPA previously provided comprehensive guidance on the application of these provisions through a guidance document for infrastructure SIP submissions and through regional actions on infrastructure submissions.³ Unless otherwise noted below, we are following that existing approach in acting on this submission. In addition, in the context of acting on such infrastructure submissions, the EPA evaluates the submitting State’s SIP for facial compliance with statutory and regulatory requirements, not for the State’s implementation of its SIP.⁴ The EPA has other authority to address issues concerning a State’s implementation of its SIP.

V. What did the State of New Jersey submit?

On May 13, 2019, New Jersey requested EPA review and approve a SIP submittal addressing infrastructure and transport requirements for CAA section 110(a)(1) and (2) for the 2015 ozone NAAQS; transport requirements for CAA section 110(a)(2) for the 2008 ozone NAAQS; and a negative declaration for the Oil and Natural Gas

¹ National Ambient Air Quality Standards for Ozone, Final Rule, 80 FR 65292 (October 26, 2015). Although the level of the standard is specified in the units of ppm, ozone concentrations are also described in parts per billion (ppb). For example, 0.070 ppm is equivalent to 70 ppb.

² As discussed in section I of this document, the May 2019 SIP submittal addressed infrastructure requirements related to section 110(a)(2)(D)(i)(I) (i.e., good neighbor provision for the 2008 and 2015 ozone NAAQS, which EPA acted on separately. EPA finalized disapproval of the good neighbor provision for the 2008 ozone NAAQS. 87 FR 55692 (September 12, 2022). EPA finalized disapproval of the good neighbor provision for the 2015 ozone NAAQS. 88 FR 9336 (February 13, 2023). The May 2019 SIP submittal also included a negative declaration from the State that the Control Techniques Guidelines (CTG) for the Oil and Natural Gas Industry do not pertain to New Jersey since there are no source operations referenced in the CTG that are located in New Jersey. The EPA approved the State’s negative declaration at 85 FR 29627 (May 18, 2020).

³ The EPA explains and elaborates on these ambiguities and its approach to address them in its “Guidance on State Infrastructure Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013.

⁴ United States Court of Appeals for the Ninth Circuit decision in *Montana Environmental Information Center v. Thomas*, 902 F.3d 971 (August 30, 2018).

Control Techniques Guidelines (CTG). The EPA is acting on the portion of the New Jersey SIP submittal that addresses infrastructure SIP requirements for the 2015 ozone NAAQS. As noted previously, the portion pertaining to the “good neighbor” provision with respect to the 2008 and 2015 ozone NAAQS and the negative declaration were addressed separately.

The New Jersey 2015 ozone NAAQS infrastructure SIP submission demonstrates how the State, where applicable, has plans in place that meet the requirements of section 110 (a)(1) and (2) for the 2015 ozone NAAQS.

The SIP submission includes a certification that the existing New Jersey SIP contains adequate provisions to address the requirements of the CAA section 110(a)(1) and (2), with the exception of section 110(a)(2)(D)(i)(I) for the “good neighbor” SIP, as it pertains to the 2015 ozone NAAQS. New Jersey certified in the submission that there has been no change in authority with respect to the infrastructure requirements for the NJDEP to regulate, carry-out and enforce the 2015 ozone NAAQS.

In its May 2019 submittal, the State indicated that the contents of the SIP remain the same as those approved for the New Jersey Multi-Pollutant Infrastructure SIP submitted to EPA on October 17, 2014 (2014 Multi-Pollutant iSIP), except for the changes described in “Table 1: Changes to New Jersey’s Infrastructure SIP” of the May 2019 submittal, which include updates of existing rules. New Jersey’s 2014 Multi-Pollutant iSIP submittal was approved by EPA. 83 FR 24661 (May 30, 2018).

The State’s May 13, 2019, submittal is available within the electronic docket for today’s proposed action at www.regulations.gov.

VI. How has the State addressed the elements of section 110(a)(1) and (2)?

The EPA’s evaluation and rationale for proposing action on New Jersey’s Infrastructure SIP for the 2015 ozone NAAQS is discussed below. The EPA notes that for the proposed approval of several elements of this action, which were also addressed in New Jersey’s 2014 Multi-Pollutant iSIP and which New Jersey asserts are unchanged, EPA’s rationale for approval is consistent.⁵

The State’s submission and the EPA’s analysis:

Element A—Emissions Limits and Other Control Measures

Section 110(a)(2)(A) requires SIPs to include enforceable emission limits and other control measures, means, or techniques, and schedules for compliance. The submittal indicates that New Jersey has the necessary authority under the Air Pollution Control Act (APCA) at New Jersey Statutes Annotated (NJSA) 26:2C–8, 26:2C–9, and 26:2C–19, and has established enforceable limits for all criteria pollutants in its rules at NJAC 7:27.

Several times in its submittal New Jersey notes that it has adopted rule amendments that affect NJAC 7:27 and NJAC 7:27A certifies that these changes do not affect the State’s ability to enforce control measures or regulate the modification and construction of any stationary source within the area covered by the SIP as necessary for the 2015 ozone NAAQS.⁶

The EPA has reviewed the authority identified by New Jersey in its submittal and is proposing to find that New Jersey has met the requirements of section 110(a)(2)(A) of the CAA with respect to the 2015 Ozone NAAQS based on the enforceable emission limits and other control measures identified.

Element B—Ambient Air Quality Monitoring Data System

Section 110(a)(2)(B) requires SIPs to include provisions to provide for the establishment and operation of ambient air quality monitors, to monitor, compile, and analyze ambient air quality data, and to make these data available to the EPA upon request.

New Jersey states that its authority related to Element B remains the same as that approved for the 2014 Multi-Pollutant iSIP. New Jersey identifies its authority at NJSA 26:2C–9.a, to conduct ambient air quality monitoring and to report the results.⁷ New Jersey states that its annual air quality reports are

⁶ New Jersey states that the changes are related to Air Emission Control and Permitting Exceptions, Hazardous Air Pollutant Reporting Thresholds, and the Clean Air Interstate Rule (CAIR) Nitrogen Oxides (NO_x) Trading Program and the NO_x Budget Trading Program (50 NJR 454(a), January 16, 2018). New Jersey states that these changes are based on New Jersey’s experience with Super Storm Sandy, updated data, and new methodologies to determine hazardous air pollutant (HAP) thresholds, changes in Federal requirements regarding State programs to address emissions of Nitrogen Oxides, and discussions New Jersey has held with community and environmental groups. New Jersey advises that rule amendments have also been adopted related to Tertiary Butyl Acetate (TBAC) emissions reporting, to ensuring consistency between major and minor permits, and for Gasoline Transfer Operations (49 NJR 3590(a), November 20, 2017).

⁷ See 83 FR 24661.

posted on New Jersey’s air quality monitoring internet site at <https://www.njaqinow.net>.

The EPA is proposing to find that New Jersey has met the requirements of section 110(a)(2)(B) of the CAA with respect to the 2015 Ozone NAAQS.

Element C—Programs for Enforcement of Control Measures and Construction or Modification of Stationary Sources

Section 110(a)(2)(C) requires states to have a plan that includes a program providing for enforcement of all SIP measures, regulation of minor sources and minor modifications, and the regulation of the modification and construction of any stationary source, including a program to meet Prevention of Significant Deterioration (PSD) of Air Quality. The three sub-elements of Element C are addressed below.

Enforcement of SIP Measures

Statewide enforcement of new and modified sources, minor modifications of minor sources, and major modifications in areas designated as an attainment area or as an unclassifiable area for the 2015 Ozone NAAQS, is required by title I of the Clean Air Act part C (Major Sources of Prevention of Significant Deterioration). New Jersey’s submittal identifies N.J.S.A. 26:2C–9.b and 9.1 and N.J.S.A. 13:1D–9 as its authority for the creation of enforcement and permitting programs that meet CAA requirements. New Jersey’s submittal further explains that the enforcement of all control measures, including the air permitting program for regulating stationary sources, is governed by N.J.S.A. 26:2C–19. New Jersey states that enforcement and permitting programs operate under rules designated in NJAC 7:27 and 7:27A. EPA proposes to find that New Jersey has adequate authority to conduct enforcement programs for the 2015 ozone NAAQS.⁸

Regulation of Minor Sources and Minor Modifications

New Jersey’s submittal asserts that its authority at N.J.S.A. 26:2C–9.b and 9.1 and N.J.S.A. 13:1D–9 provide for the creation and enforcement and permitting programs that meet the CAA requirements. New Jersey’s indicates that enforcement of all control measures, including the air permitting programs for regulation of stationary sources is governed by N.J.S.A. 26:2C–19. New Jersey’s enforcement and permitting programs are operated under rules designated in NJAC 7:27 and NJAC 7:27A.

⁸ See 83 FR 24661 (May 30, 2018).

⁵ See 83 FR 24661 (May 30, 2018).

The minor source permitting aspect of section 110(a)(2)(C) is not governed by the three-year submission deadline of section 110(a)(1) because SIPs incorporating necessary local nonattainment area controls are not due within 3 years after promulgation of a new or revised NAAQS, but rather due at the time that the nonattainment area plan requirements are due pursuant to CAA title I, part D, section 172. See “Guidance on State Infrastructure Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013. Therefore, we are not acting on this sub-element.

Preconstruction Permitting Program for Major Sources and Major Modifications

The preconstruction permitting program includes State regulations for both nonattainment and attainment or unclassifiable areas. The Permit program for nonattainment areas (known as “nonattainment new source review”) is considered by the EPA as outside the scope⁹ of infrastructure SIP actions and is not addressed in this action.

The preconstruction permitting program known as “prevention of significant deterioration” (PSD) is applicable when a major source located in an attainment area or unclassifiable area, for any criteria pollutant, is constructed or undergoes a major modification.

As NJDEP recognizes in the submittal, New Jersey does not have an approved State PSD preconstruction permitting program for major sources and major modifications, as required by part C of the CAA. New Jersey accepted delegation of the administration of the PSD program from EPA. As a result, EPA’s regulations at 40 CFR 52.21 have been incorporated into New Jersey’s applicable State plan. See 40 CFR 52.1603(b). New Jersey implements and enforces the Federal PSD program through the delegation agreement. New Jersey’s delegated PSD program evaluates the impact of new or modified sources to prevent a violation of the NAAQS and meet the Federal PSD permitting requirements.

EPA is proposing to approve the portion of section 110(a)(2)(C) addressing enforcement with respect to the 2015 ozone NAAQS. EPA is not acting on the minor source permitting aspect of section 110(a)(2)(C) as is not governed by the three-year submission

deadline of section 110(a)(1) but is due at the time that the nonattainment area plan requirements are due pursuant to CAA section 172. Because New Jersey does not have a SIP approved PSD program, the EPA is proposing to disapprove the portion of section 110(a)(2)(C) of the CAA addressing PSD.

Element D—Interstate Transport

CAA section 110(a)(2)(D) is divided into two subsections, section 110(a)(2)(D)(i) and section 110(a)(2)(D)(ii). Section 110(a)(2)(D)(i) requires SIPs to address four separate elements. Section 110(a)(2)(D)(i)(I) provides that each State’s SIP must include provisions prohibiting any source or other type of emissions activity in one State from contributing significantly to: (1) Nonattainment, or (2) interfering with maintenance of the NAAQS in another State (referred to as prongs 1 and 2 or “good neighbor” provision). Section 110(a)(2)(D)(i)(II) provides that each State’s SIP must include provisions prohibiting any source or other type of emissions activity in one State emitting any pollutants in amounts which will interfere with measures required to (3) prevent significant deterioration of air quality or to (4) protect visibility in another State (referred to as prongs 3 and 4).

CAA section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with the applicable requirements of CAA sections 126 and 115 (relating to interstate and international pollution abatement). CAA section 126 requires notification to neighboring states of potential impacts from a new or modified major stationary source and specifies how a State may petition the EPA when a major source or group of stationary sources in a State is thought to contribute to certain pollution problems in another State. CAA section 115 requires a State to revise its SIP to reduce pollution endangering public health and welfare in a foreign country, where EPA had made a finding that the State’s SIP was inadequate.

CAA Section 110(a)(2)(D)(i)

In this action for New Jersey, with respect to CAA section 110(a)(2)(D)(i), the EPA is only addressing section 110(a)(2)(D)(i)(II), specifically prong 3 (*i.e.*, interference with PSD) and prong 4 (*i.e.*, to protect visibility). The EPA has addressed section 110(a)(2)(D)(i)(I) with respect to the 2015 ozone infrastructure SIP, as noted previously, in another action. See 88 FR 9336 (February 13, 2023).

New Jersey has certified that its already approved SIP contains provisions to adequately satisfy CAA section 110(a)(2)(D)(i)(II). New Jersey has indicated that there are no changes to how New Jersey previously addressed CAA section 110(a)(2)(D)(i)(II) as indicated in the State’s 2014 Multi-Pollutant iSIP. The EPA finalized action on CAA section 110(a)(2)(D)(i)(II), prongs 3 and 4, for New Jersey’s 2014 Multi-Pollutant iSIP at 81 FR 64070 (September 19, 2016). The EPA disapproved the portions of New Jersey’s October 17, 2014, SIP submission addressing prong 3 based on the State not having an approved PSD program. However, the EPA approved the portions addressing prong 4 based on New Jersey’s fully approved regional haze plan from the 1st implementation period, finalized January 3, 2012.

The State has not submitted any additional information regarding how it has satisfied section 110(a)(2)(D)(i)(II), prongs 3 and 4 for its 2015 ozone NAAQS infrastructure SIP.

Under section 110(a)(2)(D)(i)(II), (prong 3), SIPs are required to have provisions prohibiting emissions that would interfere with measures required to be in another state’s SIP under part C of the CAA to prevent significant deterioration of air quality.

As discussed earlier in section VI, New Jersey’s SIP is not approved with respect to the PSD permit program required by part C of the CAA. As a result, EPA’s regulations at 40 CFR 52.21 have been incorporated into New Jersey’s applicable State plan. 40 CFR 52.1603(b). New Jersey has been delegated authority by EPA to implement 40 CFR 52.21. Although New Jersey has been successfully implementing the program, a state’s infrastructure SIP submittal cannot be considered for approvability with respect to prong 3 until EPA has issued final approval of that State’s PSD SIP, or, alternatively, has issued final approval of a SIP that EPA has otherwise found adequate to prohibit interference with other State’s measures to prevent significant deterioration of air quality. Therefore, EPA is proposing to disapprove New Jersey’s 110(a) submission for the 2015 8-hour Ozone NAAQS for prong 3 of section 110(a)(2)(D)(i)(II) because New Jersey is currently subject to a FIP and does not have a PSD SIP. This disapproval will not trigger any sanctions or additional FIP obligation, since the FIP is already in place. This action will have no discernible effect on the current implementation of the PSD program in New Jersey, as the State is already

⁹ See Guidance on State Infrastructure Plan (SIP) Elements under Clean Air Act sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013.

implementing a well-established PSD program through EPA delegation.

Regarding prong 4, the 2013 Guidance lays out how a State's infrastructure SIP may satisfy prong 4. In the 2nd implementation period, confirmation that the State has a fully approved regional haze SIP that fully meets the requirements of 40 CFR 51.308 or 51.309 will satisfy the requirements of prong 4.¹⁰ New Jersey addresses its visibility protection requirements for the 2015 Ozone NAAQS through its regional haze SIP submittals. To address regional haze visibility impairment, the EPA promulgated the Regional Haze Rule on July 1, 1999 (64 FR 35714, July 1, 1999), which was then amended in 2017 (82 FR 3078, January 10, 2017). The Regional Haze Rule specifically requires States to periodically submit SIPs to the EPA to ensure that emissions from sources within the State are not interfering with measures to protect visibility in Class I Federal areas both within their State and downwind of their State.¹¹

New Jersey submitted its regional haze SIP for the first implementation period to the EPA on July 28, 2009.¹² The EPA published approval of New Jersey's regional haze first implementation period SIP submission on January 3, 2012 (77 FR 19, January 3, 2012). The first implementation period of the regional haze program ran from 2007 through 2018.

On March 26, 2020,¹³ New Jersey submitted a revision to the SIP to address its regional haze obligations for the second implementation period, which runs through 2028. The EPA

¹⁰ The EPA acknowledges that in the 2013 Guidance, we indicate that the EPA may find it appropriate to supplement the guidance regarding the relationship between regional haze SIPs and prong 4 after second implementation period SIPs become due, which occurred on July 31, 2021. After a review of the 2013 guidance and the second implementation period regional haze requirements, the EPA maintains the interpretation that a fully approved regional haze SIP satisfies Prong 4 requirements in the second implementation period.

¹¹ Areas designated as mandatory Class I Federal areas consist of national parks exceeding 6,000 acres, wilderness areas and national memorial parks exceeding 5,000 acres, and all international parks that were in existence on August 7, 1977. CAA section 162(a). In accordance with section 169A of the CAA, the EPA, in consultation with the Department of Interior, promulgated a list of 156 areas where visibility is identified as an important value. 44 FR 69122 (November 30, 1979). When we use the term "Class I area" in this action, we mean any one of the 156 "mandatory Class I Federal areas" where visibility has been identified as an important value.

¹² New Jersey supplemented its SIP submission on December 9, 2010, March 2, 2011, and December 7, 2011.

¹³ New Jersey supplemented its SIP submission on September 8, 2020, and April 1, 2021.

published approval at 88 FR 78650 (November 16, 2023).

The regional haze rule requires that a State participating in a regional planning process include all measures necessary to achieve its apportionment of emission reduction obligations agreed upon through that process.¹⁴ States are also required to consult with States to develop coordinated emission management strategies that contain the emission reductions necessary for visibility improvement.¹⁵ Each State must then include in their regional haze SIP submission all measures agreed to during the state-to-state consultations, or an equivalent regional planning process.¹⁶ In the EPA's approval of New Jersey's Regional Haze Plans, the EPA has determined that the plans contain both New Jersey's apportionment of emission reductions that were determined to be reasonable in the first implementation period for the State through the regional planning process, and that New Jersey has demonstrated that it included in its second implementation period measures that were the result of a coordinated emission management strategy that will provide for visibility improvement. Overall, New Jersey's Regional Haze Plans ensure that emissions from the State would not interfere with the reasonable progress goals for Class I areas that New Jersey's emissions are expected to impact. Thus, New Jersey's approved regional haze SIPs from the 1st and 2nd planning periods ensure that emissions from sources within the State are not interfering with measures to protect visibility in other States. Therefore, EPA proposes to find for the 2015 8-hour ozone NAAQS that New Jersey satisfies the section 110(a)(2)(D)(i)(II) requirement for visibility (prong 4).

CAA Section 110(a)(2)(D)(ii)

New Jersey has certified that its already approved SIP contains provisions to adequately satisfy CAA section 110(a)(2)(D)(ii). New Jersey has indicated that there are no changes to how New Jersey previously addressed CAA section 110(a)(2)(D)(ii) as indicated in the State's 2014 Multi-Pollutant iSIP that was submitted to the EPA on October 17, 2014.

The EPA finalized action on elements of New Jersey's 2014 Multi-Pollutant iSIP at 83 FR 24661 (May 30, 2018). However, as previously indicated, the EPA did not take action on the PSD portions of section 110(a)(2)(C),

110(a)(2)(J), and 110(a)(2)(D) in that action. As explained in the EPA's proposed approval¹⁷ of New Jersey's 2014 Multi-Pollutant iSIP at 83 FR 8818, the EPA found New Jersey's October 17, 2014, infrastructure submittal administratively and technically complete in accordance with 40 CFR part 51, appendix V, except for the portions addressing the infrastructure elements in section 110(a)(2)(C), 110(a)(2)(D)(i)(II), 110(a)(2)(D)(ii) relating to the permitting program for PSD, and 110(a)(2)(J). As a result of the incompleteness finding,¹⁸ the EPA did not take action on the PSD portions of section 110(a)(2)(C), 110(a)(2)(J), and 110(a)(2)(D)(ii) and stated that it would not do so until New Jersey submits a SIP to address the PSD permit program requirements of part C of title I of the CAA.

As discussed earlier in this section, the 2015 8-hour ozone infrastructure SIP was determined complete by operation of law. The EPA is therefore taking action on section 110(a)(2)(D)(ii) for the 2015 8-hour ozone infrastructure SIP.

Section 110(a)(2)(D)(ii) requires SIPs to include provisions ensuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement). Section 126(a) requires new or modified major sources to notify neighboring States of potential impacts from the source. Sections 126(b) and 126(c) of the CAA address requirements applicable to State petitions to the EPA concerning a major source or group of sources emitting prohibited amounts of air pollutants which will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in another State. Section 115(a) and 115(b) address requirements applicable to State plans requiring revisions to reduce the air pollutants endangering public or welfare in a foreign country.

In accordance with NJAC 7:27-22.11(k), New Jersey sends communications to all nearby States (Maryland, Pennsylvania, New York, and Connecticut) regarding all Title V operating permit actions, which include all PSD permits and New Source Review (NSR) permits for new or modified sources.

New Jersey has no source or sources within the State that are the subject of an active finding under section 126 of the CAA with respect to the 2015 8-hour ozone NAAQS. Additionally, there are no final findings under section 115 of

¹⁴ 40 CFR 51.308(d)(3)(ii), (iii).

¹⁵ *Id.* at (f)(2)(ii).

¹⁶ *Id.* at (f)(2)(ii)(A).

¹⁷ See 83 FR 24661 (May 30, 2018).

¹⁸ The EPA sent a letter to NJDEP notifying them of the determination on October 28, 2014.

the CAA against New Jersey with respect to the 2015 ozone NAAQS.

Although New Jersey has no pending obligations under section 115 or 126(b), the State relies on the Federal PSD program requirements of 40 CFR 52.21(q), (which provides for notification of affected State and local air agencies) to satisfy the notification requirements under section 126(a) of the CAA. As such, New Jersey's program is considered technically deficient and not approvable. Therefore, we are proposing to disapprove New Jersey's submission for infrastructure element section 110(a)(2)(D)(ii) for the 2015 8-hour ozone NAAQS. This disapproval will not trigger any sanctions or additional FIP obligation, since the FIP is already in place.

Element E—Adequate Resources and Authority, Conflict of Interest and Oversight of Local Governments and Regional Agencies

Section 110(a)(2)(E) requires each State to provide necessary assurances that the State will: (i) Have adequate personnel, funding, and authority under State law to carry out the SIP (and is not prohibited by any provision of Federal or State law from carrying out the SIP or portion thereof), (ii) will comply with the requirements respecting State boards under CAA section 128, and (iii) where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any SIP provision, the State has responsibility for ensuring adequate implementation of such SIP provision.

In its submittal, New Jersey states that this element of the SIP is unchanged from New Jersey's 2014 Multi-Pollutant iSIP submittal that EPA previously approved.¹⁹ New Jersey cites NJSA 13:1D-9 to demonstrate that it meets the requirements of section 110(a)(2)(E)(i). In addition, NJSA 26:2C-9.b(6) enables New Jersey to receive funds from Federal, State and interstate bodies for the study and control of air pollution.²⁰

New Jersey also meets the requirements of section 110(a)(2)(E)(ii). Since NJDEP does not have any State boards to approve permits or enforcement orders, and NJDEP's Commissioner is responsible for such actions, CAA section 128(a)(1) is not applicable to NJDEP. With respect to CAA section 128(a)(2), New Jersey submitted for approval into the SIP applicable sections of the New Jersey's Conflicts of Interest Law, specifically NJSA 52:13D-14 and 52:13D-16(a) and (b) and 52:13D-21(n), necessary to

substantively meet the requirements of CAA section 128(a)(2) that deal with conflict of interest.

To address delegation of authority, section 110(a)(2)(E)(iii), New Jersey identified the specific organizations that will participate in developing, implementing, and enforcing the plan and the responsibilities of such organizations.²¹

The EPA proposes to approve the New Jersey submittal pursuant to section section 110(a)(2)(E) with respect to the 2015 Ozone NAAQS.

Element F—Stationary Source Monitoring and Reporting

Section 110(a)(2)(F) requires States to establish a system to monitor emissions from stationary sources and to submit periodic emission reports. New Jersey's submittal notes that both major and minor sources are required to monitor and report emissions.

The NJDEP has authority, pursuant to NJSA 26:2C-9.2, to require emissions testing from stationary sources, pursuant to NJSA 26:2C-9 and specifically NJSA 26:2C-9.b(3) to require emission statement reports from stationary sources, and NJSA 26:2C-9.b(4) to require emission information to be made available to the public. Based on the State's legal authority at NJSA 26:2C-9 and the State's regulatory requirements for stationary sources to monitor and report emissions at NJAC 7:27-8 (for minor sources) and NJAC 7:27-22 (for major sources) and at NJAC 7:27-21 to require the submission of annual emission statements from major sources), EPA is proposing to find that New Jersey has met the requirements of section 110 (a)(2)(F).

Based on New Jersey's certification that the updated regulations, NJAC 7:27-8 and 7:27-22, do not affect the State's ability to enforce control measures or regulate the modification and construction of stationary sources within the areas covered by the SIP as necessary for the 2015 ozone NAAQS, and consistent with EPA's previous approval of Element F,²² the EPA proposes to approve the New Jersey submittal pursuant to section 110(a)(2)(F) with respect to the 2015 Ozone NAAQS.

Element G—Emergency Powers

Section 110(a)(2)(G) requires States to provide for emergency authority to address activities causing imminent and substantial endangerment to public health and requires States to submit

adequate contingency plans to implement the emergency episode provisions in their SIPs. The EPA requires that Infrastructure SIP submittals meet the applicable contingency plan requirements of 40 CFR part 51, subpart H (40 CFR 51.150 through 51.153) ("Prevention of Air Pollution Emergency Episodes"). Subpart H requires States that have air quality control regions identified as either Priority I, Priority IA, or Priority II to develop emergency episode contingency plans.

New Jersey continues to be required to prepare emergency episode contingency plans for the 2015 ozone NAAQS, which is required²³ for Priority I areas for ozone. EPA's review of ambient air monitoring data since the previous approval of Element G indicates that since 2018, the 1-hour maximum measured, certified and quality assured values (1-hour varies from 0.070ppm to 0.135ppm) was above the threshold level for ozone (0.10 ppm 1-hour maximum) for Priority I areas.

In its submittal, New Jersey certified there is no change to this element. EPA notes that New Jersey's authority continues to be provided in New Jersey's Air Pollution Emergency Control Act (NJSA 26:2C-26 *et seq.*), which is implemented through NJAC 7:27-12, as incorporated into the SIP, and contains New Jersey's emergency episode contingency plans. The emergency criteria levels are used by the State in announcing air pollution alerts, warnings or emergencies.²⁴

Based on this submittal and consistent with EPA's previous approval of Element G,²⁵ the EPA proposes to approve the New Jersey submittal pursuant to section 110(a)(2)(G) with respect to the 2015 Ozone NAAQS.

Element H—Future SIP Revisions

This section requires that a State's SIP provide for revision as may be necessary to take account of changes in the NAAQS or availability of improved methods for attaining the NAAQS and whenever the EPA finds that the SIP is substantially inadequate. The NJDEP is provided the authority by NJSA 13:1D-9 to formulate comprehensive policies "for the conservation of the natural resources of the State." EPA proposes to find that the State has adequate authority to develop and implement plans and programs that fulfill the requirements of this section.

¹⁹ See New Jersey's County Environmental Health Act (CEHA), N.J.S.A. 26:3A2-21.

²² See 83 FR 24662.

²³ See 40 CFR 51.150. New Jersey.

²⁴ See 83 FR 24662.

²⁵ See, 83 FR 24662.

¹⁹ See 83 FR 24661 (May 30, 2018).

²⁰ *Id.*

In its SIP submittal, New Jersey certifies that there is no change to this element. Based on New Jersey's submittal and, consistent with EPA's prior approval of Element H,²⁶ the EPA proposes to approve the New Jersey submittal pursuant to section 110(a)(2)(H) with respect to the 2015 Ozone NAAQS.

Element J—Consultation With Government Officials, Public Notification, and PSD and Visibility Protection

In its SIP submittal, New Jersey certifies that there is no change to this element. Section 121 requires a process for consultation with local governments and Federal Land Managers carrying out NAAQS implementation requirements. NJSA 26:2C–8 provides the NJDEP with the power to formulate and promulgate codes, rules and regulations preventing, controlling and prohibiting air pollution provided that the public has an opportunity to comment during the public participation process. Further, New Jersey has created a Clean Air Council (NJSA 26:2C–3.2–3.3) which includes members from various associations including the New Jersey State League of Municipalities and New Jersey Freeholder's Association. EPA proposes that New Jersey has adequate authority to meet the requirements of this subsection.

The NJDEP has procedures in place to notify the public when air quality standards deteriorate and exceed the NAAQS. It maintains a website which provides information on current air quality status, air quality forecasts, monitoring information, reports and pertinent information related to air quality readings. NJDEP participates with surrounding States in submitting and compiling air quality data and making this information available to press, news outlets, State websites and through the use of EPA's air notification system, EnviroFlash. EPA is proposing to find that New Jersey has adequate procedures for notifying the public of air quality concerns and disseminating information on ways to avoid health problems and reduce exposure when necessary. EPA proposes to find that New Jersey has adequate authority, under NJSA 13:1D–9, to carry out its SIP obligation.

New Jersey is currently subject to a PSD FIP. The approvability of a State's PSD program in its entirety is essential to the approvability of the PSD sub-element of Element J. EPA is therefore proposing to disapprove the PSD sub-element of Element J. This disapproval

will not trigger any sanctions or additional FIP obligation, since the FIP is already in place. This action will have no discernible effect on the current implementation of the PSD program in New Jersey, as the State is already implementing a well-established PSD program through EPA delegation.

EPA is not addressing the section 110(a)(2)(J) sub-element related to visibility. According to EPA's interpretation, there are no newly applicable visibility protection obligations pursuant to Element J after the promulgation of a new or revised NAAQS.²⁷

Element K—Air Quality Modeling and Submission of Modeling Data

Section 110(a)(2)(K) requires that SIPs provide for air quality modeling for predicting effects on air quality of emissions from any NAAQS pollutants and submission of such data to EPA upon request. In its submittal New Jersey certifies that this element of the SIP is unchanged from New Jersey's 2014 Multi-Pollutant iSIP previously approved by EPA.

EPA proposes to find that New Jersey's regulations provide for performance of air-quality modeling, including modeling for attainment plans, permits and redesignation requests. NJAC 7:27–8.5 and 7:27–22.8. New Jersey has broad statutory authority under NJSA 13:1D–9 and NJSA 2C–8 and 2C–19. EPA proposes to find that the State has adequate authority to perform air quality modeling that fulfills the requirements of this section.

Element L—Permitting Fees

This section requires SIPs to require each major stationary source to pay permitting fees to cover the cost of reviewing, approving, implementing and enforcing a permit. New Jersey certifies that this element of the SIP is unchanged from New Jersey's 2014 Multi-Pollutant iSIP previously approved by EPA. Effective November 30, 2001, EPA granted full approval to New Jersey's title V Operating Permit Program. 66 FR 63168 (December 5, 2001). New Jersey's operating permits regulation, at NJSA 7:27–22, contains specific detailed provisions for assessing permit fees (contained in NJAC 7:27–22.31). The authority to require these fees in subchapter 22 is provided by NJSA 26:2C–9.b.(7), NJSA

26:2C–9.5 and NJSA 26:2C–9.6. NJDEP's infrastructure SIP submittal meets all the requirements of EPA's October 2013 infrastructure guidance for section 110(a)(2)(L).

Element M—Consultation and Participation by Affected Local Entities

To satisfy section 110(a)(2)(M), a SIP should provide for consultation and participation by affected local entities. New Jersey's submittal certifies that the authority for this element of the SIP is unchanged from the New Jersey 2014 Multi-Pollutant iSIP previously approved by the EPA.

New Jersey provides the opportunity for consultation and participation to local political subdivisions during the public comment period of a proposed State Implementation Plan. New Jersey's Air Pollution Control Act, NJSA 26:2C–8 and NJSA 52:14B–1 *et seq.* require a public process for any rulemaking.

VII. Environmental Justice Considerations

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to review State choices, and approve those choices if they meet the minimum criteria of the Act.

On May 16, 2023, New Jersey provided a supplement to the SIP submission being proposed for approval with this rulemaking. The supplemental submission briefed the EPA on Environmental Justice (EJ) considerations within New Jersey by detailing the State's programs and initiatives addressing the needs of communities with EJ concerns that have been ongoing since 1998. Although New Jersey included environmental justice considerations as part of its SIP submittal, the CAA and applicable implementing regulations neither prohibit nor require such an evaluation.

In its supplement, New Jersey discussed how the State has been addressing the needs of communities with EJ concerns since 1998, including assisting in the creation of the Environmental Equity Task Force, which later evolved into the Environmental Justice Advisory Council (EJAC). EJAC and its predecessor have held regular meetings that include EJ advocates and the New Jersey Department of Environmental Protection (NJDEP) to discuss and address environmental justice issues of concern.

New Jersey also noted that the State has implemented numerous initiatives, collaborations, Administrative Orders

²⁷ “Guidance on Infrastructure State Implementation (SIP) Elements Under Clean Air Act sections 110(a)(1) and (110(a)(2), Memorandum from Stephen D. Page, September 13, 2013, available at https://www.epa.gov/sites/default/files/2015-12/documents/guidance_on_infrastructure_sip_elements_multipollutant_final_sept_2013.pdf.

²⁶ See, 83 FR 24662.

and Executive orders to address the needs and concerns of overburdened communities. A timeline of New Jersey's implemented EJ actions, including both prior to and after the SIP submittal on May 13, 2019, was provided and is indicative of the State's continued attention to environmental justice issues.

New Jersey's Administrative Orders (AO) and Executive orders (E.O.) include the State's first EJ E.O. issued by Governor James E. McGreevey in 2004 (E.O. 96), an EJ E.O. issued by Governor Jon Corzine in 2009 (E.O.131), an EJ AO issued by NJDEP Commissioner Bob Martin in 2016 (AO 2016–08) and an EJ E.O. issued by Governor Phil Murphy in 2018 (E.O. 23). Notably, U.S. Senator for New Jersey, Cory Booker, introduced the first Federal EJ bill in 2017 (S.1996—Environmental Justice Act of 2017).

Additionally, New Jersey also created the “What's In My Community”³ tool, a GIS-mapping web application that allows a user to see the air permits issued in their community. The tool also identifies overburdened communities, schools, hospitals, and emergency services. The public users can also see measurements from air monitors and generate a report when using the tool.

The EPA considered EJ when reviewing provisions contained within New Jersey's May 13, 2019, submission detailed above. However, the EPA determined that conducting a comprehensive EJ analysis was not necessary, as the CAA and its applicable implementing regulations neither prohibit nor require such an evaluation of EJ. Additionally, there is no evidence suggesting that this action contradicts the goals of E.O. 12898 or that it will disproportionately harm any specific group or have severe health or environmental impacts.

Consequently, the EPA expects that this action, which assesses whether New Jersey's SIP adequately addresses the infrastructure requirements of the CAA regarding the 2015 8-hour Ozone NAAQS, will generally have a neutral impact on all populations, including communities of color and low-income groups. At a minimum, this proposed action will not worsen air quality within the State.

In summary, the EPA concludes that this proposed rule will not disproportionately harm communities with EJ concerns. New Jersey voluntarily evaluated EJ considerations in its SIP submission, but the EPA's assessment of these considerations is provided for context, not as the basis for the action. The EPA is taking action under the CAA and independently of the State's EJ assessment.

VIII. What action is the EPA taking?

The EPA is proposing to approve New Jersey's May 13, 2019 SIP revision submittal, as fully meeting the infrastructure requirements for the 2015 8-hour ozone NAAQS for the following section 110(a)(2) elements and sub-elements: (A), (B), (C) (enforcement program only), (D)(i)(II) prong 4 (visibility), (E), (F), (H), (J) (consultation and public notification only), (K), (L), and (M) of the CAA.

The EPA is proposing to disapprove New Jersey's submittal for the 2015 8-hour ozone NAAQS section 110(a)(2) sub-elements: (C), prong 3 of (D)(i)(II), and (J) as they relate to the State's lack of a State adopted PSD program, as well as (D)(ii), which relates to interstate and international pollution abatement and PSD. However, these disapprovals will not trigger any sanctions or additional FIP obligation since a PSD FIP is already in place.

IX. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA because this action does not impose additional requirements beyond those imposed by State law.

C. Regulatory Flexibility Act (RFA)

I certify that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities beyond those imposed by State law.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C.1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by State law.

Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Coordination With Indian Tribal Governments

This action does not have tribal implications, as specified in Executive Order 13175, because the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction and will not impose substantial direct costs on tribal governments or preempt tribal law. Thus, Executive Order 13175 does not apply in this action.

G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because it does not impose additional requirements beyond those imposed by State law.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12(d) of the NTTAA directs the EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. The EPA believes that this action is not subject to the requirements of section 12(d) of the NTTAA because application of those requirements would be inconsistent with the CAA.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 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. 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.” 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.”

The New Jersey Department of Environmental Protection (NJDEP) did consider environmental justice as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA’s evaluation of the NJDEP’s EJ 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, and not as a basis of the action. The EPA is taking action under the CAA on bases independent of New Jersey’s evaluation of environmental justice. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

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

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

Lisa Garcia,

Regional Administrator, Region 2.

[FR Doc. 2024–07775 Filed 4–11–24; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2023–0057; FRL–11847–01–R4]

Air Plan Approval; North Carolina; Revision to Approved Motor Vehicle Emissions Budgets

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the North Carolina State Implementation Plan (SIP), submitted by the North Carolina Department of Environmental Quality (NCDEQ), Division of Air Quality, on December 19, 2022. The revision seeks to update the 2026 on-road and nonroad emissions inventories and safety margins, allocate a portion of the newly available 2026 safety margins in the 2008 8-hour Ozone Maintenance Plan to the 2026 nitrogen oxides (NO_x) and volatile organic compounds (VOC) motor vehicle emissions budgets (“budgets”) for the North Carolina portion of the Charlotte-Rock Hill, NC-SC bi-state Area (hereinafter referred to as the “North Carolina portion of the Charlotte Maintenance Area”) to accommodate updates from the EPA Motor Vehicle Emissions Simulator (MOVES3) model. The SIP revision also revises the current 2026 budgets based on the MOVES3 updates and recalculates new available safety margins. NCDEQ’s December 19, 2022, submission supplements the revised 2008 8-hour Ozone Maintenance Plan submitted by NCDEQ on July 16, 2020, and approved by EPA on August 25, 2021. EPA is proposing to approve North Carolina’s December 19, 2022, SIP revision and deem the budgets adequate for transportation conformity purposes because they meet the applicable statutory and regulatory requirements. **DATES:** Comments must be received on or before May 13, 2024.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2023–0057 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be

edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, 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:

Dianna Myers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9207. Ms. Myers can also be reached via electronic mail at myers.dianna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA is proposing to approve NCDEQ’s December 19, 2022, SIP revision which updates the 2026 on-road and nonroad emissions inventories with the latest (at the time of NCDEQ’s submission) approved EPA mobile emissions model, MOVES3, allocates a portion of the newly available safety margin, revises the 2026 NO_x and VOC budgets, and recalculates the available safety margins for the North Carolina portion of Charlotte 2008 8-hour Ozone Maintenance Area¹ for transportation conformity purposes.

If EPA finalizes this proposed approval, the revised 2026 NO_x and VOC budgets from NCDEQ’s December 19, 2022, SIP revision will replace the existing budgets in the State’s 2008 8-hour Ozone Maintenance Plan approved on August 25, 2021. *See* 86 FR 47387. If approved, these newly revised 2026 budgets must be used in future

¹ The North Carolina portion of the Charlotte Maintenance Area for the 2008 8-hour ozone national ambient air quality standards (NAAQS or standards) is comprised of the following counties: Mecklenburg County in its entirety and portions of Cabarrus, Gaston, Iredell, Lincoln, Rowan, and Union Counties. *See* section II.B. for more detail.