

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. 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 Pennsylvania Department of Environmental Protection did not evaluate environmental justice 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 action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

In addition, this proposed rulemaking addressing the NO_x RACT requirements for EGUs equipped with SCR at the

Keystone, Conemaugh, Homer City and Montour facilities for the 1997 and 2008 Ozone NAAQS, 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.

List of Subjects in 40 CFR Part 52

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

Adam Ortiz,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2022–0647, FRL–12038–01–R2]

Approval and Promulgation of State Implementation Plans; New Jersey; Elements of the 2008 and 2015 Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the demonstration portions of the comprehensive State Implementation Plan (SIP) revision submitted by New Jersey that certify that the State has satisfied the requirements for an emission statement program, certify that the State has satisfied the requirements for an ozone nonattainment new source review program, certify that the State has satisfied the requirements for a nonattainment emission inventory, and certify that the State has satisfied the requirements for clean fuels for fleets. The EPA is also proposing to approve New Jersey’s reasonable further progress plans and associated motor vehicle emission budgets for both the Moderate and Serious classifications of the 2008 ozone NAAQS. These actions are being taken in accordance with the requirements of the Clean Air Act.

DATES: Written comments must be received on or before August 9, 2024.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–

R02–OAR–2022–0647 at <https://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Controlled Unclassified Information (CUI) (formally referred to as 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 CUI 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 CUI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Throughout this document, whenever “we,” “us,” or “our” is used, we mean EPA.

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I. What did New Jersey submit?

On November 23, 2021, New Jersey submitted a State implementation plan (SIP) revision for purposes of addressing planning elements for the 2008 and 2015 ozone 8-hour National Ambient Air Quality Standard (NAAQS) for the New Jersey portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area (also referred to as the New York Metro Area or NYMA) and the New Jersey portion of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) nonattainment area (also referred to as the Philadelphia area). Within this comprehensive SIP, the State included its reasonable further progress plan and motor vehicle emission budgets for New Jersey’s

portion of the NYMA for the 2008 ozone Serious classification, certification that the State has satisfied the requirements for an ozone nonattainment new source review (NNSR) program for the 2015 ozone NAAQS in both nonattainment areas and statewide pursuant to requirements for States located in the Ozone Transport Region (OTR), certification that the statewide NNSR also satisfies the requirements for the State’s Serious classification in the NYMA area for the 2008 Ozone NAAQS, certification that the State has satisfied the requirements for a nonattainment emission inventory for the 2015 ozone NAAQS in both nonattainment areas, certification that the State has satisfied the requirements of an emission statement program for the 2008 ozone

Serious classification for the NYMA nonattainment area, and certification that the State has satisfied the requirements for clean fuels for fleet for the NYMA.

In addition, New Jersey also submitted a comprehensive SIP revision on January 2, 2018. Within that submittal, New Jersey included the reasonable further progress plan and motor vehicle emission budgets for the 2008 ozone Moderate classification of the State’s portion of the NYMA. Planning elements addressed in this proposal from New Jersey’s comprehensive January 2, 2018, and November 23, 2021, SIP submissions along with the respective ozone NAAQS classification and nonattainment areas are outlined in Table 1.

TABLE 1—SIP ELEMENTS ADDRESSED IN NEW JERSEY’S COMPREHENSIVE SIP REVISION SUBMITTED ON JANUARY 2, 2018, AND NOVEMBER 23, 2021

Ozone NAAQS & classification	SIP element	Nonattainment areas	SIP submission date
2008 Ozone NAAQS—Moderate Classification.	Reasonable Further Progress plan and Motor Vehicle Emission Budgets.	New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	January 2, 2018.
2008 Ozone NAAQS—Serious Classification.	Reasonable Further Progress plan and Motor Vehicle Emission Budgets.	New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.
2008 Ozone NAAQS—Serious Classifications.	New Source Review Program (NNSR) certification.	New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.
2008 Ozone NAAQS—Serious Classification.	Certification of the State’s Emission Statement Program.	New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.
2008 Ozone NAAQS—Serious Classification.	Clean Fuels for Fleets ¹	New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.
2015 Ozone NAAQS—Marginal & Moderate Classifications.	New Source Review Program (NNSR).	New Jersey’s portion of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) & New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.
2015 Ozone NAAQS—OTR	New Source Review Program (NNSR).	Statewide	November 23, 2021.
2015 Ozone NAAQS—Marginal & Moderate Classifications.	Nonattainment emission inventory under CAA Section 182(a)(1).	New Jersey’s portion of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) & New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT).	November 23, 2021.

New Jersey’s comprehensive November 23, 2021, SIP submission also addressed the requirement for Reasonably Available Control Technology (RACT) ² for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard) in New Jersey’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area for the Serious classification. The November 2021 submittal addressed New Jersey’s requirement for Moderate area RACT for the 2015 NAAQS in the NYMA and the

requirements for RACT for the 2015 ozone NAAQS throughout the entire State for New Jersey’s obligation to meet RACT within the Ozone Transport Region (OTR). The EPA will address New Jersey’s RACT certifications outlined within the State’s November 23, 2021, SIP submission in a separate rulemaking action.

II. Background

In 2008, EPA revised the health-based NAAQS for ozone, setting it at 0.075 parts per million (ppm), or 75 parts per

billion (ppb), averaged over an 8-hour time frame. *See* 73 FR 16436 (March 27, 2008). The EPA determined that the revised 8-hour standard would be more protective of human health, especially with regard to children and adults who are active outdoors and individuals with a pre-existing respiratory disease such as asthma. *See id.*

On May 21, 2012, the EPA published in the **Federal Register** its final attainment/nonattainment designations for areas across the country with respect to the 2008 8-hour ozone standard. *See*

¹ In New Jersey’s November 23, 2021, SIP Submission, the State also certified its Enhanced Motor Vehicle Inspection and Maintenance (I/M) Program for the 2008 Ozone NAAQS Serious classification. New Jersey’s certification for its Enhanced Motor Vehicle I/M Program for the

Serious classification for the 2008 Ozone NAAQS will be addressed under a separate future rulemaking and is not addressed within this proposal.

² The EPA has defined RACT as the lowest emission limitation that a particular source is

capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762, September 17, 1979).

77 FR 30088. This action became effective on July 20, 2012. Within that action, the entire State of New Jersey was designated as Marginal nonattainment for the 2008 8-hour ozone standard since both portions of the State reside in either the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area, also referred to as the New York Metropolitan Area (NYMA), and the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment areas.³ The New Jersey portion of the NYMA, is composed of Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren Counties. On May 4, 2016, the EPA determined that the NYMA nonattainment area did not attain the 2008 ozone standard by the July 20, 2015, attainment date and was reclassified from a Marginal to a Moderate nonattainment area. *See* 81 FR 26697. State implementation plans for Moderate nonattainment areas were due by January 1, 2017. *See id.* Since the NYMA was reclassified to a Moderate nonattainment area, New Jersey, on January 2, 2018, submitted a comprehensive SIP revision, including an attainment demonstration and reasonable further progress plan among other required SIP elements related to the 2008 8-hour ozone standard for the Moderate classification. Subsequently, the NYMA nonattainment area also failed to meet the Moderate July 20, 2018, attainment date. Therefore, on August 23, 2019, EPA published a final rule that reclassified the NYMA, and other States' nonattainment areas, from Moderate to Serious for the 2008 ozone standard. *See* 84 FR 44238. Since the NYMA was reclassified to a Serious nonattainment area, New Jersey, on November 23, 2021, submitted a comprehensive SIP revision, including an attainment demonstration and reasonable further progress plan among other required SIP elements, relating to the 2008 8-hour ozone standard for the Serious classification. Because the NYMA nonattainment area also failed to meet the Serious area July 20, 2021, attainment date, the EPA published a final rule that reclassified the NYMA, along with other States' nonattainment areas, from Serious to Severe. *See* 87 FR

60926 (October 7, 2022). This reclassification to Severe resulted in a revised attainment date for the NYMA of July 20, 2027. *See id.* A SIP submittal to address requirements associated with the Severe classification was due on May 7, 2024. *See id.*

Regarding the 2015 ozone NAAQS, on June 4, 2018, EPA published a final rule establishing designations and classifications for this standard for most areas of the country, including New Jersey. *See* 83 FR 25776 (June 4, 2018). This final rule created a Moderate nonattainment area within the NYMA which includes, within New Jersey, Bergen, Essex, Hudson, Hunterdon, Middlesex, Monmouth, Morris, Passaic, Somerset, Sussex, Union and Warren Counties.⁴ Additionally, on December 6, 2018, EPA published a final rule outlining requirements for States to follow as they implement the 2015 ozone NAAQS (2015 Ozone Implementation Rule). *See* 83 FR 62998 (December 6, 2018). The rule contains RACT and NNSR requirements similar to those outlined within the 2008 Ozone Implementation Rule.

Regarding NNSR, the minimum SIP requirements for NNSR permitting programs for the 2008 and the 2015 ozone NAAQS are located in 40 CFR 51.165. These NNSR program requirements include those promulgated in the "Phase 2 Rule" implementing the 1997 8-hour ozone NAAQS and the 2008 Ozone Implementation Rule. *See* 70 FR 71612 (November 29, 2005). Additionally, although the 2015 Ozone Implementation Rule included a provision to explicitly allow for inter-pollutant trading for meeting the emissions offset requirement for ozone, this provision was subsequently vacated.⁵ Under the Phase 2 Rule, the SIP for each ozone nonattainment area must contain NNSR provisions that:

- Set major source thresholds for nitrogen oxides (NO_x) and volatile organic compounds (VOCs) pursuant to 40 CFR 51.165(a)(1)(iv)(A)(1)(i) through (iv) and (a)(1)(iv)(A)(2);
- Classify physical changes at a major source if the change would constitute a major source by itself pursuant to 40 CFR 51.165(a)(1)(iv)(A)(3);
- Consider any significant net emissions increase of NO_x as a significant net emissions increase for ozone pursuant to 40 CFR 51.165(a)(1)(v)(E);

⁴ The counties included in the New Jersey portion of the NYMA are consistent between the 2008 and 2015 Ozone NAAQS. *See* <https://www.epa.gov/green-book>.

⁵ *Sierra Club v. EPA*, 985 F.3d 1055 (D.C. Cir. 2021).

- Consider increases of VOC emissions in extreme ozone nonattainment areas as significant net emissions increases and major modifications for ozone pursuant to 40 CFR 51.165(a)(1)(v)(F);

- Set significant emissions rates for VOC and NO_x as ozone precursors pursuant to 40 CFR 51.165(a)(1)(x)(A) through (C) and (E);
- Contain provisions for emissions reductions credits pursuant to 40 CFR 51.165(a)(3)(ii)(C)(1) and (2);
- Provide that the requirements applicable to VOC also apply to NO_x pursuant to 40 CFR 51.165(a)(8); and
- Set offset ratios for VOC and NO_x pursuant to 40 CFR 51.165(a)(9)(i) through (iii) (renumbered as (a)(9)(ii) through (iv) under the 2008 Ozone Implementation Rule).

Additionally, pursuant to the 2008 Ozone Implementation Rule, areas designated as nonattainment for that standard that also remain designated as nonattainment for the 1997 ozone standard must satisfy the anti-backsliding requirements of 40 CFR 51.1105.

III. Summary and Evaluation of New Jersey's Ozone Related SIP Elements

As discussed in section I, New Jersey's January 2, 2018, and November 23, 2021 SIP submissions include certifications and planning elements as part of the State's comprehensive attainment demonstrations for the Moderate and Serious classifications of the NYMA for the 2008 Ozone NAAQS. These included reasonable further progress plan and motor vehicle emission budgets for the 2008 Moderate and Serious ozone NAAQS classifications, a certification for an ozone NNSR program for the 2008 and 2015 Ozone NAAQS, a certification for an emission statement program for the 2008 Ozone NAAQS, a nonattainment emission inventory for the 2015 ozone NAAQS, and a certification that the State has satisfied the requirements for clean fuels for fleets for the 2008 Ozone NAAQS.

a. Emission Inventory

CAA Sections 172(c)(3) and 182(a)(1) require States to develop and submit, as a SIP revision, "base year" emission inventories for all areas designated as nonattainment for an Ozone NAAQS, which shall include a "comprehensive, accurate, current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. . ." Emission inventories are used to develop and assess new control strategies that the States may use in attainment demonstration SIPs for the

³ On November 2nd, 2017, the EPA determined that the Philadelphia area attained the 2008 ozone standard by the July 20, 2016 one-year extension attainment date. *See* 82 FR 50814. However, EPA's determination of attainment does not constitute a redesignation to attainment. Redesignation requires States to meet an additional statutory criterion, including the EPA approval of a State plan demonstrating maintenance of the air quality for 10 years after redesignation. (81 FR 26697 at 28701; May 4, 2016).

Ozone NAAQS and other relevant criteria pollutant standards. CAA Section 182(a)(3)(A) requires the periodic submission of emission inventories for SIP planning purposes until the nonattainment area is redesignated to attainment. 40 CFR 51.1315(a) also requires that the year selected for the base year emission inventory for the 2015 ozone NAAQS be consistent with the baseline year for the RFP plan as required by 40 CFR 51.1310(b). The regulation at 40 CFR 51.1310(b) States that the baseline emissions inventory can be the emission inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to the EPA under the provisions of subpart A of 40 CFR part 51, Air Emissions Reporting Requirements, 40 CFR 51.1 through 50. For the 2015 ozone NAAQS, the EPA’s December 6, 2018, implementation rule recommended 2017 as a baseline year from which emission reductions used to meet RFP requirements are calculated. See 83 FR 62998.

On November 23, 2021, NJDEP submitted a SIP revision for the 2008 Ozone NAAQS that included the 2017 calendar year periodic ozone precursor emission inventory pollutants, VOC and NO_x, for the New Jersey portions of the NY-NJ-CT (NYMA) and PA-NJ-MD-DE (Philadelphia) ozone nonattainment areas. New Jersey’s 2017 Periodic Emissions Inventory for the 2008 Ozone NAAQS also serves as the baseline emission inventory for the 2015 Ozone NAAQS, pursuant to CAA Section 182(a)(1), for both the Northern New Jersey and Southern New Jersey ozone nonattainment areas. In accordance with 40 CFR 51.1315(a), New Jersey’s 2017 Emission Inventory also serves as the base year inventory for RFP of both the

NYMA and Philadelphia nonattainment areas for the 2015 Ozone NAAQS. New Jersey’s emission inventory includes both annual and typical summer day point, area, non-road, on-road, biogenic, and wildfire and prescribed fire emission estimates. The typical summer day emissions are also adjusted for various types of stationary and mobile source categories based on their activity level during the summer ozone season. The ozone emission inventory catalogs NO_x and VOC emissions because these pollutants are precursors to ozone formation. New Jersey’s 2017 Emissions Inventory contains emission estimates for the all the counties located in both the New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT, 2008 and 2015 ozone nonattainment areas, and the Southern New Jersey portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE, 2015 ozone nonattainment area and contains emission estimates summed statewide.

The specific details of New Jersey’s 2017 Periodic Emission Inventory as it relates to the Serious classification of the 2008 ozone NAAQS for the New Jersey portion of the NYMA and the rationale for the EPA’s approval action is explained in the August 16, 2023, final rulemaking action. For this detailed information, the reader is referred to the EPA’s rulemaking action approving New Jersey’s 2017 Periodic Emission Inventory satisfied the requirements for the 2008 ozone NAAQS periodic emission inventory pursuant to CAA Section 182(a)(3)(A). See 88 FR 55576. In that action, the EPA determined that New Jersey’s periodic emission inventory was based on the most current and accurate information available to the State at the time it was being developed. Additionally, the

inventories comprehensively address all source categories in New Jersey’s nonattainment areas and were developed consistent with the relevant ozone base year emission inventory reporting requirements based on the EPA’s guidance. For those reasons, the EPA approved the 2017 emission inventories into New Jersey’s SIP as meeting the requirements of CAA Section 182(a)(3)(A).

Since we agree that New Jersey’s 2017 emission inventory is consistent with the ozone base year inventory reporting requirements based on EPA guidance, we are now proposing to approve New Jersey’s 2017 emission inventory as fully meeting the emission inventory requirement under sections 182(a)(1) and 172(c)(3) for the New Jersey portions of the New York-Northern New Jersey-Long Island, NY-NJ-CT nonattainment area, and the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area for the 2015 8-hour ozone NAAQS.⁶

Table 2 shows the statewide summary of the 2017 annual emissions for VOC and NO_x. Tables 3 and 4 show the 2017 NO_x and VOC typical summer day emissions by category for the Northern New Jersey and Southern New Jersey ozone nonattainment areas. The actual 2017 emission inventory used the onroad and nonroad models included in MOVES2014b, which replaced MOVES2014a in August 2018. On August 16, 2023, the EPA approved New Jersey’s 2017 calendar year daily and annual emission inventories for NO_x and VOC for the Northern New Jersey and Southern New Jersey ozone nonattainment areas, which is relevant to both the 2008 and 2015 ozone standards. See *id.*

TABLE 2—STATEWIDE SUMMARY OF 2017 ANNUAL EMISSIONS OF VOC AND NO_x

[Tons]

2017 New Jersey State Annual Emissions								
	Point	Area	Onroad	Nonroad	Biogenic	Wildfire and prescribed burning	Total for all sectors	Total anthropogenic
VOC	6,809	81,555	28,652	25,476	88,238	5,690	236,420	142,492
NO _x	9,824	23,208	60,681	40,215	2,045	346	136,319	133,928

⁶ On November 23, 2021, NJDEP submitted this 2017 emission inventory to serve as the periodic emission inventory for the 2008 Ozone NAAQS, and to serve as the RFP base year for the 2015 Ozone NAAQS. However, within the EPA’s

previous action on NJ’s 2017 Periodic Emission Inventory, the EPA inadvertently only approved the inventory for the 2008 NAAQS, PM_{2.5}, and Regional Haze, but did not propose to approve it for the 2015 Ozone NAAQS for either of New Jersey’s ozone

nonattainment areas. See 88 FR 55576. Within this action we’re proposing to approve that the 2017 PEI submitted by New Jersey to also serve as the base year inventory for RFP for the 2015 Ozone NAAQS for both New Jersey nonattainment areas.

TABLE 3—NORTHERN NEW JERSEY PORTION OF THE NJ-NY-CT OZONE NONATTAINMENT AREA 2017 EMISSION INVENTORY OF VOC AND NO_x
[Tons per summer day]

County	Point sources	Area sources	Onroad sources	Nonroad sources	Biogenic	Wildfire and prescribed burning	Total	Total anthropogenic
VOC (tons per summer day)								
Bergen	2.11	23.83	9.06	7.42	4.06	0.08	46.56	42.42
Essex	1.06	17.97	6.11	4.76	2.39	NA	32.30	29.90
Hudson	1.71	15.46	3.52	2.75	1.03	NA	24.47	23.44
Hunterdon	0.13	4.00	1.74	1.74	10.58	0.04	18.23	7.60
Middlesex	15.89	22.32	8.23	5.41	5.82	0.03	57.71	51.86
Monmouth	0.44	16.55	6.83	5.46	12.38	0.20	41.85	29.28
Morris	0.50	14.09	5.25	4.96	14.41	0.07	39.30	24.81
Passaic	0.77	12.15	3.98	2.59	8.36	0.14	27.99	19.49
Somerset	0.89	9.44	3.38	3.77	7.44	0.02	24.94	17.48
Sussex	0.16	3.93	1.54	1.59	17.30	0.15	24.66	7.21
Union	3.23	13.89	5.06	3.20	2.00	0.00	27.39	25.38
Warren	0.31	3.30	1.40	0.93	11.71	0.08	17.73	5.94
Total in Northern NAA Area	27.21	156.93	56.10	44.58	97.48	0.82	383.12	284.82
NO_x (tons per summer day)								
Bergen	2.16	2.84	15.71	10.03	0.07	0.01	30.82	30.74
Essex	3.74	2.26	11.56	13.99	0.06	NA	31.61	31.55
Hudson	0.85	1.81	6.26	17.89	0.03	NA	26.85	26.82
Hunterdon	1.36	0.39	5.00	2.66	0.46	0.00	9.88	9.42
Middlesex	7.02	2.55	18.72	8.92	0.21	0.00	37.43	37.21
Monmouth	0.42	1.85	10.15	10.54	0.41	0.01	23.38	22.95
Morris	0.72	1.78	10.48	4.88	0.16	0.00	18.03	17.86
Passaic	0.15	1.25	5.37	3.49	0.07	0.01	10.34	10.26
Somerset	4.62	1.16	7.70	4.18	0.27	0.00	17.93	17.66
Sussex	0.10	0.42	1.84	1.38	0.27	0.01	4.02	3.74
Union	8.20	1.49	9.57	5.35	0.05	0.00	24.67	24.62
Warren	0.74	0.30	3.95	0.91	0.30	0.01	6.21	5.91
Total in Northern NAA Area	30.08	18.12	106.31	84.23	2.35	0.06	241.15	238.75

TABLE 4—SOUTHERN NEW JERSEY PORTION PA-NJ-MD-DE OZONE NONATTAINMENT AREA 2017 EMISSION INVENTORY OF VOC AND NO_x
[Tons per summer day]

County	Point sources	Area sources	Onroad sources	Nonroad sources	Biogenic	Wildfire and prescribed burning	Total	Total anthropogenic
VOC (tons per summer day)								
Atlantic	0.08	7.27	2.60	3.59	40.71	0.92	55.17	13.54
Burlington	1.06	13.70	4.73	4.26	50.31	0.14	74.20	23.75
Camden	0.67	12.56	4.62	2.55	15.62	0.10	36.12	20.40
Cape May	0.08	2.98	1.04	3.69	14.71	0.06	22.57	7.79
Cumberland	0.43	6.18	1.30	1.34	27.08	0.63	36.95	9.24
Gloucester	5.36	14.43	2.89	2.42	16.97	0.56	42.63	25.10
Mercer	0.36	10.20	7.02	2.60	9.72	0.01	29.91	20.17
Ocean	0.45	14.31	5.69	6.45	41.73	10.97	79.61	26.91
Salem	0.62	2.74	0.74	0.76	17.21	0.03	22.10	4.85
Total in Southern NAA Area	9.10	84.37	30.63	27.66	234.06	13.43	399.25	151.76
NO_x (tons per summer day)								
Atlantic	0.35	0.82	5.51	4.56	0.26	0.07	11.57	11.24
Burlington	1.63	1.33	8.98	5.17	0.35	0.01	17.47	17.11
Camden	2.27	1.43	7.73	3.88	0.18	0.00	15.50	15.32
Cape May	0.11	0.30	2.06	4.27	0.18	0.00	6.92	6.73
Cumberland	1.86	0.43	2.10	2.86	0.36	0.03	7.64	7.25
Gloucester	5.59	0.79	5.66	3.48	0.28	0.04	15.85	15.52
Mercer	1.02	1.40	3.60	4.01	0.19	0.00	10.22	10.03
Ocean	2.02	1.34	7.90	6.37	0.26	0.46	18.35	17.63

TABLE 4—SOUTHERN NEW JERSEY PORTION PA-NJ-MD-DE OZONE NONATTAINMENT AREA 2017 EMISSION INVENTORY OF VOC AND NO_x—Continued

[Tons per summer day]

County	Point sources	Area sources	Onroad sources	Nonroad sources	Biogenic	Wildfire and prescribed burning	Total	Total anthropogenic
Salem	3.74	0.20	1.45	1.50	0.38	0.00	7.27	6.89
Total in Southern NAA Area	18.58	8.04	44.99	36.12	2.44	0.62	110.79	107.73

b. Reasonable Further Progress

Section 182(b)(1) of the CAA and the EPA's 2008 Ozone Implementation Rule requires that States submit a reasonable further progress (RFP) demonstration for each 2008 ozone NAAQS nonattainment area classified as Moderate and above, for review and approval into its SIP, that describes how the area will achieve actual emissions reductions of VOC and NO_x from a baseline emissions inventory. Section 182(b)(1) of the CAA requires a State's RFP for Moderate nonattainment areas to demonstrate a 15% reduction in VOC emissions over a six-year period.

The EPA's 2008 Ozone Implementation Rule also finalized that 2008 ozone NAAQS nonattainment areas that have previously met the CAA requirement for a 15% Rate of Progress (ROP) VOC reduction plan for the entire area is not required to fulfill that requirement again. Instead, for purposes of the 2008 ozone NAAQS, the EPA interpreted the RFP requirement to require certain areas classified as Moderate to achieve an average 3 percent annual reduction in VOC and/or NO_x emissions for the first 6 years following the baseline.⁷ For Serious and above areas, section 182(c)(2)(B) requires areas to obtain 15% ozone precursor emission reductions in that same 6-year period and an additional 3% per year reduction in VOC or NO_x emissions, averaged over consecutive 3-year periods until the attainment date.⁸ New Jersey has previously met the 15% ROP for VOC, due to nonattainment obligations it had under the 1997 8-hour ozone standard. *See* 86 FR 49249 (September 2, 2021). Therefore, for purposes of the 2008 ozone standard, New Jersey submitted RFP demonstrations for the Moderate and Serious classifications for its portion of

the NY-NJ-CT nonattainment area showing VOC and NO_x emission reductions greater than the 15% requirement following six years after the 2011 base year inventory (between 2011–2017) and demonstrated a 24% reduction by the Serious classification attainment date, July 20, 2021. Note that we are only proposing action on the Moderate and Serious area RFP plans for the 2008 ozone NAAQS for the New Jersey portion of the NYMA.

In New Jersey's January 2, 2018, submission, NJDEP showed that RFP would be achieved for the Moderate classification between the 2011 baseline year and the 2017 target year by demonstrating that NO_x emissions would decline by 31%, and VOC emissions by 14%, within the NYMA nonattainment area. New Jersey updated its 2011 emission estimates for use within the RFP baseline inventory by using the latest version of EPA's MOVES model available at the time, MOVES 2014a, for calculation of on-road and non-road mobile source emissions. New Jersey relied on the emission projection work it had coordinated and submitted to the Mid-Atlantic Regional Air Management Association for their effort to develop a 2017 modeling platform. The projections of emissions from electrical generating units (EGUs) were conducted using the Eastern Regional Technical Advisory Committee (ERTAC). The ERTAC projection tool uses 2011 emissions data from EPA's Clean Air Market Division and growth factors developed from the U.S. Department of Energy's Energy Information Administration (EIA) data and other sources to create a 2017 emission inventory for EGUs. EPA finds that the ERTAC EGU emissions forecasts produce reasonable results for facilities within the State.

Table 5 contains a summary of the 2011 RFP baseline inventory, and 2017 projected, controlled emissions demonstrating the 14% VOC and 31% NO_x emission reductions for the New Jersey portion of the NY-NJ-CT nonattainment area. Although NJDEP's modeling demonstration illustrates that the NYMA did not meet the 2008 ozone standard by the Moderate area attainment date of July 20, 2018, New Jersey's RFP analysis for the NYMA 2008 ozone Moderate nonattainment area showed that projected, controlled VOC and NO_x emission in 2017 were well below the RFP emission target levels.⁹ Therefore, the EPA is proposing to approve New Jersey's RFP SIP submittal for the 2008 ozone Moderate classification since it successfully meets the RFP requirement under CAA section 172(c)(2), 182(b)(1), and 40 CFR 51.1110.

Within New Jersey's November 23, 2021, SIP submittal, the State updated its 2008 ozone Moderate RFP demonstration by utilizing the more current 2017 actual emissions inventory. In Table 5–1, within New Jersey's November 2021 SIP submission the percent reduction of VOC and NO_x from the 2011 baseline to 2017 was 21% and 37%, respectively. Therefore, New Jersey's present reduction of VOC and NO_x from the 2011 baseline to 2017 is 58%, which exceeds the RFP-required 15%, for the New Jersey portion of the Northern NJ-NY-CT nonattainment area. The result of New Jersey's 2017 actual emission inventory, which further illustrates that the State has demonstrated the combined reduction of VOC and NO_x for its 2008 ozone NAAQS Moderate classification RFP requirement, are also provided in Table 4.

⁷ Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements." Final Rule. Published March 6, 2015; effective April 6, 2015. 80 FR 12271.

⁸ *See Id.*

⁹ Within Table 3–2, "Control Measures in the SIP Post 2011," of New Jersey's January 2, 2018 submission, the State outlines which control measures were incorporated within the 2017 attainment modeling & RFP. The control measures incorporated within the 2017 modeling include federally-approved measures adopted by the State

and included in New Jersey's SIP, federally-approved programs like the State's Nonattainment New Source Review (NNSR) program, and various Federal control measures (*i.e.*, New Source Performance Standards (NSPS), National Emission Standards of Hazardous Air Pollutants (NESHAP), etc.).

TABLE 5—SUMMARY OF RFP CALCULATIONS FOR NYMA FOR 2008 OZONE MODERATE CLASSIFICATION

Description	VOC emissions (tons/ozone season day)	NO _x emissions (tons/ozone season day)
<i>RFP Baseline Inventory (2011):</i> NJ portion of NY-NJ-CT area	360	379
<i>2017 Projected, controlled emissions:</i> NJ portion of NY-NJ-CT area	309	261
<i>2017 Actual Inventory:</i> NJ portion of NY-NJ-CT area	286	240

As mentioned previously, the RFP requirement in CAA section 182(c)(2)(B) require areas classified as Serious or higher, in addition to the ROP reductions, to achieve an additional 3% per year reduction in VOC or NO_x emissions, averaged over consecutive 3-year periods until the attainment date.¹⁰ The New Jersey portion of the NY-NJ-CT nonattainment area was reclassified from Moderate to Serious nonattainment for the 2008 ozone NAAQS. Since the attainment date for the Serious classification was on July 20, 2021, this requires the Serious area to demonstrate 24% percent reductions by the end of the nine-year period (2011–2020) regardless of whether the area attains the NAAQS. In New Jersey’s November

23, 2021, submission, NJDEP demonstrated that RFP was projected for the Serious classification between the 2011 baseline year and 2020 target year by showing that the 24% reduction requirement for RFP would be achieved through a combination of NO_x and VOC emission reductions through 2020. Table 6 contains a summary of the 2011 RFP baseline inventory, and 2020 projected, controlled emissions demonstrating that VOC emissions reduced by 25% and NO_x emissions reduced by 47% within the New Jersey portion of the NY-NJ-CT nonattainment area. Because RFP requirements for the NYMA Serious nonattainment area can be satisfied with reductions in either NO_x or VOC emissions, New Jersey was

able to project an emission reduction surplus from the 24% requirement. Although NJDEP’s modeling demonstration and 2020 Design Values (DVs) illustrated that the NYMA did not attain the ozone NAAQS by the Serious area attainment date of July 20, 2021, New Jersey’s RFP calculations for the NYMA Serious nonattainment area showed that the 24% reduction requirement was achieved through a combination of NO_x and VOC emission reductions through 2020.¹¹ Therefore, the EPA is proposing to approve New Jersey’s RFP SIP submission for the Serious classification for 2008 ozone since it successfully meets the RFP requirement under CAA section 182(c)(2)(B) and 40 CFR 51.1110.

TABLE 6—SUMMARY OF RFP CALCULATIONS FOR NYMA FOR 2008 OZONE SERIOUS CLASSIFICATION

Description	VOC emissions (tons/summer day)	NO _x emissions (tons/summer day)
<i>RFP Baseline Inventory (2011):</i> NY portion of NY-NJ-CT area	360	379
<i>2020 Projected, controlled emissions:</i> NY portion of NY-NJ-CT area	271	201

c. Motor Vehicle Emissions Budgets

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means conformity to an implementation plan’s purpose of eliminating or reducing the severity and number of violations of the NAAQS and achieving expeditious attainment of the NAAQS, and that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. See CAA 176(c)(1)(A) and (B). The EPA’s transportation conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs and projects conform to SIPs and establishes the criteria and procedures for

determining whether or not they conform. To accomplish its purpose, the transportation conformity rule requires a demonstration that emissions from the metropolitan planning organization’s (MPO’s) Regional Transportation Plan (RTP), and Transportation Improvement Program (TIP) do not exceed the motor vehicle emission budgets (“budgets”) contained in the control strategy SIP revision or maintenance plan. See 40 CFR 93.101, 93.118, and 93.124. The term “motor vehicle emissions budget” is defined in 40 CFR 93.101 as “that portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting

reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions.”

In New Jersey’s January 2, 2018, comprehensive SIP submittal, the State established the 2017 RFP motor vehicle emission budgets for VOCs and NO_x within the New Jersey portion of the NY-NJ-CT nonattainment area for the 2008 8-hour ozone Moderate classification. Table 7 lists the New Jersey 2017 motor vehicle emission budgets. These budgets are based on MOVES2014a, which was the latest version of the model available when New Jersey prepared them.

¹⁰ Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements.” Final Rule. Published March 6, 2015; effective April 6, 2015. 80 FR 12271.

¹¹ Within Table 3–2, “Control Measures in the SIP Post 2011,” of New Jersey’s November 23, 2021 submission, the State outlines which control measures were incorporated within the 2020 attainment modeling & RFP. The control measures incorporated within the 2020 modeling include federally-approved measures adopted by the State,

federally-approved programs like the State’s Nonattainment New Source Review (NNSR) program, and various Federal control measures (*i.e.*, New Source Performance Standards (NSPS), National Emission Standards of Hazardous Air Pollutants (NESHAP), etc.).

TABLE 7—MOTOR VEHICLE EMISSION BUDGETS IN NEW JERSEY’S 2008 OZONE MODERATE RFP PLANS

Description	NO _x (tons/summer day)	VOC (tons/summer day)
2017 8-Hour Ozone Motor Vehicle Emission Budgets: NJ portion of NY-NJ-CT area	103.22	48.69

On August 16, 2018, the EPA issued a letter to New Jersey in which we stated that the budgets for the New Jersey portion of the NY-NJ-CT area were adequate for use in transportation conformity determinations. Additionally, the EPA published an announcement of this adequacy finding in the **Federal Register** on September 25, 2018. See 83 FR 48384. Within the letter, and subsequently described in the notice, the EPA determined that New Jersey’s 2017 motor vehicle emission budgets were adequate for transportation conformity purposes as outlined in the transportation

conformity regulation at 40 CFR 93.118(e)(4). In this action the EPA is proposing to approve the 2008 ozone Moderate RFP motor vehicle emission budgets established for the New Jersey portion of the NY-NJ-CT area for 2017. The EPA is proposing to approve these budgets because EPA has now completed its review of the overall 2008 ozone Moderate RFP plan which demonstrates the required VOC/NO_x emission reduction from the 2011 baseline year under CAA Section 172(c)(2), 182(b)(1), and 40 CFR 51.1110. Based on EPA’s review of the budgets and the RFP submission, EPA

proposes to determine the budgets are consistent with the applicable RFP requirements.

Also, in New Jersey’s November 23, 2021, comprehensive SIP submittal, the State established the 2020 RFP motor vehicle emission budgets for VOCs and NO_x within the New Jersey portion of the NY-NJ-CT nonattainment area for the 2008 8-hour ozone Serious classification. These budgets are based on MOVES2014b, which was the latest version of the model available when New Jersey prepared them. Table 8 lists the New Jersey 2020 motor vehicle emission budgets.

TABLE 8—MOTOR VEHICLE EMISSION BUDGETS IN NEW JERSEY’S 2008 OZONE SERIOUS RFP PLANS

Description	NO _x (tons/summer day)	VOC (tons/summer day)
2020 8-Hour Ozone Motor Vehicle Emission Budgets: NJ portion of NY-NJ-CT area	76.77	42.46

On January 18, 2023, the EPA issued a letter to New Jersey in which we stated that the budgets for the New Jersey portion of the NY-NJ-CT area were adequate for use in transportation conformity determinations. Additionally, the EPA published an announcement of this adequacy finding in the **Federal Register** on March 13, 2023. See 88 FR 15390. Within that notice, the EPA determined that New Jersey’s 2020 motor vehicle emission budgets were adequate for transportation conformity purposes as outlined in the transportation conformity regulation at 40 CFR 93.118(e)(4). In this action the EPA is proposing to approve the 2008 ozone Serious RFP motor vehicle emission budgets established for the New Jersey portion of the NY-NJ-CT area. The EPA is proposing to approve the 2020 budgets established for the New Jersey portion of the NY-NJ-CT nonattainment area since these budgets are based MOVES model runs conducted by the State for 2020. In New Jersey’s 2017 periodic emission inventory, the emissions from onroad sources are calculated by multiplying activity levels (including vehicle starts, operation times, speeds and miles traveled) by emission factors. The activity estimates are generated by the MPOs using their travel demand models (TDM). The onroad source emissions are then

calculated using the latest version of MOVES. As discussed elsewhere in this proposal, the EPA determined that New Jersey’s 2017 periodic emission inventory is consistent with EPA guidance.¹² Therefore, the EPA is also proposing to approve these budgets because EPA has now completed its review of the overall 2008 ozone Serious RFP plan which demonstrates the required VOC/NO_x emission reduction from the 2011 baseline year under CAA Section 182(c)(2)(B) and 40 CFR 51.1110. Based on EPA’s review of the budgets and the RFP submission, EPA proposes to determine the budgets are consistent with the applicable RFP requirements.

EPA is proposing to approve both the 2017 budgets for the Moderate classification of the 2008 ozone NAAQS, and the 2020 budgets for the Serious classification of the 2008 ozone NAAQS, because based on its evaluation of the RFP submissions and the budgets, EPA considers these budgets to meet the six adequacy criteria found in the transportation conformity regulation at 40 CFR 93.118(e)(4). These budgets were subject

to a state public hearing before being submitted to EPA. Consultation among Federal, State, and local agencies occurred in their development. The budgets are clearly identified and precisely quantified, as shown in Tables 7 and 8 above. When considered together with all other emissions sources, the budgets are consistent with the requirements for reasonable further progress, and they are consistent with and clearly related to the emissions inventory and the measures in the relevant SIP submissions. The last criterion is that revisions to previous submitted budgets have been explained and documented; in this case, these budgets have not been revised.

d. Emission Statement Program Certification

In New Jersey’s November 2021 SIP submittal, the State certifies that its state-wide rules at N.J.A.C. 7:27–21 continues to satisfy Federal requirements for an emission statement program for the 2008 75 ppb 8-hour ozone NAAQS. The EPA most recently approved New Jersey’s regulation at N.J.A.C. 7:27–21 for satisfying the requirement of an emission statement program for the 2008 8-hour ozone NAAQS on October 9, 2018. See 83 FR 50507.

The EPA stated in the 2008 ozone implementation rule that if an area has

¹²New Jersey’s approach used to calculate the Transportation Conformity Budgets is the same used to calculate the emission inventories. New Jersey’s calculation approach is described in detail in Appendix 4–6 of the State’s November 23, 2021 SIP submission.

a previously approved emission statement rule in force for the 1997 ozone NAAQS or the 1-hour ozone NAAQS that covers all portions of the nonattainment area for the 2008 ozone NAAQS, such rule should be sufficient for purposes of the emissions statement requirement for the 2008 ozone NAAQS. See 80 FR 12264.

N.J.A.C. 7:27 Subchapter 21, “Emission Statements,” requires the submission of annual emission statements from major facilities including stationary sources of VOCs or NO_x that emit 10 tons or 25 tons a year, respectively.¹³ The emission statements submitted to the Department are required to include actual emissions of VOC and NO_x in tons during the ozone season (May 1st–September 30th), and in pounds per day during the peak ozone season (June 1st–August 31st). From these statements, the NJDEP develops reports of emissions of all criteria pollutants and submits them to the EPA pursuant to the Federal Air Emission Reporting Requirements (AERR) Rule for uploading to the EPA’s National Emission Inventory (NEI).

New Jersey certifies that the emission statement requirement of CAA Section 182(a)(3)(b) continues to be fully addressed through N.J.A.C. 7:27–21¹⁴ that is applicable state-wide. Therefore, the EPA is proposing to approve New Jersey’s emission statement certification that the previously approved SIP element fully meets the requirements of the CAA for the Serious classification of the 2008 8-hour ozone NAAQS for the New Jersey portion of the NYMA nonattainment area. The EPA determines that the State’s previously approved emission statement program is certified to meet the requirements for the Serious classification of the 2008 Ozone NAAQS, since the program collects actual VOC and NO_x emission in tons per ozone season day, released from major sources that emit or have the potential to emit 10 or 25 tons per year of VOC or NO_x, respectively. See Appendix A to subpart A of part 51,

Title 40. The EPA approved a revision to Subchapter 21 into New Jersey’s SIP on November 28, 2023. See 88 FR 83036.

e. Ozone Nonattainment New Source Review (NNSR)

New Jersey affirmed in its November 23, 2021, submittal that the State’s NNSR program remains in effect statewide with a major source applicability threshold of 25 tpy of VOC and NO_x, respectively. This major source applicability threshold is consistent with the State’s former classification of Severe for the 1-hour ozone standard in accordance with requirements for anti-backsliding provisions at CAA section 172(e). At submittal of the State’s comprehensive November 2021 SIP revision, New Jersey continued to be nonattainment for the 1997, 2008 and 2015 8-hour ozone standards at lower classifications than the 1-hour ozone standards. Also, since New Jersey is located entirely in the OTR, regardless of the area’s designation status, NNSR applies state-wide for emissions of ozone precursor pollutants, VOC and NO_x, for new major facilities or modifications to existing major or minor sources. In New Jersey’s November 2021 submission, the State certifies that its existing NNSR rules codified at N.J.A.C. 7:27–18, “Control and Prohibition of Air Pollution from New or Altered Sources Affecting Ambient Air Quality,” which regulates the New Jersey portions of the Northern NJ-NY-CT and Southern NJ-PA-DE-MD nonattainment areas for the 2008 75 ppb and 2015 70 ppb 8-hour Ozone NAAQS are at least as stringent as the Federal requirements at 40 CFR 51.165 for ozone and its precursors for the State’s classification in its northern and southern areas. See 80 FR 12264 (March 6, 2015). The EPA approved a revision to Subchapter 18 into New Jersey’s SIP on November 28, 2023. See 88 FR 83036.

Permits to construct new major sources or to conduct major modifications to existing major sources in New Jersey must meet NNSR requirements, including offsetting increases in emissions from the new major source or major modification to a major existing source and applying the Lowest Achievable Emissions Rate (LAER) to determine emission limits. LAER is more stringent than RACT; it requires deriving the permit’s emission limit for the nonattainment pollutant at issue from the most stringent emission limit in any SIP for that source category or from the most stringent limit achieved in practice by that source

category.¹⁵ Emissions increases from the new major source or major modification to an existing major source are offset by obtaining “emission reduction credits” (ERCs) or “offsets” generated from reductions in actual emissions of the nonattainment pollutant at issue from existing sources. The required number of offsets needed is determined by applying the ratio for the applicable nonattainment area designation established in CAA section 182.¹⁶ Furthermore, New Jersey certified in its November 23, 2021, submittal that the State also relies upon Federal rules such as the National Emission Standards for Hazardous Air Pollutants (NESHAPs) regulated under CAA section 112. NESHAPs establish the need to use Maximum Achievable Control Technology (MACT), which may be more stringent than RACT, to control hazardous air pollutants.

The EPA is proposing to approve New Jersey’s certification that NNSR applies state-wide for NO_x and VOC emissions from stationary sources and fully meets the requirements of the CAA for the State’s Serious classification in the NYMA area for the 2008 Ozone NAAQS and for the Moderate classification in the NYMA for the 2015 Ozone NAAQS. Within this action, the EPA is also proposing to approve New Jersey that the State has satisfied the NNSR requirements as it relates to the 2015 Ozone NAAQS Marginal classification for the New Jersey portion of the Philadelphia-Wilmington-Atlantic City nonattainment area since the State’s NNSR requirements are at least as stringent as the Federal requirements at 40 CFR 51.165 for ozone and its precursors. Since New Jersey’s NNSR program is applicable statewide, the EPA is also proposing to approve that New Jersey has satisfied the statewide NNSR requirement as it relates to the OTR for the 2015 Ozone NAAQS pursuant to CAA Section 184(b)(2).

f. Clean Fuels for Fleets

Clean Air Act Section 182(c)(4) requires States with ozone nonattainment areas classified as Serious or above with 1980 populations greater than 250,000 to submit a SIP revision to either “include such measures as may be necessary to ensure the effectiveness of the applicable provisions of the clean-fuel vehicle program prescribed under part C of subchapter II of this chapter” or to provide “a substitute for all or a portion

¹⁵ 40 CFR 51.165(a)(1)(x).

¹⁶ The offset ratio for moderate nonattainment areas is 1.15 to 1 (CAA 182(b)(5)); the offset ratio for serious areas is 1.2:1 (CAA 182(c)(10)); and the offset ratio for severe areas is 1.2:1 (182)(d)(2).

¹³ Facilities that are not applicable to New Jersey’s Emission Statement Program are still included the State’s 2017 Emission Inventory as area sources. The VOC and NO_x emission from area source categories were calculated by multiplying a USEPA published emission factor by a known indicator of activity for each source category, such as employment, population and fuel usage. A calculation methodology sheet was produced by New Jersey to document the data used to estimate the emissions from each source category. The calculation methodology is outlined in Appendix 10–1 of the State’s November 2021 SIP submission and is included within the docket of this rulemaking.

¹⁴ The EPA approved N.J.A.C. 7:27 Subchapter 21 on August 3, 2010 for the 1997 85 ppb 8-hour ozone NAAQS. (75 FR 45483)

of the clean-fuel vehicle program prescribed under part C of subchapter II of this chapter.” The Clean Fuel Fleets requirement was adopted as part of the 1990 Clean Air Act Amendments and was designed to improve air quality and introduce clean burning fuels into the market.

Clean Air Act Sections 243 and 245 included numerical emissions standards for the Clean Fuel Fleets light- and heavy-duty vehicles that were intended to encourage innovation, encourage the purchase of cleaner fleet vehicles and reduce emissions for fleets of motor vehicles in ozone nonattainment areas classified as Serious or above as compared to conventionally fueled vehicles available at the time.¹⁷ On April 28, 2014, the EPA promulgated Tier 3 motor vehicle emissions and fuel standards for light-duty vehicles, light-duty trucks, medium-duty passenger trucks, and heavy-duty vehicles. See 79 FR 23414. With the continued implementation of both Tier 3 light-duty standards (40 CFR part 86, subpart S) and heavy-duty vehicle standards (40 CFR part 1036), the Clean Fuel Fleets standards became either less stringent than or equivalent to the standards that apply to vehicles and engines today.

Because the Clean Air Act continues to require clean fuel vehicle programs in Serious and above ozone nonattainment areas, on June 29, 2021, the EPA revised the Clean Fuel Fleets requirements in 40 CFR part 88, to provide compliance options allowing vehicles and engines certified to current standards to be deemed to comply with the Clean Fuel Fleets standards as Ultra Low-Emission Vehicles. See 86 FR 34308 (June 29, 2021). This approach enables States to address the Clean Fuel Fleets requirements by describing in a SIP that any new light- or heavy-duty vehicle purchased today are certified to current standards under 40 CFR part 86 and 40 CFR part 1036.¹⁸

New Jersey affirmed in its November 23, 2021, submittal that the State has satisfied the requirements for clean fuels for fleets. Table 3–2 of New Jersey’s SIP submittal summarizes the post-2011 control measures implemented within New Jersey’s State Implementation Plan. The table outlines the sector in which these control measures are applicable

¹⁷ CAA sections 241(5) “Definition of a Covered Fleet” and 246(b) “Phase-in Requirements” require that Clean Fuel Fleets Programs (CFFPs) apply to fleets of 10 or more vehicles that are capable of being centrally fueled.

¹⁸ EPA issued guidance to States on how to address the Clean Fuel Fleets requirement. “Guidance for Fulfilling the Clean Fuel Fleets Requirement of the Clean Air Act” (June 2022, EPA–420–B–22–027). See <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10155SA.pdf>.

and if the measure is State or federally imposed. Within this table, New Jersey affirms that on-road motor vehicles within the State including light-duty vehicles, light-duty trucks, medium-duty passenger trucks, and heavy-duty vehicles comply with the Federal emission standards promulgated under 40 CFR part 86, subpart S and 40 CFR part 1036.¹⁹

The EPA is proposing to approve New Jersey’s certification that the State has satisfied the requirements for clean fuels for fleets under the Clean Air Act for the 2008 8-hour ozone NAAQS. New Jersey’s program demonstrates that any new light- or heavy-duty vehicle purchased today are certified to current or are more stringent than Federal standards, 40 CFR part 86, subpart S or 40 CFR part 1036, and thus is deemed to comply with the Clean Fuel Fleets requirement as Ultra Low-Emission Vehicles.

IV. Proposed Action

In this rule, the EPA is proposing to approve portions of a comprehensive SIP revision submitted by the State of New Jersey on November 23, 2021, certifying that the State has satisfied the requirements for an ozone NNSR program for the Serious classification of the 2008 Ozone NAAQS, both Marginal and Moderate classifications and OTR requirements for the 2015 Ozone NAAQS, certifying that the State has satisfied the requirements for a nonattainment emission inventory for the 2015 Ozone NAAQS, certifying that the State has satisfied the requirements of an emission statement program for the 2008 Ozone Serious classification for the NYMA, and certifying that the State has satisfied the requirements for clean fuels for fleets for the 2008 Ozone NAAQS Serious classification for its portion of the NYMA. The EPA is also proposing to approve New Jersey’s reasonable further progress plans and associated motor vehicle emission budgets for both the Moderate and Serious classifications of the 2008 Ozone NAAQS in the NYMA.

EPA is soliciting public comments on the issues discussed in this notice. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting

¹⁹ On February 5, 2024, NJDEP supplemented their initial November 2021 SIP submittal with a clarification letter which further addresses the Clean Fuel Fleets requirement for the New Jersey portion of the NYMA. In the letter, NJDEP certifies that new vehicles and engines sold within the State comply with current emission standards under 40 CFR part 86, subpart S. A copy of NJDEP’s Clean Fuel Fleets clarification letter can be found in the docket of this rulemaking.

written comments to this proposed rule by following the instructions listed in the ADDRESSES section of this Federal Register.

V. Environmental Justice Considerations

New Jersey provided a supplement to the SIP submission being proposed for approval with this rulemaking on June 6, 2024. 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 issues of concern.

New Jersey has also noted that the State has implemented numerous initiatives, collaborations, Administrative Orders and Executive Orders to address the needs and concerns of overburdened communities. New Jersey provided a timeline of the EJ actions implemented by the State, both prior to the SIP submittals on January 2, 2018, and November 23, 2021, and subsequent to it, to note its continued attention to environmental justice in the State.

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. No. 96), an EJ E.O. issued by Governor Jon Corzine in 2009 (E.O. No. 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. No. 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?” 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 has reviewed this material but has determined that conducting a comprehensive EJ analysis is not necessary in the context of this SIP submission for addressing planning elements for the 2008 and 2015 ozone 8-hour NAAQS, as the CAA and its applicable implementing regulations neither prohibit nor require such an evaluation of EJ in relation to the relevant requirements. 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.

However, the EPA expects that this action, which assesses whether New Jersey's SIP adequately addresses planning elements for the 2008 and 2015 ozone 8-hour NAAQS, will generally have a neutral impact on all populations, including communities of color and low-income groups. At the very least, it will not worsen existing air quality standards.

In summary, the EPA concludes, for informational purposes only, that this proposed rule will not disproportionately harm communities with environmental justice concerns. New Jersey did evaluate EJ considerations voluntarily 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 independently of the State's EJ assessment.

VI. Statutory and Executive Order Reviews

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 proposes to approve State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act.

In addition, this proposed rulemaking action pertaining to New Jersey's submissions, 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. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 NJDEP evaluated environmental justice as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA's evaluation of the NJDEP's environmental justice considerations is described above in the section titled, "Environmental Justice Considerations." The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action under the CAA on bases independent of 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, Nitrogen dioxide, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Lisa Garcia,

Regional Administrator, Region 2.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R08-OAR-2023-0495; FRL-12052-01-R8]

Air Plan Partial Approval and Partial Disapproval; North Dakota; Regional Haze State Implementation Plan for the Second Implementation Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to partially approve and partially disapprove the regional haze state implementation plan (SIP) revision submitted by the State of North Dakota on August 11, 2022 (North Dakota's 2022 SIP submission), as satisfying applicable requirements under the Clean Air Act (CAA) and the EPA's Regional Haze Rule (RHR) for the program's second implementation period. North Dakota's 2022 SIP submission addresses the requirement