

18, 2011 (Improving Regulation and Regulatory Review). The Office of Information and Regulatory Affairs has determined that this rule is not a significant regulatory action under Executive Order 12866, as amended by Executive Order 14094. The Regulatory Impact Analysis associated with this rulemaking can be found as a supporting document at [www.regulations.gov](http://www.regulations.gov).

### Regulatory Flexibility Act (RFA)

The Secretary hereby certifies that this proposed rule would or not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (5 U.S.C. 601–612). The factual basis for this certification is that this proposed rule impacts only VA staff and veterans, and thus no small entities will be affected. Therefore, pursuant to 5 U.S.C. 605(b), the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604 do not apply.

### Unfunded Mandates

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

### Paperwork Reduction Act (PRA)

Although this proposed rule contains a collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521), there are no provisions associated with this rulemaking constituting any new collection of information or any revisions to the current collection of information. The collection of information for 38 CFR 17.105(c) is currently approved by the Office of Management and Budget (OMB) and has a valid OMB control number of 2900–0165.

### List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Claims, Health care, Veterans.

### Signing Authority

Denis McDonough, Secretary of Veterans Affairs, signed and approved this document on December 5, 2024, and authorized the undersigned to sign

and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs.

### Consuela Benjamin,

*Regulation Development Coordinator, Office of Regulation Policy & Management, Office of General Counsel, Department of Veterans Affairs.*

For the reasons stated in the preamble, the Department of Veterans Affairs proposes to amend 38 CFR part 17 as set forth below:

### PART 17—MEDICAL

- 1. The authority citation for part 17 continues to read as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

\* \* \* \* \*

- 2. Amend § 17.105 by revising paragraph (c) to read as follows:

#### § 17.105 Waivers

\* \* \* \* \*

(c) *Of charges for copayments.* If the debt represents charges for outpatient medical care, inpatient hospital care, medication, extended care services, or urgent care copayments made under §§ 17.108, 17.110, 17.111, or 17.4600, either a claimant or VA may initiate a waiver request.

(1) If the claimant requests the waiver, the claimant must:

(i) Make the request within the time period provided in § 1.963(b) of this chapter.

(ii) Submit the request in writing to the Consolidated Patient Account Center (CPAC) Chief Fiscal Officer.

(iii) Provide any additional information that VA may request to determine whether the waiver will be granted.

(iv) Request a hearing under § 1.966(a) of this chapter if a hearing is desired.

(2) If VA requests a waiver on behalf of a veteran, VA will:

(i) Make the request within the time period provided in § 1.963(b) of this chapter.

(ii) Submit the request in writing to the designated CPAC Chief Fiscal Officer.

(iii) Notify the veteran in writing that a waiver request has been made on the veteran's behalf and that the veteran may request a hearing pursuant to § 1.966(a).

(iv) Request any additional information from the veteran that may be required to determine whether the waiver will be granted.

(3) The CPAC Chief Fiscal Officer may extend the time period to submit a waiver request if the Chairperson of the

Committee on Waivers and Compromises could do so under § 1.963(b) of this chapter.

(4) The CPAC Chief Fiscal Officer will apply the “equity and good conscience” standard in accordance with §§ 1.965 and 1.966(a) of this chapter, and may waive all or part of the claimant's debts.

(5) A decision by the CPAC Chief Fiscal Officer under this provision is final (except that the decision may be reversed or modified based on new and material evidence, fraud, a change in law or interpretation of law, or clear and unmistakable error shown by the evidence in the file at the time of the prior decision, as provided in § 1.969 of this chapter) and may be appealed in accordance with 38 CFR parts 19 and 20, as applicable.

\* \* \* \* \*

[FR Doc. 2024–28999 Filed 12–16–24; 8:45 am]

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### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R02–OAR–2024–0573; FRL–12459–01–R2]

#### Approval of Air Quality Implementation Plans; New Jersey; Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit), and Air Emission Control and Permitting Exemptions

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a revision to New Jersey's State Implementation Plan (SIP), submitted by the New Jersey Department of Environmental Protection (NJDEP), to incorporate regulations concerning permits and certificates for minor source facilities and major source facilities without an operating permit. The intended effect of the NJDEP's revisions to the SIP, is to regulate the construction and modification of stationary sources with adequate requirements to ensure that the National Ambient Air Quality Standards (NAAQS) are satisfied. In addition, the NJDEP's revisions will strengthen the SIP by conforming it with the State regulations that were in effect at the time of the SIP submission. If the EPA finalizes this rulemaking as it is being proposed, the Federal air permitting program for New Jersey will be updated, which will better serve the regulated community and help to protect the quality of air in the State.

**DATES:** Written comments must be received on or before January 16, 2025.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R02–OAR–2024–0573 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:** Nicholas Ferreira, Air Programs Branch, Environmental Protection Agency, Region 2, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3127, or by email at [ferreira.nicholas@epa.gov](mailto:ferreira.nicholas@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Summary of the SIP Revision and the EPA's Analysis
- III. Environmental Justice Considerations
- IV. The EPA's Proposed Action
- V. Incorporation by Reference
- VI. Statutory and Executive Order Reviews

**I. Background**

On February 24, 2014, and as supplemented on August 23, 2018, the State of New Jersey, through the NJDEP, submitted to the EPA, revisions to the New Jersey SIP. The revisions consisted of new provisions and amendments to

New Jersey Administrative Code (*i.e.*, N.J.A.C.), Title 7, Chapter 27 (*i.e.*, 7:27), subchapter 8, “Permits and Certificates for minor facilities (and major facilities without an operating permit).” The revisions submitted on February 24, 2014, and August 23, 2018, became State effective on September 19, 2011, and January 16, 2018, respectively. The last major EPA approval of subchapter 8 into the New Jersey SIP occurred in 1986, with further amendments to the rule approved into the SIP occurring in 1994, 1997, and 2023. The NJDEP's 2014 and 2018 submittals are intended to strengthen the SIP by conforming it with the subchapter 8 State regulations that the State had in effect at the time of submission to the EPA.

Section 110(a)(2)(C) of the Clean Air Act (CAA) requires States to include in their SIPs, programs that regulate the construction and modification of stationary sources with adequate requirements to ensure that the National Ambient Air Quality Standards (NAAQS) are achieved. New Jersey submitted the February 24, 2014, and August 23, 2018, SIP revisions to fulfill this requirement of the CAA as it applies to minor stationary sources and major source facilities without an operating permit.

In accordance with section 110(a) of the CAA, SIP rules must be enforceable, and the EPA must not approve a revision that interferes with any applicable requirement concerning attainment and reasonable further progress (see CAA section 110(l)). The EPA evaluates minor new source review programs included as SIP submittals based on the criteria in subpart I of 40 CFR part 51 and new major sources and major modifications under 40 CFR 51.165 and 51.166 and part C and D of title I of the CAA.

The EPA has determined that the rule revisions that New Jersey submitted, are mostly consistent with the relevant policy and guidance regarding the enforceability of the revisions. Additionally, the EPA has determined that the rule revisions comply with the requirement under CAA section 110(l), that the EPA may not approve a revision that could interfere with any applicable requirement concerning attainment and reasonable further progress and meet the criteria in subpart I of 40 CFR part 51, §§ 51.160 through 51.164. For the reasons herein stated, apart from five provisions related to odor (which the NJDEP acknowledged within its February 24, 2014, cover letter that was included with the SIP submittal would not be incorporated by the EPA into the federally enforceable SIP) and one provision related to affirmative defense

(which was withdrawn by the NJDEP after the February 24, 2014, and August 23, 2018, submittals) the EPA proposes to approve the amendments submitted by New Jersey to strengthen the State's SIP.

**II. Summary of the SIP Revision and the EPA's Analysis**

On February 24, 2014, and as supplemented on August 23, 2018, New Jersey, through the NJDEP, submitted revisions to its SIP, consisting of new provisions and amendments to N.J.A.C. 7:27–8, “Permits and Certificates for minor facilities (and major facilities without an operating permit).” Specifics on the amendments to the current SIP-approved subchapter 8 provisions are provided in further detail under this section of the preamble. The NJDEP's submission included supplemental materials such as documentation of the: public hearing, public comment period, and the State's responses to public comments. These materials are in the EPA's docket for this proposal.

*Subchapter 8.1, “Definitions”*

The EPA finalized the amendments to the definitions for terms under N.J.A.C. 7:27–8.1, “Definitions,” on November 28, 2023. See 88 FR 83036. As a result, the EPA will not be proposing to approve any revisions to N.J.A.C. 7:27–8.1 with this proposed rulemaking.

*Subchapter 8.2, “Applicability”*

N.J.A.C. 7:27–8.2, “Applicability,” lists the sources of air contaminant emissions, including pieces of equipment, operations, and/or processes, for which the procurement of a permit and operating certificate are required. The EPA last approved N.J.A.C. 7:27–8.2, “Permits and certificates required,” into New Jersey's SIP on August 7, 1997,<sup>1</sup> and is now proposing to approve revisions that have since been made to N.J.A.C. 7:27–8.2, including the renaming of this subsection.

Per N.J.A.C. 7:27–8.2(a), a source that is required to have a permit and certificate under N.J.A.C. 7:27–8 (*i.e.*, “subchapter 8”) is a “significant source,” and a source that is not required to have a permit and certificate under subchapter 8 is considered an “insignificant source.” As clarified in N.J.A.C. 7:27–8.2(b), a significant source that is located at a facility with an operating permit subject to N.J.A.C. 7:27–22, “Operating permits,” is not subject to the requirements of subchapter 8. However, in accordance with N.J.A.C. 7:27–8.2(b)(1) through (3),

<sup>1</sup> See 62 FR 42412.

a source located at a facility with an operating permit will still remain subject to the requirements of subchapter 8: (1) While awaiting an operating permit to be issued, (2) if it is a new source and it elects to obtain a preconstruction permit and certificate per N.J.A.C. 7:27–22.5(g), or (3) if a portion of the operating permit facility is not subject to N.J.A.C. 7:27–22 requirements, then that portion remains subject to subchapter 8.

A significant source includes any equipment or source of operation that may emit one or more air contaminants directly or indirectly into the outdoor air and belongs to one of the categories listed under N.J.A.C. 7:27–8.2(c)(1) through (21). However, equipment or source operations listed under N.J.A.C. 7:27–8.2(d)(1) through (14), are exempt from being classified as a significant source and do not require a preconstruction permit and operating certificate.

Per N.J.A.C. 7:27–8.2(e), equipment or a source operation that would be classified as a significant source solely based on a combined raw material weight exceeding 50 pounds in any one hour under N.J.A.C. 7:27–8.2(c)(19), is not considered a significant source, and therefore, not required to obtain a permit and certificate, provided it satisfies the conditions at N.J.A.C. 7:27–8.2(e)(1) through (3). In addition, per N.J.A.C. 7:27–8.2(f)(1), commercial fuel burning equipment under N.J.A.C. 7:27–8.2(c)(1), except for the sources listed under N.J.A.C. 7:27–8.2(c)(21), that has a maximum rated heat input of 1,00,000 BTU per hour or greater to the burning chamber (including emergency generators), is excluded from the requirement to obtain a preconstruction permit and operating certificate, if it meets the criteria under N.J.A.C. 7:27–8.2(f)(1) through (4).

The EPA will not be proposing to approve N.J.A.C. 7:27–8.2(d)(3)(ii)(2) and N.J.A.C. 7:27–8.2(e)(2)(ii), per the NJDEP's request, since these provisions address and reduce "odors."<sup>2</sup> While the NJDEP included the odor provisions in the February 24, 2014, SIP revision, the NJDEP acknowledged in its cover letter that the EPA does not regulate odors and, consequently, the odor provisions will not be included in the federally enforceable SIP. The NJDEP is correct that odors are not regulated by the EPA and that the EPA's approval of SIPs is limited to air pollutants regulated by Federal rules; therefore, the EPA is not

proposing to approve these odor related provisions into the SIP.

Furthermore, under N.J.A.C. 7:27–8.2(g), control apparatus serving as a significant source are to be included in the preconstruction permit and operating certificate control for the significant source. In accordance with N.J.A.C. 7:27–8.2(h), emissions information from an insignificant source is required to be provided on an application subject to N.J.A.C. 7:27–8.4, if the insignificant source vents to a control device, stack, or chimney, which also serves a significant source. Additionally, N.J.A.C. 7:27–8.2(i) stipulates that a permit and certificate are not required for equipment, control apparatus, or a source operation covered by a facility-wide permit issued per N.J.S.A. 13:1D–35, except where N.J.A.C. 7:27–8.27, "Special facility-wide permit provisions," is still applicable. Finally, N.J.A.C. 7:27(j), clarifies that subchapter 8 does not preclude an owner or operator from voluntarily obtaining a preconstruction permit and operating certificate for a source not required to obtain a permit.

The EPA finds the applicability provisions of N.J.A.C. 7:27–8.2 acceptable for ensuring a vast variety of sources are covered by the provisions of subchapter 8. Therefore, the EPA is proposing to approve N.J.A.C. 7:27–8.2, except for N.J.A.C. 7:27–8.2(d)(3)(ii)(2) and N.J.A.C. 7:27–8.2(e)(2)(ii), as it was submitted to the EPA by the NJDEP on February 24, 2014, and as supplemented on August 23, 2018.

### *Subchapter 8.3, "General Provisions"*

N.J.A.C. 7:27–8.3, "General provisions," provides the general requirements for obtaining a preconstruction permit or operating certificate for a significant source or a control apparatus serving a significant source. The EPA last approved N.J.A.C. 7:27–8.3 into New Jersey's SIP on November 25, 1986,<sup>3</sup> and is now proposing to approve the revisions that New Jersey made since the 1986 approval, through August 23, 2018.

As specified in N.J.A.C. 7:27–8.3(a) and (b), no person shall construct, reconstruct, install, modify, or operate a significant source or control apparatus without first obtaining a preconstruction permit and/or valid operating certificate. In addition, under N.J.A.C. 7:27–8.3(c), a permittee may not take any action that requires a permit revision, compliance plan change, seven-day-notice change, amendment, or change to a batch plant permit under any applicable provision at N.J.A.C.

7:27–8.17 through 23 (as will be discussed later in this proposed rulemaking), without complying with the applicable provisions under subchapter 8.

According to N.J.A.C. 7:27–8.3(d) and N.J.A.C. 7:27–8.3(m), persons holding a permit or certificate are required to make relevant documents readily available to the NJDEP for inspection on the operating premises. The NJDEP reserves the right for its representatives to enter and inspect any facility or property as provided by N.J.A.C. 7:27–1.31. Additionally, under N.J.A.C. 7:27–8.3(e), no person is allowed to use any equipment unless all components are functioning properly and in a manner that is consistent with the preconstruction permit and certificate. Per N.J.A.C. 7:27–8.3(f), a preconstruction permit or certificate is not allowed to be transferred from the location authorized in the permit to another location, as well as from one piece of equipment to another.

Once a permit and certificate are issued, the permittee is fully responsible for compliance with the permit and certificate, subchapter 8, and any other requirement issued by the NJDEP with the force of law (N.J.A.C. 7:27–8.3(g)). Under N.J.A.C. 7:27–8.3(h) permits or certificates issued under subchapter 8 do not relieve an applicant from obtaining necessary permits from other governmental agencies to comply with Federal, State, and local rules and regulations. Finally, per N.J.A.C. 7:27–8.3(i), a person conducting only normal repair and maintenance of a control apparatus or equipment, as defined at N.J.A.C. 7:27–81, need not comply with N.J.A.C. 7:27–8.3(a), (b), or (c).

While the NJDEP included odor provisions in the February 24, 2014, SIP revision, the EPA will not be proposing to approve N.J.A.C. 7:27–8.3(j), per the NJDEP's acknowledgement that odors are not regulated by the EPA and cannot be included in a federally enforceable SIP.<sup>4</sup> The NJDEP is correct that odors are not regulated by the EPA and that the EPA's approval of SIPs is limited to air pollutants regulated by Federal rules; therefore, the EPA is not proposing to approve this odor related provision. Additionally, consistent with a request from the NJDEP on October 7, 2024,<sup>5</sup> the EPA is not acting on N.J.A.C. 7:27–8.3(n), which is an affirmative defense provision. On June 15, 2015, the EPA issued a final action in the **Federal**

<sup>4</sup> *Id.*

<sup>5</sup> See the letter that the NJDEP submitted to the EPA's Region 2 Director of the Air and Radiation Division, Richard Ruvo, dated October 7, 2024, within the docket for this rulemaking.

<sup>2</sup> See the letter that the NJDEP submitted to the EPA's Region 2 Director of the Air and Radiation Division, John Filippelli, dated February 24, 2014, within the docket for this rulemaking.

<sup>3</sup> See 51 FR 42565.

**Register** that concerned how provisions in EPA-approved SIPs treat excess emissions during periods of startup, shutdown, or malfunction. See 80 FR 33840 (June 15, 2015). In that final action, the EPA clarified its interpretation of the Clean Air Act (CAA) with respect to affirmative defense provisions.<sup>6</sup> The EPA explained that affirmative defense provisions in any context are not appropriate under the CAA (“These provisions are not appropriate under the CAA, no matter what type of event they apply to, what criteria they contain or what forms of remedy they purport to limit or eliminate.”).<sup>7</sup> Consequently, the emergency affirmative defense provision in N.J.A.C. 7:27–8.3(n) falls within the scope of the EPA’s June 15, 2015, final action and cannot be approved. Thus, to avoid potential disapproval, the NJDEP has withdrawn this provision from its submittal, and the EPA will not include this provision within the EPA-approved version of N.J.A.C. 7:27–8.3 that will be included in New Jersey’s SIP upon the EPA finalizing this rulemaking. The EPA’s treatment of this provision is also consistent with the D.C. Circuit’s decision on affirmative defenses in *Environmental Committee of the Florida Electric Power Coordinating Group, Inc., v. EPA*, 94 F.4th 77 (D.C. Cir. 2024).

Except for N.J.A.C. 7:27–8.3(j) and (n), the EPA finds the general provisions listed under N.J.A.C. 7:27–8.3, to be acceptable. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.3, except for N.J.A.C. 7:27–8.3(j) and (n), as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.4, “How To Apply, Register, Submit a Notice, or Renew”*

Under N.J.A.C. 7:27–8.4, “How to apply, register, submit a notice, or renew,” instructions are provided pertaining to applications, registrations, notices, and renewals related to subchapter 8.

Specifically, N.J.A.C. 7:27–8.4(a)(1) through (12) includes requirements for preconstruction permit and operating certificate applications, registrations for general permits or used oil space heaters, notices of change or amendments (to a seven-day-notice, preconstruction permit or operating certificate, and/or registration), and renewal of an operating certificate or registrations. Actions listed under N.J.A.C. 7:27–8.4(a)(1) through (12) are to be submitted in accordance with forms obtained from the NJDEP via the options listed under N.J.A.C. 7:27–

8.4(b)(1) and (2). In addition, directions for how to complete electronic or paper application forms, registration forms, notices or renewal application stubs and renewal fee payments are listed at N.J.A.C. 7:27–8.4(c)(1) through (7). Applications, registrations, or notices will be required under N.J.A.C. 7:27–8.4(d), to contain all relevant details and information which the NJDEP considers necessary pertaining to applicable sources to ensure such sources are designed to operate without violating any relevant State or Federal laws or regulations. Notably, per N.J.A.C. 7:27–8.4(e), all information submitted to the NJDEP, will be considered public information, unless the applicant marks information as confidential in accordance with N.J.S.A. 26:2C–9.2 and N.J.A.C. 7:27–1.

Before approving an operating certificate, the NJDEP, in its discretion, may require an applicant to conduct testing if it is determined to be necessary to verify that an applicable source will comply with the limits established in a preconstruction permit and certificate (N.J.A.C. 7:27–8.4(f)). N.J.A.C. 7:27–8.4(f)(1) through (6) lists the requirements that applicants shall follow if the NJDEP determines testing is required. An application, registration, or notice will generally not be required to include information on insignificant sources unless the exception at N.J.A.C. 7:27–8.4(g) applies. The number of sources that can be included on one application, registration, or notice is determined according to the guidelines in N.J.A.C. 7:27–8.4(h).

A New Source Performance Standards (NSPS) and National Emission Standard for Hazardous Air Pollutants (NESHAP) applicability and compliance demonstration will be required under N.J.A.C. 7:27–8.4(i), as part of an application for a preconstruction permit or permit revision for proposed equipment that is within any source category to which an NSPS or NESHAP is applicable. Under N.J.A.C. 7:27–8.4(j), an application shall include a protocol for conducting an air quality impact analysis and a risk assessment, if required under N.J.A.C. 7:27–8.5. An application, registration, or notice is required to list each air contaminant which meets the conditions under N.J.A.C. 7:27–8.4(k)(1) if it is required by an applicable form. The EPA is not proposing to approve N.J.A.C. 7:27–8.4(k)(2) since it addresses the reduction of “odors,” and the EPA’s approval of SIPs to pollutants regulated by Federal rules, as acknowledged by the NJDEP in the cover letter for its February 24, 2014 submission.

Applicants must list each Hazardous Air Pollutant (HAP) raw material individually on their application. For non-HAP raw materials, applicants can either list them individually or group them together based on similar physical and/or chemical properties, as specified in N.J.A.C. 7:27–8.4(l)(1) and (2). When listing the emissions for a contaminant pursuant to N.J.A.C. 7:27–8.4(k), the application, registration, or notice should follow the instructions at N.J.A.C. 7:27–8.4(m). To ensure timely renewal of an operating certificate, a used oil space heater registration, or a registration under a general permit, a permittee is required to submit a renewal application stub and renewal fee payment no less than 90 days prior to the expiration date of such certificates and registrations (N.J.A.C. 7:27–8.4(n)). In accordance with N.J.A.C. 7:27–8.4(o), persons submitting an application, registration, or notice to the NJDEP pursuant to subchapter 8, are required to include certifications complying with N.J.A.C. 7:27–1.39. In addition, any relevant information an applicant might want the NJDEP to consider during the decision-making process will be required to be submitted in writing prior to the NJDEP deciding on the application, registration, or notice (N.J.A.C. 7:27–8.4(p)).

As was the case for N.J.A.C. 7:27–8.4(k)(2), N.J.A.C. 7:27–8.4(q) also addresses and reduces “odors,” therefore the EPA is not acting on this provision. Despite including the odor provisions in an attachment to its February 24, 2014 SIP submittal, the NJDEP acknowledged in its cover letter that the EPA does not regulate odors and, consequently, the odor provisions will not be included in the SIP.

Finally, permitting procedure manuals are listed under N.J.A.C. 7:27–8.4(s)(1) through (4), which summarize certain alternative application and permitting procedures, developed to take into consideration the specific characteristics of sources, for which an applicant may elect to use, rather than the corresponding standard procedures set forth in subchapter 8.

The EPA finds the provisions under N.J.A.C. 7:27–8.4 (except for N.J.A.C. 7:27–8.4(k)(2) and (q)), as submitted to the EPA by the NJDEP on February 24, 2014, and as supplemented on August 23, 2018, to be acceptable and is therefore proposing approval into the SIP.

#### *Subchapter 8.5, “Air Quality Impact Analysis”*

Under N.J.A.C. 7:27–8.5, “Air quality impact analysis,” requirements for

<sup>6</sup> 80 FR 33981–33982.

<sup>7</sup> 80 FR 47029.

applications subject to an air quality impact analysis are established.

Applications that shall include an air quality impact analysis are listed under N.J.A.C. 7:27–8.5(a). This includes applications which are subject to the Prevention of Significant Deterioration (PSD) air quality impact analysis requirements of 40 CFR part 52.21, those for which the proposed maximum allowable emission of an air contaminant would result in a significant net emission increase, those for which are required to be a State or Federal rule, and those which the NJDEP determines such an analysis to be necessary to determine the environmental impact of proposed activities.

In addition, N.J.A.C. 7:27–8.5(b) provides the NJDEP with the authority to require ambient air monitoring and a risk assessment as part of the air quality impact analysis. An air quality impact analysis is required to demonstrate whether the maximum controlled emissions specified on the preconstruction application may violate the requirements under N.J.A.C. 7:27–8.5(c)1–4.

Finally, the NJDEP can only approve an air quality analysis and/or risk assessment if it is conducted in accordance with a protocol that is approved in advance by the NJDEP (N.J.A.C. 7:27–8.5(d)). An approvable protocol must include, but is not limited to, the relevant site-specific and general factors detailed under N.J.A.C. 7:27–8.5(d). This subsection also references the technical guidance on protocol preparation under the Air Quality Permitting Program's Technical Manual 1002, "Guidance on preparing an Air Quality Modeling Protocol" and Technical Manual 1003, "Guidance on Preparing a Risk assessment for Air Contaminant Emissions."<sup>8</sup>

The EPA finds the provisions under N.J.A.C. 7:27–8.5 appropriate for ensuring that necessary projects undergo air quality assessments. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.5, as it was submitted to the EPA, by the NJDEP on February 24, 2014.

#### *Subchapter 8.6, "Service Fees"*

Under N.J.A.C. 7:27–8.6, "Service fees," the applicable registration fees a registrant shall submit with a completed registration form, acceptable forms of payment, and the schedule for which fees are to be submitted by a registrant and processed by the NJDEP are

specified. The EPA last approved provisions pertaining to service fees into New Jersey's SIP with its approval of N.J.A.C. 7:27–8.11, "Service fees," on April 15, 1994,<sup>9</sup> and is now proposing to approve the revisions that have since been made, which include the renumbering of this subsection from 8.11 to 8.6.

N.J.A.C. 7:27–8.6(a) through (f), provides for paper and online applications, the procedure for invoicing and paying any potential supplementary fees, the fee process for new applications, and the payment of fees by installments. N.J.A.C. 7:27–8.6(f) lists the specific fee amounts in "Base Fee Tables" (Tables 1–3) and the "Supplementary Fee Schedule." Further, the NJDEP is provided with the ability and allowance to consider an increase to these fees under N.J.A.C. 7:27–8.6(l).

In accordance with N.J.A.C. 7:27–8.6(g), facilities subject to N.J.A.C. 7:27–22 are not required to pay the operating certificate fees set forth in Tables of N.J.A.C. 7:27–8.6 after June 30, 1995; however, after June 30, 1995, such facilities are required to pay fees in accordance with N.J.A.C. 7:27–22.31 for any significant modification, as defined under N.J.A.C. 7:27–22.1, while the issuance of an operating permit for the facility is pending. Moreover, under N.J.A.C. 7:27–8.6(k) there is no fee for an insignificant source even if emissions from an insignificant source must be listed on an application under N.J.A.C. 7:27–8.4(g).

The EPA finds these provisions under N.J.A.C. 7:27–8.6 to be acceptable for ensuring that facilities required to obtain such permits and certificates in accordance with subchapter 8 are making the payments necessary to fund such a program. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.6, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.7, "Operating Certificates"*

N.J.A.C. 7:27–8.7, "Operating certificates," details the provisions pertaining to the acquisition of an operating certificate, the lifetime and renewal requirements of an operating certificate, and the types of temporary operating certificates that may be issued if the NJDEP determines additional information is needed while the source is operational.

In accordance with N.J.A.C. 7:27–8.7(a), a source covered by a preconstruction permit is required to also be covered by an operating certificate. The preconstruction permit

application form will also serve as the application form for the operating certificate and the NJDEP will issue both the preconstruction permit and operating certificate simultaneously, in one combined document (N.J.A.C. 7:27–8.7(a)). As a result, under N.J.A.C. 7:27–8.7(b), an applicant is required to follow the procedures for applying for a permit and certificate under N.J.A.C. 7:27–8.4 to obtain an operating certificate or temporary operating certificate.

Operating certificates (except for temporary operating certificates issued under N.J.A.C. 7:27–8.7(d)) expire five years after the date the preconstruction permit for the source is issued under N.J.A.C. 7:27–8.7(c) and are to be renewed prior to their expiration, if a source continues to operate, under N.J.A.C. 7:27–8.7(e). The NJDEP can issue one of two types of temporary operating certificates under N.J.A.C. 7:27–8.7(d)(1) and (2), before issuing the final operating certificate, if it needs information that can only be obtained while a source is operating (e.g., stack test results). As provided under N.J.A.C. 7:27–8.7(f), the NJDEP may also require testing to ensure compliance with State and Federal air pollution control requirements prior to renewing an operating certificate.

The EPA finds these provisions under N.J.A.C. 7:27–8.7 to be appropriate for ensuring that operating certificates are regulated by the NJDEP in accordance with Federal regulations. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.7, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.8, "General Permits"*

Under N.J.A.C. 7:27–8.8, "General permits," the requirements pertaining to a general permit are provided. As detailed under N.J.A.C. 7:27–8.8(a), a general permit is a pre-approved permit and certificate which applies to a specific class of significant sources that the NJDEP issues pursuant to N.J.S.A. 26:2C–9.2(h). If a source qualifies for a general permit, and its owner or operator registers and complies with subchapter 8, then the registration satisfies the requirements at N.J.A.C. 7:27–8.3 for a permit and certificate.

Per N.J.A.C. 7:27–8.7(b), general permits may not cover sources subject to the PSD requirements under 40 CFR 52.21, or the emissions offset requirements of N.J.A.C. 7:27–18. However, general permits are available for sources listed under N.J.A.C. 7:27–8.8(c)(1) through (23). These sources include, but are not limited to: fuel dispensing facilities, certain eligible stationary storage tanks, boilers and/or heaters with specified heat inputs,

<sup>8</sup> These technical guidance documents are available on the NJDEP's website at <https://www.nj.gov/dep/aaqp/techman.html>.

<sup>9</sup> See 59 FR 17933.

certain solvent degreasers using only Methylene Chloride or 1,1,1, Trichloroethane, certain equipment located at dry cleaning facility, equipment located at a plating or electroplating facility which is not subject to Maximum Achievable Control Technology (MACT), and equipment used for research and development meeting the applicability requirements specified in the general permit.

Per N.J.A.C. 7:27–8.8(d), the NJDEP will be responsible for providing a registration form, the general permit itself, and a document entitled “General Procedures for General Permits.” The registration form to be provided by the NJDEP must include the information in N.J.A.C. 7:27–8.8(e). Furthermore, the general permit will be required to include all the conditions and requirements which must be met in order to act under the authority of the general permit including those listed under N.J.A.C. 7:27–8.8(f)(1) through (5). According to N.J.A.C. 7:27–8.8(g), the “General Procedures for General Permits” shall apply to all general permits; and shall include instructions for their use, a list of available general permits, and citations to the relevant regulatory provisions for their use.

While some general permits apply to only one source, others may apply to a class of sources located at the same facility; therefore, N.J.A.C. 7:27–8.8(h) specifies whether each general permit applies to a group or a single source. That said, if a general permit applies to only one source, and if there are several sources at one facility that qualify for a general permit, a separate registration, including a fee, will have to be submitted for each source (N.J.A.C. 7:27–8.8(h)).

Per N.J.A.C. 7:27–8.8(i), registrants have the authority to operate under a general permit if they provide proof of the NJDEP’s receipt of a registration form. A registrant will be allowed to operate under the general permit for five years after the date of proof of receipt, unless one of the circumstances under N.J.A.C. 7:27–8.8(i)(1) and (2) are satisfied.

Registrants are fully responsible for ensuring that the requirements of the general permit, the General Procedures for General Permits, and N.J.A.C. 7:27–8.8 are complied with, or otherwise may be liable for penalties if a source has been registered under a general permit and the registration is incorrect or deficient (N.J.A.C. 7:27–8.8(j)). Per N.J.A.C. 7:27–8.8(k), the NJDEP shall acknowledge when a registration and fee are received. The NJDEP’s acknowledgment under N.J.A.C. 7:27–8.8(k) solely indicates that NJDEP

received the registration; it is not confirmation of review or approval of the registration and will not relieve a registrant from liability for penalties for any unauthorized activities. Under N.J.A.C. 7:27–8.8(l), registrants must operate within the conditions of the general permit, including any parameters tailored to the source, and failure to do so shall constitute a violation of a permit. Additionally, under N.J.A.C. 7:27–8.8(l), if a registrant wants to make a change to a source registered under a general permit, a new general permit registration is required unless the modifications would fall under the same permit conditions.

When a general permit is issued, or an existing one is amended, the NJDEP, under N.J.A.C. 7:27–8.8(m), will draft or amend a registration form and general permit, as well as publish a notice in the New Jersey Register to make the documents available for public review and comment. Moreover, in accordance with N.J.A.C. 7:27–8.8(m), the NJDEP will also be required to incorporate any changes deemed appropriate into the final general permit. The NJDEP will announce the final general permit and add to the list of sources in N.J.A.C. 7:27–8.8(c) through a notice of administrative change published in the New Jersey Register (N.J.A.C. 7:27–8.8(m)). If the NJDEP modifies an existing permit, it will notify each person who has registered under the general permit, and the registrant will be required to comply with the applicable requirements of N.J.A.C. 7:27–8.8(n)(1) and (2).

The EPA finds the provisions under N.J.A.C. 7:27–8.8 to be appropriate for ensuring that general permits are adequately regulated by the NJDEP. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.8, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.9, “Environmental Improvement Pilot Tests”*

N.J.A.C. 7:27–8.9, “Environmental improvement pilot tests,” provides the requirements concerning applications for preconstruction permits and certificates for environmental improvement pilot tests for air pollution control equipment or other environmental clean-up equipment.

Applicants are required to include the specific information listed at N.J.A.C. 7:27–8.9(c) and satisfy the fee for such a test set forth under N.J.A.C. 7:27–8.6 when applying for such tests (N.J.A.C. 7:27–8.9(f)). In addition, under N.J.A.C. 7:27–8.9(b), applicants must ensure that all equipment for an environmental improvement pilot test complies with

applicable requirements under subchapter 8 and that the activities will not cause impacts outside the property boundary. Upon completion of such a test, equipment involved must cease operating or return to operating under conditions of an existing permit, if there are any.

The NJDEP has 30 days to take final action after receipt of a complete application under N.J.A.C. 7:27–8.9(d), and the NJDEP’s approval of a permit and certificate for an environmental improvement pilot test shall not last any longer than a 90-day term, unless the permittee files a new application and the NJDEP grants an extension, however the NJDEP will only grant an extension if the proposed activities meet the definition of an environmental improvement pilot test at N.J.A.C. 7:27–8.1 (N.J.A.C. 7:27–8.9(e)). Records pertaining to product run time, emission testing performed, and other data relevant to the emission of air contaminants must be retained by the holder of an environmental improvement pilot test for a minimum of five years and included in future applications (N.J.A.C. 7:27–8.9(g)). Finally, under N.J.A.C. 7:27–8.9(h), once the environmental improvement pilot test is complete, the equipment involved must stop operating or return to operating under the condition of any existing permit. Moreover, the approval of an environmental improvement test does not constitute the NJDEP’s acceptance of the equipment or a process for future production purposes (N.J.A.C. 7:27–8.9(h)).

The EPA finds these provisions under N.J.A.C. 7:27–8.9 to be appropriate for ensuring that environmental improvement pilot tests are conducted in an appropriate manner. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.9, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.10, “Public Comment”*

Under N.J.A.C. 7:27–8.10, “Public comment,” the public comment requirements for applications subject to the provisions of subchapter 8 are specified. Specifically, the NJDEP is obligated to seek public comment prior to making any final decision on applications for which comment is required by State or Federal statutes, including those listed under N.J.A.C. 7:27–8.10(a)(1) through (3).

Pursuant to N.J.A.C. 7:27–8.10(b), the Commissioner of the NJDEP may seek comments from the public if the Commissioner finds a significant degree of public interest in the application, if public comments might clarify issues in the application, or if it is relevant to the

factors, including but not limited to, those listed at N.J.A.C. 7:27–8.10(b)(1) through (4). In accordance with N.J.A.C. 7:27–8.10(c), NJDEP is also required to notify those who submitted a written request for public comment of the decision, including its rationale if a request is denied.

To clarify, while there is no opportunity for the public to request a public hearing for minor sources covered under N.J.A.C. 7:27–8.10 (unless the NJDEP Commissioner determines there is significant public interest), the NJDEP does post every draft permit it receives under the NJDEP’s “Public Notices” web page during the associated public comment period, providing transparency and thereby affording review and comment.<sup>10</sup> Beyond posting draft permits for public comment on its website, the NJDEP enhances transparency through tools like its DataMiner tool,<sup>11</sup> which allows the public to easily find a variety of reports that will provide them with up-to-the-minute results from many different environmental records. The EPA also considers the NJDEP’s “What’s in My Community” web page to be a helpful tool for engaging local communities. The web page is an online ArcGIS mapping tool that provides communities with access to facility permits, emissions data, and enforcement information<sup>12</sup> to enable the public to submit meaningful and informed comments during the public comment period on minor sources.

The EPA also notes that, in accordance with New Jersey’s

Environmental Justice (EJ) Law (N.J.S.A. 13:1D–157 *et seq.*), signed by Governor Phil Murphy in September 2020, when permit applicants propose to construct, renew, or operate a facility located wholly or in part in an overburdened community, permit applicants must: (1) prepare an environmental justice impact statement (EJIS) assessing the potential environmental and public health stressors associated with the proposed new, expanded, or major facility; (2) transmit the environmental impact statement at least 60 days in advance of the public hearing required pursuant to paragraph 3; and (3) organize and conduct a public hearing within the overburdened community. Regarding the public hearing, the permit applicants shall publish a notice no less than 60 days prior to the hearing, which will include: the date, time and location of the hearing, a description of the proposed new, expanded, or existing major source facility, a summary of the EJIS and information on how to review it, and an address for the submittal of written comments. After the public hearing, the permit applicants shall transcribe the public hearing and, no later than 10 days after the public hearing, shall submit the transcript along with any written comments to the NJDEP.

The EPA finds the provisions under N.J.A.C. 7:27–8.10, as well as resources the NJDEP has made available via its web page and the requirements for facilities under New Jersey’s EJ Law, to be appropriate for ensuring that the public is offered an adequate opportunity to provide comments on permits and certificates that the NJDEP issues under subchapter 8. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.10, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.11, “Standards for Issuing a Permit”*

Under N.J.A.C. 7:27–8.11, “Standards for issuing a permit,” applicants are required to document compliance with relevant State and Federal air pollution control regulations to obtain approval for a permit and certificate, a permit revision, or a compliance plan change. Specifically, under N.J.A.C. 7:27–8.11(a)(1), each significant source included on an application must document that it meets the Reasonable Available Control Technology (RACT) requirements under N.J.A.C. 7:27–16 or 19, New Source Performance Standards (NSPS) requirements, PSD requirements under 40 CFR 52.21, and all other applicable State or Federal air pollution control standards and regulations.

Additionally, per N.J.A.C. 7:27–8.11(a)(2), each significant source is required to document that it incorporates advances in the art of air pollution control (*i.e.*, “state of the art” or “SOTA”) for the kind and amount of air contaminant emitted if the source meets the criteria at N.J.A.C. 7:27–8.12(a) and the applicant proposes to modify the source.

The EPA finds these provisions under N.J.A.C. 7:27–8.11 to be sufficient for guaranteeing that the approval of a permit and certificate, a permit revision, or a compliance plan change protects air quality within the State. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.11, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.12, “State of the Art”*

N.J.A.C. 7:27–8.12, “State of the art,” requires an application that proposes construction, installation, reconstruction, or modification of equipment and control apparatus for a significant source meeting the criteria of N.J.A.C. 7:27–8.12(a)(1) and (2), to document SOTA for the source. As the EPA states under the analysis of N.J.A.C. 7:27–8.11 within this propose rulemaking, SOTA is the level of emissions control that a significant source must meet.

In particular, under N.J.A.C. 7:27–8.12(a), that all significant sources that have the potential to emit (PTE) at least 5.0 tons per year of total volatile organic compounds (VOC), total suspended particles (TSP), particulate matter under 10 microns (PM<sub>10</sub>), particulate matter under 2.5 microns (PM<sub>2.5</sub>), nitrogen oxides (NO<sub>x</sub>), carbon monoxide (CO), or sulfur dioxide (SO<sub>2</sub>), as detailed within the SOTA Threshold in Appendix 1, Tables A, are required to document compliance with SOTA. Per N.J.A.C. 7:27–8.12(d), and in accordance with the definition of “potential to emit” under N.J.A.C. 7:27–8.1, PTE will be calculated separately for each piece of equipment, including any fugitive emissions after considering emission controls.

As set forth at N.J.A.C. 7:27–8.12(b), if an equipment or control apparatus is subject to the SOTA criteria of N.J.A.C. 7:27–8.12(a), documentation of SOTA for the air contaminant(s) that meet the criteria will only be required. In addition, under N.J.A.C. 7:27–8.12(c), documentation of SOTA for equipment and control apparatus that has, for every air contaminant, a PTE less than the levels indicated in N.J.A.C. 7:27–8.12(a) will not be required.

N.J.A.C. 7:27–8.12(e) allows sources to document their compliance with

<sup>10</sup> Under the provisions of N.J.A.C. 7:27–8.10 and N.J.A.C. 7:27–22.11, the NJDEP seeks comments from the public on draft permits during the associated public comment period on its web page. See <https://dep.nj.gov/boss/public-notice/>. The NJDEP also makes all documents available for public review at the NJDEP’s offices located at 401 East State Street, Trenton, New Jersey, and permit documents are available for review at the Regional Enforcement Offices. The NJDEP also provides the public with the opportunity to review older public notice postings by selecting the “Public Notice Archive” option at the top of the “Public Notice” web page.

<sup>11</sup> See <https://njems.nj.gov/DataMiner/Search/SearchByCategory>.

<sup>12</sup> The NJDEP’s “What’s in My Community” is a mapping tool that helps the public find what sources of air pollution is in and around their community. Upon opening the tool, a map displaying every facility with an air permit (including both major and minor sources) registered with the Division of Air Quality at the NJDEP is provided. The public can also view what the closest air monitors are reading by clicking on them and generating a report for Ozone, PM<sub>2.5</sub>, CO, NO<sub>2</sub> and SO<sub>2</sub>.

The tool can be accessed at <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=76194937cbbe46b1ab9a9ec37c7d709b>.

SOTA if they are complying with Lowest Achievable Emission Rate (LAER), Best Available Control Technology (BACT), MACT, or NSPS; or through compliance with the available SOTA technical manuals that the NJDEP has developed.

Current SOTA technical manuals are listed on the NJDEP website for several source categories and a permit applicant must document compliance with a SOTA Manual (available from the NJDEP at the address in N.J.A.C. 7:27–8.4(b)) that applies to the source. If neither of the previously listed options for determining SOTA are applicable, then the NJDEP, based on a demonstration by the applicant, would perform a “top down” SOTA demonstration as is detailed under N.J.A.C. 7:27–8.12(f)(1) through (3).

The EPA finds the procedures for determining SOTA for criteria air pollutants N.J.A.C. 7:27–8.12 to be acceptable; therefore, the EPA is proposing to approve these procedures for determining SOTA for criteria pollutants. With respect to the SOTA technical manuals referred to in N.J.A.C. 7:27–8.12, as a method for documenting SOTA, it is the EPA’s understanding that each of the SOTA technical manuals cited within subchapter 8 are likely to change and be updated over time, and the language is not contained in the regulation itself; therefore, the EPA is not proposing to approve the individual manuals referred to within N.J.A.C. 7:27–8.12 and is instead proposing to approve the process of using the manuals set forth in N.J.A.C. 7:27–8.12.

#### *Subchapter 8.13, “Conditions of Approval”*

Under N.J.A.C. 7:27–8.13, “Conditions of approval,” the NJDEP has the authority to establish conditions of approval for any preconstruction permit or certificate application. Under N.J.A.C. 7:27–8.13(b)(1) through (3), the NJDEP may revise approval conditions at various points, such as during permit or certificate renewal, or at any time while the certificate is in effect.

A permittee will be required to submit information relevant to the operation of equipment and control apparatus to the NJDEP, including but not limited to information listed at N.J.A.C. 7:27–8.13(c)(1) through (3). As a condition of approval, the NJDEP can also include a compliance plan that includes monitoring, recordkeeping, and reporting requirements in accordance with N.J.A.C. 7:27–8.13(d)(1) through (4) and establish a schedule of periodic compliance inspections to which the equipment or control apparatus is

subject in accordance with N.J.A.C. 7:27–8.13(e). In addition, under N.J.A.C. 7:27–8.13(f), the NJDEP may include a condition allowing it to convert a certificate to a temporary operating certificate upon written notice to the permittee.

The NJDEP may also impose financial conditions on an applicant, such as requiring reimbursement for compliance monitoring costs listed under N.J.A.C. 7:27–8.13(g). All information in an approved application, including rates of emission, hours of operation, and rate of production (as listed under N.J.A.C. 7:27–8.13(h)(1) through (3)), and any condition of approval thereof, is subject to enforcement. Moreover, upon the NJDEP’s request, a permittee can be required to provide testing facilities exclusive of instrumentation and sensing devices, as may be necessary to determine the kind and amount of air contaminants emitted from equipment or a control apparatus, and in accordance with the testing requirements listed under N.J.A.C. 7:27–8.13(i).

The EPA finds the provisions under N.J.A.C. 7:27–8.13 to be sufficient for ensuring that the NJDEP appropriately approves applications for permits and certificates in a manner that ensures the protection of human health and the environment. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.13, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.14, “Denials”*

Under N.J.A.C. 7:27–8.14, “Denials,” the NJDEP has the authority to deny a permit and certificate application.

In particular, under N.J.A.C. 7:27–8.14(a), the NJDEP shall deny an application if anything in an application has the potential to violate any provision within N.J.A.C. 7:27, an applicable NSPS, an applicable NESHAP (including a MACT standard), a Federal stack height or emission dispersion requirement as stated in 40 CFR part 51, administrative order, or a State/Federal requirement. In addition, under N.J.A.C. 7:27–8.14(a), the NJDEP shall deny an application if it would result in the exceedance of a State or Federal ambient air quality standard, an applicable PSD increment as defined in 40 CFR part 52, or other criteria established by the NJDEP to protect human health and the environment.

Furthermore, N.J.A.C. 7:27–8.14(b), states that the NJDEP must deny an application for a preconstruction permit that fails to meet the requirements of N.J.A.C. 7:27–8.11, “Standards for issuing permits”; or if the applicant fails to provide all information requested by

the NJDEP within 30 days of its request (or longer if approved by the NJDEP), as provided under N.J.A.C. 7:27–8.14(c). Finally, in accordance with N.J.A.C. 7:27–8.14(d), the NJDEP may deny an application for a certificate, or renewal thereof, if the applicant has failed to pay the associates fees for such application or failed to reimburse the NJDEP for any of the charges incurred under the scenarios in N.J.A.C. 7:27–814(d)(2)(i) and (ii).

The EPA finds the provisions under N.J.A.C. 7:27–8.14 to be sufficient for ensuring that the NJDEP appropriately denies applications for permits and certificates, or renewals of such, consistent in a manner that ensures the protection of air quality in the State. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.14, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.15, “Reporting Requirements”*

Under N.J.A.C. 7:27–8.15, “Reporting requirements,” the NJDEP has the authority to request that any person holding a preconstruction permit or certificate submit any record relevant to a permit or certificate within 30 days of its request (or longer if approved by the NJDEP). In accordance with N.J.A.C. 7:27–8.15(b) and (c), permittees must submit, along with the appropriate certifications in compliance with N.J.A.C. 7:27–1.39, any required report in a format and on a schedule at the discretion of the NJDEP.

The EPA considers these reporting provisions necessary for effective regulatory enforcement and proposes to approve N.J.A.C. 7:27–8.15, as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.16, “Revocation”*

Under N.J.A.C. 7:27–8.16, “Revocation,” the conditions under which the NJDEP can revoke a permit or certificate are listed. Specific conditions under N.J.A.C. 7:27–8.16(a), include unauthorized operational changes, non-compliance with permit terms, refusal of inspection access, and non-payment of penalties or fees.

If a permittee does not begin activities authorized by the permit/permit revision, or discontinues the activities authorized by the permit/permit revision within one year from the date of a preconstruction permit/permit revision, the NJDEP has authority to withdraw its approval or a preconstruction permit/permit revision (N.J.A.C. 7:27–8.16(b)(1) and (2)). In addition, the NJDEP can revoke its approval of an application if it



determines the approval contravenes a Federal or State regulation (N.J.A.C. 7:27–8.16(c)). Under N.J.A.C. 7:27–8.16(d), any notice of revocation must be issued by the NJDEP in writing.

The EPA finds the provisions under N.J.A.C. 7:27–8.16, which provide the NJDEP with authority to retire a permit or certificate and withdraw an application under certain circumstances, to be appropriate. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.16 as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.17, “Changes to Existing Permits and Certificates”*

Under N.J.A.C. 7:27–8.17, “Changes to existing permits and certificates,” the conditions for which a change to an existing permit or certificate may occur are listed.

With N.J.A.C. 7:27–8.16(a), some changes may require prior approval from the NJDEP, while others may only require a notification to the NJDEP. N.J.A.C. 7:27–8.17(b) establishes a hierarchy for review, mandating that the most comprehensive review standards apply depending on the permit change, which include permit revisions, compliance plan changes, seven-day-notices, and amendments. N.J.A.C. 7:27–8.17(c) refers permittees on which applications to file for each type of change, and the applicable fees under N.J.A.C. 7:27–8.6(b). Per N.J.A.C. 7:27–8.17(e), none of the changes listed under N.J.A.C. 7:27–8.17(b)(1) through (4) can change the date of the preconstruction permit’s operating certificate.

The EPA finds these provisions authorizing the NJDEP to revoke a permit or certificate acceptable for ensure permittees follow appropriate procedures to ensure compliance with the provisions of subchapter 8. The EPA therefore proposes to approve N.J.A.C. 7:27–8.17 as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.18, “Permit Revisions”*

Under N.J.A.C. 7:27–8.18, “Permit revisions,” the circumstances in which prior approval by the NJDEP is required for a permit revision are provided.

The circumstances that will require prior NJDEP approval include the seven conditions listed at N.J.A.C. 7:27–8.18(a)(1) through (7). Actions include: (1) A request for an increase in the maximum allowable emission limit (including for corrections and/or miscalculations); (2) an action that will cause an increase of emissions or the emission of a new air contaminant not specified in the permit and certificate;

(3) use of a new raw material not specified in the permit if it could result in exceedance of the maximum allowable emission limit or emission of a new air contaminant that meets or exceeds applicable reporting thresholds of N.J.A.C. 7:27–8 Appendix 1, Table A; (4) a reconstruction as described in N.J.A.C. 7:27–8.23, unless the reconstructed source has the potential to emit the air contaminants at an acceptable threshold level in accordance with N.J.A.C. 7:27–8 Appendix 1, Table A; (5) changes that would cause the ground level concentration of an air contaminant to increase in the portion of the atmosphere surrounding the facility and which the public may be impacted by; (6) the replacement of an entire permitted source with a replacement source, except as allowed by N.J.A.C. 7:27–8.21, that will take the place of the replaced source in the manufacturing process, and the replaced source will be permanently shutdown; and (7) the construction or installation of a new significant source that could be combined with an existing permitted source, as allowed under N.J.A.C. 7:27–8.4(h). Lastly, as set forth at N.J.A.C. 7:27–8.18(b), to obtain approval of a permit revision, an applicant must meet the requirements of N.J.A.C. 7:27–8.11, “Standards for issuing permits”.

The EPA finds the circumstances for which a revision to a permit will be required to obtain prior approval from the NJDEP, to be acceptable. The EPA therefore proposes to approve N.J.A.C. 7:27–8.18 as it was submitted to the EPA by the NJDEP on February 24, 2014, and supplemented on August 23, 2018.

#### *Subchapter 8.19, “Compliance Plan Changes”*

Under N.J.A.C. 7:27–8.19, “Compliance plan changes,” the circumstances are provided for which prior NJDEP approval is required for a compliance plan change. In accordance with N.J.A.C. 7:27–8.19(b), such compliance plan changes are not to proceed until the NJDEP issues written approval of a change, except for emission decreases that are not reflected in a change to a source’s potential to emit made under N.J.A.C. 7:27–8.19(a)4.

The circumstances for which approval of a compliance plan change is required are listed at N.J.A.C. 7:27–8.19(a)(1) through (4). The circumstances include: (1) A decrease in the frequency of testing, monitoring, recordkeeping, or reporting below the frequency specified in a permit and certificate; (2) a change to the monitoring method; (3) a change to a level, rate, or limit of an operational parameter; and (4) a reduction in a

source’s potential to emit, as provided by a decrease in the maximum allowable hours of operation and/or the maximum allowable production rate. The EPA would like to clarify that a permittee may reduce a source’s potential to emit without contacting the NJDEP, but this reduction will not take effect and be federally enforceable until after the NJDEP approves the compliance plan change.

The EPA finds the circumstances under which a compliance plan change requires prior approval from the NJDEP to be acceptable. The EPA therefore proposes to approve N.J.A.C. 7:27–8.19 as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.20, “Seven-Day-Notice Changes”*

Under N.J.A.C. 7:27–8.20, “Seven-day-notice changes,” permittees are provided with the ability to proceed with a change seven days after a seven-day-notice change is submitted to the NJDEP. Notably, under N.J.A.C. 7:27–8.20(a), a permittee acting under the authority of a seven-day-notice change does so at their own risk, and that the permittee may be subject to penalties for noncompliance should the NJDEP determine that an action was incorrectly processed as a seven-day-notice.

A permittee is allowed to proceed with a change at a facility after submitting a seven-day-notice, so long as the change meets the requirements set forth at N.J.A.C. 7:27–8.20(b). The first requirement, under N.J.A.C. 7:27–8.20(b)(1)(i), is that the action is a physical or operational change that is outside the scope of activities allowed by the permit. The second requirement, N.J.A.C. 7:27–8.20(b)(1)(ii), provides that the action must have “the potential to result in an increase in actual emissions but will not increase emissions over the allowable limits in the permit and certificate.” The third requirement, N.J.A.C. 7:27–8.20(b)(1)(iii), will allow the use of a seven-day-notice so long as the action would not alter stack parameters or characteristics that could cause ground level concentration of air contaminant to increase in the ambient air surrounding the facility. The NJDEP then reviews the seven-day-notice to determine whether all three requirements are met or if a permit revision is instead required (N.J.A.C. 7:27–8.20(e)). This provision, and the initial acknowledgement of receipt from the NJDEP, indicates that the seven-day-notice does not relieve the owner or operator from liability for penalties for unauthorized activities (N.J.A.C. 7:27–8.20(f)).

The EPA finds the conditions for which a permittee can submit a seven-day-notice for a change at a facility to be acceptable for preserving air quality. The EPA therefore proposes to approve N.J.A.C. 7:27–8.20 as it was submitted to the EPA by the NJDEP on February 24, 2014, and on August 23, 2018.

#### *Subchapter 8.21, “Amendments”*

Under N.J.A.C. 7:27–8.21, “Amendments,” a permittee is allowed to proceed with a change to a permitted source, its permit, certificate, or to a registration, if a permittee submits a notice of amendment within 120 days of the change. Nonetheless, a permittee is required to maintain a copy of each amendment with the permit and certificate at the facility in accordance with N.J.A.C. 7:27–8.21(c).

In accordance with N.J.A.C. 7:27–8.21(b)(1) through (8), the following changes are required to be submitted to the NJDEP by the permittee, in the form of a notice of amendment: (1) A change in the permit and certificate information which allows the NJDEP to identify and contact the permittee; (2) a transfer of ownership or operational control for the source of a facility; (3) a change to the name, number, or designation for any given source in the permit or certificate; (4) changes to a permitted source’s stack or chimney or use therefore as listed under N.J.A.C. 7:27–8.21(b)(4)i through iv, if the change complies with the EPA stack height regulations at 40 CFR part 51; (5) the use of a new raw material in a permitted source that is not specified within the permit; (6) replacement of an entire permitted source with a source that performs the same function and has the potential to emit an air contaminant in an amount less than the applicable SOTA threshold level listed in N.J.A.C. 7:27–8 Appendix 1, Table A; (7) a typographical correction that would result in an increase in the actual or allowable emissions; and (8) a reconstruction, as described in N.J.A.C. 7:27–8.23, that would result in the potential to emit of air contaminants listed in N.J.A.C. 7:27–8 Appendix 1, Table A in amounts less than the applicable SOTA threshold level. Additional details regarding specific conditions and/or circumstances which will require a permittee and/or registrant to meet under the particular circumstances listed at N.J.A.C. 7:27–8.21(b), are provided within N.J.A.C. 7:27–8.21(d) through (f).

The EPA finds the circumstances under which permittees are allowed to submit a notice of amendment within 120 days of the change to be acceptable. The EPA therefore proposes to approve N.J.A.C. 7:27–8.21 as it was submitted to

the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.22, “Changes to Sources Permitted Under Batch Plant, Pilot Plant, Dual Plant, or Laboratory Operations Permitting Procedures”*

N.J.A.C. 7:27–8.22, “Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operations permitting procedures,” provides details on how permittees can make a change to an issued permit using the NJDEP’s Batch Production Plant Permit Procedure, Pilot Plant Permit Procedure, Dual Plant Permit Procedure, and Laboratory Operations Permit Procedure.

Per N.J.A.C. 7:27–8.22(a), permittees, seeking to make a change using the Batch Production Plant Permit Procedure, are referred to the procedures in technical manual 1301 which covers certain batch plant permits and is available in the address listed in N.J.A.C. 7:27–8.4(b). Permittees are referred to the procedures in technical manual 1302 which cover changes to a permit using the Pilot Plant Permit Procedure (N.J.A.C. 7:27–8.23(b)) and the Dual Plant Permit Procedure under (N.J.A.C. 7:27–8.22(c)). Per N.J.A.C. 7:27–8.23(d), permittees are referred to technical manual 1211, available at the address listed in N.J.A.C. 7:27–8.4(b), to make a change to a permit using the Laboratory Operations Permit Procedure. However, as provided under N.J.A.C. 7:27–8.22(e), if the technical manuals 1301, 1302, and 1211 do not provide a procedure for making the change a permittee desires, the change should be processed through the applicable provisions of N.J.A.C. 7:27–8.17 through 8.21.

The EPA finds the procedures for which permittees seeking to make a change to a permit issued using either the NJDEP’s batch plant, pilot plant, dual plant, or laboratory operations permitting procedures, to be acceptable. While the EPA is not approving the technical manuals themselves because the specific language of the manuals is not included in N.J.A.C. 7:27–8.22 and can be changed, the EPA approves the process set forth in this subsection. The EPA therefore proposes to approve N.J.A.C. 7:27–8.22 as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.23, “Reconstruction”*

Under N.J.A.C. 7:27–8.23, “Reconstruction,” the provisions related to the replacement of parts on a significant source or control apparatus are listed. Reconstruction is described as the replacement of the part(s) on a

significant source included in a process unit, or replacement of the part(s) on a control apparatus, so long as the fixed capital cost of replacing the part(s) exceeds both amounts listed under N.J.A.C. 7:27–8.23(a)(1) and (2).

When evaluating whether the cost associated with the replacement of part(s) amounts to being qualified as a reconstruction, N.J.A.C. 7:27–8.23(b) provides that the process unit and the control apparatus are to be considered separately. Under N.J.A.C. 7:27–8.23(c), that the replacement of an entire significant source or control apparatus is not a reconstruction and is instead considered to be a construction as defined at N.J.A.C. 7:27–8.1. Per N.J.A.C. 7:27–8.23(d), reconstruction of a permitted source shall be submitted to the NJDEP and reviewed under the procedures for a permit revision at N.J.A.C. 7:27–8.18, and if a replacement of part(s) is considered to not be a reconstruction, it may still be subject to the requirements of N.J.A.C. 7:27–8.18 through 8.23 if it meets the criteria under those subsections. In accordance with N.J.A.C. 7:27–8.23(e), if a source is not covered by a permit or certificate, and a reconstruction is planned, the owner or operator of the source is required to obtain a permit and certificate pursuant to N.J.A.C. 7:27–8.3(a).

The EPA finds the conditions which constitute the replacement of parts on a significant source or control apparatus as a reconstruction, to be acceptable. The EPA therefore proposes to approve N.J.A.C. 7:27–8.23 as it was submitted to the EPA by the NJDEP on February 24, 2014.

#### *Subchapter 8.24, “Special Provisions for Construction But Not Operation”*

Under N.J.A.C. 7:27–8.24, “Special provisions for construction but not operation,” an applicant will be allowed to undertake certain activities, in particular, construction, reconstruction, installing, and/or putting in place a source while the NJDEP reviews an application under certain circumstances, as is provided in N.J.S.A. 26:2C–9.2(j).

There are five circumstances under which an applicant can alter a source accordingly and they are listed under N.J.A.C. 7:27–8.24(a)1 through 5. These include if: (1) The applicant has submitted a complete application to the NJDEP proposing an activity of the source; (2) the applicant undertakes an activity at the source on footing or a foundation and does not test or operate it; (3) the activity is carried out as proposed in the application; (4) the activity is not prohibited by any Federal

requirement; and (5) all other requirements of this section are met.

Per N.J.A.C. 7:27–8.24(b), applicants will be required to notify the NJDEP seven days prior to beginning the activities listed under N.J.A.C. 7:27–8.24(a)(1) through (5), and in accordance with the procedure for a seven-day-notice change at N.J.A.C. 7:27–8.20, including the associated seven-day-notice fee. N.J.A.C. 7:27–8.24 does not limit the NJDEP’s authority to establish construction, installation, maintenance, operating standards, or from reviewing any application, as provided in N.J.A.C. 7:27–8.24(c). Regarding fiscal expenditures, costs incurred by an applicant in connection with actions taken under this subsection may not be used as grounds for an appeal to the NJDEP’s decision on an application and an applicant shall be subject to penalties if an action taken under this subsection causes emissions of any air contaminant in a manner that is inconsistent with applicable law under N.J.A.C. 7:27–8.24(d) and (e), respectively.

The EPA finds the guidance allowing for an applicant to construct, reconstruct, install, and/or put in place a source while the NJDEP reviews an application under certain circumstances to be acceptable. The EPA therefore proposes to approve N.J.A.C. 7:27–8.24 as it was submitted to the EPA by the NJDEP on February 24, 2014.

*Subchapter 8.25, “Special Provisions for Pollution Control Equipment or Pollution Prevention Process Modifications”*

Under N.J.A.C. 7:27–8.25(a), “Special provisions for pollution control equipment or pollution prevention process modifications,” the circumstances and associated conditions are provided for the period in which an application is pending, that a private entity, as defined at N.J.A.C. 7:27–8.1, can proceed with: (1) Construction, installation, reconstruction, or operation of control apparatus serving an existing source; or (2) implementation of a pollution prevention process modification, as defined at N.J.A.C. 7:27–8.1, involving one or more existing sources, as provided by N.J.S.A. 26:2C–9.3 and 9.4.

Notwithstanding the circumstances referenced in N.J.A.C. 7:27–8.25(a), applicants are not authorized to conduct any activities listed in N.J.A.C. 7:27–8.25(b)(1) through (4), including activities that are prohibited by the CAA, will result in increased emissions, will result in the emission of an air contaminant not previously emitted, and will result in air contaminant emissions not authorized by a permit or

certificate. Moreover, to act under the authority of this section, per N.J.A.C. 7:27–8.25(c), an applicant will be required to have submitted a complete application covering activities listed under N.J.A.C. 7:27–8.25(b) and have notified the NJDEP seven days prior to beginning activities listed under N.J.A.C. 7:27–8.25(b).

Notably, under N.J.A.C. 7:27–8.25(d), an applicant acting under the authority of this section assumes all risks, since the applicant may be subject to penalties for noncompliance should the applicant commence proposed activities and the NJDEP does not approve the proposed action. Costs incurred by an applicant in connection with actions taken under this subsection will not be used as grounds for an appeal of the NJDEP’s decision for an application under N.J.A.C. 7:27–8.25(f). Per, N.J.A.C. 7:27–8.25(e) clarifies that N.J.A.C. 7:27–8.25 does not limit the NJDEP in establishing standards or reviewing any application. As detailed under N.J.A.C. 7:27–8.25(g), if the NJDEP determines the actions taken at risk by the applicant are inconsistent with applicable law, the applicant and the NJDEP are to enter into an agreement that provides a date by which the applicant will comply with the law. If the applicant and the NJDEP fail to enter into an agreement, the NJDEP may issue a schedule with a compliance date. If an applicant fails to comply with the NJDEP’s schedule, the applicant will be subject to penalties if the applicant’s actions have resulted in the emission-related consequences listed in N.J.A.C. 7:27–8.25(h)(1–3).

The EPA finds the circumstances and conditions which private entities have permission to proceed with: (1) Construction, installation, reconstruction, or operation of control apparatus serving an existing source; and (2) implementation of a pollution prevention process modification, to be sufficient for ensuring compliance with the subchapter. The EPA therefore proposes to approve N.J.A.C. 7:27–8.25 as it was submitted to the EPA by the NJDEP on February 24, 2014.

*Subchapter 8.26, “Civil or Criminal Penalties for Failure To Comply”*

Under N.J.A.C. 7:27–8.26, “Civil or criminal penalties for failure to comply,” any person that fails to conform with the requirements of subchapter 8 is subject to civil penalties in accordance with N.J.A.C. 7:27A–3, or criminal penalties pursuant to N.J.S.A. 26:2C–19(f), or both. The EPA finds this to be adequate for ensuring compliance with the provisions under Subchapter 8 and is therefore proposing to approve

N.J.A.C. 7:27–8.26, as it was submitted to the EPA on February 24, 2014.

*Subchapter 8.27, “Special Facility-Wide Permit Provisions”*

Under N.J.A.C. 7:27–8.27, “Special facility-wide permit provisions,” unique circumstances are provided in which the holder of a facility-wide permit, as defined at N.J.A.C. 7:27–8.1, is not required to obtain a permit and certificate for a planned action or change.

The circumstances in which the holder of facility-wide permit is not required to obtain a permit and certificate for a planned action or change are listed at N.J.A.C. 7:27–8.27(a)(1) through (3). The circumstances include when a production process that is affected by the action or change is identified in and subject to an approved facility-wide permit issued under N.J.S.A. 13:1D–35 *et seq.* It also includes circumstances when the planned action or change is adequately documented in a modification to a Pollution Prevention Plan or in a Pollution Prevention Assessment, as defined in N.J.A.C. 7:1K–5, (N.J.A.C. 7:27–8.27(a)(2)(i) and (ii)) and the planned action or change does not cause an increase or exceedance of certain parameters beyond levels listed at N.J.A.C. 7:27–8.29(a)(3)(i–iv). Within 120 days of commencement of an action or change allowed under N.J.A.C. 7:27–8.27(a) a permittee will be required to submit an amendment to the facility-wide permit alongside a copy of the Pollution Prevention Plan Modification or Pollution Prevention Assessment (N.J.A.C. 7:27–8.27(b)). Lastly, per N.J.A.C. 7:27–8.27(c), if a permittee makes a change which does not meet the criteria under N.J.A.C. 7:27–8.27(a), a new permit will be required, or that the change be processed in accordance with the procedures for changing an existing permit under N.J.A.C. 7:27–8.17 through 8.22.

The EPA finds the circumstances under which the holder of facility-wide permit will not be required to obtain a permit and certificate for a planned action or change to be acceptable. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.27, as it was submitted to the EPA by the NJDEP on February 24, 2014.

*Subchapter 8.28, “Delay of Testing”*

N.J.A.C. 7:27–8.28, “Delay of testing,” lists the circumstances and conditions under which a permittee can seek the NJDEP’s approval to delay tests required under N.J.A.C. 7:27–8.4(f), 8.7(f), and 8.13(d).

Permittees seeking to delay testing must submit a request for the NJDEP's approval at the contact information/addresses provided in N.J.A.C. 7:27–8.28(a)(1). Any request to delay testing must include, at minimum, information listed under N.J.A.C. 7:27–8.28(a)(2)(i–iii), which includes a justification why the delay is needed and a proposed test date. The NJDEP must approve each initial delay request of up to 90 days, and any subsequent request for a delay in testing, if one or more specific criteria under N.J.A.C. 7:27–8.28(a)(3)(i–iv) are met. Finally, as provided under N.J.A.C. 7:27–8.28(b), a permittee may include a waiver of its right to assert that its emissions during the period of delay were any different than the emissions measured by the test when performed.

The EPA finds these circumstances and conditions for delaying a test required under N.J.A.C. 7:27–8.4(f), 8.7(f), and 8.13(d) to be adequate for ensuring compliance with the provisions under Subchapter 8. The EPA is therefore proposing to approve N.J.A.C. 7:27–8.28, as it was submitted to the EPA by the NJDEP on February 24, 2014.

### III. Environmental Justice Considerations

New Jersey supplemented this SIP revision on May 16, 2023 and December 3, 2024. The supplemental submissions 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. To clarify, 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 discusses addressing the needs of communities starting with the creation of the Environmental Equity Task Force in 1998, which eventually became the Environmental Justice Advisory Council (EJAC). New Jersey states that this group holds regular meetings that include EJ advocates and the NJDEP to discuss and address environmental justice issues of concern.

New Jersey also details having implemented numerous initiatives, collaborations, Administrative Orders and Executive Orders to address the needs and concerns of overburdened communities. A timeline of New Jersey's EJ actions implemented, including both prior to and after the two SIP submittals addressed within this notice, was provided and is indicative

of the State's continued attention to EJ issues within the State.

Administrative Orders (AO) and Executive Orders (E.O.) include New Jersey'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). The supplement also mentions that U.S. Senator for New Jersey, Cory Booker, introduced the first Federal EJ bill in 2017 (S.1996—Environmental Justice Act of 2017).

In addition, New Jersey references the creation of the “What's In My Community”<sup>13</sup> tool that identifies the overburdened communities, schools, and emergency services and where public users can see measurements from air monitors

The EPA would like to clarify that since New Jersey's provisions being proposed for approval by the EPA with this notice address statewide matters, and since EJ issues are more accurately captured when evaluating relatively smaller areas or on a community level basis, the EPA determined it would not have been appropriate to evaluate the impact of proposed revisions to New Jersey's SIP on communities with EJ concerns at a statewide level. As previously stated, the CAA and applicable implementing regulations neither prohibit nor require such an evaluation of EJ. In addition, there is no information in the record indicating that this action is inconsistent with the stated goal of E.O. 12898 and E.O. 14096, and/or that this action is expected to have disproportionately high or adverse human health or environmental effects on a particular group of people.

Based on the EPA's review of New Jersey's supplement, the EPA expects that this proposed action will generally be neutral or contribute to reduced environmental and health impacts on all populations within New Jersey, including on communities with EJ concerns. At a minimum, this action is not expected to worsen any air quality and it is expected that this action will ensure the State is meeting requirements to attain and/or maintain air quality standards. New Jersey evaluated its EJ considerations as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an

<sup>13</sup> Mapping application used to find facilities with an air permit registered with New Jersey's Division of Air Quality, <https://njdep.maps.arcgis.com/apps/webappviewer/index.html?id=76194937cbbe46b1ab9a9ec37c7d709b>.

evaluation, and the EPA's discussion of New Jersey's EJ considerations 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 the State's evaluation of EJ.

### IV. The EPA's Proposed Action

The EPA proposes to approve New Jersey's revisions to N.J.A.C. 7:27–8, “Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit),” which will incorporate regulations under N.J.A.C. 7:27 8.2 through 8.28 into the State' SIP, that had a State effective of September 19, 2011, and January 16, 2018. The EPA is soliciting public comments on provisions proposed for adoption into New Jersey's SIP and as discussed within this notice. These comments will be considered before the EPA takes final action.

### V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to N.J.A.C. 7:27–8, “Permits and Certificates for Minor Facilities (and Major Facilities without an Operating Permit),” section 8.2, “Applicability” (except for N.J.A.C. 7:27–8.2(d)(3)(ii)(2) and N.J.A.C. 7:27–8.2(e)(2)(ii)); section 8.3, “General provisions” (except for N.J.A.C. 7:27–8.3(j) and (n)); section 8.4, “How to apply, register, submit a notice, or renew” (except for N.J.A.C. 7:27–8.4(k)(2) and (q)); section 8.5, “Air quality impact analysis;” section 8.6, “Service fees;” section 8.7, “Operating certificates;” section 8.8, “General permits;” section 8.9, “Environmental improvement pilot tests;” section 8.10, “Public comment;” section 8.11, “Standards for issuing a permit;” section 8.12, “State of the art;” section 8.13, “Conditions of approval;” section 8.14, “Denials;” section 8.15, “Reporting requirements;” section 8.16, “Revocation;” section 8.17, “Changes to existing permits and certificates;” section 8.18, “Permit revisions;” section 8.19, “Compliance plan changes;” section 8.20, “Seven-day-notice changes;” section 8.21, “Amendments;” section 8.22, “Changes to sources permitted under batch plant, pilot plant, dual plant, or laboratory operations permitting procedures;” section 8.23, “Reconstruction;” section 8.24, “Special provisions for construction but not operation;” section 8.25, “Special provisions for pollution control

equipment or pollution prevention process modifications;" section 8.26, "Civil or criminal penalties for failure to comply;" section 8.27, "Special facility-wide permit provisions;" and section 8.28, "Delay of testing;" as described in section II of this preamble. The EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

## 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, the 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); 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.

In addition, this proposed SIP will not apply on any Indian reservation land or

in any other area where EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rules do 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 communities with EJ concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin, or Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.

The NJDEP considered EJ as part of its SIP submittal given that the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA's review of the NJDEP's EJ considerations is described above in the section titled, "Environmental Justice Considerations." The consideration 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 the consideration of EJ. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898/14096 of achieving EJ for communities with EJ concerns.

### List of Subjects in 40 CFR Part 52

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

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

**Lisa Garcia,**

*Regional Administrator, Region 2.*

[FR Doc. 2024-29525 Filed 12-16-24; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 721

[EPA-HQ-OPPT-2024-0079; FRL-12386-01-OCSP]

RIN 2070-AB27

### Significant New Use Rules on Certain Chemical Substances (24-3.5e)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for certain chemical substances that were the subject of premanufacture notices (PMNs) and are also subject to an Order issued by EPA pursuant to TSCA. The SNURs require persons who intend to manufacture (defined by statute to include import) or process any of these chemical substances for an activity that is proposed as a significant new use by this rulemaking to notify EPA at least 90 days before commencing that activity. The required notification initiates EPA's evaluation of the conditions of that use for that chemical substance. In addition, the manufacture or processing for the significant new use may not commence until EPA has conducted a review of the required notification, made an appropriate determination regarding that notification, and taken such actions as required by that determination.

**DATES:** Comments must be received on or before January 16, 2025.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2024-0079, at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

### FOR FURTHER INFORMATION CONTACT:

*For technical information:* Jordan Garbin, New Chemicals Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection