6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2019-0365; FRL-9996-40-Region 9]

Air Plan Approval; Nevada; Revisions to Clark County Ozone Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve a revision to the State of Nevada's State Implementation Plan (SIP) for Clark County. The revision consists of an update to certain elements of the maintenance plan for the Clark County air quality planning area for the 1997 8-hour ozone national ambient air quality standards (NAAQS or "standards"), including the emissions inventories, maintenance demonstration, and motor vehicle emissions budgets. The EPA is proposing to conditionally approve the SIP revision because the Clark County ozone SIP, as revised, continues to provide for maintenance of the 1997 ozone NAAQS and, upon fulfillment of certain commitments, will not interfere with attainment or reasonable further progress of the other NAAQS, and the budgets meet the applicable transportation conformity requirements. The proposed approval is conditional because it is based on commitments to submit a SIP revision to reduce the safety margin allocations for the budgets within one year of final conditional approval.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2019-0365, at *https://www.regulations.gov*. For comments submitted at *Regulations.gov*, follow the

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

FOR FURTHER INFORMATION CONTACT: Karina O'Connor, Air Planning Office (AIR-2), EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105; By phone: (775) 434-8176 or by email at *oconnor.karina@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever "we," "us," or "our" is used, we mean the EPA. This supplementary information section is arranged as follows:

Table of Contents

I. What Action is the EPA Proposing?

Under section 110(k) of the Clean Air Act ("Act" or CAA), the EPA is required to take action by approving, disapproving, or conditionally approving, in whole or in part, SIPs and SIP revisions submitted by the states. In today's action, the EPA is proposing to conditionally approve a SIP revision titled "Revision to Motor Vehicle Emissions Budgets in Ozone Redesignation Request and Maintenance Plan: Clark County, Nevada" (October 2018) (herein, referred to as the "2018 Ozone Maintenance Plan Revision"), submitted by the Nevada Division of Environmental Protection (NDEP) on October 31, 2018. The 2018 Ozone Maintenance Plan Revision updates certain elements of the maintenance plan for Clark County for the 1997 ozone NAAQS, including the attainment inventory, the maintenance plan, and the motor vehicle emissions budgets ("budgets" or MVEBs). The budgets were updated using the EPA's MOtor Vehicle Emission Simulator emission model released in 2014 (MOVES2014a). If the EPA takes final action to conditionally approve the SIP revision, the updated budgets will replace Clark County's existing budgets for the 1997 ozone NAAQS. At that time, the previously-approved budgets would no longer be applicable for transportation conformity purposes, and the revised budgets would need to be used beginning on the publication date of the EPA's final conditional approval in the *Federal Register*.[1] The proposed conditional approval is based on commitments from NDEP and the Clark County Department of Air Quality (DAQ) to submit a SIP revision

[1] 40 CFR 93.118(f)(2)(v).

within one year of final conditional approval.[2] The purpose of the future SIP revision is to reduce the safety margin allocations to the budgets to ensure that the 2018 Ozone Maintenance Plan Revision, as revised to reduce the safety margin allocations, will not interfere with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.

II. Background

A. NAAQS, SIPs, Designations, and Transportation Conformity

Under section 109 of the CAA, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone. The NAAQS are concentration levels that, the attainment and maintenance of which, the EPA has determined to be requisite to protect public health and welfare. Once the EPA has established a NAAQS or revised a NAAQS, section 110 of the CAA requires states to adopt and submit to the EPA a plan, referred to as the SIP, that provides for the implementation, maintenance, and enforcement of such NAAQS. As noted previously, the EPA is required to take action to approve, disapprove, or conditionally approve SIPs and SIP revisions under CAA section 110(k).

Under CAA section 107(d), the EPA must designate all areas of the country as attainment, nonattainment or unclassifiable for new or revised NAAQS. States with areas designated as nonattainment must develop, adopt and submit SIP revisions to provide for, among other things, attainment as expeditiously as practicable but no later than certain dates and for reasonable further progress (RFP) towards attainment.[3] Once a nonattainment area has attained the NAAQS, the state may request redesignation of the area from nonattainment to attainment, and the EPA grants such requests if the criteria in CAA section 107(d)(3)(E) are met, including

[2] Letter from Jodi Bechtel, Assistant Director, Clark County DAQ, to Greg Lovato, Administrator, NDEP, dated June 14, 2019; and letter from Greg Lovato, Administrator, NDEP, to Elizabeth Adams, Director, Air Division, EPA Region IX, dated June 21, 2019.

[3] See, generally, part D ("Plan Requirements for Nonattainment Areas") of Title I of the CAA.

the approval of a maintenance plan (under CAA section 175A) that demonstrates how the area will maintain the NAAQS for at least 10 years after the redesignation. Such former nonattainment areas that have been redesignated to attainment are referred to as "maintenance areas."

In the State of Nevada, NDEP is the Governor's designee for adoption and submittal of SIPs and SIP revisions to the EPA. NDEP is also responsible for regulation of stationary sources and development of local air quality plans throughout much of the State of Nevada. In Clark County, the Clark County DAQ is responsible under state law for regulation of most types of stationary sources within the county and for development of local air quality plans. Once adopted by the Clark County Board of County Commissioners, such county plans are forwarded to NDEP for adoption and submittal to the EPA as revisions to the Nevada SIP.

The emission control strategy SIP revisions (e.g., RFP and attainment demonstration SIP revisions) and maintenance plans include budgets of on-road mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The budgets are the portions of the total allowable emissions that are allocated to on-road vehicle use that, together with emissions from other sources in the area, will provide for RFP, attainment or maintenance. The budgets serve as a ceiling on emissions from an area's planned transportation system.[4]

The CAA recognizes the connection between air quality planning and transportation planning in nonattainment and maintenance areas and includes specific provisions related to adoption and approval of transportation programs, plans, and projects by Metropolitan Planning Organizations (MPOs) and the U.S Department of Transportation's (DOT's) Federal Highway Administration (FHWA) or Federal Transit Administration (FTA). More specifically, under

[4] For more information about budgets, see the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188).

section 176(c) of the CAA, transportation plans, Transportation Improvement Programs (TIPs), and transportation projects must "conform" to (i.e., be consistent with) the SIP before they can be adopted or approved. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS or delay an interim milestone. The EPA's transportation conformity rule at 40 CFR part 93, subpart A establishes the criteria and procedures that MPOs and DOT must use to determine whether transportation activities conform to the SIP. Transportation conformity applies to areas that are designated nonattainment and those former nonattainment areas that have been redesignated to attainment and have a CAA section 175A maintenance plan ("maintenance areas"), but does not apply to areas designated as attainment or unclassifiable.[5]

Under certain circumstances, MPOs and DOT must determine conformity based, in part, on a "budget test" that involves a comparison between estimates of regional on-road mobile source emissions under a given transportation plan or program with the budgets.[6] Before budgets can be used in conformity determinations, however, the EPA must affirmatively find the budgets adequate.[7] However, adequate budgets do not supersede approved budgets for the same CAA purpose. If the submitted SIP budgets are meant to replace budgets for the same purpose, the EPA must approve the budgets, and can affirm that they are adequate at the same time. Once the EPA approves the submitted budgets, they must be used by state and federal agencies in determining whether transportation activities conform to the SIP as required by section 176(c) of the CAA. The EPA's substantive criteria for determining the adequacy of budgets are set out in 40 CFR 93.118(e)(4).

[5] CAA section 176(c)(5).
[6] CAA section 176(c)(1) and 40 CFR 93.109 and 93.118.
[7] The "adequacy" process is established in the EPA's transportation conformity rule to provide a mechanism whereby budgets in a submitted SIP revision that has undergone preliminary review by the EPA can be used for transportation planning purposes prior to final approval of the SIP revision.

In Clark County, the area's MPO, the Regional Transportation Commission of Southern Nevada (RTC) and DOT are the relevant transportation agencies that must use approved or adequate budgets in determining the conformity of transportation plans and TIPs within Clark County.

B. 1997 Ozone NAAQS and Clark County

Ground-level ozone pollution is formed from the reaction of volatile organic compounds (VOC) and oxides of nitrogen (NO_X) in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of sources, including on-and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.[8]

As noted previously, the EPA promulgates NAAQS for pervasive air pollutants, such as ozone, under CAA section 109. In 1997, the EPA revised the ozone NAAQS to set the acceptable level of ozone in the ambient air at 0.08 parts per million (ppm), averaged over an 8-hour period (herein referred to as the "1997 ozone NAAQS").[9] In 2004, the EPA designated and classified all areas with respect to the 1997 ozone NAAQS, and designated Clark County as a "Subpart 1" nonattainment area for the 1997 ozone NAAQS.[10] Later that year, the EPA reduced

[8] "Fact Sheet – 2008 Final Revisions to the National Ambient Air Quality Standards for Ozone" dated March 2008.
[9] 62 FR 38856 (July 18, 1997) and 40 CFR 50.10. Due to the number of significant figures in the level of the standard, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm. 40 CFR part 51, appendix I.
[10] 69 FR 23858 (April 30, 2004). The "Subpart 1" classification meant that the area was subject solely to the general nonattainment area requirements under subpart 1 of part D (of title I) of the CAA rather than to the requirements under both subparts 1 and the ozone-specific requirements under subpart 2. Several years later, in response to litigation over the designations for the 1997 ozone NAAQS, the EPA revised the classification of the Clark County ozone nonattainment area from "Subpart 1" to "Subpart 2/Marginal." 77 FR 28424 (May 14, 2012).

the geographic extent of the ozone nonattainment area to a portion of Clark County.[11] In 2005, we published a final rule that we would treat the effective date of the partial-county nonattainment area designation the same as the designations for the rest of the country, i.e., June 15, 2004.[12]

As a "Subpart 1" area, the Clark County ozone nonattainment area was subject to a number of requirements including the requirement to demonstrate attainment of the 1997 ozone NAAQS as expeditiously as practicable, but no later than five years from the date that the area was designated nonattainment.[13] In 2011, the EPA determined that the Clark County 8-hour ozone nonattainment area had attained the 1997 8-hour ozone NAAQS, based on complete, quality-assured, and certified ambient air monitoring data that showed the area monitored attainment of the 1997 ozone NAAQS for the 2007–2009 monitoring period.[14]

In 2011, in light of ambient monitoring data showing that the Clark County ozone nonattainment had attained the 1997 ozone NAAQS, NDEP submitted the "Ozone Redesignation Request and Maintenance Plan, Clark County, Nevada (March 2011)" (herein, the "2011 Ozone Maintenance Plan") to the EPA for approval as a revision to the Clark County portion of the Nevada SIP. Prepared by the Clark County DAQ, the 2011 Ozone Maintenance Plan includes the various elements found in most maintenance plans, including an attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, contingency plan, and motor vehicle emissions budgets.

---

[11] 69 FR 55956 (September 17, 2004). The boundaries of the Clark County ozone nonattainment (now maintenance) area for the 1997 ozone NAAQS are defined in 40 CFR 81.329. Specifically, the area is defined as: "That portion of Clark County that lies in hydrographic areas 164A, 164B, 165, 166, 167, 212, 213, 214, 216, 217, and 218, but excluding the Moapa River Indian Reservation and the Fort Mojave Indian Reservation." The area includes a significant portion of the unincorporated portions of central and southern Clark County, as well as the cities of Las Vegas, Henderson, North Las Vegas and Boulder City. The hydrographic areas are illustrated in Figure 1-1 of the Clark County Ozone Maintenance Plan (March 2011).

[12] 70 FR 71612 (November 29, 2005).

[13] CAA section 172(a)(2).

[14] 76 FR 17343 (March 29, 2011).

For the 2011 Ozone Maintenance Plan, Clark County DAQ selected 2008 as the year for the attainment inventory of ozone precursors (i.e., VOC and NO_X), and demonstrated maintenance of the 1997 ozone NAAQS through year 2022 by reference to emissions inventories developed for future years 2015 and 2022 that showed that future emissions of VOC and NO_X would not exceed the level of the corresponding emissions of the attainment inventory. The 2011 Ozone Maintenance Plan established budgets for NO_X and VOC for years 2008, 2015 and 2022. The budgets were derived from the on-road motor vehicle emissions estimates prepared using the EPA's then-current on-road vehicle emissions model, MOBILE6.2, and the most recent vehicle mix and activity data then available from the RTC. In 2013, the EPA approved the 2011 Ozone Maintenance Plan and redesignated the Clark County ozone nonattainment area to attainment for the 1997 ozone NAAQS.[15] The subject of today's proposed action is a revision to the attainment inventory, the maintenance demonstration and budgets of the 2011 Ozone Maintenance Plan to reflect updated emissions models, vehicle mix and speed data, and transportation activity projections. The other elements of the 2011 Ozone Maintenance Plan (monitoring network, verification of continued attainment, contingency plan) are not affected by this action.

Through adoption of the 2011 Ozone Maintenance Plan, Clark County DAQ committed to maintaining an ambient air quality monitoring network to verify the continued attainment of the 1997 ozone NAAQS in the Clark County ozone maintenance area.[16] At the present time, monitors operating at 10 monitoring sites continuously monitor ambient concentrations of ozone within the maintenance area. Since 2008, i.e., the year used for the attainment inventory in the 2011 Ozone Maintenance Plan, Clark County has experienced a decrease in ambient ozone concentrations. As shown in Table 1, 8-hour ozone design values have decreased from 0.082

[15] 78 FR 1149 (January 8, 2013).
[16] 2011 Ozone Maintenance Plan, page 6-11.

ppm in 2008 to 0.074 ppm in 2017.[17] In more recent years, the design value has remained relatively steady, varying little from year to year. Table 1 shows that Clark County has maintained the 1997 ozone NAAQS through the first 5 years (2013 through 2017) of the first maintenance period.

Table 1 – Eight-Hour Ozone Design Values for the Clark County Ozone Maintenance Area, 2008-2017

Year	Design Value (ppm)
2008	0.082
2009	0.078
2010	0.076
2011	0.075
2012	0.076
2013	0.077
2014	0.078
2015	0.075
2016	0.075
2017	0.074

Source: 2017 Ozone Design Values Report at *https://www.epa.gov/air-trends/air-quality-design-values#report*. Note that design values reported for a given year reflect data from that year and the two previous years, e.g., the design value for 2008 reflects data from 2006-2008.

C. 2008 Ozone NAAQS and Clark County

Meanwhile, in 2008, the EPA lowered the ozone NAAQS to a level of 0.075 ppm, 8-hour average (herein, the "2008 ozone NAAQS"),[18] and in 2012, the EPA designated all of the hydrographic areas within the State of Nevada as "Unclassifiable/Attainment" for the 2008 ozone NAAQS.[19] Because all the hydrographic areas located entirely, or partially, within Clark County were designated as Unclassifiable/Attainment for the 2008 ozone NAAQS, no RFP or

[17] Under EPA regulations at 40 CFR 50.10 and appendix I, the 1997 ozone NAAQS is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm. This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm (based on the rounding convention in 40 CFR part 50, appendix I) at each monitoring site within the area, then the area is meeting the 1997 ozone NAAQS. The highest design value among the various ozone monitoring sites represents the design value for the area.

[18] 73 FR 16436 (March 27, 2008) and 40 CFR 50.15.

[19] 77 FR 30088 (May 21, 2012). Hydrographic areas are those that are shown on the State of Nevada Division of Water Resources' map titled "Water Resources and Inter-basin Flows" (September 1971).

attainment SIP revision was required for any portion of the county, and the transportation conformity requirements did not apply for that ozone NAAQS.

In 2015, the EPA issued a SIP Requirements Rule (SRR) for the 2008 ozone NAAQS ("2008 Ozone SRR") that addressed implementation of the 2008 standards, including attainment dates, requirements for emissions inventories, attainment and reasonable further progress (RFP) demonstrations, among other SIP elements, as well as the transition from the 1997 ozone NAAQS to the 2008 ozone NAAQS and associated anti-backsliding requirements.[20] The 2008 Ozone SRR revoked the 1997 ozone NAAQS effective April 6, 2015.

The EPA's 2008 Ozone SRR was challenged, and on February 16, 2018, the U.S. Court of Appeals for the D.C. Circuit ("D.C. Circuit") published its decision in *South Coast Air Quality Management District v. EPA* ("*South Coast II*") vacating certain portions of the 2008 Ozone SRR, but upholding the EPA's revocation of the 1997 ozone NAAQS.[21] The only aspect of the *South Coast II* decision that affects this proposed action is the vacatur of the elimination of transportation conformity in areas that were maintenance areas for the 1997 ozone NAAQS at the time of revocation of the 1997 ozone NAAQS and were designated as attainment for the 2008 ozone NAAQS, which the court referred to as "orphan maintenance areas." The Clark County 1997 ozone maintenance area is an orphan maintenance area. The 2008 ozone SRR had provided that such areas are no longer required to determine transportation conformity for the 1997 ozone NAAQS after the 1997 ozone NAAQS is revoked.[22] The court, however, held that

[20] 80 FR 12264 (March 6, 2015) and 40 CFR part 51, subpart AA.
[21] *South Coast Air Quality Management District v. EPA,* 882 F.3d 1138 (D.C. Cir. 2018) ("*South Coast II*"). The term "*South Coast II*" is used in reference to the 2018 court decision to distinguish it from a decision published in 2006 also referred to as "*South Coast*." The earlier decision involved a challenge to the EPA's Phase 1 implementation rule for the 1997 ozone NAAQS. *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006).
[22] 80 FR 12264, 12284 (March 6, 2015).

transportation conformity continues to apply for the 1997 ozone NAAQS in orphan maintenance areas notwithstanding revocation of the 1997 ozone NAAQS.

Following the *South Coast II* decision, the EPA issued guidance that addresses how transportation conformity determinations can be made for the 1997 ozone NAAQS in orphan maintenance areas, such as the Clark County ozone maintenance area.[23] In the guidance document, the EPA explains that transportation conformity for transportation plans and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis pursuant to 40 CFR 93.109(c).[24] In the case of the Clark County ozone maintenance area, while the transportation conformity requirement continues to apply for the revoked 1997 ozone NAAQS, RTC and DOT do not need to use the approved MOBILE6.2-based budgets from the 2011 Ozone Maintenance Plan in a conformity determination for the revoked 1997 ozone NAAQS because a regional emissions analysis is not required for that determination.

D. 2015 Ozone NAAQS and Clark County

In 2015, the EPA further lowered the ozone NAAQS to 0.070 ppm, eight-hour average (herein the "2015 ozone NAAQS").[25] In 2018, the EPA designated the Las Vegas Valley portion of Clark County as a "Marginal" nonattainment area for the 2015 ozone NAAQS, effective August 3, 2018.[26] The Clark County nonattainment area for the 2015 ozone NAAQS is about half the size of the Clark County maintenance area for the 1997 ozone NAAQS and includes only hydrographic area 212 ("Las Vegas Valley").

The nonattainment area designation for Las Vegas Valley for the 2015 ozone NAAQS triggers the requirement for certain SIP revisions, but, under CAA section 176(c)(6) and 40 CFR

[23] EPA, Office of Transportation and Air Quality, "Transportation Conformity Guidance for the South Coast II Court Decision, November 2018, EPA-420-B-18-050.
[24] Id., section 2.4.
[25] 80 FR 65292 (October 26, 2015) and 40 CFR 50.19.
[26] 83 FR 25776 (June 4, 2018).

93.102(d), transportation conformity does not apply for the 2015 ozone NAAQS for one year following the effective date of the nonattainment area designation (referred to as the "grace period"), or, in this case, does not apply until August 3, 2019. However, to avoid a conformity "lapse," a MPO and DOT must make a conformity determination for the 2015 ozone NAAQS for the applicable transportation plan and program before the end of the 1-year grace period.[27]

Under our Transportation Conformity Rule, the latest approved or adequate emission budgets for a previous ozone NAAQS (i.e., the 2008 or the 1997 ozone NAAQS) must be used in conformity determinations for the 2015 ozone NAAQS until emission budgets are established and found adequate or are approved for the 2015 ozone NAAQS.[28] Since the latest approved or adequate emission budgets for a previous ozone NAAQS for Clark County are the approved MOBILE6.2-based budgets for the 1997 8-hour ozone NAAQS, the RTC and DOT must use these budgets for conformity determinations for the 2015 ozone NAAQS until they are replaced by updated budgets.

E. The MOVES Emission Model

The MOVES model is the EPA's tool for estimating highway emissions. The model is based on analyses of millions of emission test results and considerable advances in the agency's understanding of vehicle emissions. MOVES incorporates the latest emissions data, more sophisticated calculation algorithms, increased user flexibility, new software design, and significant new capabilities relative to those reflected in the EPA's previous motor vehicle emission factor model, MOBILE6.2.

[27] EPA, Office of Air Quality Planning and Standards, "Transportation Conformity Guidance for 2015 Ozone NAAQS Nonattainment Areas," June 2018, EPA-420-B-18-023. During a conformity lapse, only certain projects can receive additional federal funding or approvals to proceed (i.e., exempt projects, project phases that were approved before the lapse, and transportation control measures (TCMs) in approved SIPs) until the area has both a conforming transportation plan and TIP.

[28] 40 CFR 93.109(c)(2).

The EPA announced the release of MOVES2010 on March 2, 2010 (75 FR 9411) and approved the use of MOVES2010 in states other than California for official SIP submissions to the EPA and for regional emissions analyses for transportation conformity purposes. The EPA released MOVES2014 on October 7, 2014 (79 FR 60343). MOVES2014 was a major revision to MOVES2010 and incorporated new emissions and fleet data, emission standards and functional improvements and features to the model. The October 7, 2014 notice approved the use of MOVES2014 in states outside of California for official SIP submissions to the EPA and for regional emissions analyses for transportation conformity purposes. In addition, the notice started a two-year grace period before MOVES2014 was required to be used in new regional emissions analyses for transportation conformity determinations outside of California. Since October 7, 2016, MOVES2014 was required to be used for new transportation conformity analyses outside California. In November 2015, the EPA released MOVES2014a, a minor update to MOVES2014.[29]

III. What did the State Submit?

On October 31, 2018, NDEP submitted the 2018 Ozone Maintenance Plan Revision (for the 1997 ozone NAAQS) to the EPA as a revision to the Clark County portion of the Nevada SIP.[30] Earlier that month, on October 16, 2018, the Clark County Board of County Commissioners adopted the 2018 Ozone Maintenance Plan Revision and forwarded the plan to NDEP for adoption and submittal to the EPA.[31] The 2018 Ozone Maintenance Plan Revision updates certain elements of the 2011 Ozone Maintenance Plan for the 1997 ozone NAAQS,

[29] In August 2018, the EPA released MOVES2014b to improve estimates of emissions from nonroad mobile sources. MOBILE2014b does not significantly change the on-road criteria pollutant emissions results of MOVES2014 and is not considered a new model for SIP and transportation conformity purposes.
[30] Letter, Greg Lovato, Administrator, NDEP to Mike Stoker, Regional Administrator, EPA Region IX, October 31, 2018 with enclosures.
[31] Clark County Board of County Commissioners Meeting, Meeting Summary, pages 14 and 15 (of 19), October 16, 2018.

including the emissions inventories, the maintenance demonstration, and the MOBILE6.2-derived budgets. The 2018 Ozone Maintenance Plan Revision also includes a technical support document (appendix A of the plan revision) and documentation of the public review process (appendix B of the plan revision). These updated inventories and budgets in the 2018 Ozone Maintenance Plan Revision are based on MOVES2014a. The budgets for the 1997 ozone NAAQS were developed so that the RTC would have updated budgets available to use for transportation conformity determinations with respect to the 2015 ozone NAAQS until budgets developed specifically for the 2015 ozone NAAQS are adopted and found to be adequate or approved.

IV. Procedural Requirements for Adoption and Submittal of SIP Revisions

CAA sections 110(a)(1) and (2) and 110(l) require a state to provide reasonable public notice and opportunity for public hearing prior to the adoption and submittal of a SIP or SIP revision. To meet this requirement, every SIP submittal should include evidence that adequate public notice was given and an opportunity for a public hearing was provided consistent with the EPA's implementing regulations in 40 CFR 51.102.

The Clark County Board of County Commissioners and NDEP have satisfied applicable statutory and regulatory requirements for reasonable public notice and hearing prior to adoption and submittal of the 2018 Ozone Maintenance Plan Revision. In the documentation included as part of the October 31, 2018 SIP revision submittal,[32] Clark County DAQ provided evidence of the required public notice and opportunity for public comment prior to the October 16, 2018 public hearing and adoption of the 2018 Ozone Maintenance Plan Revision. We find, therefore,

[32] Appendix B provides evidence that reasonable notice of a public hearing was provided to the public and that a public hearing was conducted prior to adoption. Specifically, notice of the availability of, and opening of a 30-day comment period on, the draft ozone maintenance plan revision was published on August 17, 2018 on the County's webpage. No comments were submitted.

that the submittal of the 2018 Ozone Maintenance Plan Revision meets the procedural requirements for public notice and hearing in CAA sections 110(a) and 110(l).

CAA section 110(k)(1)(B) requires the EPA to determine whether a SIP submittal is complete within 60 days of receipt. This section also provides that any plan submittal that the EPA has not affirmatively determined to be complete or incomplete will be deemed complete by operation of law six months after the date of submittal. The EPA's SIP completeness criteria are found in 40 CFR part 51, Appendix V. The 2018 Ozone Maintenance Plan Revision submission, dated October 31, 2018, became complete by operation of law on April 30, 2019.

V. The EPA's Evaluation of the 2018 Ozone Maintenance Plan Revision

The 2018 Ozone Maintenance Plan Revision is not a required submittal but has been submitted to establish revised budgets reflecting the most recent emissions models and planning estimates and to thereby provide the basis for RTC and DOT to make future transportation conformity determinations for transportation plans, TIPs and projects with respect to the 2015 ozone NAAQS. We have reviewed the 2018 Ozone Maintenance Plan Revision for compliance with the relevant requirements for maintenance plans under CAA section 175A and for noninterference under CAA section 110(l), and we have evaluated the budgets in the 2018 Ozone Maintenance Plan Revision for compliance with the budget adequacy criteria in 40 CFR 93.118(e).

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. We interpret this section of the Act to require, in general, the following core elements: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and contingency plan.[33] The 2018

[33] John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards, memo titled "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992.

Ozone Maintenance Plan Revision updates two of the core elements of the approved 2011 Ozone Maintenance Plan for the 1997 ozone NAAQS, the attainment inventory and maintenance demonstration, and it also updates the budgets.

CAA section 110(l) applies to all SIP revisions, and under that section, the EPA shall not approve any SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of the CAA.

A. Revised Attainment Inventory

A maintenance plan for the 1997 ozone NAAQS must include an inventory of emissions of ozone precursors (VOC and NO_X) in the area to identify a level of emissions that are sufficient to attain the 1997 ozone NAAQS. This inventory must be consistent with the EPA's most recent guidance on emissions inventories for nonattainment areas available at the time and should represent emissions during the time period associated with the monitoring data showing attainment. The inventory must also be comprehensive, including emissions from stationary point sources, area sources, nonroad mobile sources, and on-road mobile sources, and must be based on actual "ozone season data" (i.e., summertime) emissions.

Clark County DAQ selected 2008 as the year for the attainment inventory in the 2011 Ozone Maintenance Plan. The attainment year inventory in the 2011 Ozone Maintenance Plan is comprehensive in that it includes estimates of summertime average weekday VOC and NO_X emissions from all of the relevant source categories, which the plan divides among point sources,[34] nonpoint sources,[35] commercial aviation, federal aviation (i.e., Nellis Air Force Base),

[34] The 2018 Ozone Maintenance Plan Revision uses the term, "point sources," to refer to those stationary source facilities that are required to report their emissions to Clark County DAQ or NDEP.

[35] The 2018 Ozone Maintenance Plan Revision uses the term, "nonpoint sources," to refer to those stationary and area sources that fall below point source reporting levels and that are too numerous or small to identify individually.

on-road mobile, nonroad mobile, and biogenic[36] sources.[37] The 2018 Ozone Maintenance Plan Revision includes a comprehensive update to the 2008 attainment inventory but, to the extent that the original estimates (i.e. from 2011 Ozone Maintenance Plan) are based on actual reported emissions or activity levels for year 2008, there is little change in the related emissions estimate. Appendix A to the 2018 Ozone Maintenance Plan Revision contains source-specific descriptions of emission calculation procedures and sources of input data used for the update.

Table 2 below compares the attainment inventory from the 2011 Ozone Maintenance Plan with the corresponding inventory from the 2018 Ozone Maintenance Plan Revision. As shown in Table 2, the change in the attainment inventory in the 2018 Ozone Maintenance Revision is primarily due to the update to the on-road mobile source category and the nonpoint source category.

Table 2 – 2008 Attainment Inventory (average summer weekday, tons/day)

	NO_x Emissions		**VOC Emissions**	
Source Category	**2011 Ozone Maintenance Plan**	**2018 Ozone Maintenance Plan Revision**	**2011 Ozone Maintenance Plan**	**2018 Ozone Maintenance Plan Revision**
Point source	28.73	28.97	1.32	1.50
Nonpoint source	5.41	6.6	57.07	67.56
Commercial aviation	11.41	11.41	2.60	2.60
Federal aviation	1.27	1.27	0.79	0.79
On-road mobile	68.46	89.50	65.08	42.46
Nonroad mobile	43.28	40.63	42.91	42.07
Biogenic	5.00	5.00	132.00	132.00
Total	163.56	183.38	301.77	288.98

Sources: 2011 Ozone Maintenance Plan, tables 6-2 and 6-3; 2018 Ozone Maintenance Plan Revision, table 2-1.

With respect to on-road mobile source emissions, Clark County DAQ updated the emissions estimates using the SMOKE-MOVES approach, which incorporates MOVES2014a

[36] For the 2018 Ozone Maintenance Plan Revision, "biogenic sources" include agricultural crops; lawn grass; forests that produce isoprene, monoterpene, alpha-pinene, and other VOC emissions; and soils that generate trace amounts of NO_x.

[37] See Table 2-1 in the 2018 Ozone Maintenance Plan Revision.

model emission rates, Sparse Matrix Operator Kernel Emissions (SMOKE) modeling,[38] RTC travel demand modeling, and Highway Performance Monitoring System (HPMS) data from the Nevada Department of Transportation.[39] Clark County DAQ selected the SMOKE-MOVES approach to be consistent with the EPA's approach in developing the National Emissions Inventory (NEI), as well as with the EPA's modeling platform. This approach is also consistent with the one used in Clark County's photochemical modeling applications. In contrast, the 2011 Ozone Maintenance Plan's on-road mobile source emissions were estimated using the CONCEPT MV emissions model[40] and EPA's MOBILE6.2 emissions factors. Generally, on-road mobile source emissions estimates made using MOVES2014a are higher for NO_X and lower for VOC relative to those made using MOBILE6.2. With respect to nonpoint emissions sources, the change in the 2008 emissions inventory is largely due to the use of the SMOKE model.

Based on our review of the emissions inventories (and related documentation) from the 2018 Ozone Maintenance Plan Revision, we find that the inventories for 2008 are comprehensive, that the methods and assumptions used by Clark County DAQ to update the 2008 emission inventory are reasonable, and that the inventories reasonably estimate actual ozone season emissions in the 2008 attainment year. Moreover, we find that the 2008 emissions inventories in the Ozone Maintenance Plan reflect the latest planning assumptions and emissions models available at the time the 2018 Ozone Maintenance Plan Revision was developed.

B. Revised Maintenance Demonstration

[38] SMOKE is an emission-generating and processing model used in developing hourly gridded emissions for photochemical modeling. The EPA has integrated the MOVES model with the SMOKE model with a set of integration software tools that allows the MOVES emission rate model to automatically run numerous iterations to generate the most accurate modeling results. The SMOKE-MOVES integrated approach takes advantage of gridded hourly temperature and humidity information from the Weather Research and Forecasting (WRF) meteorology model used for air quality modeling.

[39] 2018 Ozone Maintenance Plan Revision, Appendix A, page A-2.

[40] "CONCEPT" refers to the CONsolidated Community Emissions Processor Tool (CONCEPT) and "MV" refers to the motor vehicle module of the CONCEPT model.

CAA section 175A(a) requires that the maintenance plan "provide for the maintenance of the national primary ambient air quality standard for such air pollutant in the area concerned for at least 10 years after the redesignation." Generally, a state may demonstrate maintenance of the ozone NAAQS by either showing that future emissions will not exceed the level of the attainment inventory or by modeling to show that the future mix of sources and emissions rates will not cause a violation of the NAAQS.

The 2018 Ozone Maintenance Plan Revision uses the same method as the 2011 Ozone Maintenance Plan to demonstrate continued maintenance of the 1997 ozone NAAQS. The 2018 Ozone Maintenance Plan Revision demonstrates maintenance through the initial 10-year period after redesignation by showing that emissions in 2015 and 2022 would be less than those in the 2008 attainment year.

To provide the basis for the comparison of future emissions with the updated attainment year (2008) emissions, Clark County DAQ updated the 2015 and 2022 emissions inventories using the SMOKE-MOVES approach for the on-road mobile sources as described above for the update to the 2008 attainment year emissions inventory and by incorporating more recent emissions and travel demand data. Tables 3 and 4 below compare the NO_X and VOC emissions inventories, respectively, for 2015 and 2022 from the 2018 Ozone Maintenance Plan Revision with the corresponding values from the 2011 Ozone Maintenance Plan.

Table 3 - Comparison of NO_X Inventories Associated with Approved and Revised Maintenance Plan for the 1997 Ozone NAAQS (tons per average summer weekday)

	2011 Ozone Maintenance Plan[a]		2018 Ozone Maintenance Plan Revision		Net Change[b]	
Source Category	**2015**	**2022**	**2015**	**2022**	**2015**	**2022**
Stationary and Area (point and nonpoint)	37	38	18	17	-19	-21
On-road	35	23	64	27	+29	+4
Nonroad (including	47	51	41	37	-6	-14

aviation)						
Biogenic	5	5	5	5	0	0
Emission Reduction Credits	22	22	22	22	0	0
Totals[c]	146	139	150	109	+4	-30

[a] The emissions shown for the approved ozone plan are from Table 6-3 of Clark County's 2011 Ozone Maintenance Plan.
[b] For the net change, a negative number indicates a reduction in emissions, and a positive number indicates an increase in emissions relative to the corresponding figure in the 2011 Ozone Maintenance Plan.
[c] Because of rounding conventions, totals may not reflect individual subcategories.

Table 4 - Comparison of VOC Inventories Associated with Approved and Revised Maintenance Plan for the 1997 Ozone NAAQS (tons per average summer weekday)

	2011 Ozone Maintenance Plan[a]		**2018 Ozone Maintenance Plan Revision**		**Net Change**[b]	
Source Category	**2015**	**2022**	**2015**	**2022**	**2015**	**2022**
Stationary and Area (point and nonpoint)	68	78	63	62	-5	-16
On-road	45	37	33	17	-12	-20
Nonroad (including aviation)	36	35	35	32	-1	-3
Biogenic	132	132	132	132	0	0
Emission Reduction Credits	< 1	< 1	< 1	< 1	0	0
Totals[c]	282	282	263	244	-19	-38

[a] The emissions shown for the approved ozone plan are from Table 6-3 of Clark County's 2011 Ozone Maintenance Plan.
[b] For the net change, a negative number indicates a reduction in emissions, and a positive number indicates an increase in emissions relative to the corresponding figure in the 2011 Ozone Maintenance Plan.
[c] Because of rounding conventions, totals may not reflect individual subcategories.

As shown in tables 3 and 4, total emissions for 2015 and 2022 in the 2018 Ozone Maintenance Plan Revision are lower than the corresponding emissions in the 2011 Ozone Maintenance Plan with the exception of a 4 tpd higher estimate in 2015 for NO_X. With respect to the on-road mobile sources, the update results in higher NO_X emissions but lower VOC emissions and reflects primarily the differences in the emissions rates calculated using MOVES2014a relative to those calculated using MOBILE6.2. The on-road mobile source emission estimates in the 2018 Ozone Maintenance Plan Revision reflect the most recent

published data concerning vehicle registration data, vehicle miles traveled (VMT) temporal distribution, VMT mix profiles, vehicle speeds and travel demand forecasts from RTC.[41] The higher estimates for NO_X from on-road mobile sources are offset by decreases in the actual reported emissions for point source emissions compared to their projected emissions in the 2011 Ozone Maintenance Plan (which includes the shutdown of the Reid Gardner coal-fired power plant). Other significant differences include: (1) a reduction in commercial aviation emissions because the Sloan Regional Heliport and South County Ivanpah Airport projects, which had been assumed for the 2011 Ozone Maintenance Plan, have not been constructed and (2) reductions in nonpoint source emission projection factors.[42]

Based on our review of the methods, assumptions, and data sources, as described in Appendix A to the 2018 Ozone Maintenance Plan Revision, and briefly summarized above, we find that Clark County DAQ's estimates for 2015 and 2022 for the various source categories to be based on the best available emissions models and data sources, and thus to provide a reasonable basis upon which to evaluate whether the area will maintain the 1997 ozone NAAQS through 2022.

A state may choose to allocate all or a portion of the safety margin[43] under our transportation conformity rule so long as such margins are explicitly quantified in the applicable plan and are shown to be consistent with attainment or maintenance of the NAAQS (whichever

[41] Key references used by Clark County DAQ include Eastern Research Group, Inc.'s "Clark County On-Road Vehicle Classification Study," final report, June 29, 2018 and the Coordinating Research Council, Inc.'s "Improvement of Default Inputs for MOVES and SMOKE-MOVES, final report, February 2017.

[42] Clark County projected emissions from 2014 NEI data with factors derived from the 2011–2023 annual rate of change for all nonpoint sectors from EPA's 2011 Version 6 Air Emissions Modeling Platform. Nonpoint source emissions in the 2011 Ozone Maintenance Plan were based on the 2008 NEI and higher growth correlated to population and economic growth factors.

[43] In this context, "safety margin" means the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirements for reasonable further progress, attainment or maintenance. With respect to the 2018 Ozone Maintenance Plan Revision, the safety margin is the difference between the projected emissions in 2015 and 2022 of NO_X and VOC and the actual emissions of NO_X and VOC in the 2008 attainment year.

is relevant to the particular plan).[44] For the 2018 Ozone Maintenance Plan Revision, Clark County DAQ allocated 80 percent of the safety margin for NO_X and VOC in 2015 and 2022 to the projected on-road emissions estimates for NO_X and VOC.

Table 5 below summarizes the revised maintenance demonstration (including the safety margins) for the 1997 ozone NAAQS. As shown in Table 5, the revised emission estimates for NO_X and VOC in 2015 and 2022 (including the safety margins) would remain below the corresponding 2008 attainment levels throughout the 10-year maintenance period and thereby adequately demonstrate maintenance through that period.

Table 5 – Revised Maintenance Demonstration for 1997 Ozone NAAQS

	Emissions (average summer weekday, tpd)					
	Attainment (2008)		**2015**		**2022**	
Source Description	**NO_X**	**VOC**	**NO_X**	**VOC**	**NO_X**	**VOC**
Projected Emissions – Excluding On-Road Mobile Sources	93.88	246.52	85.81	229.82	81.71	227.06
Projected On-Road Mobile Source Emissions	89.50	42.46	64.30	33.04	27.02	17.12
Allocation of Portion of Safety Margin to On-Road	0	0	26.62	20.90	59.72	35.84
Total Emissions (with Safety Margins)	183.38	288.98	176.73	283.76	168.45	280.02
Maintenance Demonstrated?			**Yes**	**Yes**	**Yes**	**Yes**
Motor Vehicle Emissions Budget (Projected On-Road Plus Safety Margin)	89.50	42.46	90.92	53.94	86.74	52.96

Source: 2018 Ozone Maintenance Plan Revision, Tables 2-1, 2-2 and 3-1. Note: Maintenance is demonstrated where future emissions (with the safety margins) are less than the corresponding attainment inventory emissions.

C. Revised Motor Vehicle Emissions Budgets

Section 176(c) of the CAA requires federal actions in nonattainment and maintenance areas to conform to the SIP's goals of eliminating or reducing the severity and number of

[44] See 40 CFR 93.124(a).

violations of the NAAQS and achieving timely attainment of the standards. Conformity to the SIP's goals means that such actions will not: (1) cause or contribute to violations of a NAAQS, (2) worsen the severity of an existing violation, or (3) delay timely attainment of any NAAQS or any interim milestone.

Under the transportation conformity rule, MPOs in nonattainment and maintenance areas coordinate with state and local air quality and transportation agencies, the EPA, the FHWA, and the FTA to demonstrate that an area's regional transportation plans and TIPs conform to the applicable SIP. This demonstration is typically done by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the budgets contained in all control strategy or maintenance SIPs. Budgets are generally established for specific years and specific pollutants or precursors. Maintenance ozone plans should identify budgets for on-road emissions of ozone precursors (NO_X and VOC) in the area for the last year of the maintenance period. Budgets may also be specified for additional years during the maintenance period.

For budgets to be approvable, they must meet the EPA's adequacy criteria (40 CFR 93.118(e)(4) and (5)) and comply with all pertinent SIP requirements. With respect to maintenance plans, to meet these requirements, the budgets must be consistent with the maintenance plan and reflect all the motor vehicle control measures contained in the maintenance demonstration.[45] The EPA's process for determining adequacy of a budget consists of three basic steps: (1) providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the budget during a public comment period; and, (3)

[45] 40 CFR 93.118(e)(4)(iii), (iv) and (v). For more information on the transportation conformity requirements and applicable policies on budgets, please visit our transportation conformity web site at: *http://www.epa.gov/otaq/stateresources/transconf/index.htm*.

making a finding of adequacy or inadequacy.[46] We will complete the adequacy review of the budgets in the 2018 Ozone Maintenance Plan Revision concurrent with our final action on the 2018 Ozone Maintenance Plan Revision. The EPA is not required under its transportation conformity rule to find budgets adequate prior to proposing approval of them.[47]

The 2018 Ozone Maintenance Plan Revision includes revised budgets for VOC and NO_X for years 2008, 2015 and the last year of the initial maintenance period, i.e., 2022. The revised budgets from the 2018 Ozone Maintenance Plan Revision are shown in Table 6 below and compared with the corresponding budgets from the approved 2011 Ozone Maintenance Plan. As noted previously, Clark County DAQ developed the revised budgets using the latest emissions model (MOVES2014a) available at the time the 2018 Ozone Maintenance Plan Revision was being developed, and the most recent travel activity projections provided by the NDOT and RTC. As such, we find that the revised budgets reflect the most recent planning forecasts and are based on the most recent emission factor data and approved calculation methods. Clark County DAQ included 80% of the safety margin in the budgets. In this context, the term "safety margin" refers to the difference between the updated emissions inventories in the 2018 Ozone Maintenance Plan Revision for years 2015 and 2022 and the updated attainment (2008) emissions inventory in the plan revision.

Table 6 – Ozone Motor Vehicle Emission Budgets (average summer weekday, tons/day)

	2011 Ozone Maintenance Plan		2018 Ozone Maintenance Plan Revision	
Year	**NO_X**	**VOC**	**NO_X**	**VOC**
2008	68.46	65.08	89.50	42.46
2015	34.69	45.32	90.92	53.94
2022	23.15	36.71	86.74	52.96

Sources: 2011 Ozone Maintenance Plan, Table 7-1; 2018 Ozone Maintenance Plan Revision, Table 3-1.

[46] 40 CFR 93.118(f)(2).

[47] Under the transportation conformity regulations, the EPA may review the adequacy of submitted motor vehicle emission budgets simultaneously with the EPA's approval or disapproval of the submitted implementation plan. 40 CFR 93.118(f)(2).

As documented in a May 22, 2019 memorandum to the docket for this rulemaking, we find that the budgets in the 2018 Ozone Maintenance Plan Revision meet each adequacy criterion.[48] We have completed our detailed review of the 2018 Ozone Maintenance Plan Revision and find them acceptable. We have also reviewed the budgets in the 2018 Ozone Maintenance Plan Revision and found that they are consistent with the revised maintenance demonstration; are based on control measures that have already been adopted and implemented; and meet all other applicable statutory and regulatory requirements including the adequacy criteria in 40 CFR 93.1118(e)(4) and (5). Therefore, we are proposing to find adequate and conditionally approve the 2008, 2015 and 2022 budgets in the 2018 Ozone Maintenance Plan Revision. If we finalize our adequacy determination and conditional approval of the revised budgets in the 2018 Ozone Maintenance Plan Revision, as proposed, they will replace the budgets for the 1997 ozone NAAQS from the 2011 Ozone Maintenance Plan that we previously found adequate and approved for use in transportation conformity determinations. The proposed approval of the budgets is conditional because it is based on commitments by NDEP and Clark County DAQ to submit a SIP revision within one year of final conditional approval to reduce the safety margin allocations to avoid interference with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS. For more information on why the reduction of the safety margin is needed, see the following section of this notice.

D. CAA Section 110(l) Evaluation

In relevant part, CAA section 110(l) provides that the EPA shall not approve a SIP revision that would interfere with any applicable requirement concerning attainment or RFP of

[48] Memorandum from Karina O'Connor, Air Planning Office, EPA Region IX, to Air Plan Approval; Revisions to the Clark County Ozone Maintenance Plan, dated May 22, 2019.

any of the NAAQS or any other applicable requirement of the CAA. The 2018 Ozone Maintenance Plan Revision would establish budgets that are larger than those that are currently approved from the 2011 Ozone Maintenance Plan. Thus, approval of the 2018 Ozone Maintenance Plan Revision would accommodate a higher level of VOC and NO_X emissions from on-road mobile source emissions than would otherwise be allowed under the existing budgets. In the following paragraphs, we evaluate the higher level of VOC and NO_X emissions with respect to the potential for interference with RFP and attainment of the NAAQS for which VOC and NO_X are precursors, namely, the 2008 and 2015 ozone NAAQS and the 2006 and 2012 $PM_{2.5}$ NAAQS.[49]

2008 Ozone NAAQS. In 2012, the EPA designated all the hydrographic areas within the State of Nevada as unclassifiable/attainment for the 0.075 ppm 2008 ozone NAAQS based on ambient ozone concentration data for years 2009-2011.[50] After the original designation, the 8-hour ozone design values within Clark County exceeded the 2008 ozone NAAQS for a few years but, since 2015, the design values have returned to attainment levels for the 2008 ozone NAAQS. See Table 1 above. Thus, emissions of VOC and NO_X in 2015 represent conditions under which Clark County meets the 2008 ozone NAAQS. As updated in the 2018 Ozone Maintenance Plan Revision, summertime weekday average emissions in 2015 were approximately 262 tpd of VOC and 128 tpd of NO_X.[51] Including the safety margin allocations to the on-road emissions estimates, the 2018 Ozone Maintenance Plan Revision allows for 280 tpd of VOC and 168 tpd of

[49] As a general matter, NO_X is also considered a precursor for PM_{10}. However, in approving the Las Vegas Valley Serious Area PM_{10} Plan, the EPA determined that major stationary sources of PM_{10} precursors do not contribute significantly to elevated ambient PM_{10} concentrations in Las Vegas Valley. 69 FR 32273 (June 9, 2004). Moreover, the approved Las Vegas Valley PM_{10} Maintenance Plan relies on direct PM_{10} control measures (rather than PM_{10} precursor controls) to demonstrate maintenance of the PM_{10} NAAQS within Las Vegas Valley. 79 FR 42258 (July 21, 2014) (proposed PM_{10} redesignation and approval of related maintenance plan) and 79 FR 60078 (October 6, 2014) (final PM_{10} redesignation and approval of related maintenance plan).

[50] Letter from Jared Blumenfeld, Regional Administrator, EPA Region IX, to Brian Sandoval, Governor, State of Nevada, dated December 9, 2011.

[51] Assumes that no emission reduction credits (ERCs) were used in 2015.

NO_X emissions in 2022, i.e., a higher level of VOC and NO_X emissions than is consistent with continued attainment of the 2008 ozone NAAQS.

However, in recognition of the need to avoid interference with attainment of the 2008 ozone NAAQS and progress toward attainment of the 2015 ozone NAAQS, NDEP and Clark County DAQ have committed to submit a SIP revision to remove the safety margin allocations to the 2015 budgets and to reduce the safety margin allocations to the 2022 budgets such that total estimated emission in 2022 (with the allocations) would not exceed actual emissions in year 2017. As shown in Table 1 above, the design value in year 2017 was 0.074 ppm, which is consistent with attainment of the 0.075 ppm 2008 ozone NAAQS.

Based on the commitments by NDEP and Clark County DAQ, the total projected emissions (with the reduced safety margin allocations) in year 2022 would be less than the actual emissions estimated for year 2017, a year in which the 2008 ozone NAAQS was attained in Clark County. Therefore, the 2018 Ozone Maintenance Plan, as revised consistent with NDEP's and Clark County DAQ's commitments, would not interfere with attainment of the 2008 ozone NAAQS in Clark County.

2015 Ozone NAAQS. In 2018, the EPA designated the Las Vegas Valley (i.e., hydrographic area #212) as a Marginal nonattainment area for the 0.070 ppm 2015 ozone NAAQS based on ambient ozone concentration data for years 2015-2017.[52] The 2017 ozone design value is 0.074 ppm, and VOC and NO_X emissions in 2017 are estimated (based on interpolating the 2015 and 2022 updated inventories in the 2018 Ozone Maintenance Plan Revision) to be approximately 257 tpd and 116 tpd, respectively.[53] To attain the 0.070 ppm 2015 ozone NAAQS by the applicable Marginal area attainment date, i.e., by August 3, 2021, VOC

[52] EPA, "Nevada, Las Vegas Nonattainment Area, Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards, Technical Support Document (TSD)."
[53] Assumes that no ERCs were used in 2017.

and NO_X emissions must decrease relative to those in 2017. With the allocation of the safety margin to the on-road emissions estimates, the 2018 Ozone Maintenance Plan Revision would allow for VOC and NO_X emissions that are greater than those in 2017.

However, based on the commitments by NDEP and Clark County DAQ described above for the 2008 ozone NAAQS, the total projected emissions (with the reduced safety margin allocations) in year 2022 would be less than the actual emissions estimated for year 2017, the base year for implementation of the 2015 ozone NAAQS. Therefore, the 2018 Ozone Maintenance Plan, as revised consistent with NDEP's and Clark County DAQ's commitments, would not interfere with RFP towards attainment of the 2015 ozone NAAQS.

2006 and 2012 $PM_{2.5}$ NAAQS. The EPA has designated the State of Nevada, on a hydrographic area basis, as unclassifiable/attainment for both the 35 $\mu g/m^3$, 24-hour average, 2006 $PM_{2.5}$ NAAQS and the 12.0 $\mu g/m^3$, annual average, 2012 $PM_{2.5}$ NAAQS.[54] The design values for 24-hour average $PM_{2.5}$ concentrations have ranged from 19 to 26 $\mu g/m^3$ over the 2008-2017 period, well below the corresponding NAAQS of 35 $\mu g/m^3$.[55] With respect to annual average $PM_{2.5}$ concentrations, the design values have ranged from 7.7 to 10.3 $\mu g/m^3$ over that same period, i.e., well below the corresponding NAAQS of 12.0 $\mu g/m^3$.[56] Thus, since at least 2008, ambient $PM_{2.5}$ concentrations have been well within the applicable NAAQS, and given that the VOC and NO_X emissions that would be allowed under the 2018 Ozone Maintenance Plan Revision (including the safety margin allocations to on-road emissions) would be less than

[54] 40 CFR 81.329.
[55] 2017 $PM_{2.5}$ Design Values Report at https://www.epa.gov/air-trends/air-quality-design-values#report. The 24-hour $PM_{2.5}$ NAAQS design value is the 3-year average of annual 98th percentile 24-hour average values recorded at each monitoring site, and the 24-hour $PM_{2.5}$ design value for the area is the highest design value among the monitoring sites.
[56] Id. The annual $PM_{2.5}$ NAAQS design value is the 3-year average of annual mean concentrations recorded at each monitoring site, and the annual $PM_{2.5}$ design value for the area is the highest design value among the monitoring sites

those that occurred in 2008, approval of the 2018 Ozone Maintenance Plan Revision would not interfere with attainment of the 2006 or 2012 $PM_{2.5}$ NAAQS in Clark County.

VI. Proposed Action and Request for Public Comment

For the reasons discussed above, under CAA section 110(k)(4), the EPA is proposing to conditionally approve the 2018 Ozone Maintenance Plan Revision submitted by NDEP on October 31, 2018 as a revision for the Clark County portion of the Nevada SIP. In so proposing, we find that the 2011 Ozone Maintenance Plan, as revised by the updated attainment inventory and maintenance demonstration in the 2018 Ozone Maintenance Plan Revision, continues to provide for maintenance of the 1997 ozone NAAQS and, upon fulfillment of the commitments made by NDEP and Clark County DAQ to reduce the safety margin allocations to the budgets, will not interfere with RFP or attainment of the other NAAQS in Clark County. In proposing conditional approval of the 2018 Ozone Maintenance Plan Revision, the EPA is also proposing to find adequate and conditionally approve the updated budgets for 2008, 2015 and 2022 for the 1997 ozone NAAQS (shown in Table 6 of this document) based on our conclusion that the updated budgets meet the applicable transportation conformity requirements.

The proposed approval of the 2018 Ozone Maintenance Plan Revision is conditional because it is based on commitments from NDEP and the Clark County DAQ to submit a SIP revision within one year of final conditional approval.[57] The purpose of the future SIP revision is to reduce the safety margin allocations to the budgets to ensure that the 2018 Ozone Maintenance Plan Revision, as revised to reduce the safety margin allocations, will not interfere with reasonable further progress or attainment of the 2008 and 2015 ozone NAAQS.

[57] Letter from Jodi Bechtel, Assistant Director, Clark County DAQ, to Greg Lovato, Administrator, NDEP, dated June 14, 2019; and letter from Greg Lovato, Administrator, NDEP, to Elizabeth Adams, Director, Air Division, EPA Region IX, dated June 21, 2019.

Lastly, if the EPA takes final action to approve conditionally the 2018 Ozone Maintenance Plan Revision as proposed, the revised budgets will replace the existing approved budgets from the 2011 Ozone Maintenance Plan, and RTC and DOT must use the revised budgets for future transportation conformity determinations.

The EPA is soliciting public comments on the issues discussed in this document or on other relevant matters. We will accept comments from the public on this proposal for the next 30 days. We will consider these comments before taking final action.

VII. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small

entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: June 27, 2019.

Deborah Jordan,
Acting Regional Administrator,
EPA Region IX.

[FR Doc. 2019-14630 Filed: 7/10/2019 8:45 am; Publication Date: 7/11/2019]