6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2024-0288; FRL-12047-01-R2]

Air Plan Approval; New Jersey; Northern New Jersey and Southern New Jersey Counties' Second 10-Year Limited Maintenance Plan for the 2006 24-Hour PM2.5 Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act (CAA), the limited maintenance plan (LMP) for the 2006 PM2.5 national ambient air quality standard (NAAQS) for the New Jersey portion of both of New Jersey's multi-state maintenance areas: the Northern New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT (Northern New Jersey) maintenance area and the New Jersey portion of the Philadelphia-Wilmington, PA-NJ-DE (Southern New Jersey) maintenance area. This LMP was submitted on July 6, 2023, and supplemented on June 6, 2024, by the New Jersey Department of Environmental Protection (NJDEP). The plan addresses the second 10-year maintenance period for particulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, known as PM2.5. The EPA is proposing approval of New Jersey's LMP submission because it provides for the maintenance of the 2006 24-hour PM2.5 NAAQS through the end of the second 10-year portion of the maintenance period. In addition, the EPA completed the adequacy review process of this New Jersey PM2.5 LMP for transportation conformity purposes on June 7, 2024.

DATES: Written 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 Number EPA-R02-OAR-2024-0288 at *https://www.regulations.gov*. Although listed in the index, some information is not publicly available, *e.g.*, Controlled Unclassified Information (CUI) (formerly 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: Ysabel Banon, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007-1866, at (212) 637-3782, or by email at *banon.ysabel@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

A. The PM2.5 NAAQS

The EPA has established NAAQS for particulate matter with an aerodynamic diameter less than or equal to 2.5 micrometers, known as PM2.5, to protect human health and the environment. In 1997, the EPA established the first PM2.5 standards based on significant scientific evidence and health studies demonstrating the serious health effects associated with exposure to PM2.5. The EPA set an annual standard of 15.0 micrograms per cubic meter ($\mu g/m^3$) and a 24-hour (daily) standard of 65 $\mu g/m^3$. In 2006, the EPA strengthened the 24-hour PM2.5 NAAQS by revising it to 35 $\mu g/m^3$ and retained the level of the annual PM2.5 standard at 15.0 $\mu g/m^3$. Subsequently, in 2012, the EPA established an annual primary PM2.5 NAAQS at 12.0 $\mu g/m^3$ and retained the 2006 24-hour PM2.5 NAAQS at 35 $\mu g/m^3$. In early 2024, the EPA strengthened the level of the annual primary PM2.5 standard to 9.0 $\mu g/m^3$ and retained the 2006 24-hour PM2.5 NAAQS at 35 $\mu g/m^3$.

B. Regulatory Actions in Northern New Jersey and Southern New Jersey Counties

Hereafter, "Northern New Jersey" means the New Jersey portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT maintenance area (for the 2006 24-hour PM2.5 NAAQS), which is comprised of Bergen, Essex, Hudson, Mercer, Middlesex, Monmouth, Morris, Passaic, Somerset, and Union Counties, and "Southern New Jersey" means the New Jersey portion of Philadelphia-Wilmington, PA-NJ-DE maintenance area (for the 2006 24-hour PM2.5 NAAQS), which is comprised of Burlington, Camden, and Gloucester Counties. The EPA promulgated the designations

for Northern New Jersey and Southern New Jersey as PM2.5 nonattainment areas for the 1997 annual PM2.5 NAAQS on January 5, 2005 (70 FR 944, January 5, 2025) and the 2006 24-hour PM2.5 NAAQS on November 13, 2009 (74 FR 58688, November 13, 2009), due to measured violations of the standards. These designations became effective on April 5, 2005, and December 14, 2009, respectively. On December 26, 2012, the NJDEP submitted a request to the EPA to redesignate the Northern New Jersey and Southern New Jersey nonattainment areas to attainment for both the 1997 annual and 2006 24-hour PM2.5 NAAQS. This submittal included a maintenance plan to provide for maintenance of both of the PM2.5 NAAQS in the areas for 10 years. The EPA redesignated Northern New Jersey and Southern New Jersey to attainment for the 1997 and 2006 PM2.5 NAAQS on September 4, 2013 (78 FR 54396, September 4, 2013) and approved the associated maintenance plan into the New Jersey State Implementation Plan (SIP). The purpose of the NJDEP's July 6, 2023 (supplemented on June 6, 2024) LMP submission is to fulfill the second 10-year planning requirement of CAA section 175A(b), thus ensuring PM2.5 NAAQS compliance through the end of the maintenance period.

In the LMP submittal, the NJDEP indicates that it seeks approval of the LMP for both the 2006 24-hour standard as well as the 1997 annual standard. However, as explained in the PM2.5 SIP Requirements Rule (81 FR 58009, October 24, 2016), a second 10-year maintenance plan for the revoked 1997 annual PM2.5 NAAQS is not required. Therefore, the EPA will only proceed with proposing approval of the LMP for the 2006 24-hour PM2.5 NAAQS.

II. The Limited Maintenance Plan Option

A. Demonstration of Maintenance using the Limited Maintenance Plan Option

Section 175A of the CAA, 42 U.S.C. 7505a, sets forth the elements of a maintenance plan. Under section 175A, a state must submit a revision to the SIP that

provides for maintenance of the applicable NAAQS for at least 10 years after an area is redesignated to attainment. Section 175A also requires that eight years into the first maintenance period, the state must submit a second maintenance plan demonstrating that the area will continue to attain for the following 10-year period.

The EPA has published long-standing guidance for states on developing maintenance plans.[1] The Calcagni Memo provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that future emissions of a pollutant and its precursors will not exceed the level of emissions during a year when the area was attaining the NAAQS (*i.e.,* attainment year inventory). The EPA clarified in subsequent limited maintenance plan guidance memoranda that certain nonattainment areas could meet the CAA section 175A, 42 U.S.C. 7505a, requirement to provide for maintenance by demonstrating that an area's design value is well below the NAAQS and that the historical stability of the area's air quality levels shows that the area is unlikely to violate the NAAQS in the future.[2] The EPA refers to this streamlined demonstration of maintenance as an LMP.

Most recently, in October 2022, the EPA released guidance extending this streamlined option for demonstrating maintenance under CAA section 175A to certain PM2.5 areas, titled, ''Guidance on Limited Maintenance Plan Option for Moderate PM2.5 Nonattainment Areas and PM2.5 Maintenance Areas'' ("PM2.5 LMP

[1] *See* John Calcagni, Director, Air Quality Management Division, the EPA Office of Air Quality Planning and Standards ("OAQPS"), ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' September 4, 1992 (the "Calcagni Memo"). A copy of this memorandum can be found in the docket for this proposed rulemaking.

[2] *See* Joseph Paisie, OAQPS, ''Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas,'' dated October 6, 1995; and Lydia Wegman, OAQPS, ''Limited Maintenance Plan Option for Moderate PM10 Nonattainment Areas'' ("PM10 LMP Guidance"), dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

Guidance").[3] CAA section 175A declares that maintenance plan revisions must "provide for the maintenance" of the relevant NAAQS, but does not specify how states must do so. The EPA has therefore interpreted that the LMP is an appropriate way for states to meet the requirements of providing for maintenance under limited circumstances. As noted in the PM2.5 LMP Guidance, states seeking an LMP should still submit the other maintenance plan elements outlined in the Calcagni Memo, including: an attainment emissions inventory, provisions for the continued operation of the ambient air quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, states seeking an LMP must still submit their CAA section 175A maintenance plan as a revision to their SIP, with all attendant notice and comment procedures.

The PM2.5 LMP Guidance, like the PM10 LMP Guidance, allows states to demonstrate that certain areas qualify for an LMP by showing that, based on their recent measured air quality, they are unlikely to violate the NAAQS in the future. Specifically, the PM2.5 LMP Guidance relies on the critical design value (CDV) concept, which is used to assess the probability of future violations. This guidance directs states to calculate a site-specific CDV for the monitoring site in an area with the highest design value, and for all other active monitoring sites in the area with complete data. The PM2.5 LMP Guidance states that areas should show that the average design value (ADV) for each monitoring site in the area (*i.e.,* the average of at least the most recent consecutive five-years of PM2.5 design values) does not exceed each site's associated CDV.[4] The probability of a future exceedance, based on the area's historical air quality and

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[3] *See* the guidance document developed by the Office of Air Quality Planning and Standards, the Office of Transportation and Air Quality, and the Office of Air and Radiation, titled, ''Guidance on the Limited Maintenance Plan Option for Moderate PM2.5 Nonattainment Areas and PM2.5 Maintenance Areas." A copy of this guidance can be found in the docket for this proposed rulemaking.

[4] The EPA recommends that the ADV be calculated using at least five years of design values, each representing a three-year period, because this approach would rely on a more robust dataset. However, we acknowledge that an alternative interpretation may be acceptable, where these variables could be calculated using three years of design values, collectively representing five years of air quality data.

variability, is under 10 percent if the ADV for each monitoring site in the area is less than its CDV. The CDV calculation for a monitoring site involves the following parameters: (1) the level of the relevant NAAQS; (2) the co-efficient of variation of recent design values measured at that site; and (3) a statistical parameter corresponding to a 10-percent probability of exceedance, such that sites with historically high variability in design values result in a lower (or more stringent) CDV. The eligibility calculation equations for the CDV demonstration are shown in Table 1.

Table 1—The Critical Design Value Calculation

Standard Deviation (σ)	$\sigma = \sqrt{\frac{\sum (x_i - ADV)^2}{n-1}}$
Coefficient of Variation (CV)	CV = σ/ADV
Critical Design Value (CDV)	CDV = NAAQS/(1+(t_c* CV))

ADV= Average of three-year design values.
DV= Design Value.
NAAQS = Applicable standard (PM2.5 is 35 μg/m^3).
t_c= Critical t-value (based on the one-tail student's t-distribution at a significance level of 0.10).
x_i= a given three-year period design value for the area.
n=the total number of design values evaluated.
σ= Standard deviation of design values.

B. Transportation Conformity Under Limited Maintenance Plan Option

Transportation conformity is required by section 176(c) of the CAA, 42 U.S.C. 7506(c). Under that provision, conformity to a SIP means that transportation activities will not cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any required interim emission reductions or other milestones in any area. *See* CAA 176(c)(1)(A) and (B), 42 U.S.C. 7506(c)(1)(A) and (B). The EPA's transportation conformity rule at 40 CFR part 93 subpart A establishes the criteria and procedures to determine whether metropolitan transportation plans, transportation improvement programs, and federally supported highway and transit projects conform to the purpose of the SIP. Transportation conformity applies for

transportation-related criteria pollutants in nonattainment areas and redesignated attainment areas with a CAA section 175A maintenance plan (*i.e.*, maintenance areas).[5]

While qualification for the LMP option does not exempt an area from the need to determine conformity, an area with an adequate[6] or approved LMP may show transportation conformity to a transportation plan or a transportation improvement program without a regional emissions analysis for the relevant NAAQS and pollutant (40 CFR 93.109(e)). However, such areas are still required to have transportation plan and transportation improvement program conformity determinations that meet applicable requirements (*see* Table 1 in 40 CFR 93.109), including a regional emissions analysis for other NAAQS for which the areas are nonattainment or maintenance (*e.g.*, the 2015 and 2008 ozone NAAQS).

For the 2006 PM2.5 NAAQS, the areas also remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A, including fulfilling project-level conformity analyses requirements and consultation requirements. In addition, an LMP must demonstrate that it is unreasonable to expect that the qualifying area would experience enough growth in on-road emissions during the maintenance period such that a violation of the relevant NAAQS would occur (40 CFR 93.109(e)). Furthermore, consistent with the PM2.5 LMP Guidance, if re-entrained road dust has been found to be significant for PM2.5 transportation conformity purposes under 40 CFR 93.102(b)(3), the plan should include an on-road PM2.5 emissions analysis consistent with the methodology provided in attachment B of the PM10 LMP Guidance. The EPA discusses the NJDEP's submittal in section III.A of this document. Moreover, the

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[5] In addition to PM2.5, the criteria pollutants for which transportation conformity applies include ozone, carbon monoxide, particulate matter with an aerodynamic diameter less than or equal to 10 micrometers, and nitrogen dioxide. *See* 40 CFR 93.102(b).

[6] The EPA's adequacy process is described in 40 CFR 93.118(e) and (f) with the EPA's adequacy website at: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity* .

NJDEP's submittal in section 3.2 of its LMP explains that the on-road direct PM2.5 and NOx emission inventories[7] have steadily decreased (bolded in table 5 of this document).

Along with this proposed action, the EPA has completed an adequacy review process[8] for the Northern New Jersey and Southern New Jersey LMP. *See* 40 CFR 93.118(e)(4) and 93.118(f). The EPA's adequacy review assessed whether the demonstration required by 40 CFR 93.109(e) is met. The EPA Region 2 sent a letter to the NJDEP on March 18, 2024, stating that the LMP for the Northern New Jersey and Southern New Jersey maintenance areas is adequate for transportation conformity purposes for the 2006 PM2.5 NAAQS and published our finding in the *Federal Register* on June 7, 2024.[9] An adequacy review is separate from the EPA's final decision on a SIP submission and should not be used to prejudge the EPA's final action for the SIP. Even if the EPA finds a limited maintenance plan adequate for transportation conformity purposes, the SIP could later be disapproved.

C. General Conformity Under Limited Maintenance Plan Option

The general conformity rule of November 30, 1993 (58 FR 63214, November 30, 1993), applies to nonattainment areas and redesignated attainment areas operating under maintenance plans (*i.e.,* maintenance areas). General conformity requires that these areas comply with the purposes of a SIP; this means that Federal activities (that are not related to transportation plans, programs, and projects) will not cause or contribute to any new violation of any standard in any area, increase the frequency or severity of any existing violation, or delay timely attainment of any standard (or any required interim emission reductions or other milestones) in any area (CAA section 176(c)(1)(A) and (B), 42 U.S.C. 7506(c)(1)(A) and (B)). As noted in the PM2.5 LMP Guidance, the EPA's general

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[7] For reference, the 2007 onroad direct PM2.5 was 3,677 tpy, which decreased to 1.397 tpy for 2017 in the Northern New Jersey area.
[8] *See* 89 FR 45658 (May 23, 2024).
[9] Letter from the EPA to the NJDEP identifying that its Limited Maintenance Plan was found to be adequate. *See https://www.epa.gov/system/files/documents/2024-08/nj-ny-ct-pa-de-sip-ltr-2024-03-11.pdf.*

conformity regulations do not distinguish between maintenance areas with an approved ''full maintenance plan'' and those with an approved LMP. Thus, maintenance areas with an approved LMP are subject to the same general conformity requirements under 40 CFR part 93 subpart B, as those covered by a ''full maintenance plan.'' Full compliance with the general conformity program is required within an LMP.

III. The EPA's Analysis of the State's Submittal

A. Demonstration of Qualification for the Limited Maintenance Plan Option

The EPA redesignated Northern New Jersey and Southern New Jersey to attainment of the 2006 PM2.5 NAAQS on September 4, 2013 (78 FR 54396, September 4, 2013). Table 2 of this document below shows historical design values for the New York-Northern New Jersey-Long Island, NY-NJ-CT and Philadelphia-Wilmington, PA-NJ-DE maintenance areas since the area was redesignated in 2013.[10] Table 3[11] shows the historical design values for each monitoring site within the Northern New Jersey and Southern New Jersey maintenance areas since 2013.[12] The 2006 24-hour PM2.5 NAAQS is attained when the three-year average of the 98th percentile of 24-hour PM2.5 concentrations is equal to or less than 35 $\mu g/m^3$, and as shown in Tables 2 and 3 of this document, the areas have been measuring air quality well below the 2006 PM2.5 NAAQS and PM2.5 concentrations have been trending downward over time. These design values from the individual monitoring sites within the maintenance areas demonstrate the stability of ambient PM2.5 concentrations over time.

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[10] *See https://www.epa.gov/air-trends/air-qualitydesign-values.*

[11] Monitors located in Fort Lee Library (AQS ID 34003003), Newark-Willis Center (AQS ID 340130015), Lexington & E. Ferris Sts. Newark (ASQ ID 340130016), Union City (AQS ID 340172002), Washington Crossing State Park (AQS ID 340218001), New Brunswick (AQS ID 340230006), Morristown Amb. Squad (AQS ID 340270004), Elizabeth Mitchell Building (AQS ID 340390006), and Gibbston (AQS ID 340150004) were not included in the analysis due to site closure. Monitors located at Clarksboro (AQS ID 340150002), and Union City High School (AQS ID 340170008) were not included in the analysis due to having invalid data for most years.

[12] *See* n. 9 .

Table 2- Design Values (DV) (µg/m3) History for the 2006 24-hr PM2.5 NAAQS in the New York-Northern New Jersey-Long Island, NY-NJ-CT and Philadelphia-Wilmington, PA-NJ-DE Areas Since Redesignation to Attainment [2013-2024]

Design Value Period	New York-Northern New Jersey-Long Island, NY-NJ-CT PM2.5 Design Value	Philadelphia-Wilmington, PA-NJ-DE PM 2.5 Design Value
2011-2013	30	30
2012-2014	27	29
2013-2015	28	29
2014-2016	24	27
2015-2017	23	25
2016-2018	23	24
2017-2019	23	26
2018-2020	22	26
2019-2021	22	24
2020-2022	21	22
2021-2023	27	26
2022-2024	23	27

Data provided by the EPA's Air Quality System (AQS).

Table 3- DV for the 2006 PM 2.5 24-hr NAAQS at Monitoring Sites in the Northern New Jersey and Southern New Jersey Areas in µg/m^3 [2013-2024]

AQS site ID	Site name	County	2013 - 2015	2014 - 2016	2015 - 2017	2016 - 2018	2017 - 2019	2018 - 2020	2019 - 2021	2020 - 2022[b]	2021 - 2023[b]	2022 - 2024[b]
Northern New Jersey												
340030010	Fort Lee Near Road	Bergen	27[a]	24[a]	22	22	23	25[a]	24[a]	21[a]	24	21
340130003	Newark - Firehouse	Essex	25	24	20	19	20	21	21	20[a]	19[a]	17[a]
340171003	Jersey City Firehouse	Hudson	27	23	21	19	20	22[a]	22[a]	20[a]	21	20
340210005	Rider University	Mercer	ND	17[a]	17[a]	17	17	17	18	17	21[a]	19
340210008	Trenton	Mercer	24	22	20	17	19	19[a]	19[a]	18[a]	21[a]	19
340230011	Rutgers University	Middlesex	ND	18[a]	19[a]	19	18	19	19	19	21	19
340273001	Chester	Morris	18	17	16	14	14	15[a]	17[a]	16[a]	20	18

340310005	Paterson	Passaic	25	22	19	18	19	18[a]	18[a]	16[a]	22[a]	20[a]
340390004	Elizabeth Lab	Union	28	24	23	21	22	22	22	21	22	20
340392003	Rahway	Union	25	24	20	18	19	20[a]	20[a]	18[a]	21	20
Southern New Jersey												
340070010	South Camden [c]	Camden	26	24	25	24	25	22	23	20	22	19
340071007	Pennsauken	Camden	22	21	19	17	19	18[a]	21[a]	18[a]	19	16

[a]=Invalid data. This data was excluded from the ADV calculation.
[b]=Although the 2020-2022, 2021-2023, and 2022-2024 design values were not included in the NJDEP's LMP submission to the EPA, they are provided here to reflect the latest available air quality data.
[c]=The NJDEP combined the Spruce Street (ID: 340070002) monitoring station data with the new South Camden monitoring station, due to the lease ending at the Spruce Street monitoring station[13].
ND= No data available.

The EPA proposes to find that the Northern New Jersey and Southern New Jersey areas meet the critical design value demonstration for an LMP. As noted above, the parameters of the CDV calculation include the level of the relevant NAAQS, the co-efficient of variation of recent design values, and a statistical parameter corresponding to a 10-percent probability of future violation. The CDV demonstration is designed such that if a site's ADV is lower than the site's CDV, the probability of a future violation of the NAAQS is less than 10 percent.[14] Section 3.1 of the NJDEP's LMP submittal demonstrates the likelihood of continued attainment. The EPA reviewed the data and methodology provided by the state and we find that each monitor's five-year ADV is well below the corresponding site-specific CDV, as shown in Table 4.

Table 4 -Results of Calculation of CDVs at the Northern New Jersey and Southern New Jersey Monitors for the 24-hour PM2.5 NAAQS

Site name	Monitor	ADV (2013-2024)[a]	CDV (2013-2024)	Qualify for LMP?
Northern New Jersey				
Fort Lee Near Road	340030010	22.33[b]	33.37	Yes
Newark- Firehouse	340130003	20.60	29.40	Yes
Jersey City Firehouse	340171003	22.00	28.68	Yes

[13] *See* attached request from the NJDEP seeking to combine the data from these two monitoring stations, and the EPA's response letter, which can be found in the docket for this proposed rulemaking.
[14] *See* the ''*Example Site Calculation*,'' at page 7 of the October 2022 PM2.5 LMP guidance, found in the docket for this rulemaking.

Rider University	340210005	17.20	33.66	Yes
Trenton	340210008	20.40	29.09	Yes
Rutgers	340230011	19.40	32.69	Yes
Chester	340273001	15.80	29.82	Yes
Paterson	340310005	20.60	28.82	Yes
Elizabeth Lab	340390004	23.60	29.77	Yes
Rahway	340392003	21.20	28.57	Yes
Southern New Jersey				
South Camden	340070002	24.80	33.28	Yes
Pennsauken	340071007	19.60	30.37	Yes

[a]= The design values averaged for the ADV span seven consecutive years of data between 2013-2023.
[b]= Only three years of design values (five years of data) were used for the 'Fort Lee Near Road' monitor due to invalid data.

The EPA also proposes to find that the NJDEP LMP submittal satisfies transportation conformity regulations under the LMP option. New Jersey holds annual transportation conformity interagency consultation meetings, which include Federal, State, and local agencies. Additionally, the LMP SIP submittal for Northern New Jersey and Southern New Jersey was developed in accordance with interagency consultation between Federal, State, and local partners. This transportation conformity regulation requires that an LMP would have to demonstrate that it would be unreasonable to expect that a maintenance area would experience enough motor vehicle emissions growth for a NAAQS violation to occur (40 CFR 93.109(e)).

In the 2022 PM2.5 LMP Guidance, the EPA clarified that an area submitting the second 10-year maintenance plan may be eligible for the LMP option as long as monitored air quality data and its historical and projected vehicle miles traveled (VMT) support the LMP option. The state included both air quality data and the VMT trend data of the maintenance areas to satisfy transportation conformity regulations under an LMP option. As discussed above, Table 3 of this document shows that the areas have been measuring air quality well below the 2006 PM2.5 NAAQS and PM2.5 concentrations have been trending downward over time. The design values from the individual monitoring sites within the maintenance areas demonstrate the stability of ambient PM2.5 concentrations over time. The latest draft DV for 2022-2024 is approximately 22 percent below the 24-hour 35 $\mu g/m^3$ standard in the Northern New Jersey area and approximately

34 percent below the standard in the Southern New Jersey area. Based on yearly statewide data,[15] VMT increased approximately 2.23% in 2022 and 3.87% in 2023, after a steady annual VMT increase of about 0.8 percent between 2013 and 2019.The VMT projections considered by the NJDEP were based on transportation models provided by the Metropolitan Planning Organizations (MPOs).[16] The MPOs provided historical and future modeled VMT from 2017 to 2050 to determine the VMT growth trends for 2033.[17] The Northern New Jersey PM2.5 maintenance area has a projected VMT growth of about 0.27 percent per year between 2023 and 2033. The Southern New Jersey PM2.5 maintenance area has a projected VMT growth of about 0.18 percent per year between 2023 to 2033.

Due to air quality and VMT trends, the EPA proposes to find that the Northern New Jersey and the Southern New Jersey areas meet the qualification criteria set forth in the PM2.5 LMP Guidance. The EPA also proposes that, based on the same data, it would be unreasonable to expect that either area will experience growth in motor vehicle emissions sufficient to cause a violation of the 2006 24-hour PM2.5 NAAQS over the second maintenance period.

B. Attainment Emission Inventory

As noted previously, states that qualify for an LMP must still meet the other elements of a maintenance plan, as articulated in the Calcagni Memo. This includes an attainment year emissions inventory. The NJDEP's Northern New Jersey and Southern New Jersey LMP submission includes an emissions inventory, with a base year of 2007, and a periodic emission inventory for 2017.[18] This inventory was prepared as part of the 2017 National Emissions Inventory 9, Version 2, under the EPA's Air Emissions

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[15] *See https://www.nj.gov/transportation/refdata/roadway/pdf/hpms2023/prmvmt_23.pdf*.
[16] The MPO for the Northern New Jersey area is the North Jersey Transportation Planning Authority, and for the Southern New Jersey area, the MPO is the Delaware Valley Regional Planning Commission.
[17] A copy of the MPOs' VMT projections are found at the docket of this rulemaking.
[18] *See* 88 FR 55576 (August 16, 2023).

Reporting Rule (73 FR 76539, December 17, 2008). The 2017 emission inventory used the nonroad model included in Motor Vehicle Simulator (MOVES)14b[19], which was used to generate emission factors for on-road vehicle emission estimates. The 2017 periodic emission inventory represents the most recent emissions inventory data available at the time the state prepared the submission. The 2017 periodic emission inventory is also representative of the level of emissions during a period during which the area shows monitored attainment of the NAAQS and is consistent with the data used to determine applicability of the LMP option (*i.e.,* having no violations of the NAAQS during the five-year period used to calculate the design value). Table 5 of this document shows the total PM2.5 and NOx emissions by sector for 2007 and 2017 in Northern New Jersey and Southern New Jersey in tons per year, included in the state's submission. Table 5 represents a 29 percent direct decrease in PM2.5 emissions, and a 46 percent decrease in NOx emissions, for the Northern New Jersey area; and a 31 percent direct decrease in PM2.5 emissions, and a 54 percent decrease in NOx emissions, for the Southern New Jersey area. Table 6 of this document shows the total 2017 emissions in Northern and Southern New Jersey in tons per year, included in the state's submission.

Table 5- PM2.5 and NOx Emissions by Sector for 2007 and 2017 (tons/year) for the Northern New Jersey and Southern New Jersey Maintenance Areas

Northern New Jersey Maintenance Area (tons/year)				
Sector	PM2.5		NOx	
	2007	2017	2007	2017
Point	4,937	1,086	15,827	5,779
Area Other	4,432	6,781	16,611	16,167
Fugitive Road Dust	1,001	559	-	-
Onroad	**3,677**	**1,397**	**93,385**	**38,932**
Nonroad	2,497	1,706	39,457	27,377
Event[a]	66	233	152	126
Total	16,610	11,762	164,792	88,293
Percent Change		-29%		-46%
Southern New Jersey Maintenance Area (tons/year)				

[19] See *https://www.epa.gov/moves/information-running-moves2014b*.

Sector	PM2.5		NOx	
	2007	2017	2007	2017
Point	799	532	4,453	2,226
Area Other	2,172	1,798	3,331	3,179
Fugitive Road Dust	239	160	-	-
Onroad	**1,055**	**307**	**26,992**	**9,529**
Nonroad	560	310	6,790	4,270
Event [a]	685	690	152	126
Total	5,510	3,796	41,718	19,330
Percent Change		-31%		-54%

Note:
Transportation fractions have been applied to the PM2.5 fugitive dust
[a]= Includes prescribed forest fire, and forest wildfire emissions.

Table 6-2017 Emissions (tons/year) for the Northern New Jersey and Southern New Jersey Maintenance Areas

Pollutant	Northern New Jersey Maintenance Areas (tons/year)	Southern New Jersey Maintenance Areas (tons/year)
PM2.5	11,762	3,797
Ammonia (NH3)	3,381	1,177
Nitrogen Oxides (NOx)	88,293	19,330
Sulfur dioxide (SO2)	1,694	984
Volatile organic compounds (VOCs)	89,305	24,644

C. Air Quality Monitoring Network

Once an area is redesignated, the state must continue to operate an appropriate air monitoring network in accordance with 40 CFR part 58 to verify the attainment status of the area. The NJDEP continues to operate a PM2.5 monitoring network sited and maintained in accordance with Federal siting and design criteria in 40 CFR part 58, and in consultation with the EPA, Region 2. The NJDEP submitted its 2023 Annual Monitoring Network Plan on August 16, 2023,[20] which the EPA approved on December 4, 2023.[21] In the LMP submittal, the NJDEP commits to continued operation of its PM2.5 monitors within Northern New Jersey and Southern New Jersey, consistent with the

[20] *See* the NJDEP's 2023 Annual Air Monitoring Network Plan, found in the docket for this proposed rulemaking.
[21] *See* the EPA's approval Letter for the NJDEP's 2023 Annual Air Monitoring Network Plan, found in the docket for this proposed rulemaking.

EPA-approved NJDEP annual network plan. Currently, there are ten PM2.5 monitors in the Northern New Jersey maintenance area and three PM2.5 monitors in the Southern New Jersey maintenance area.

D. Verification of Continued Attainment

The level of the 2006 24-hour PM2.5 NAAQS is 35 μg/m^3 (40 CFR 50.13). The NAAQS is attained when the three-year average of the 98th percentile of PM2.5 concentrations is equal to or less than the NAAQS, as demonstrated in the NJDEP's LMP submittal. As stated previously, the NJDEP commits to verifying continued attainment of the PM2.5 standards through the maintenance plan period with the operation of an appropriate PM2.5 monitoring network. In developing the second 10-year maintenance plan, the NJDEP evaluated the prior nine years of complete, quality-assured data for Northern New Jersey and Southern New Jersey at the time of the submittal (*i.e.*, 2013 through 2021) to verify continued attainment of the standard. Certified air quality data from 2023, as shown in Table 3 of this document, confirms continued attainment of the standard.[22]

E. Contingency Provisions

CAA section 175A(d), 42 U.S.C. 7505a(d), states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the relevant NAAQS, which may occur after redesignation of the area to attainment. As explained in the Calcagni Memo, these contingency provisions are an enforceable part of the federally approved SIP. The maintenance plan should clearly identify the events that would ''trigger'' the adoption and implementation of a contingency provision, the contingency provision(s) that would be adopted and implemented, and the schedule indicating the time frame by which the state would adopt

[22] *See* n. 9.

and implement the provision(s). The Calcagni Memo states that the EPA will determine the adequacy of a contingency plan on a case-by-case basis. At a minimum, the plan must require that the state implement all measures contained in the CAA part D nonattainment plan for the area prior to redesignation.

According to the state's submittal, the NJDEP will continue to adhere to the contingency plan that it submitted with its first maintenance plan, which includes the required contingency provisions to ensure the state will promptly correct any violation of the 2006 PM2.5 NAAQS in the areas. New Jersey's contingency measures will use the following indicators to determine the cause of elevated levels, and implement contingency measures, as necessary, in accordance with the described schedule:

1. If monitored PM2.5 concentrations in any year exceed the level of the NAAQS from the 2006 24-hour PM2.5 standard of 35µg/m^3, the NJDEP will perform a data assessment to determine the cause of the violation. This assessment will be performed when the 98th percentile of the 24-hour average daily concentrations exceeds 35 µg/m^3 at any New Jersey air monitoring site. The NJDEP will perform this evaluation within six months of the data certification. New Jersey will work with the other states in its shared multi-state nonattainment areas as necessary.
2. If 24-hour PM2.5 design values exceed 35 µg/m^3, the NJDEP will evaluate all appropriate data to determine the cause using the same analyses discussed in the preceding paragraph. The NJDEP will perform this evaluation within six months of the determination of a violation.
3. Based on any findings, New Jersey will make a judgment on whether the violation was caused by an exceptional event or a violation of an existing rule or permit. The State will rely on one or more of the following contingency measures for any other violation:
    - Onroad Vehicle Fleet Turnover

- Nonroad Vehicle and Equipment Fleet Turnover
- Heavy Duty Diesel Inspection and Maintenance Program, New Jersey Administrative Code (N.J.A.C.) 7:27-14, 15; and N.J.A.C. 7:27B-5. B-5.

If necessary, the NJDEP will evaluate the feasibility and applicability of additional measures, how they relate to the cause and location of the violation, and if these additional measures would correct the violation.

The NJDEP will perform this evaluation within six months of the determination of a violation. If it is determined that a new rule is required or appropriate to correct a violation of the NAAQS, the NJDEP will propose a new rule within 18 months, and take final action within 30 months, of the determination of a violation.

The NJDEP is relying on existing measures, which are already implemented, or have been adopted with future implementation dates, to promptly correct any violation of the NAAQS. The State has also included a commitment to further evaluate additional measures, if necessary and appropriate. *See* 78 FR 38648. The EPA proposes to find that the contingency provisions in the PM2.5 LMP for the Northern New Jersey and Southern New Jersey 2006 PM2.5 maintenance areas meet the requirements of CAA section 175A(d). 42 U.S.C. 7505a(d).

IV. Proposed Action

The EPA is proposing to approve the second 10-year PM2.5 LMP for the Northern New Jersey and Southern New Jersey 2006 24-hour PM2.5 maintenance areas, submitted on July 6, 2023, and supplemented on June 6, 2024. The EPA's review of the air quality data for the maintenance areas indicates that the areas continue to show attainment and are well below the level of the 2006 24-hour PM2.5 NAAQS and meet all the LMP's qualifying criteria, as described in this action. If finalized, the EPA's approval of this LMP will satisfy the CAA section 175A, 42 U.S.C. 7505a, requirements for the

second 10-year maintenance period. As discussed previously in section II of this document, the EPA determined that the LMP is adequate for transportation conformity purposes. The EPA made this determination in a final action[23] through a separate process provided for in the transportation conformity regulations. *See* 40 CFR 93.118(f). The EPA is soliciting public comments only on the issues discussed in this document. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to this proposed rulemaking by following the instructions listed in the ADDRESSES section of this *Federal Register*.

V. Statutory and Executive Order Reviews

Under the CAA section 110(k), 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 proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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*.);

[23] See footnote 6.

- 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, the SIP is not proposing to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and it 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 relations, Particulate matter, Reporting and recordkeeping requirements.

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

Michael Martucci,
Regional Administrator,
Region 2.

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