



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2025-0040; FRL-12733-02-R2]

#### **Approval and Promulgation of State Implementation Plans; New York; Emission Statement Certification of the 2008 and 2015 Ozone National Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving portions of the comprehensive State Implementation Plan (SIP) revisions submitted by New York State that certify that the State has satisfied the requirements for an emission statement program for both the Serious and Moderate classifications of the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS), respectively. These actions are being taken in accordance with the requirements of the Clean Air Act (CAA). The EPA proposed to approve this SIP revision on May 8, 2025, and received no comments.

**DATES:** This final rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2025-0040. All documents in the docket are listed on the <https://www.regulations.gov> web site. 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>.

**FOR FURTHER INFORMATION CONTACT:** Fausto Taveras, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007-1866, telephone number: (212) 637-3378, or by email address: [taveras.fausto@epa.gov](mailto:taveras.fausto@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

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**I. What is the background for this action?**

On May 8, 2025, the EPA proposed to approve State Implementation Plan (SIP) revisions submitted by New York State for purposes of addressing ozone elements for the 2008 and 2015 ozone 8-hour NAAQS for the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) nonattainment area (also referred to as the New York Metro Area or NYMA). *See* 90 FR 19434. Specifically, the EPA proposed to approve the State’s certification that it has satisfied the requirements for an emission statement program for the 2015 ozone Moderate classification, pursuant to CAA section 182(a)(3)(B) and 182(b), for the NYMA nonattainment area included in its comprehensive SIP submittal from January 29, 2021. Additionally, New York State also submitted a comprehensive SIP revision on November 29, 2021. Within that submittal, the State included its certification that it has satisfied the requirements of an emission statement program for the 2008 ozone Serious classification, pursuant to CAA section 182(a)(3)(B) and 182(c), for the NYMA nonattainment area.<sup>1</sup> Within both submissions,

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<sup>1</sup> The EPA addressed the remaining ozone elements, outlined in New York’s comprehensive January 29, 2021, and November 29, 2021, SIP revisions, in a separate rulemaking. *See* 88 FR 77208 (November 9, 2023).

New York certifies that the emission statement requirement under CAA section 182(a)(3)(B) continues to be fully addressed through the implementation and enforcement of its state-wide federally approved regulation at Title 6 of the New York Code of Rules and Regulation (NYCRR) subpart 202-2, “Emission Statements.”<sup>2</sup>

Planning elements addressed in this final action from New York’s comprehensive January 29, 2021, and November 29, 2021, SIP submissions along with the respective NAAQS classification and nonattainment areas are outlined in table 1.

**Table 1–SIP Elements That The EPA Is Approving That Are Addressed in New York State’s Comprehensive SIP Revision Submitted on January 29, 2021, and November 29, 2021**

<b>Ozone NAAQS &amp; classification</b>	<b>SIP element</b>	<b>Nonattainment areas</b>	<b>SIP submission date</b>
2008 Ozone NAAQS– Serious Classification	Certification of the State’s Emission Statement Program Pursuant to CAA section 182(c)	New York’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT)	November 29, 2021
2015 Ozone NAAQS– Moderate Classification	Certification of the State’s Emission Statement Program Pursuant to CAA section 182(a)(3)(B)	New York’s portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT)	January 29, 2021

The specific details of New York’s SIP submittals and the rationale for the EPA’s approval action are explained in the EPA’s proposed rulemaking and are not restated in this final action. For this detailed information, the reader is referred to the May 8, 2025, proposal. *See* 90 FR 19434.

**II. What comments were received in response to the EPA’s proposed action?**

The EPA provided a 30-day review and comment period for the May 8, 2025, proposed rule. The comment period ended on June 9, 2025. We received no comments on the EPA’s action. As a result, no changes have been made to this final rule.

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<sup>2</sup> The EPA approved a revision to 6 NYCRR subpart 202-2 into New York’s SIP on December 28, 2023. *See* 88 FR 89593.

### **III. What action is the EPA taking?**

In this rule, the EPA is approving the certifications included in New York State's January 29, 2021, and November 29, 2021, comprehensive SIP revisions. Within the January 29, 2021, comprehensive SIP revision, the State certified that it has satisfied the requirements of an emission statement program for the 2015 ozone Moderate classification, pursuant to CAA sections 182(a)(3)(B) and 182(b), for the NYMA nonattainment area. Additionally, the State's November 29, 2021, comprehensive SIP revision provided certification that its existing emission statement regulation addresses the requirements for an emission statement program for the 2008 ozone Serious classification, pursuant to CAA sections 182(a)(3)(B) and 182(c), for the NYMA nonattainment area. In this action, the EPA has determined that New York State's federally approved emission statement regulation, 6 NYCRR subpart 202-2, "Emission Statements," continues to properly implement the emissions statement requirements of CAA sections 182(a)(3)(B) and 182(c) consistent with 40 CFR 51.1115 and 40 CFR 51.1315.

### **IV. Statutory and Executive Order Reviews**

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Order 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.*);
- 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 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 CAA.

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 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).

This action is subject to the Congressional Review Act (CRA), and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by

**[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

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

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

**Michael Martucci,**  
*Regional Administrator,*  
*Region 2.*

For the reasons set forth in the preamble, EPA amends 40 CFR part 52 as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

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

**Subpart HH—New York**

2. In § 52.1670, the table in paragraph (e) is amended by adding the entries “2008 8-hour Ozone NAAQS Serious Emission Statement Program Certification Pursuant to Clean Air Act section 182(c)” and “2015 8-hour Ozone NAAQS Moderate Emission Statement Program Certification Pursuant to Clean Air Act sections 182(a)(3)(B) and 182(b)” in alphabetical order at the end of the table to read as follows:

**§ 52.1670 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS.**

<b>Action/SIP element</b>	<b>Applicable geographic or nonattainment area</b>	<b>New York submittal date</b>	<b>EPA approval date</b>	<b>Explanation</b>
* * * * *				

2008 8-hour Ozone NAAQS Serious Emission Statement Program Certification Pursuant to Clean Air Act section 182(c)	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area	11/29/2021	<b>[insert date of publication in the Federal Register], 90 FR [insert Federal Register page where the document begins]</b>	• Full approval.
2015 8-hour Ozone NAAQS Moderate Emission Statement Program Certification Pursuant to Clean Air Act sections 182(a)(3)(B) and 182(b)	New York portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area	01/29/2021	<b>[insert date of publication in the Federal Register], 90 FR [insert Federal Register page where the document begins]</b>	• Full approval.

3. In § 52.1683, add paragraphs (w)(8) and (9) to read as follows:

**§ 52.1683 Control strategy: Ozone.**

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(w) \* \* \*

(8) New York’s certification that the State has satisfied the requirements for Emission Statement Program under the Clean Air Act for the 2008 8-hour Ozone NAAQS Serious classification, included in the State’s November 29, 2021, SIP submittal for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area, pursuant to Clean Air Act section 182(c), is approved.

(9) New York’s certification that the State has satisfied the requirements for Emission Statement Program under the Clean Air Act for the 2015 8-hour Ozone NAAQS Moderate classification, included in the State’s January 29, 2021, SIP submittal for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area, pursuant to Clean Air Act sections 182(a)(3)(B) and 182(b), is approved.

[FR Doc. 2025-15443 Filed: 8/13/2025 8:45 am; Publication Date: 8/14/2025]