Appendix 10-1: Public Participation
Response to Comment Document

New Jersey (NJ) certifies that the requirements of 40 C.F.R. §51.102(a) and (d) for public hearings and notice have been met. A public hearing on the proposed State Implementation Plan (SIP) revision was held virtually on Monday, July 15, 2024, at 10:00 a.m. on Microsoft Teams. This hearing was held in accordance with the provisions of Section 110(a)(2) of the Clean Air Act, 42 U.S.C. §7410; 40 C.F.R. §51.102(a), the Air Pollution Control Act (1954), N.J.S.A. 26:2C-1 et seq., and the Administrative Procedure Act, N.J.S.A. 52:14 B-1 et seq. Written comments relevant to the proposal were accepted until the close of business, Wednesday, July 17, 2024.

Notice of the proposed SIP availability and the public hearing was published on the New Jersey Department of Environmental Protection's (NJDEP's) website and issued on two NJDEP air quality listservs on June 6, 2024. In addition, the United States Environmental Protection Agency (USEPA) and air quality contacts from other states were emailed the notice. These notices were issued at least 30 days prior to the public hearing and close of comment period.

Attachment 1 contains documentation of the public notice including:

1. The public notice posted on the website announcing the availability of the proposed SIP revision and information regarding the public hearing and the public comment period;
2. The NJDEP website postings; and
3. The NJDEP listserv email.

During the comment period, comments were received on the proposed SIP revision. The following person(s) submitted comments:

1. Via signature of same letter:

   (a) Jonathan J. Smith, Earthjustice (JS)
   (b) Casandia Bellevue, Earthjustice (CB)
   (c) Colin Parts, Earthjustice (CP)
   (d) Amy Goldsmith, Clean Water Action (AG)
   (e) Maria Lopez-Nuñez, Ironbound Community Corporation (MLN)
   (f) Kim Gaddy, South Ward Environmental Alliance (KG)

2. Ken Dolsky, Don't Gas the Meadowlands Coalition (KD)
3. Bill Wolfe, Private Citizen (BW)
4. Nicholas B. Georges, Household & Commercial Products Association (NG)
5. Jean Public, Private Citizen (JP)

During the public hearing, the following person(s) testified:

1. Ken Dolsky, Don't Gas the Meadowlands Coalition (KD)
2. Bill Wolfe, Private Citizen (BW)
3. Amy Goldsmith, Clean Water Action (AG)

General Comments

1. Comment: I support the testimony of Clean Water Action, Ken Dolsky, and Bill Wolfe in their testimony today, July l5. (JP)

Response: The comment is acknowledged.

2. Comment: I would ask that the NJDEP, not just rhetorically address my comments, actually point to either data or modeled inputs or assumptions or parameters, whatever you call then, how that actually numerically works. (BW)

Response: The comment is acknowledged.

Northern Nonattainment Area (NAA) Reclassification Request

3. Comment: NJDEP should not extend the Northern NJ NAA by an extra six years. The Northern NJ NAA is ranked 13th worst for high ozone days out of 228 metropolitan areas in the country. The ozone season is only halfway done, and NJ has already had at least thirteen days in which at least one monitor in the state shows ozone concentrations above the 70 ppb National Ambient Air Quality Standard (NAAQS).

As NJDEP has noted, air quality is a primary issue for NJs adversely stressed overburdened communities, which often struggle with densely sited stationary sources of air pollutants and toxics, as well as increased mobile sources traveling through and around their communities. NJDEP has also noted that ozone impacts are "particularly concerning in Environmental Justice areas that already experience a higher-than-average share of at-risk communities. During 2016, asthma affected 15.7% of African American children and 12.9% of children of Puerto Rican descent, while it affected only 7.1% of white children. African American children were burdened by 138,000 asthma attacks and 101,000 lost school days each year."

Nevertheless, NJ is now proposing to push back Northern NJ's attainment date by an extra six years, and to pretend that Southern NJ has attained the NAAQS despite monitoring data that says just the opposite. NJDEP should forgo these requests that merely paper over the problem and should instead focus on implementing measures like California's Advanced Clean Fleets Rule and an indirect source rule for warehouses and ports. Without control measures targeted at emissions reductions from mobile sources that contribute the most to the ozone problem, NJ's NAAs will never meet federal clean air standards.

NJDEP is submitting the Proposed SIP because it failed to meet the August 3, 2024, attainment date (6 years after the 2018 nonattainment designation) for the 2015 70 ppb Ozone NAAQS for both the Northern and Southern NJ NAAs. This failure to achieve the NAAQS by the attainment date would normally shift both areas from "moderate" nonattainment to "serious" nonattainment, extending the 6-year period for attainment out to 9 years, i.e., an August 3, 2027, attainment date. But for the Northern NJ area, NJDEP is now asking, instead, for a 2033 attainment date by voluntarily bumping up to the "severe" nonattainment level, in other words, NJDEP is asking for an additional 6 years beyond the default 2027 date, and 15 years total since the nonattainment designation.

The people of Northern NJ should not have to wait an extra 6 years (a total of 9 years from today) before they breathe air that the U.S. Environmental Protection Agency (EPA) considers healthy, especially if NJDEP is not taking action to significantly reduce smog-forming emissions from transportation and goods movement.

As the Proposed SIP notes, "the largest source sector contributing to nitrogen oxide (NO_x) emissions within the NAA and the region continues to be mobile sources." Indeed, mobile sources are responsible for a whopping 75% of Northern NJ's 2023 smog-forming NO_x emissions (134.07 tons per day (tpd)), in addition to being responsible for 96% of the area's carbon monoxide emissions.

The majority (54%) of these mobile source emissions are from nonroad sources, which emit

72.24 tons of NO_x per day in the summer. And from among these nonroad sources, the biggest NO_x emitters are equipment (31 tpd, 43% of nonroad emissions) and marine vessels (22 tpd, 30% of nonroad emissions). But the only control measure that NJDEP has adopted since the 2018 nonattainment designation to address any nonroad emissions is the Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards Rule, which, while welcome, is expected to only result in about 0.22 tpd of NO_x emission reductions, or less than 1% of total Northern NJ NO_x emissions from equipment.

More needs to be done to address emissions from ports and goods movement in Northern NJ, especially given that the Port Authority of NY and NJ calculates that its operations alone are responsible for 10% of all the NO_x emissions in the Northern NJ portion of the NAA.[1] And as Port Newark is becoming the busiest port in the country,[2] these emission are likely to continue to increase. These emissions disproportionately burden the already overburdened environmental justice communities located around the port.

As for onroad NO_x emissions, lately the State of NJ has been taking actions that would increase onroad emissions in the entire tri-state NAA. This includes an expansion of the NJ Turnpike to the Holland Tunnel into NY City, which is expected to increase traffic on the roadway at least 22%, [3] but with no corresponding expansion of the Holland Tunnel, so will likely result in increased congestion and emissions as traffic from the widened NJ roadways waits to funnel into the narrow tunnel. The State has also filed a lawsuit to stop NY City's congestion pricing program,[4] which the federal government recognized would reduce VOC and NO_x emissions in the NAA, including in NJ counties.[5] The NY-Newark-Jersey City metropolitan area is the area on the East Coast most impacted by ozone-attributable mortality from onroad emissions,[6] and yet NJ seems intent on making the ozone problem even worse.

NJ should not take such actions that increase NOx emissions, and then use that as an excuse to say that it needs a 6-year extension because NOx emission reductions are unattainable by the Clean Air Act deadline. While theoretically the proposed bump-up to the "severe" level would come with added requirements for more stringent offsets, enforcement, and vehicle mile control strategies,7 Northern NJ is already in "severe" nonattainment for the prior 75 ppb ozone NAAQS,8 so it is unclear what emission control benefit, if any, would come with the deadline extension.

In addition, the attainment date for the 75 ppb NAAQS is July 20, 2027, so if NJDEP has to submit a SIP Revision in 2027 anyway, it should also address the 70 ppb NAAQS at the same time, instead of ignoring that more protective ozone level for another six years.

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[1] Port Auth. of N.Y. & N.J., *2022 Multi-Facility Emissions Inventory* at 6, 7 (Dec. 2023), https://www.panynj.gov/port/en/our-port/sustainability/air-emissions-inventories-and-related-studies.html (calculating 43,929 tpy of Northern NJ NO_x emissions, of which 4,070 tpy are from Port Authority activities).

[2] *The Port of NY and NJ Secures Nation's Top Spot in May*, Port Auth. of N.Y. & N.J. (July 3, 2024), https://www.portbreakingwaves.com/the-port-of-ny-and-nj-secures-nations-top-spot-in-may

[3] N.J. Turnpike Auth., *NB-HCE Traffic Analysis Report: Interchange 14 to Interchange 14A* at 37 (Jan. 2024), https://www.njta.com/media/8036/appxb_nb_hce_traffic_improvements_ea.pdf at 37.

[4] *Governor Murphy Announces Filing of Amended Complaint Against the Metropolitan Transportation Authority and the Triborough Bridge and Tunnel Authority in Congestion Pricing Lawsuit*, Off. of Gov. Murphy (Jan 16, 2024), https://www.nj.gov/governor/news/news/562024/approved/20240116a.shtml.

[5] Fed. Highway Admin., *Central Business District (CBD) Tolling Program Reevaluation* at ES-9, 93 (June 2024), https://new.mta.info/document/142711.

[6] Calvin A. Arter et al., *Mortality-based damages per ton due to the on-road mobile sector in the Northeastern and Mid-Atlantic U.S. by region, vehicle class and precursor*, 16 Env't Rsch. Letters at 7 (2021), https://iopscience.iop.org/article/10.1088/1748-9326/abf60b.

[7] 42 U.S.C. § 7511a(d).

[8] Proposed SIP at 1-6.

Instead of this bump-up, NJDEP should focus on control measures to address onroad and nonroad NO_x sources, such as adopting both California's Advanced Clean Fleets Rule and a warehouse and ports indirect source review program.

NJDEP should abandon its requests to extend the Northern NJ attainment date and paper over high ozone days in Southern NJ. NJDEP's SIP-related activities should instead focus on adopting measures like the Advanced Clean Fleets Rule and an Indirect Source Rule to reduce the mobile-source emissions that overwhelmingly contribute to the State's NO_x emissions. (JS, CB, CP, AG, MLN, KG)

4. Comment: NJDEP states that it was in compliance in North Jersey in 2022 and close in 2023 so it is not clear why NJDEP should be given a nine-year extension to 2033 to achieve required ozone limits. NJDEP should be on a short leash with specific annual targets (for each additional control measure) and annual measurements and reports in order to demonstrate it is making effective progress toward the attainment goal and to be able to take early corrective action if its efforts are not on target.

There are far too many moving parts, each with difficult to predict outcomes, to the ozone issue to allow a blanket 9–year extension on meeting the 70 ppb 8-Hour Ozone Attainment. The NJDEP should be required to set and meet annual ozone compliance standards for each additional control measure, or we will find ourselves still out of compliance 9 years from now. (KD)

5. Comment: I agree with Ken (Dolsky) that's not justified. It's nine years; you should have been doing this yesterday. (BW)

6. Comment: NJ has already had nonattainment days in 2024, and we can only assume that there'll be more ahead, as the next set of heatwaves arrive. Therefore, Clean Water Action does not believe that the NJDEP should get any extensions of any time, certainly not six more years of extensions. The NJDEP has failed to meet standards after previous extensions, and see no reason to expect that the NJDEP will, in the future, and to be honest, with climate change, even if the NJDEP was doing its absolute best all the time and everybody was buying electric cars, given climate change, given the growth of ports, warehouses, transportation, cars, congestion and the like, and wildfires, ozone levels are only going to go in the wrong direction. And in some cases, it's not the fault of the NJDEP's policies, but we're in a climate changing world and we have to recognize it, we have to continually keep getting ahead of what's going to be in front of us in the years ahead.

NJ should be deemed not in attainment, they shouldn't get an extension, and they should adopt aggressive actions that are enforceable, and that the community can keep an eye on and take measures when you're not getting to the goal, to be able to make adjustments to make the measures successful, and to give public health relief. This is all about public health improvements. And I know firsthand people who have lost their lives because of bad air. And when the NJDEP, the technology, the policy and potential money is placed properly, we could improve people's lives, save people's lives, which is the intention of The Clear Air Act and the intention of this policy. (AG)

Response to Comments 3 through 6:

<u>New Jersey vs. Multi-State Nonattainment Area Monitoring Data</u>

As of the date of the SIP proposal, June 2024, the 2023 monitoring data for NJ with the influence of the exceptional events included showed that all of the NJ monitors were in compliance with the 70 ppb standard, with the exception of Rutgers with a three year design value of 71 ppb, most likely due to smoke from the significant wildfires. The preliminary 2024

monitoring data has been included in the final SIP. The preliminary 2024 annual data show two monitors in the Northern area above the 70 ppb standard, and only one three year design value above 70 ppb, again Rutgers with a three year design value of 71 ppb, most likely due to smoke from the significant wildfires. In the southern area no NJ monitors were above 70 ppb three year design value based on the 2023 data. In the 2024 preliminary data, two NJ three year design values in the Southern area are slightly above the 70 ppb standard at 71 ppb, with exceptional events excluded.

However, it is important to note that NJ is part of two multi-state NAAs. Compliance and attainment are assessed on the entire NAA and not on a state-by-state basis. Some of the commenters appear to be conflating discussions regarding NJ only specific data and data from the entire NAA. It is correct that the SIP did not predict attainment by the attainment date in the Northern area, but this was due to the monitors in Connecticut (CT). As discussed in the SIP, several of the CT monitors are significantly above the standard. These monitors are downwind of the New York (NY) metropolitan area, several power plants in NY and Long Island with significant NO_x emissions on high electric demand days. The monitors are also in close proximity to the I-95 corridor and are situated on the coastline of the Long Island Sound making them susceptible to a bay breeze effect and ozone concentrations much higher than those seen in NJ and NY. More needs to be done to address the upwind power plant emissions and more time is needed to allow reductions from recent mobile source rules to be effective.

New Jersey Control Measures

The commenters imply that New Jersey has not done enough to reduce emissions, especially mobile emissions. NJ has adopted a significant amount of mobile and stationary control measures historically and recently. The most recent measures include: Advanced Clean Trucks (ACT), new EGU Emission Limits, a #4 and #6 Fuel Oil Ban, regulations for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards, Heavy Duty New Engine Standards (Omnibus), Medium Duty Diesel Vehicles (MDDVs) I/M and Advanced Clean Cars II. For a historical summary of measures please see Chapter 3, and specifically Table 3-3: NJ's Post 2002 Ozone Control Measures, in the SIP for a complete summary. In addition to adopted measures, the SIP discusses dozens of programs and initiatives being implemented by NJ regarding clean energy and electric vehicles, as well as port initiatives discussed in more detail below in the response to comments # 7 through 9.

Although NJ has adopted a significant number of rules and implemented many programs and measures which have decreased emissions, and which have resulted in the monitors in NJ at or close to compliance, other states affecting the high monitors in the NAAs have not done similar rules as impactful as NJ's rules. Other states affecting the high monitors must implement such rules, like NJ, for all the monitors in the NAAs to be in compliance.

Voluntary Reclassification Request for NJ's Northern Nonattainment Area

Regarding the voluntary reclassification request for NJ's Northern NAA, NJDEP requested a double reclassification to allow time for the significant control measures recently adopted by NJ to be effective and allow time for other states to implement similar control measures. Atmospheric modeling supported the request for reclassification, as it did not predict NJ's Northern NAA (specifically monitors located in Connecticut) would be in attainment in 2026, but it did predict attainment for 2032.

USEPA encourages states to request a voluntary reclassification of their NAAs in cases where modeling or monitoring indicates that the areas may not or will not reach attainment by the current attainment date as a strategy for the areas to accelerate the achievement of attainment as quickly as practicable. USEPA exhorted states to use CAA 181 reclassifications in the preamble to USEPA's September 20, 2024, reclassification rule proposal for certain 2015

marginal NAAs (including NJ's Northern and Southern nonattainment areas):

> *"The EPA also notes that voluntary reclassification provides another way for states to anticipate and manage the tight timeframes for SIP development for NAAs. An air agency can request—and the EPA must grant— a voluntary reclassification under CAA section 181(b)(3), which resets the area's attainment date into the future, and would therefore likely provide more time and flexibility for developing and submitting required SIP revisions. Of particular benefit for states is the longer timeframe to prepare RACT analyses and adopt SIP revisions for voluntarily reclassified areas, which could result in states determining that additional controls are reasonable and in turn help expedite air quality improvements in these areas". (Federal Register /Vol. 87, No. 194 / Friday, October 7, 2022 / 60909).*

California has often used the voluntary reclassification option over the previous decades to provide enough time to plan and implement control measures.

However, ultimately, because the NAA did not show compliance with the 2015 70 ppb 8-hour ozone standard by the August 3, 2024, attainment date based on the compliance years of 2021, 2022 and 2023 and because not all states agreed on a reclassification to Severe, USEPA reclassified the Northern NJ-NY-CT NAA to Serious as of July 25, 2024, with a new attainment date of August 3, 2027. This update has been reflected in the SIP.

Additionally, the commenter suggested that NJDEP combine the 75 ppb NAAQS SIP with the 70 ppb NAAQS SIP, if both standards have an attainment date in 2027. Now that both standards have an attainment date in 2027, the NJDEP is considering this option.

<u>Severe Classification Justification</u>

The other states in the shared nonattainment area, New York and Connecticut, requested a Serious classification, therefore, New Jersey also agreed to accept this classification. However, New Jersey believes the appropriate classification is Severe with a 2032 attainment year based on the monitoring data and modeling data and to allow time for benefits from existing control measures to become effective. These significant measures include the recently adopted New Jersey measures discussed above, in addition to those recently adopted by the Federal government that will help reduce pollution from onroad and nonroad mobile sources, including:

- Greenhouse Gas Emissions Standards for Heavy-Duty Vehicles – Phase 3,
- Multi-Pollutant Emissions Standards for Model Years 2027 and Later Light-Duty and Medium-Duty Vehicles,
- Control of Air Pollution from New Motor Vehicles: Heavy-Duty Engine and Vehicle Standards,
- GHG Emissions Standards for Passenger Cars and Light Trucks Through Model Year 2026,
- Tier 3 Vehicle Program/ Fuel Standards, and
- Diesel Marine Engines over 37 kW: Category 3 Tier 3.

The above list is not comprehensive of all Federal rules and measures and includes only the most recent ones, since an effective start date/range of benefits date in 2016.

A reclassification to Severe for the 2015 ozone standard would not have delayed responsibility for NJ to attain the standard as expeditiously as practicable, because currently NJ and the other states in the northern area are required to develop feasible control measures for an Attainment Demonstration SIP that shows attainment of the 2008 75 ppb Ozone NAAQS by 2026 and not 2032. Reclassification to a higher classification level (Severe instead of Serious) increases the stringency of controls and allows time for additional federal and state control measures to

become effective after 2026.

In addition to achieving emission benefits from the recent rule adoptions, the Severe Attainment Demonstration SIP for the Northern NAA would have provided NJ and the other states with the time to consider and implement additional measures for ozone attainment, setting the NAA up to realistically define the path to attainment through enforceable, permanent, surplus, and quantifiable actions.

Compliance Targets

Regarding annual compliance targets, the Clean Air Act and Federal regulations require NAAs to demonstrate continued progress towards attaining the ozone standards. This is known as Reasonable Further Progress (RFP) and is demonstrated in Chapter 5 of the SIP. Due to the classification of NJ's two NAAs being moderate at the time of the proposal for the 2015 70 ppb ozone standards, NJ was required to show a 15% reduction of either VOCs, NO_x or a combination of both in the first six years after the base year (2017). As shown in Chapter 5 of the SIP, NJ has met and exceeded its required emission reduction targets in both the Northern (31% reduction) and Southern (28% reduction) NAAs as indicated in the RFP section of the SIP. After a reclassification from moderate to serious or higher, nonattainment areas are required to show an additional 3 percent per year reduction, averaged over consecutive 3-year periods until the attainment date.

Other

Environmental Justice comments are addressed below in the response to comments # 39 through 41.

NJ's Southern NAA is addressed below in the response to comments # 27 and 28.

Additional control measures such as California's Advanced Clean Fleets Rule and an indirect source rule for warehouses and ports are addressed below in the response to comments # 7 through 9.

The claims that NJ projects will increase emissions are addressed below in the response to comments # 14 through 16.

Additional Control Measures

7. Comment: More needs to be done to address emissions from ports and goods movement in Northern NJ, especially given that the Port Authority of NY and NJ calculates that its operations alone are responsible for 10% of all the NO_x emissions in the Northern NJ portion of the NAA.[9] And as Port Newark is becoming the busiest port in the country,[10] these emission are likely to continue to increase. These emissions disproportionately burden the already overburdened environmental justice communities located around the port. This is important not only for ozone reduction but also for necessary reductions of other deadly air pollutants like particulates in EJ communities and GHGs overall. Ports and associated land transportation vehicles should be low-hanging fruit priorities for such efforts as so much pollution is concentrated in a small area. (JS, CB, CP, AG, MLN, KG) (KD)

[9] Port Auth. of N.Y. & N.J., *2022 Multi-Facility Emissions Inventory* at 6, 7 (Dec. 2023), https://www.panynj.gov/port/en/our-port/sustainability/air-emissions-inventories-and-related-studies.html (calculating 43,929 tpy of Northern NJ NO_x emissions, of which 4,070 tpy are from Port Authority activities).

[10] *The Port of NY and NJ Secures Nation's Top Spot in May*, Port Auth. of N.Y. & N.J. (July 3, 2024), https://www.portbreakingwaves.com/the-port-of-ny-and-nj-secures-nations-top-spot-in-may

8. Comment: NJDEP should focus on implementing measures like California's Advanced Clean Fleets Rule and an indirect source rule for warehouses and ports. (JS, CB, CP, AG, MLN, KG)

9. Comment: We already know that mobile sources are one of the largest sources of precursors to ozone, and therefore there's some policies that the state should adopt and move forward on. As Ken Dolsky spoke about the cancelation of a variety of different fossil fuel plants, we should continue to remove ourselves from the fossil fuel infrastructure, and Clean Water Action is part of a larger coalition to do that. We'd like to see the NJDEP adopt advanced clean fleet, which is around heavy duty diesel vehicles.

Now, at least with Advanced Clean Fleet and Indirect Source Review there would be requirements for reductions and a switching out of electric in those fleets. I think these are at least some policies that the NJDEP should very, very seriously consider adopting and Indirect Source Review, the legislature, there's also already sponsors, and a bill introduced. (AG)

Response to Comments 7 through 9: Regarding the comment "the Port Authority of NY and NJ calculates that its operations alone are responsible for 10% of all the NO_x emissions in the Northern NJ portion of the NAA", the referenced report includes the following information:

- 4,070 tons of NO_x emissions estimated from port emissions in NJ in 2022
- 43,929 tons total NO_x emissions estimated in counties in NJ that have port activity from 2020 NEI

This equates to approximately 9% of emissions from port operations in port counties. This is not the same as emissions in the NAA. The total estimated NO_x emissions in the NJ portion of the multi-state NJ-NY-CT NAA were 91,812 tons per year (tpy) in 2023, which estimates the port emissions at approximately 4.4% of all of the NO_x emissions in the NJ portion of the NJ-NY-CT NAAs using the numbers in the report. The total estimated NO_x emissions in the multi-state NJ-NY-CT NAA were 308,353 tpy in 2023, which estimates the port emissions at approximately 1.3% of all of the NO_x emissions in the NJ-NY-CT NAA.

As discussed in the SIP, NJ has implemented several significant control measures that result in benefits at the ports and throughout NJ such as:

- Fleet Modernization and Replacement Program for Cargo Handling Equipment
- Forklift Replacements
- Non-road Replacements
- Marine Repowers

NJ has awarded over $300 million dollars through various grant programs to transition old diesel equipment to new hybrid or fully electric equipment throughout the State. Specifically, in Northern NJ, grant funds are being dispersed for new electric school buses, garbage trucks, and electric airport ground support equipment. New electric yard tractors, hybrid-electric straddle carriers, and electric trucks are being deployed at Port Authority of NY and NJ marine terminals. NJ has adopted several significant rules since 2021 that will result in benefits at the Ports including Advanced Clean Trucks (ACT), regulations for Mobile Cargo Handling Equipment at Ports and Intermodal Rail Yards and the Heavy Duty New Engine Standards (Omnibus.)

The California Advanced Clean Fleets Regulation is a new regulation adopted by California in 2023 that became effective on October 1, 2023. The new rule has not yet been adopted by any other state under Section 177 of the Clean Air Act. Although the Advanced Clean Fleets regulation was tailored to address conditions specific to California's fleets, regulatory environment and emissions conditions, the NJDEP continues to evaluate the feasibility of adoption of this regulation as well as other control measures. In addition, a federal waiver is

required to implement such a rule. California withdrew its request to USEPA for a federal waiver on January 13, 2025.

On June 28, 2024, NJ State Senator John McKeon (D-27) and Assembly member Andrea Katz (D-8) introduced the Warehouse and Port Pollution Reduction Act (S3546/A4679) that would require warehouses, ports and other high-traffic facilities to take steps to reduce the pollution impacts caused by heavy-duty trucks that serve these facilities. The draft legislation directs the NJDEP to establish an indirect source review program for regulated facilities. Currently, the NJDEP is waiting for the resolution of this draft bill.

10. Comment: Notably, there are no specific building electrification programs included in DEPs additional efforts (some may be in the Clean Energy program) and these should be added. In fact, NJ has failed to apply for federal Home Energy Rebates that enable residents to get cash back on appliances and other home improvements that can lower energy bills (https://www.energy.gov/save/rebates). We strongly urge the NJDEP, BPU and other involved State agencies to push the envelope on achieving full implementation of these programs as quickly as possible. (KD)

Response: USEPA requirements for implementation of a NAAQS are very specific. Not all programs and initiatives that reduce NAAQS pollution and greenhouse gas pollution and generate real benefits in NJ are considered "SIP Commitments" or "SIP credits." For this reason, the programs and rebates referenced by the commenter were not discussed in the SIP. Nevertheless, decarbonization of buildings is a priority for the state of NJ. Thus, for a more comprehensive list of building decarbonization strategies at the State level, the NJDEP directs commenters to review the 2019 NJ Energy Master Plan[11] and the 2020 Global Warming Response Act 80x50 Report[12]. Both reports identify the need to transition to electric buildings and call for a modernization of building codes, incentive programs and state policy to achieve this transformation.

11. Comment: We need to fix NJ Transit. That's the reason why people are in their cars. That's why the vehicle miles are going up. I ride NJ Transit to my office; I live in Red Bank, I go to Elizabeth. Last week I could not get to my office on NJ Transit because the bridge was turned up, switches not working over the Raritan Bay. A month before that, I couldn't get home; I had to get picked up. I have no way to get home from Elizabeth on NJ Transit if Transit is not working, if the trains are not working. The governor said he would fix it if it killed him. All we're doing is getting a 15% fare hike, which costs a fortune for all of us, and we're not getting service. So, it's not keeping us out of our cars. These all require money, enforcement and the discipline to meet the goals. And I'm not seeing that right now, so we need to do more and do better. (AG)

Response: To the extent commenter is suggesting that improvements to NJ Transit should be included in the SIP revision, the NJDEP advises that not all programs and initiatives that reduce NAAQS pollution and greenhouse gas pollution and generate real benefits in NJ are considered "SIP Commitments" or "SIP credits." While the NJDEP agrees that mass transit could be beneficial to air quality, the NJ Transit improvements are beyond the scope of this SIP revision. Nevertheless, the commenter is referred to Governor Murphy's recently released statements that called on Amtrak and NJ Transit to fix the problems occurring in May and June of 2024. Most of the issues were on the Northeast Corridor Rail Line. This resulted in Amtrack inspecting 241 miles of catenary wires, and NJ Transit inspecting 82 miles, which are often the cause of delays during intense heat. According to Governor Murphy's statements, more than 2000 components were either repaired or replaced following these inspections. NJ Transit reported there was not a single cause for all of the failures. Also on November 14, 2024, the Federal Railroad Administration announced $444 million in grants for projects that address the

[11] https://www.nj.gov/emp/docs/pdf/2020_NJBPU_EMP.pdf
[12] https://NJDEP.nj.gov/climatechange/mitigation/80x50-report/

infrastructure problems. The grants will bring needed enhancements to Amtrak's infrastructure, which will improve reliability for NJ Transit riders and will also be transformational for Penn Station, which is the gateway between NJ and NY. The grants will be used for upgrades to the catenary overhead wire systems, tracks and signals.

12. Comment: I would hold you accountable to more strict control measures, which would be regulate wood fireplaces that are significant emission sources in some places in the state. (BW)

Response: NJ's residential wood heaters are regulated by Federal rules. The Clean Air Act requires USEPA to set New Source Performance Standards (NSPS) for categories of stationary sources of pollution that cause, or significantly contribute to, air pollution that may endanger public health or welfare.

The 1988 NSPS for residential wood heaters required manufacturers of wood stoves to certify that each model line of wood stoves offered for sale in the United States complied with the USEPA particulate emissions guidelines in the Clean Air Act. This rule applied to adjustable burn-rate wood stoves, including a type of adjustable burn-rate wood stove known as a fireplace insert. USEPA amended the standards in 1998 to prohibit the sale of wood heaters to consumers if the manufacturer had used an invalid test to obtain USEPA certification that the heater met NSPS requirements.

On February 3, 2015, USEPA strengthened its clean air standards for residential wood heaters to make new heaters significantly cleaner and improve air quality in communities where people burn wood for heat. The updates, which are based on improved wood heater technology, strengthen the emissions standards for new woodstoves, while establishing the first ever federal air standards for several types of previously unregulated new wood heaters, including outdoor and indoor wood-fired boilers (also known as hydronic heaters), and indoor wood-burning forced air furnaces.

On March 11, 2020, USEPA finalized amendments to the 2015 New Source Performance Standards for New Residential Wood Heaters, New Hydronic Heaters and Forced-Air Furnaces. This rule amends the 2015 NSPS by removing certain minimum requirements for pellet fuels and clarifying a requirement regarding the use of unseasoned wood in pellet fuel production. More information regarding the Federal NSPS is available at: https://www.epa.gov/residential-wood-heaters.

It should also be noted that while some people use woodstoves and fireplaces in the summer, the primary use for these appliances is outside the peak ozone season of June, July and August, when ozone exceedances usually occur.

Recent Control Measures and New Jersey Actions

13. Comment: Virtually all of the NJDEP's Additional New Control Measures to Address Ozone Nonattainment won't go into effect until 2025 and beyond. And a number of these projects such as clean energy, electric vehicles, electric school bus, offshore wind, NJPACT and Advanced Clean Trucks are phased in so that results are minimal in the early years. NJDEP should implement interim compliance standards. (KD)

Response: As discussed in the SIP and above in the response to comments # 3 through 6, NJ has implemented a significant number of multi-pollutant and greenhouse gas mobile and stationary control measures and programs. Many of these significant measures are a result of long term goals and take time to achieve the reductions.

14. Comment: NJDEP must also acknowledge that the State is taking actions to increase ozone emissions such as the turnpike expansion and increased taxes on EVs, both of which we oppose. This only reinforces the conviction that the NJDEP should be required to set interim compliance standards in order to take the effects of such actions into account if they are not terminated. (KD)

15. Comment: As for onroad NO_x emissions, lately the State of NJ has been taking actions that would increase onroad emissions in the entire tri-state NAA. This includes an expansion of the NJ Turnpike to the Holland Tunnel into NY City, which is expected to increase traffic on the roadway at least 22%, [13] but with no corresponding expansion of the Holland Tunnel, so will likely result in increased congestion and emissions as traffic from the widened NJ roadways waits to funnel into the narrow tunnel. The State has also filed a lawsuit to stop NY City's congestion pricing program,[14] which the federal government recognized would reduce VOC and NO_x emissions in the NAA, including in NJ counties.[15] The NY-Newark-Jersey City metropolitan area is the area on the East Coast most impacted by ozone-attributable mortality from onroad emissions,[16] and yet NJ seems intent on making the ozone problem even worse. (JS, CB, CP, AG, MLN, KG)

16. Comment: My organization, Clean Water Action, fought very hard for Advanced Clean Car II and Advanced Clean Truck, but we have to recognize that they're about sales. It's to try and encourage more sales of those cars. It's not a mandate to buy the car; it's not a mandate to buy the truck; it's not a mandate to retire and scrap your dirty car or your dirty truck. It's really to create more opportunity for sales. So, a wish does not always become reality. The State just walked away from the EV car incentives: sales tax, registration, rebates. I own an electric car. The only way I could buy an electric car, my Chevy Bolt, was because of those incentives. There is no way I would have been able to afford to do that. And most people have no capacity to do that. And I'm talking about a Chevy Bolt, I'm not talking about a Tesla or a Rivian or any of that. (AG)

Response to Comments 14 through 16:

Turnpike Expansion:

The on-road emissions associated with the Turnpike expansion project were determined to conform to the NJ SIP. As stated on Page 3 of the N.J. Turnpike Auth., *NB-HCE Traffic Analysis Report: Interchange 14 to Interchange 14A* at 37 (Jan. 2024), the project was included in the approved Transportation Conformity Determinations for the NJTPA Regional Transportation Plan (RTP) and Transportation Improvement Program (TIP). Transportation Conformity is a required analysis to determine if the projects in these plans are consistent with, or conform to, the SIP. This means that the on-road emissions associated with these projects do not interfere with the timely attainment of the ozone NAAQS.

Congestion Pricing:
To the extent commenter is suggesting that the State should not oppose congestion pricing because it will reduce emissions in the NAA, the NJDEP advises congestion pricing is a New

[13] N.J. Turnpike Auth., *NB-HCE Traffic Analysis Report: Interchange 14 to Interchange 14A* at 37 (Jan. 2024), https://www.njta.com/media/8036/appxb_nb_hce_traffic_improvements_ea.pdf at 37.
[14] *Governor Murphy Announces Filing of Amended Complaint Against the Metropolitan Transportation Authority and the Triborough Bridge and Tunnel Authority in Congestion Pricing Lawsuit*, Off. of Gov. Murphy (Jan 16, 2024), https://www.nj.gov/governor/news/news/562024/approved/20240116a.shtml.
[15] Fed. Highway Admin., *Central Business District (CBD) Tolling Program Reevaluation* at ES-9, 93 (June 2024), https://new.mta.info/document/142711.
[16] Calvin A. Arter et al., *Mortality-based damages per ton due to the on-road mobile sector in the Northeastern and Mid-Atlantic U.S. by region, vehicle class and precursor*, 16 Env't Rsch. Letters at 7 (2021), https://iopscience.iop.org/article/10.1088/1748-9326/abf60b.

York initiative that is currently being litigated and is beyond the scope of New Jersey's SIP revision.

Taxes on EVs/ NJEV incentives:

To the extent commenter is suggesting that the State should not phase out the Sales and Use tax exemption and should not charge registration fees for EVs, these changes in legislation are beyond the scope of the current SIP revision."

Regarding interim compliance standards, this was discussed above in the response to comment # 13.

17. Comment: The State already has on the law, and it's not getting anywhere close, to having a full fleet of electric buses in NJ Transit. This law was passed years ago. We're supposed to have a hundred % fleet purchases in just a few years, 2035 or 2036. We have, I think, eight buses at the Camden Bus Terminal, and NJ Transit has a 2,500 bus fleet. Plus, it is taking over a lot of the private fleets that are abandoning transit. (AG)

Response: While it is true that NJ legislation set goals for NJ Transit electrification, purchases of electric buses, the execution of those electrification goals are beyond the scope of this SIP revision. Commenter is referred to the NJ Transit webpage for updates: Zero-Emission Buses | New Jersey Public Transportation Corporation ."

Monitoring Network

18. Comment: According to the document, it says there's 16 or 17 monitoring stations. But when you look at the appendices which talk about the monitoring network, I think the first appendix is the monitoring network information, there are only eight or maybe nine stations identified. And in the data presented from those stations is the Newark firehouse, which was closed over a year ago and apparently has not been re-established. (BW)

Response: Appendix 2-1 Air Monitoring Tables, in the proposed and final SIP, which contains a summary of the monitoring data, is summarized by NAA. NJ's Northern NAA is summarized on the first tab of the Excel spreadsheet and shows nine monitors in NJ. NJ's Southern NAA is summarized on the second tab of the Excel spreadsheet and shows eight monitors in NJ. Together the total number of monitors is 17. Historical and recent monitoring data is included in the SIP including Newark data, as it is very important data. The monitor will be re-established as discussed below in the response to comments # 19 and 20.

19. Comment: There's no ozone monitoring in Newark. My jaw dropped when I saw that. I reached out to the mayor of Newark, and I tried to make contact with environmental justice groups in Newark. Are they aware of the fact that their community's air is not being monitored for ozone compliance? That's incredible to me. Again, I'm not in the air program. I've been out of state for a number of years. I haven't been on the ground with the environmental groups; I used to work with Sierra Club. I also used to work for the NJDEP. And I'm just astonished by that. What's the explanation for why the Newark station was closed, and why hasn't another station in Newark been established? (BW)

20. Comment: That Newark station was one that was important to people, groups who are and were doing community-based monitoring. And not having that station there has an impact. (AG)

Response to Comments 19 and 20: In August of 2022, the NJDEP received notice that construction of a new building was about to begin next to the Newark Firehouse air monitoring station, and that the station needed to be removed as soon as possible. Data collection ended

there on September 26, 2022, and the station was subsequently shut down and dismantled. After receiving input from Newark community representatives and from USEPA Region 2, a vacant lot located approximately one mile northeast of the Newark Firehouse site was identified as a suitable location for a replacement monitoring station. The lot, at 42 Chestnut Street, is owned by the Newark Board of Education (NBOE). The NJDEP and the NBOE signed a license on August 6, 2024, to operate a new monitoring station there, and efforts are underway to establish the station.

21. Comment: And then there's the other questions of the extent of the monitoring network. Is it geographically and spatially represented? Is it -- from the elevation standpoint does it measure street level or does it -- are these stations up 60, 70 feet in the air? They should be located in places where people actually breathe the air and are exposed. Is that the case? None of the information is provided, as far as I known, as to where to find the technical details of the monitoring network, as to whether it's reliable, representative and valid. (BW)

22. Comment: We need monitors in sufficient numbers and properly placed. Newark is not the only place that needs a station. (AG)

Response to Comments 21 and 22: The NJ air monitoring network meets or exceeds USEPA regulations for the number of air monitoring stations required for each criteria pollutant. These regulations, which are found in Appendix D "Network Design Criteria for Ambient Air Quality Monitoring" to Part 58 of 40 Code of Federal Regulations (CFR), are based on the population of counties or groups of counties and how close the current air quality levels are to the NAAQS. Each individual monitor meets the requirements for the height of the monitor's probe above street level. The heights of the monitors' probes, specified in Appendix E "Probe and Monitoring Path Siting Criteria for Ambient Air Quality Monitoring" to Part 58 of 40 CFR, are generally between 2 meters (6.5 feet) to 15 meters (49 feet). The NJDEP is also required to submit to USEPA a Network Plan annually, which provides a complete description of the air monitoring network, and summarizes any changes made in the previous year and those planned for the next year. The most current and previous years' Network Plans may be viewed and downloaded from this webpage: https://dep.nj.gov/airmon.

Exceptional Events

23. Comment: NJDEP is asking to exclude high ozone readings during 2023 wildfires so that Southern NJ can be reclassified as in attainment. NJDEP should not be allowed to pretend that ozone pollution was lower than it actually was in 2023 in order to claim that the area is meeting EPA's ozone standards, when the opposite is true.

The Clean Air Act allows redesignation to attainment only if the improved air quality is due to "permanent and enforceable" emission reductions.[17] While the Clean Air Act does allow for the exclusion of "exceptional event" data in limited circumstances, those events must "not reasonably [be] controllable or preventable" and "unlikely to recur at a particular location." [18]But with climate change, the frequency and magnitude of wildfires are expected to increase worldwide,[19] and in the United States.[20] NJDEP itself has found that due to climate change, "NJ

[17] 42 U.S.C. § 7407(d)(3)(E)(iii).
[18] 42 U.S.C. § 7619(b); 40 C.F.R. § 50.14.
[19] Number of wildfires to rise by 50% by 2100 and governments are not prepared, experts warn, UN Environment Programme (Feb. 23, 2022), https://www.unep.org/news-and-stories/press-release/number-wildfires-rise-50-2100-and-governments-are-not-prepared ("Climate change and land-use change are projected to make wildfires more frequent and intense, with a global increase of extreme fires of up to 14 per cent by 2030, 30 per cent by the end of 2050 and 50 per cent by the end of the century . . .").
[20] *Climate Change Indicators: Wildfire*, EPA, https://www.epa.gov/climate-indicators/climate-change-indicators-wildfires (last updated June 27, 2024) ("The extent of area burned by wildfires each year

forests could also experience impacts from a longer wildfire season and increased occurrence of large fires. Of particular concern is the Pinelands area of Southern NJ which is the most susceptible to forest fire and has a tremendous propensity towards burning."[21] Continued high ozone days from wildfires are thus neither "unlikely" nor is the absence of wildfires "permanent," as required by the Clean Air Act, especially in Southern NJ where forestland has a "tremendous" propensity for burning. NJDEP should therefore not exclude the high ozone days even if they happen to coincide with prior wildfires. (JS, CB, CP, AG, MLN, KG)

24. Comment: In terms of South Jersey, wildfires are going to become more routine; it will not be the exception to the rule. So South Jersey should not be reclassified as being in attainment because we're going to have to address those issues in the future. This year we've already seen exceedances, not just in North Jersey but in South Jersey. (AG)

25. Comment: The NJDEP is seeking compliance relief based on an exceptional event demonstration that alleges that wildfires constitute an exceptional event. "NJ is seeking approval of this exceptional event demonstration to qualify for an extension of the August 2024 ozone attainment date for the 2015 70 ppb Ozone NAAQS pursuant to CAA Section 181." The NJDEP relies on the EPA regulatory definition of exceptional event, which includes these two types of events: "caused by human activity that is unlikely to recur at a particular location or a natural event(s)" (40 CFR 50.14.) Under these criteria, wildfires do not qualify. The specific wildfires included in the demonstration were "caused by human activity", (i.e. anthropogenic climate change), but they do not meet the second prong, i.e. "unlikely to recur at a particular location". All climate models project future warming and, among other things, increasing frequency and severity of wildfires in the locations involved. Thus, wildfires are likely to recur at the particular locations in question.

Wildfires also are not "natural events", due to causes related to anthropogenic climate change and, among others, logging and forest mismanagement. Accordingly, the wildfires in the demonstration are likely to recur and are not "natural events"; thus, the demonstration does not comply with the EPA regulatory requirements and should be rejected by EPA.

One of the fires, or a series of the fires from the Midwest that impacted NJ and you're relying on for your demonstration, was created by a prescribed burn that got out of control. So, the NJDEP is promoting a program of prescribed burn that creates emissions, has the risk of getting out of control, and has been known to create air impacts in NJ that you're now seeking relief from. (BW)

26. Comment: Wildfire should not be considered exceptional events. (JP)

Response to Comments 23 through 26: Wildfires are considered Exceptional Events as stated in the USEPA Guidance on the Preparation of Exceptional Events Demonstrations for Wildfire Events that May Influence Ozone Concentrations:

> "… an exceptional event must be 'an event caused by human activity that is unlikely to recur at a particular location *or* a natural event'. The definition of wildfire in the Exceptional Events Rule is: '…any fire started by an unplanned ignition caused by lightning; volcanoes; other acts of nature; unauthorized activity; or accidental, human-caused actions, or a prescribed

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appears to have increased since the 1980s. According to National Interagency Fire Center data, of the 10 years with the largest acreage burned, all have occurred since 2004, including the peak years in 2015 and 2020 . . . . This period coincides with many of the warmest years on record nationwide . . . . The largest increases have occurred during the spring and summer months [*i.e.*, during the summer ozone season].").

[21] DEP, *2020 New Jersey Scientific Report on Climate Change* at xii (June 30, 2020), https://dep.nj.gov/wp-content/uploads/climatechange/docs/nj-scientific-report-2020.pdf (emphasis added and internal citations omitted).

fire that has developed into a wildfire. A wildfire that predominantly occurs on wildland is a natural event.'"

Based on the above statement, the wildfires that impacted NJ in 2023 meet the criteria defined by USEPA as a natural event. In addition, as stated in 40 CFR 50.14(b)(4), the USEPA shall exclude data from determinations of exceedances and violations where a state demonstrates that emissions from wildfires caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location. Discussed more specifically in 40 CFR 50.14(c)(3)(iv)(D) a state's demonstration to justify data exclusion must include a demonstration that the event was both not reasonably controllable and not reasonably preventable. NJ has followed and met all requirements as listed in the Exceptional Evens Rule in its *"Exceptional Event Demonstration Analysis for Ozone During April 13, 2023, June 2, 2023, and June 29 - 30, 2023".* This demonstration provides critical evidence that the exceptional events due to wildfires in 2023 meet the definition shown above.

The status of NJ's Southern NAA is discussed below in the response to comments #27 and 28.

Southern NAA Status

27. Comment: It seems that even if wildfire data is excluded, the multi-state NAA would still not meet the NAAQS by the one-year extension that NJDEP requests. The multi-state area has already seen 9 days above the NAAQS this year, and we are only halfway through the ozone season. None of these exceedances were due to wildfires. These 2024 exceedances include 7 days above the NAAQS at the Bucks (Bristol) Monitor in Pennsylvania (PA), a monitor just across the border with NJ that has the highest design value in the NAA. It is thus highly unlikely if not impossible for the average of the 4th highest value in 2022, 2023, and 2024 at this monitor to be lower than the 70 ppb NAAQS, since the 2022 and 2023 4th highest values are already at 70 ppb for both years, even with the proposed exclusion of 2023 wildfire dates. NJ, Gloucester County (where the Clarksboro monitor is located) has already had 4 days above the NAAQS this year, and Mercer County (where the Rider University monitor is located) has had 5 days above the NAAQS, so it is also questionable whether monitors within the NJ portion of the attainment area would be able to meet the design value for 2022-2024.

As the Third Circuit has held, in order to redesignate as attainment, "the attainment must continue until the date of the redesignation," so whether EPA grants the one-year extension or not, EPA must consider this unfavorable 2024 data, and ultimately, deny any request for an attainment designation. Since the outcome will be the same with or without the one-year extension, NJDEP should rescind its request to ignore high ozone readings that correspond with wildfires to avoid setting a dangerous precedent that ozone caused by increasingly frequent and harmful wildfires can simply be ignored. (JS, CB, CP, AG, MLN, KG)

28. Comment: Even if the wildfires constitute valid exceptional events, they involved only 4 days of non-compliance. The data in the SIP indicates that there were 17 days on non-attainment in 2023. Eliminating the 4 wildfire day exceptional events still leaves 13 days of non-attainment. (BW)

Response to Comments 27 and 28: Regarding the comment about "days of nonattainment," design values are calculated individually at each monitor based on the three-year average of the annual fourth highest daily maximum 8-hour ozone concentration ("fourth high"). In other words, each monitor will annually find the fourth highest daily maximum ozone concentration of that year, and the design value will be that value averaged with the fourth highs from the two previous years. For example, a monitor's design value for 2021-2023 is the average of the fourth highest daily maximum 8-hour ozone concentration for the years 2021, 2022, and 2023 at a specific monitor. Having multiple days where at least one monitor in the state is above the standard does not necessarily mean that the design value or the year's fourth high at any

particular monitor is in “nonattainment.”

At the time the proposed SIP was submitted to USEPA, the monitoring data indicated that the multi-state NJ-PA-Delaware (DE)-Maryland (MD) NAA could possibly be in compliance with the NAAQS with a one-year extension of the attainment date. However, after the date of the submittal preliminary ozone monitoring data for 2024, which was not part of the proposed SIP, indicated that at least one monitor in the multi-state NAA would most likely cause the three year Design Value to exceed the NAAQS. Based on the preliminary 2024 data, it was anticipated that the area would not attain with a one-year extension, even with the exceptional event data excluded; therefore, NJ, PA, DE and MD all requested a voluntary reclassification to Serious for the multi-state NAA. This final SIP has been updated to reflect this change.

Prescribed Burns

29. Comment: I find it pretty contradictory that the NJDEP is seeking some kind of delay or, as I understand it, you get another year of compliance or EPA looks the other way and gives you delayed compliance date somehow. I wasn't quite sure reading it how this actually works, the exceptional events demonstration, or what you benefit from that.

But, number one, as far as I know, the NJDEP, in looking at the emissions data tables, it explicitly says that wildfires and prescribed burns are not calculated in the emissions inventories. That's number one.

Number two, the NJDEP itself conducts prescribed burns which create emissions. They are not calculated, and there's no permitting requirements for them and control measures for them.

Number three, the U.S. Air Force, in their own REPI program documents admits they create a wildfire in the pines every ten to 14 days. That's by the U.S. Air Force data; they're growing out, I think the Warren Grove range.

You're working cross purposes here, and I think you need to walk away from the prescribed burn program because it's just for emissions alone, if you don't have to deal with all the other forestry issues that are relevant to that program. So, I would urge that you don't get that exemption from EPA and abandon the prescribed burn program. (BW)

30. Comment: The stupid prescribed fires that the NJDEP sets are not necessary to be set at all and in fact represent lung cancer being foisted on the people of NJ. Lung cancer, asthma, heart attacks, strokes, all come from fire pollution. (JP)

Response to Comments 29 and 30: The NJDEP interprets the comment to mean that the commenter thinks prescribed burns are used to justify excluding monitoring data from compliance calculations in the exceptional event demonstration, which was also intended to be used to help justify the one year extension of the attainment date for New Jersey’s southern multi-state nonattainment area. Prescribed burns are not used to justify excluding monitoring data from compliance calculations in the exceptional event demonstration, only wildfires. There is no correlation to the inventory graphs that exclude wildfires and prescribed burning and the exceptional event demonstration.

Fires in the Emissions Inventory

The commenter stated that wildfires and prescribed burning are not calculated in the inventory. This is not the case. Their emissions are estimated and included in New Jersey’s emission inventories. As discussed in Appendix 4-5, wildfires and prescribed burns are estimated for emissions inventories and are included in the NJDEP inventory reports, the USEPA NEI and regional and USEPA atmospheric modeling. This section also references where more detailed

inventory information can be found at:

"The State of NJ, NJDEP of Environmental Protection, SIP Revision for the Attainment and Maintenance of the Ozone NAAQSs, 2008 75 ppb 8-Hour Ozone Attainment Demonstration, Northern NJ-NY-CT NAA, 2008 75 ppb and 2015 70 ppb 8-Hour Ozone Reasonably Available Control Technology (RACT), November 18, 2021, Appendix 10-1 and Attachment 6."

The NJDEP does not include wildfires and prescribed burning in inventory graphs for a few reasons. When looking at the graphs, it is beneficial to look at them without burning to get a better understanding of the other sectors for control measure evaluations. Biogenic volatile organic compound emissions from trees and plants, which are significantly large, are also not included in our trends graphs for this reason. Wildfires are not planned events and cannot be controlled in the same manner as other sources. Also note, New Jersey does not conduct prescribed burning during the ozone season, unless in the case of an emergency, therefore they are not applicable to ozone inventories and new ozone controls. NJ's prescribed burning season is limited to the period between October 1 and March 31. See: NJDEP | NJ Forest Fire Service | About Prescribed Burning.

Prescribed Burning

The commenter stated that New Jersey should abandon the prescribed burn program because of its emissions. Every year the NJ Forest Fire Service conducts prescribed burns to reduce the risk of future wildfires. Prescribed burning events are managed by NJ's Bureau of Forest Fire Service and are effective measures to reduce the danger of uncontrolled wildfires. Allowing experts to choose the intensity, timing, and interval of fire across the landscape may help prevent a larger uncontrolled wildfire. By reducing the risk of wildfires, prescribed burning also reduces the danger associated with the emissions from these larger uncontrolled wildfires.

Prescribed burning is a safe, effective and efficient means of managing the buildup of forest fuels. Since 1928, the Fire Service has used fire as a tool to protect the lives and property of residents living near the forestlands of NJ by setting fires under exacting conditions to reduce the underbrush (the "fuel" for a fire) in areas that are prone to fire or located in a position to defend against an oncoming wildfire.

The primary purpose of prescribed burning in NJ is to reduce the hazardous accumulations of forest fuels. This aids in the prevention of wildfires, reduces the intensity of the fires, and also provides a foundation for safer, more effective fire suppression and protection operations. It has proven to be an effective and economical practice in protecting NJ's forests and safeguarding the state's residents.

While the principle reason for prescribed burning is wildfire hazard reduction, it also has numerous secondary benefits. These benefits include wildlife habitat management, site management for forestry activities, ecological plant and animal management, forest disease and pest control, nutrient recycling, grassland management, improved accessibility, and enhanced appearances. Prescribed burns improve habitat for plants and animals, reduce the presence of damaging insects and ticks, and recycle nutrients into the soil. In addition, prescribed burning is an important part of the state's carbon defense strategy.

Management of smoke from prescribed burning is a critical issue. It can affect air quality, highway traffic, and nearby properties, and is subject to Federal and State air pollution laws. All adjacent smoke-sensitive areas must be identified in the burning plan. Wind direction and speed, and smoke dispersal are some of the atmospheric characteristics that should be considered before conducting a burn. Firing techniques also affect smoke emissions. Backfires produce considerably fewer emissions than other firing techniques.

The Forest Fire Service works closely with NJDEP's Air Quality Program ensuring that prescribed burns do not occur on poor air quality days. In NJ, only about 15 optimum burning days occur during the burning season. Once a burning day has been selected, a number of details must be accomplished

- Review current and expected weather conditions
- Inspect conditions at the site
- Notify local authorities
- Brief burning crews
- Ensure readiness of burning and fire suppression equipment
- Set a test fire to confirm burning conditions

For the protection of residents from the impacts of wildfires, which include risk to health and safety, property damage and increased emissions, as well as the additional secondary benefits prescribed burning provides, NJ does not believe the prescribed burning program should be abandoned.

US Air Force/Warren Grove

The commenter stated that the U.S. Air Force, in their own Readiness and Environmental Protection Integration (REPI) program documents admit that they create a wildfire in the pines every ten to 14 days. This statement is discussed in a Fact Sheet which is located on the United States Department of Defense (DOD), REPI website at WarrenGroveRange.pdf. According to the Fact Sheet:

> *"One of the most heavily utilized Air National Guard training ranges in the U.S., Warren Grove Range is a key Northeast training asset for all four Services, with its remote location providing unique operational capabilities. However, its location in the NJ Pinelands is also one of the most flammable areas in the country. Every year training activities ignite one fire every 10-14 days, which are suppressed on-site.*
>
> *When wildfires occur, the range must be totally shut down until the fires are suppressed. To reduce the wildfire danger, controlled burns are necessary to manage forest undergrowth. Without buffer lands to properly address undergrowth and fire concerns, the military mission at the range is endangered. In May 2007, the range shut down entirely for more than a year. Now, REPI efforts to establish buffer lands surrounding the range are protecting the viability of continued training missions, including use of conventional freefall bombs and munitions and future weapon systems training.*
>
> *Targeting the acquisition of thousands of acres of forest, the NJ Conservation Foundation will help the Air Force protect surrounding residents from the constant threat of wildfire and conduct prescribed fire management. Additionally, better forest management will support the many federally and state-listed animal and vegetative species found in the Pinelands area. Altogether, this project allows the continued operation of Warren Grove Range and maintains a quality training environment."*

The Warren Grove Range is an important military asset. Acknowledging that these military activities cause accidental fires from training activities, significant actions have been taken to mitigate these risks. NJDEP is partnered with the Department of Defense to reduce wildfire risk. In 2023, NJDEP received a $995,000 federal grant for wildfire mitigation efforts in the areas surrounding Joint Base McGuire-Dix-Lakehurst, Warren Grove Range, Naval Weapons Station Earle, and Sea Girt National Guard Training Facility (NJDEP_MAR23_1.pdf (repi.mil)). The New Jersey grant is one of 13 projects funded nationally with $24 million from the DOD's 2023 REPI Challenge Program, which facilitates long-term partnerships to improve resilience to climate change, preserve habitats and natural resources, and promote sustainable land uses

near military installations and ranges. This funding will help the New Jersey Forest Fire Service continue to build a network of strategic firebreaks across the landscape and improve resilience.

Emission Reduction Demonstrations

31. Comment: There are a series of programs that are mentioned, and you mentioned them in your introduction, about the various additional control programs and strategies you're implementing, given your noncompliance state. And some of them are climate programs and energy programs, Mobile source programs, EV, et cetera. Yet there doesn't seem to be any crosswalk or demonstration of how those programs, which are projected to reduce emissions, actually bring you into compliance. (BW)

32. Comment: I just wanted to reinforce something that Bill Wolfe talked about, and that is, this is a very complicated program. I tried to get through the 160-page document, basically doing word searches and things. The one thing I could not find in there, Section 4 I guess came closest but even that was very opaque, was a clear roadmap that talked about each one of the programs and how every year what its performance would be in terms of reducing ozone. And then being able to see all that added up to an annual number that year after year showed exactly how we plan to get to the goal. I realize there's a lot of other material, a lot of other important elements around this, but that one type of display, I think, would really, really help us understand if this is working and how it's working. Which programs are going to lead the way; which programs have to be phased in. And we could look at it every year and judge how well this is working. That would be very, very helpful. (KD)

Response to Comments 31 and 32: To summarize, the commenters are asking for a roadmap/crosswalk on how the programs in the SIP bring us into compliance to meet our goals, a summary of how each program performs to reduce ozone, preferably on an annual basis, which programs lead the way, and which need to be phased in. There are several elements in a SIP related to control measures and attaining the standard by the attainment date. Below is a summary of the SIP elements and how they gauge effectiveness.

One goal of the SIP is to demonstrate that all reasonably available technologically and economically feasible controls (RACT) for major stationary sources have been implemented in the state. The SIP also includes a Reasonable Further Progress (RFP) analysis that demonstrates progress towards attainment in the form of emission reductions over time, as well as a Reasonably Available Control Measure (RACM) analysis of all of the controls necessary to reach attainment.

Specifically, Table 3-3: NJ's Post 2002 Ozone Control Measures, includes a summary of all of the control measures in the New Jersey Ozone SIP. This includes what sector they are from, the pollutants they are reducing, and the date or dates they achieved benefits or emission reductions. It is assumed most stationary source control measures achieve benefits or emission reductions on the date required for compliance. If a control measure requires new standards for new vehicles or equipment we call it a turnover rule, or a rule which obtains new benefits each year with vehicle or equipment turnover from older products to newer ones. This is also indicated in the table as footnote one.

The control measures that specifically obtain benefits during the timeframe for the applicable SIP are summarized in Table 4-7 and Table 4-8 in the SIP. These tables summarize the primary control measures that result in emission reductions between the 2017 RFP base year and 2023 in the NJ portions of the Northern NJ-NY-CT NAA and Southern NJ-PA-DE-MD NAA, respectively, and their estimated emission reductions or benefits for the primary ozone precursors of VOC and NOx. Those tables break down the measures by emissions sector, and indicate whether the measure is state level or federal level. These tables show the expected VOC and NO_x emissions benefits from measures that could be quantified in tpd. These

reductions in ozone precursors are what help achieve the goals of RFP and attainment. For both of the NJ portions of the Northern NJ-NY-CT and Southern NJ-PA-DE-MD NAAs, the largest decreases of VOC, NO_x and CO are in the onroad mobile source sector followed by the nonroad mobile sector.

As discussed above in the response to comments # 3 through 6 which discussed RFP, NJ's two NAAs are classified as moderate under the 2015 70 ppb ozone standards, and thus the state was required to show a 15% NO_x and/or VOC reduction in the first 6 years after the 2017 base year. Both areas have met and exceeded their required emission reduction targets with the Northern area achieving a 31% reduction and the Southern area achieving a 28% reduction. If an area is reclassified, it is required to show progress every additional three years until the attainment date.

As discussed in Chapter 6 of the SIP, to predict attainment, New Jersey uses USEPA's Models-3/Community Multi-Scale Air Quality (CMAQ) Model to predict future ozone levels as recommended in the USEPA 2018 Modeling Guidance.[22] The CMAQ model requires specific inputs including meteorology, base year monitoring data (an average of 5 years) and emissions inventory data for the base year (2016) and future year (2023). Control measures and their estimated reductions are incorporated into the modeling platform emission inventories. Estimated emission reductions from control measures are applied to the future year inventories to the applicable sources. Table 3-3 also indicates which control measures are included in the atmospheric modeling base and future years. Some control measures that achieve benefits are not included in the modeling because the benefits have not been quantified by NJDEP or USEPA. The results of the modeling are shown in Tables 6-1 and 6-2. Tables 6-1 and 6-2 provide a side-by-side comparison between the modeling and most recent monitoring data for the northern and southern nonattainment areas, respectively.

Ideally, after inputting all of the meteorology, monitoring data, emissions, and controls into the modeling, the modeling would predict attainment in the future year. In this case it did not for the northern nonattainment area, which is why NJ requested and received a reclassification, as discussed in more detail in the SIP and in other response to comments above. The modeling did predict attainment for the southern nonattainment area, however, the actual monitoring data did not show attainment, therefore as discussed in the final SIP and in other response to comments above, NJ also requested and received a reclassification for the southern nonattainment area.

33. Comment: In one of the appendices, there's growth protection assumptions by source category, and some of your economic growth assumptions and your emissions assumptions were running at I think 1.4% per year for natural gas. That can only increase greenhouse gas emissions. Yet everything in it, governor's executive orders and the Global Warming Response Act and all those programs you summarized in your introductory remarks, all create the appearance that emissions are being reduced. (BW)

Response: As shown in summary tables 4-1 through 4-6 in the SIP, while some source category emissions may be increasing, overall county and state emissions of ozone precursors have been significantly decreasing over the years and are estimated to continue decreasing into the future. To calculate future year inventory emissions, growth or decline in emissions is estimated as well as reductions achieved from any State or federal control measures which were applicable after the base year and prior to or in the projection year. The base inventory for the projections is 2017 actual emission inventories for VOCs, NO_x, and carbon monoxide (CO). USEPA's preferred approach for projecting emissions growth incorporates locality-specific estimates such as population, employment, historical averaging; or other category-specific

[22] US EPA, 2018a. Modeling Guidance for Demonstrating Air Quality Goals for Ozone, PM2.5, and Regional Haze, EPA-454/R-18-009

activity such as fuel consumption, product output, vehicle miles traveled, or equipment populations. Once the emission inventories are grown, the next step is to determine which control measures within each of the various emission sectors would be in place during or prior to the projection year and apply the emission reduction benefits from those control measures. The combined effects of growth and controls represent the inventory projection. Specific projection methodologies for each emission inventory sector can be found in appendices 4-5, 4-6 and 4-7.

While certain activities are projected to grow such as vehicle miles traveled (VMT) and population, other major growth indicators are projected to decrease and most specifically fuel consumption. See table below, which is based on data from the NJDEP of Energy, Annual Energy Outlook 2023 which projects fuel consumption in the Middle Atlantic Region (NJ, NY, PA). As shown in the table, almost all sectors and sources of fuel consumption are projected to decrease by 2026, 2032 and 2038. Please also note these projections include NY and PA. Commercial residual fuel oil is not projected to increase in NJ. With respect to projected growth in natural gas, natural gas use for heating has historically gone up, but this has not happened in isolation. The use of distillate fuel oil for heating has simultaneously trended down as fuel switching occurs. Natural gas combustion produces significantly less carbon dioxide, NO_x, sulfur dioxide and fine particulate pollution than distillate oil. In addition, this SIP projects to 2023, however, in this latest version of the AEO, even residential natural gas is projected to decrease post 2026.

Sector	Fuel	Sector and Source	Growth Factor 2022: 2026	growth Factor 2022: 2032	Growth Factor 2022: 2038	Cumulative Growth Rate % 2022-2026	Cumulative Growth Rate % 2022-2032	Cumulative Growth Rate % 2022-2038
EGU	DISTILLATE	Distillate Fuel Oil	0.957	0.379	0.247	-4%	-62%	-75%
COM	COAL	Coal	0.685	0.685	0.277	-32%	-32%	-72%
TRANS	E85	of which: E85 11/	0.782	0.598	0.474	-22%	-40%	-53%
EGU	RESIDUAL	Residual Fuel Oil	0.791	0.627	0.505	-21%	-37%	-50%
EGU	COAL	Steam Coal	0.890	0.581	0.529	-11%	-42%	-47%
IND	RESIDUAL	Residual Fuel Oil	0.654	0.512	0.537	-35%	-49%	-46%
EGU	NATGAS	Natural Gas	0.752	0.642	0.569	-25%	-36%	-43%
TRANS	RESIDUAL	Residual Fuel Oil	0.704	0.608	0.570	-30%	-39%	-43%
IND	COAL	Other Industrial Coal	0.802	0.700	0.594	-20%	-30%	-41%
RES	RENEWABLE	Renewable Energy 2/	0.849	0.732	0.645	-15%	-27%	-35%
RES	DISTILLATE	Distillate Fuel Oil 1/	0.826	0.748	0.679	-17%	-25%	-32%
COM	DISTILLATE	Distillate Fuel Oil	0.853	0.815	0.731	-15%	-18%	-27%
TRANS	GASOLINE	Motor Gasoline 3/	0.937	0.822	0.736	-6%	-18%	-26%
COM	KEROSENE	Kerosene	0.868	0.844	0.775	-13%	-16%	-22%
RES	PROPANE	Propane	0.873	0.839	0.802	-13%	-16%	-20%
TRANS	AVGAS	Other Petroleum 14/	0.976	0.935	0.899	-2%	-6%	-10%
TRANS	DISTILLATE	Distillate Fuel Oil 13/	0.974	0.931	0.906	-3%	-7%	-9%
IND	BIOFUELS	Biofuels Heat and Coproducts	0.985	0.936	0.908	-2%	-6%	-9%
IND	DISTILLATE	Distillate Fuel Oil	0.945	0.922	0.918	-5%	-8%	-8%
COM	GASOLINE	Motor Gasoline 3/	0.973	0.968	0.970	-3%	-3%	-3%
IND	GASOLINE	Motor Gasoline 3/	0.980	0.969	0.982	-2%	-3%	-2%
RES	NATGAS	Natural Gas	1.002	0.997	0.983	0%	0%	-2%
COM	RENEWABLE	Renewable Energy 4/	1.000	1.000	1.000	0%	0%	0%
COM	NATGAS	Natural Gas	0.996	1.027	1.019	0%	3%	2%
IND	NATGAS	Natural Gas	0.967	0.992	1.021	-3%	-1%	2%
IND	RENEWABLE	Renewable Energy 10/	1.019	1.027	1.037	2%	3%	4%
TRANS	PROPANE	Propane	1.054	1.019	1.043	5%	2%	4%
COM	PROPANE	Propane	1.033	1.067	1.093	3%	7%	9%
TRANS	JETFUEL	Jet Fuel 12/	1.073	1.081	1.104	7%	8%	10%
COM	RESIDUAL	Residual Fuel Oil	1.366	1.134	1.278	37%	13%	28%
TRANS	HYDROGEN	Hydrogen	1.750	2.500	3.000	75%	150%	200%
EGU	RENEWABLE	Renewable Energy 21/	1.618	2.515	3.146	62%	152%	215%

Over a longer term, NJ's estimated anthropogenic (human-made) emissions of summer tpd VOCs have decreased from 2002-2017 by about 55%, summer tpd NO_x has decreased by about 66% and summer carbon monoxide has decreased by about 59%. VOC decreases were achieved in all sectors due to motor vehicle fleet turnover, Federal new engine standards for onroad and nonroad vehicles and equipment, the National and State low emission vehicle programs, area source rules such as consumer products, portable fuel containers, paints, autobody refinishing, asphalt paving applications, solvent cleaning operations, and point source controls such as refinery consent decrees. NO_x decreases were achieved in the onroad sector due to motor vehicle fleet turnover and the National and State low emission vehicle programs, and in the point source sector due primarily to the NO_x budget program for power plants, power plant and refinery consent decrees (contractual agreements) and NJ's high electric demand day and multi-pollutant power plant rules. NO_x decreases were achieved in the nonroad sector due to new engine standards for nonroad vehicles and equipment. Carbon monoxide decreases were achieved primarily in the onroad and nonroad mobile sectors due to motor vehicle fleet turnover and new engine standards for nonroad vehicles and equipment.

34. Comment: The crosswalk on the numbers that I'm talking about should also address the climate, the projections in climate and temperature and extreme heat days and all that. Again, in the narrative section you acknowledge that they greatly exacerbate the ozone formation and ambient levels. This idea of projection versus current attainment has to be addressed somehow. Maybe it's in there and I just didn't find it, or maybe it's buried in the model somewhere. You shouldn't be in attainment if you're under assumptions that are not embedded in the regulatory documents but in your science.

So, if your science is telling you that this year, we're going to have 20 or 30 extreme heat days and if you know that the extreme heat increases the ambient ozone a certain percentage but yet you don't have data that validate that in your model and your plan, you shouldn't be able to make an assertion that you're in compliance. And that should apply to the current condition as well as the projected condition, that you should have to integrate the science with the data. And I don't see that. Maybe it's in there somewhere, but I didn't see it, and I don't have probably enough expertise to even go there, to begin to go there. I think the NJDEP does, and you should find some honest way to communicate that to the public and try to use that as a rationale for doing some of the mandatory work, which Amy [Goldsmith] mentioned is not clearly mandates, that they're voluntarily or incentive programs that could be mandates, that could be regulatory mandates.(BW)

35. Comment: NJDEP must also acknowledge in its plans that the higher probability of heatwaves will likely lead to increases in ground-level ozone concentration peaks, (European Climate and Observatory). NJDEP needs to acknowledge the fact that ozone levels are a moving target and needs to demonstrate that its programs in this SIP put it ahead of this curve. (KD)

Response to Comments 34 and 35: New Jersey uses USEPA's Models-3/Community Multi-Scale Air Quality (CMAQ) Model to predict future ozone levels as recommended in the USEPA 2018 Modeling Guidance.[23] The CMAQ model requires specific inputs, including meteorological information (including temperature) and emissions information. The atmospheric model uses actual meteorology along with monitoring data (5 year average) and inventory data from a base year, in this case 2016, to estimate or predict air quality for a future year. Ideally, after inputting all of the meteorology, monitoring data, emissions, and controls into the modeling, the modeling would show attainment. In this case they do not, which is why NJ requested and received a reclassification, as discussed in more detail in the SIP and in other response to comments

[23] US EPA, 2018a. Modeling Guidance for Demonstrating Air Quality Goals for Ozone, PM2.5, and Regional Haze, EPA-454/R-18-009

above. Additional information regarding the modeling analysis can be found in Chapter 6. Tables 6-1 and 6-2 provide a side-by-side comparison between the modeling and monitoring for the Northern and Southern NAAs, respectively.

Regarding the increase in extreme heat days and heatwaves, as shown in Figure 2-10 of the SIP, the days above 90 degrees Fahrenheit remain fairly stable since 2010, with a slight decreasing trend. In addition, exceedance days on days greater than 90 degrees have trended downward over the years. There used to be more ozone exceedance days than days greater than 90 degrees prior to 2003, but after that there are significantly less exceedance days than days greater than 90 degrees. This trend held true even with the lower ozone standards over the years.

This indicates that there are other factors besides meteorology that also have a significant effect on ozone levels in NJ, such as NJ's rules to control and reduce emissions and most specifically from power plants that operate on High Electric Demand Days that had a Phase I effective date in 2009. Ozone formation is influenced by many factors including weather conditions, transport, and growth in emissions, in addition to changes in emissions brought about by air quality control strategies. Even with climate change, the many controls in NJ have led to significant decreases in emissions over the years and, therefore, also decreases in the number of exceedances.

36. Comment: In the I&M Program, the enhanced I&M Program, the assumption was, I think, a 93 or a 98% compliance rate. I don't know any environmental program in the State that works at 98% compliance. And there were going to be zero variances and zero exemptions. It was 9500 or 9800. And that was all in one sentence. My head exploded when I read that, too, because those are totally unrealistic, and I think we all know that. And this is just like a cursory just rip through the "try and get a handle on what's going on" summary. If you ever got inside the box and started looking at that, I think there are enormous inconsistencies. (BW)

Response: The estimated compliance rate for NJ's inspection and maintenance program (I/M) is one of the components in USEPA's onroad modeling program (MOVES.) In MOVES, this is calculated by adding the number of vehicles that receive a certificate of compliance (pass inspection) with the number of vehicles that receive a waiver (do not pass a retest but still receive a certificate of compliance) and dividing the sum by the number of total vehicles that are subject to I/M testing. "Subject vehicles" include all vehicles registered in the county that meet the I/M programs model year and weight class requirements.

Compliance rates used for the I/M program in the MOVES model must be between 0 and 100%. NJ used a compliance rate of 96% based on the latest available data at the time the proposed SIP was completed. NJDEP now has updated values for calculation of the compliance rate. These updated calculations result in a new compliance rate of 86%. The IM Performance modeling has been updated in the final SIP utilizing the updated compliance rate.

Accuracy of NJDEP's Analysis

37. Comment: The NJDEP claims it has implemented all reasonably available control measures to reduce ozone to meet the EPA's 2015 70 ppb 8-hour ozone NAAQS but needs more in order to achieve the target. This begs the question of how well it estimated the results of these control measures and, therefore, raises the question of the accuracy of its current plan to achieve the ozone attainment target. As the 2024 SIP document states, all of the monitors in the NJ portion of the Northern NJ-NY-CT NAA were predicted to be in compliance with (the) 70 ppb standard. (KD)

Response: As explained more thoroughly in response to comments 3 through 6, NJ has done its part in the multi-state nonattainment areas, but more needs to be done to achieve the target

of attainment by other states inside and outside the nonattainment areas. This is demonstrated in the SIP by the control measures adopted by NJ, but not other states, and the actual monitoring data in NJ compared to other states. NJ is part of two multi-state NAAs, and attainment is assessed on the entire NAA and not on a state-by-state basis. While NJ's actual monitoring data is at or close to compliance, neither the SIP modeling nor the actual monitoring data predicted/showed attainment by the attainment date in the Northern NAA, due to the monitors in CT not NJ. These monitors are downwind of the NY metropolitan area and several power plants in NY and Long Island with significant NO_x emissions on high electric demand days. The monitors are also in close proximity to the I-95 corridor and are situated on the coastline of the Long Island Sound making them susceptible to a bay breeze effect and ozone concentrations much higher than those seen in NJ and NY. NJ has some of the most stringent power plant regulations in the US. More needs to be done to address the upwind power plant emissions in states other than NJ and more time is needed to allow reductions from recent mobile source rules to be effective.

Transportation Conformity

38. Comment: Which takes me to my final point, is the Transportation Conformity Plan. Again, all the economic growth models, all the estimates and VMT travel on highway, to pass the expansion on truck emissions, train, rail, air, they're all increasing at significant rates of growth, yet somehow those growth vectors all somehow translate into modeled emissions reductions and levels below caps. Now, if we're not in compliance and the transportation emissions are below the caps, how does that make sense? And how do we see this tremendous growth in transportation emissions and transportation and economic growth activity, and yet still model and project emissions reductions? That, to me, just defies common sense. (BW)

Response: Transportation conformity only includes onroad mobile emissions and does not include train, rail and air. Regarding future inventory growth see the response to comment # 33 for a discussion on growth and control factors in future inventory estimates. As discussed, while certain activities are projected to grow such as vehicle miles traveled (VMT) and population, other major growth indicators are projected to decrease and most specifically fuel consumption. As shown in the table in the response to comment # 33, almost all sectors and sources of fuel consumption are projected to decrease by 2026, 2032 and 2038, including fuels used for cars, trucks, trains, rail and commercial marine vessels.

These decreases in estimated fuel consumption, in conjunction with Federal and State regulations for cleaner onroad and offroad engines result in significant historical and projected decreases in onroad and nonroad emissions. A summary of Federal and State regulations is included in the SIP Table 3-3. These regulations result in advancements in fuel efficiency, an increase in electric vehicles and tighter fuel economy standards, which occur each year with fleet turnover. The turnover of the onroad fleet of cars and trucks, as well as the turnover of nonroad equipment, result in VOC and NO_x emission benefits because the new vehicles/equipment have significantly lower emission standards than the older sources they are replacing. Current rules like the Tier 3 vehicle standards, greenhouse gas emissions standards for passenger cars and trucks through model year 2026 and the NJ Low Emissions Vehicles (NJLEV) contribute to those reductions in emissions. Additionally, several rules on the books such as the multi-pollutant emissions standards for years 2027 and later light-duty and medium-duty vehicles, Phase 3 greenhouse gas emissions standards for heavy duty vehicles, the Advanced Clean Trucks rule, and Advanced Clean Cars II will aid in the continuation of emission reductions in the future as their phase-in begins. All these factors contribute to NJ's compliance with the transportation conformity budgets developed for each NAA.

Environmental Justice

39. Comment: The NJDEP has methodologies and guidance to implement the Environmental Justice Act, particularly with respect to vulnerability, health vulnerability, susceptibility, and how certain urban populations face certain exposures and certain risks and impacts. And yet none of that is brought into this particular analysis, as far as I could tell, except to the extent that the basis for the standard, the numerical standard, includes some of that science.

But it seems to me that when the NJDEP is emphasizing in the Environmental Justice Program that not only will it be the kind of community outreach they talked about earlier but that there were legitimate science and public health concerns that were severe and significant. And yet they are completely either downplayed or not integrated in the SIP with respect to ozone. I mean, there is text in there that summarizes the health effects, but it really doesn't seem to reflect either an emphasis or a detail to the disparities and the Environmental Justice issues.

It seems to be a strong disconnect there, and I don't know how to bring it together better. I was pleased to see there was an acknowledgment in the report that there were huge gaps in the Environmental Justice Law with respect to how it applied to sources, not just mobile sources but stationary and area sources, in terms of their emissions and in terms of the NJDEP's permitting. So, I think we need to build on those kind of things instead of trying to defend the Environmental Justice Law as being the historic monumental thing it is; it's not.

And this proceeding itself is an example of that because you guys, in your SIP procedures, don't have to comply with the Environmental Justice Requirements procedurally or substantively. They don't bind you. They bind certain permits and certain permit modifications under the Clean Air Act, but they do not bind the SIP. And I don't know if it was intentional or not, but it's a big, big problem as far as I'm concerned, because how could you hold a public hearing in Newark and say, oh, we turned the station off in September 2023 and we haven't restored it yet? You couldn't do that, you couldn't get away with it. You would get shouted out of the room. So those are the kind of things, and I'm not picking on Newark, I'm not picking on the NJDEP, I agree with Amy [Goldsmith], you have to greatly expand your monitoring network. (BW)

40. Comment: This is an enormously complicated regulatory document, scientifically and regulatorily wise, and it has significant impacts on public health, public interest, and particularly environmental justice issues. The NJDEP constantly emphasizes its commitment to making better public policy, better public communication, more community involvement, and more focus and emphasis on environmental justice. These are things I constantly hear in NJDEP press releases and from the commissioner's mouth and media.

And unfortunately, as far as I know, there's been zero public outreach on this document and this plan. It's not required to comply with the Environmental Justice Law in terms of the community outreach that's built into the Environment Justice Law, even though there's disproportionate impacts, particularly for ozone and asthma in urban communities, and even though there's all the health information the NJDEP is releasing documents that, and yet here we have the opportunity, through a planning process, to address those concerns, and there's zero public involvement and public outreach and public education and all the kind of good things the NJDEP could do to make the program stronger and better. And I see none of that, and I really, really expect more and better from the NJDEP along those lines. (BW)

41. Comment: For technical and policy support and justification, I submit the recent report by EDF on warehouse pollution. See: NJ Warehouse Boom https://globalcleanair.org/wp-content/blogs.dir/95/files/NJ-Warehouse-Boom-Report-EDF-6-14- 2024.pdf. Among the things, that Report notes "gaps" in the NJ Environmental Justice law regarding major sources of air

pollution including ozone precursors. Those gaps include procedural and substantive Clean Air Act requirements, including the subject proposed Ozone SIP revisions. (BW)

Response to Comments 39 through 41: The NJ SIP relies on the health assessment performed when a NAAQS undergoes periodic review. The ozone primary NAAQS are established based on a thorough assessment of current scientific studies, including exposure/risk analyses. The USEPA considers at risk populations, including low-income and minority populations, when assessing the level of protection for the revised standard. A NAAQS that is established to provide protection to the at-risk populations would essentially also provide protection to all other populations, including low-income populations and minority populations that are not identified as at-risk. Following the establishment of a NAAQS, any required SIP would then define the regulations and programs necessary by a state to attain the NAAQS to protect human health and welfare.

NJ's SIP for ozone is NJ's plan for attaining the NAAQS. The USEPA established the jurisdictional boundaries for NJ's ozone NAAs at the county level. While historically not always the case, all counties in NJ are currently in nonattainment for ozone. The health impacts discussed in the proposed SIP are consistent with impacts experienced by all individuals within the NAAs throughout the State, including those in Environmental Justice Areas. NJ's rules for reducing air pollution are implemented Statewide and benefit all of the citizens of NJ including those in Environmental Justice Areas.

As discussed on page 1-11 of the proposed SIP, NJ has been addressing the needs of environmental justice (EJ) communities since 1998, including assisting in the creation of what eventually became the Environmental Justice Advisory Council (EJAC). The EJAC holds regular meetings that include environmental justice advocates and the NJDEP to discuss and address issues of concern. NJDEP Air Quality representatives attend regular monthly meetings with representatives of the Environmental Justice community to discuss air pollution topics via the Air Working Group and the Education and Outreach Group; both are sub workgroups of EJAC. SIP proposals, along with other NJDEP actions, are discussed in those meetings.

In regard to the "gaps" in NJ's Environmental Justice Law referenced in the Environmental Defense Fund (EDF) report titled NJ Warehouse Boom, dated June 18, 2024 (June 14, 2024 link not found and appears to be updated on June 18, 2024), the report gives no specifics on NJ's Environmental Justice Law "gaps" except to say "Adopting the Warehouse and Port Pollution Reduction Act and complementary policies like Advanced Clean Fleets and those laid out in the Energy Master Plan are critical next steps toward achieving NJ's climate mandates, filling gaps in the Environmental Justice Law and ensuring that residents who are burdened with emissions from fossil fuels are prioritized for zero-emission investments and mandatory emission reductions throughout the logistics industry." These rules are discussed in the response to comments # 7 through 9.

In regard to the monitor in Newark, that was discussed above in the response to comments # 19 and 20.

Enforcement

42. Comment: In 2005 Clean Water Action I and others worked very hard to get a diesel law passed, school bus policies for retrofitting school buses and anti-idling law. And the reductions that were assumed to be achievable by this new law, 60% of it or more was going to be from the anti-idling policy, which is ridiculous, because no police officer or traffic officer, NJDEP, port authority, did anything, I shouldn't say anything. The NJDEP did go out and do some enforcement actions, but relative to the amount of idling that goes on, very little action was taken; signage was put up in places. But really, again, a goal without a plan and enforcement is just a wish. And we did not get anywhere close to what we said we would for reduction. So,

when the NJDEP puts out a plan like that, that has no mechanism for getting to reality, the NJDEP doesn't deserve an extension. (AG)

Response: NJ Air Enforcement continues to work closely with County Environmental Health officials, which aid in anti-idling enforcement. This program supplements NJDEP's own anti-idling enforcement program. In 2024, NJDEP and the NJ Motor Vehicle Commission launched an educational anti-idling campaign that included advertisements on billboards, NJ Transit buses, in NJ Monthly Magazine print and online media, social media, and on the monitors at MVC agency monitors. NJDEP has provided educational outreach materials to driving schools in NJ to spread the message to new drivers. Additional initiatives are being created to aid in training and to provide reminders that it is illegal to idle after three minutes. All of these efforts are to combat the increased idling as a result of new cars being equipped with remote start capabilities and the increased idling that took place as a result of curbside pickup and convenience food delivery services during the COVID pandemic.

Regarding New Jersey's requests for a reclassification referred to by the commenter as an extension, justification for the request is provided in detail in the response to comments #3 through 6.

Climate Change

43. Comment: Existing programs like NJPACT have only highlighted the NJDEP's inability to meet its deadlines, making annual ozone targets even more important. As far as we know the State has reduced virtually no GHG emissions from any of its policies since Governor Murphy was elected in 2017. If this is incorrect, we welcome a correction by NJDEP. (KD)

Response: Since 2017 NJ's emissions have stayed relatively flat, hovering around 100 million metric tons of CO_2e. However, utilizing short-term annual greenhouse gas emissions as the only indicator of climate mitigation progress alone is misleading, in large part because equipment such as motor vehicles and home heating systems have long lives. Over the past seven years, the State has adopted several significant greenhouse gas mitigation policies and regulations that will achieve and accelerate future emission reductions. These policies, however, do not provide an immediate remedy, as replacing emitting infrastructure cannot be achieved overnight. Each policy has its own compliance timeline, meaning that emission reductions will be cumulative over the next two and a half decades. Rules and policies and their expected emission reductions include:

- Advanced Clean Truck rule(N.J.A.C.7:27-31): This rule requires manufacturers of medium- and heavy-duty vehicles to deliver an increasing percentage of zero-emission vehicles. The annual sales requirements take effect in 2025 and increase annually through 2035, at which point 55% of Class 2b to 3 vehicles, 75% of Class 4 to 8 straight trucks, and 40% of Class 7 and 8 tractor trailers must be zero-emission. Tailpipe emissions from medium and heavy-duty vehicles are projected to drop by 0.44 MMT CO_2e per year due to the regulation by 2040.[24]
- Advanced Clean Cars II rule (N.J.A.C. 7:27-29A): This rule, if USEPA grants California's waiver request, takes effect starting with model year 2027 vehicles and reaches full implementation in 2035, at which point 100% of new light-duty vehicle sales must be zero-emission. Tailpipe emissions are projected to drop 16.2 MMT CO_2e by 2050 due to the regulation, plus further reductions nationally from reduced demand for fossil fuels.[25]

[24] NJDEP, Advanced Clean Trucks Program and Fleet Reporting Requirements, 53 N.J.R. 588(a), April 19, 2021. https://dep.nj.gov/wp-content/uploads/rules/proposals/20210419a.pdf and https://www.lexisnexis.com/hottopics/njoal

[25] Sonoma Technologies, *Benefits of Adopting California's Advanced Clean Cars II Standards*

- The Solar Act of 2021, P.L. 2021, c. 169: This law directs the NJ Board of Public Utilities (BPU) to double the growth of the existing solar program, incentivizing up to 3,750 megawatts (MW) of solar generation by 2026. Since the Solar Act of 2021 was enacted, 1,394 MWs of new solar arrays have been installed and awarded via the SuSI program. Based on BPU's most recent monthly solar installation report[26], as of August 31, 2024, over 205,000 solar arrays have been installed totaling 4,931 MWs. The added 3,750 MW of incentivized solar capacity can eliminate 2.2 MMT CO_2e per year compared to combined cycle natural gas generation.[27]
- The Clean Energy Act of 2018, P.L.2018, c.17: This Act strengthened NJ's Renewable Portfolio Standard by requiring 35% renewable power by 2025 and 50% renewable power by 2030. It also requires energy efficiency measures to reduce electricity usage by 2% each year, and natural gas usage by 0.75%. These efficiency measures alone are projected to reduce emissions by more than 8 MMT CO_2e annually when applied through 2050.[28] The Act also codifies goals for offshore wind and energy storage.
- Offshore Wind Goals: Governor Murphy signed three Executive Orders that directed all NJ state agencies with responsibilities under the Offshore Wind Economic Development Act to fully implement it. The Orders also established goals to increase NJ's offshore wind power capacity to 11,000 megawatts by 2040. To date, the State has awarded agreements for 5,200 MW to project developers, with commercial operation expected by the end of the decade. Commitments in place are expected to reduce emissions by 7.4 MMT CO_2e per year by the mid-2030s; fulfillment of the 11,000 MW goal are projected to reduce emissions by 15.5 MMT CO_2e per year before 2040.[29]

These efforts, among others, will shape the State's emissions future for decades to come. To imply that this work has been without benefit is therefore unfounded. Taken as a whole, NJ has been and will remain a national leader in climate mitigation.

44. Comment: And there was no kind of global warming assessment of those natural gas emissions projection increases, right? And I think you're required by NJ law to do the 20-year time horizon on your warming potential emissions, which would then create even additional warming potential from those emissions in terms of your greenhouse gas inventory. (BW)

Response: P.L. 2019, chapter 319 requires the use of a 20-year time horizon for global warming potential when calculating the global warming impact of greenhouse gases. However, evaluating greenhouse gas impacts is outside of the scope of the Ozone SIP. NJDEP has integrated the 20-year time horizon for global warming potential into its annual greenhouse gas inventory, which is available at: https://dep.nj.gov/ghg/.

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in Sixteen U.S. States, 2023, prepared on behalf of the ICCT and NESCAUM. https://theicct.org/benefits-ca-advanced-clean-cars-ii-reg-data/. Estimate is ACC II benefits relative to BAU, 2027 implementation. Note that there is overlap between ACC II and ACT and reductions are not strictly additive.

[26] NJBPU, August 2024 Solar Report. https://njcleanenergy.com/renewable-energy/project-activity-reports/solar-activity-report-archive

[27] Assumes solar PV is 79.8% behind the meter and 20.2% grid, based on BPU installation records through 2023, with capacity factors of 14.6% and 24.5%, respectively. Natural gas combined cycle alternative is assumed to have a heat rate of 7,580 BTU/kWh, based on 2022 EIA estimated generation, with an emissions rate of 402.6 kg CO2e/MWh.

[28] Estimated benefit does not consider load growth due to electrification. Because efficiency benefits are based on percentage of load, larger loads result in greater efficiency reductions and therefore greater avoided emissions.

[29] Assumes offshore wind displaces combined cycle natural gas generation with an emissions rate of 402.6 kg CO_2e/MWh.

Public Hearing

45. Comment: I hereby request that the NJDEP hold public hearings in a physical location (i.e. public hearing room) in at least 3 regions of NJ on the proposed revision to the NJDEP SIP for the Attainment and Maintenance of the 8-Hour Ozone NAAQS, see: https://dep.nj.gov/airplanning/state-implementation-plans-sips/70-ppb-ozone-sip/. A zoom meeting is not an appropriate public hearing format as it does not provide for meaningful public education, public participation, and public comment. We believe that such a public hearing format violates the federal Clean Air Act and implementing regulatory requirements and is not authorized by NJ State law.

Multiple public hearings are required given the regional differences in ambient ozone levels and ozone precursor sources and control strategies. Multiple public hearings are required for the different risks and impacts based on variable demography and socio-economic conditions. In fact, the NJ Administrative Procedure Act and Air Pollution Control Act require traditional public hearings, not zoom calls. See the flawed NJDEP Public Notice: https://dep.nj.gov/wp-content/uploads/airplanning/ozone-70-ppb-moderate-public-notice-6-6-24.pdf. This virtual hearing procedure was no longer justified because the original basis for holding these things was a public health emergency, if I'm not mistaken. We're no longer in a public health emergency, so there's no reason to have this kind of alienating, technologically driven public hearing process. It defeats the purpose, frankly, of a public hearing, which is community involvement, public education, more effective testimony. I could have side conversations with other people at the hearing, and we could learn jointly and submit better testimony. So that's just one example. But the NJDEP used to hold public hearings in public places where people gathered, and the virtual technology precludes that.

I didn't know how to show notes; I didn't know how to register. I'm not particularly comfortable with this. Plus, you're in my home; you're invading my privacy. My home is out on the internet right now. (BW)

Response: The Clean Air Act, 42 U.S.C.A. §§ 7401 et seq, requires that SIP revisions be adopted after "reasonable notice and public hearing."42 U.S.C.A. § 7410. The USEPA promulgated rules pertaining to the notice and hearing requirements, which are focused almost exclusively on the reasonableness of the notice. See 40 CFR 51.102. As to the USEPA's requirements for the public hearing, the regulations require States to keep a record of the hearing, including a list of witnesses along with a transcript of the comments. See 40 CFR 51.102. The USEPA's regulations do not require a state to hold an in-person public hearing, nor do they require a state to hold separate hearings in multiple locations within the State. See 40 CFR 51.102.

The Air Pollution Control Act (APCA), N.J.S.A. 26:2C-1 et seq, requires the public be given an opportunity to be heard but does not mandate the format of a public hearing. The Administrative Procedure Act (APA), N.J.S.A. 52:14B-1 et seq, sets forth the requirements for a public hearing, when applicable. In terms of the format of the meeting, the APA states only that "hearings shall be conducted at such times and in locations which shall afford interested parties the opportunity to attend." N.J.S.A. 52:14B-4(g).

As set forth in the June 6, 2024, Notice, the NJDEP conducted a public hearing concerning the NJDEP's proposed revision to the SIP for the Attainment and Maintenance of the 8-Hour Ozone NAAQS in a virtual format using the NJDEP's video conferencing software, Microsoft Teams. This software allows the NJDEP to hold a hearing with a large group of people through the use of video and audio sharing capabilities. Anyone with a smartphone, tablet, or computer (equipped with a camera) and access to the internet may participate in the public hearing via the videoconferencing function. Participation in the public hearing is also possible using any phone

(cellular or landline) via the audio feature of the virtual hearing if an individual does not have a smartphone, tablet, or computer with a working camera or access to the internet.

A virtual hearing provides similar, if not more, opportunities for public participation as an in-person hearing, while eliminating travel time and expenses. An individual who participates using the videoconferencing software may view presentations shared on the screen, may raise their hands to speak, may leave a comment if there are technical issues, may make comments on the record, is able to see the number of other participants, and may view others attending the meeting (if cameras are turned on). An individual who calls in using the audio function is also able to make comments on the record and listen to the presentations made by the NJDEP and comments made by others.

As reported in a Fact Sheet published in January 2024 by the Pew Research Center, 97% of Americans “now own a cellphone of some kind. Nine-in-ten own a smartphone, up from just 35% in Pew Research Center’s first survey of smartphone ownership conducted in 2011.” https://www.pewresearch.org/internet/fact-sheet/mobile/. In short, the vast majority of Americans now own smartphones and can participate in virtual meetings using videoconferencing software from almost any location with internet access.

Accordingly, the NJDEP has determined that holding the public hearing for the proposed SIP revision in a virtual format provides a reasonable opportunity for the public to be heard and a meaningful opportunity for public education, participation, and comment. Further, the virtual format is in compliance with statutory and regulatory requirements and the NJDEP is not obligated to hold multiple, in-person hearings in regions across the State.

Please also note, interested parties are able to attend with their camera off, and also have the option to select screen backgrounds so that no one is seeing their home. If an interested party would like help using the NJDEP’s video conferencing software, they can contact the NJDEP at the email provided in the public notice and the NJDEP will provide technical assistance in advance of the hearing.

46. Comment: The typo error on your "public notice" has created significant public confusion. I distributed it to NJ environmental groups and media, and I posted it on-line in various networks. I distributed it on social media; I distributed it to environmental groups; I distributed it to friends. So, a lot of people got bad information that I was distributing based on bad information I got from the NJDEP, which indicated the public hearing would be on the 16th, not the 15th.

My experience with the NJDEP and in monitoring the NJDEP's regulatory activities for almost 40 years now is that when there are inadvertent errors made in public notices with respect to hearing location or hearing date, the NJDEP acknowledges the error, corrects the error, and reschedules and re-notices the particular event. The NJDEP, in an email, acknowledged that there was an error made on the NJDEP's website, which constituted public notice, which apparently was only given to me.

The remedy of this error is not satisfactory, as there is too little time (just 6 days) for the public to get the correct information and schedule their time accordingly. The NJDEP's error and the very short time between the corrected public notice and the actual hearing is not acceptable, and I believe it violates minimum regulatory due process procedural requirements for public notice and public comment. Please reschedule and re-notice the public hearing to provide a 30-day period between public notice and public hearing. A classic tactic in voter suppression is the idea of giving the wrong date or location of a polling station or a voting day. And I'm not saying that was an intentional thing that happened here, but it did happen, so let's acknowledge it and fix it.

Don't NJDEP regulatory public notice requirements include publication in newspapers and local governments? Do you limit public notices to your website? (BW)

Response: The NJDEP would like to clarify that the public notice included in the email notices and multiple web postings on June 6, 2024, included the correct hearing date. There was never an error in the public notice so if the public notice document was forwarded, then the recipients had the correct information related to the hearing process.

Links to the SIP and public notice with the correct hearing date were published on NJDEP's website at three locations:

NJDEP| Air Planning | Air Quality Evaluation and Planning
NJDEP| Air Planning | State Implementation Plan (SIP) Dashboard NJDEP| Air Planning | 70 ppb Ozone SIP

This provided notice of the hearing for more than 30 days prior to the hearing date of July 15, 2024. On July 9, 2024 (33 days after the initial notice), NJDEP updated its website to post a link to the hearing as explained in the notice. Unfortunately, the link description included a typo that indicated the incorrect date; however, the link was only up for less than 3 hours before it was corrected. During that brief time, the public notice associated with the link included the correct hearing date.

The NJDEP is not required to publish SIP notices in newspapers. SIP notices are published on our website and distributed to interested parties that sign up for our listserv by entering an email address at: NJDEP| Air Planning | Air Pollution Control Rules and State Implementation Plan E-mail Updates. There is no fee to subscribe, and you may unsubscribe at any time by managing your subscriber preferences.

Document Clarity

47. Comment: I don't have a factual basis to do all that, because you guys don't put the data and the information out there for the public to get or it's so deep in models or databases somewhere that I can't find it. And I'm a fairly sophisticated participant in this dialogue. I can't imagine how a general layman in the public could figure this stuff out. I mean, just the acronyms, it's like ten pages of acronyms. Whenever you open a document there's like ten pages of acronyms, and then there's like 12 appendices. You got a big, big, big regulatory monster. And I know you guys have been doing the same thing for years and years and years and years, and the SIP is just like this process now, but it really needs to open up to the light of transparency so people can get an understanding of what's really going on. (BW)

Response: The NJDEP makes every effort to make the SIP as clear as possible and provide all supporting information and documentation as part of the SIP. All acronyms are also spelled out within the text of the document the first time they are used. The list at the beginning of the document serves as an easy-to-access summary compiling all the acronyms and abbreviations that were spelled out within the text of the document. This was done to make it easier for the reader, thereby increasing the transparency and accessibility.

The document is separated into sections called Chapters, each with its own topic, purpose, and requirements. By separating the document into sections, it helps the reader better understand the topics and makes the whole document easier for the reader to manage. These sections are outlined in the Table of Contents. In general, the NJDEP puts summaries in the main part of the SIP, and the more detailed technical information in the Appendices. The Executive Summary and the Tables throughout the SIP provide good summaries of the data and plan, most specifically:

- Table 3-3: NJ's Post 2002 Ozone Control Measures
- Table 4-7: Projected Emissions and Control Measure Benefits Summary NJ Portion of Northern NJ-NY-CT NAA
- Table 4-8: Projected Emissions and Control Measure Benefits Summary NJ Portion of Southern NJ-PA-DE-MD NAA
- Table 5-1: Rate of Further Progress NJ Portion of Northern NJ-NY-CT NAA
- Table 5-2: Rate of Further Progress NJ Portion of Southern NJ-PA-MD-DE NAA Motor Vehicle Emission Budgets with Safety Margins
- Table 6-1: Ozone Design Value Modeling vs Monitoring Summary Northern NJ-NY-CT NAA
- Table 6-2: Ozone Design Value Modeling vs Monitoring Summary Southern NJ-PA-DE-MD NAA

All tables and figures are also listed in the List of Tables and List of Figures, respectively, at the beginning of the document for ease of access.

There is a lot of information necessary for a SIP to satisfy Clean Air Act and federal requirements, and it includes many analyses and datasets. One reason the document is so long is to increase the transparency, data availability, and accessibility, as the comment requests. The information and data are analyzed, explained, and summarized, and further information is provided in the Appendices to make it available and accessible to the public.

Consumer Products

48. Comment: Specifically, HCPA is commenting on the portion of the SIP related to the VOC regulations for consumer products.

HCPA supports the long-standing commitment by NJDEP to adopt regulator provisions that are consistent with other states that have adopted more stringent VOC standards for consumer products that the U.S. Environmental Protection Agency's (U.S.EPA) National Volatile Organic Compound Emission Standards for Consumer and Commercial Products.[30] The proposed SIP Revision states that additional new control measures to address ozone nonattainment include proposing rules to control VOC emissions from consumer products by incorporating amendments that are based upon the Ozone Transport Commission (OTC) 2010 and 2012 model rules, which are based on California rules.

HCPA member companies manufacture, market and supply more than two-thirds of the broad product categories governed by both NJDEP's current regulation and what will eventually be proposed. HCPA has previously participated in the development of NJDEP's current regulation, as well as the regulations for consumer products developed by other states and the District of Columbia which are based on the OTC Model Rules.

HCPA has supported the development of these regulations because by developing consistent regulations, states can achieve improvements in air quality without imposing impediments to interstate commerce.

However, so that companies have sufficient time to modify the distribution of their products, HCPA has consistently requested that any update regulation becomes effective at least one year after the date of publication of the final rule. Further, HCPA requests that consumer products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) receive one additional year to comply with the revised VOC standards as these products must first be registered with the NJDEP before they can be sold within the state. The OTC Model Rules, as well as the U.S. Environmental Protection Agency (U.S. EPA) within their National Consumer Products Regulation and the California Air Resources Board (CARB) regulation

[30] 40 CFR Part 59 Subpart C

require this additional year for FIFRA-registered products due to the requirement that these products are registered and approved for sale within the state before commerce can begin.

In conclusion, HCPA supports the proposed SIP Revision as it relates to consumer products, and we look forward to participating in the upcoming rulemaking to amend the state's consumer product VOC regulation. (NG)

Response: NJDEP thanks the commenter for their support and the comments are noted. Please note, the consumer products rule was not included in this SIP revision as a SIP commitment. It was included in a discussion of what NJDEP is working on for the future that will help New Jersey's goal of attainment of the ozone NAAQS. Rule comments such as these, that are specific to the rule proposal, are out of the scope of this SIP and should be submitted as part of the public comment period for the rule proposal. The consumer products rule proposal and SIP Revision was published on August 19, 2024, which was after the comment period closed for this SIP on July 17, 2024. The NJDEP did receive the same comments on the rule proposal.

NJDEP Initiated Changes:

1. NJDEP updated the SIP to reflect that both the Northern and Southern NAA's were reclassified to Serious after the SIP was proposed.

2. The SIP was updated to clarify that due to the reclassification of both of New Jersey's nonattainment areas after the SIP proposal, certain portions of the SIP are not being submitted for approval as they are not required for reclassified areas, specifically:

    - The Attainment Demonstration (Evaluation);
    - The Reasonably Available Control Measure Analysis (RACM);
    - Contingency Measures for the Attainment Demonstration.

3. NJDEP updated monitoring data in the SIP in data tables, figures and discussions to reflect the most current data including:
    a. Updating preliminary 2023 monitoring data to reflect certified 2023 data with Exceptional Events included;
    b. Updating preliminary 2023 monitoring data without Exceptional Events included;
    c. Adding preliminary 2024 monitoring data to the SIP Appendix 2-1;
    d. Updating historical data to be consistent with AQS reports and USEPA websites:
        i. Newark Firehouse, NJ 2013 and 2015 4th highs, 2014 and 2015 Design Values;
        ii. Brigantine, NJ 2015 Design Value;
        iii. DE monitors 2022 data;
        iv. PA and MD 2016 data consistent with exceptional events that USEPA concurred with;
        v. An update on the Camden, NJ monitoring site;
    e. The Delaware monitoring results in counties outside the 2015 70 ppb 8-hour ozone nonattainment area have been removed from summary graphs and tables.

4. NJDEP updated the performance standard modeling IM program efficiency with the latest data.

5. NJDEP updated the good neighbor rule status in Chapter 8.