

calendar year or another period that has been or is approved by the Commission).

EFFECTIVE DATE: October 2, 1995.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division, at (202) 663-4958 (voice) or (202) 663-7063 (TDD).

For the Commission.

Dated: September 26, 1995.

Gilbert F. Casellas,
Chairman.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. 141; NJ21-1-7065a, FRL-5306-6]

Approval and Promulgation of Implementation Plans; The 1990 Base Year Ozone Emissions Inventory for New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the New Jersey State Implementation Plan (SIP) pertaining to the 1990 base year ozone precursor emission inventory. The inventories were submitted by New Jersey as part of New Jersey's plan to attain the national ambient air quality standard (NAAQS) for ozone in the Atlantic City, New York/Northern New Jersey/Long Island, Philadelphia/Wilmington/ Trenton, and Allentown/Bethlehem/Easton areas of New Jersey.

DATES: This final rule is effective on December 1, 1995, unless adverse or critical comments are received by November 1, 1995. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway 20th Floor, New York, New York, 10007-1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
290 Broadway 20th Floor, New York,
New York 10007-1866.
New Jersey Department of
Environmental Protection, Office of

Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Demian Ellis, Air Programs Branch, Environmental Protection Agency, 290 Broadway 20th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

Background

Under the Clean Air Act Amendments of 1990 (the Act), states have the responsibility to inventory emissions contributing to National Ambient Air Quality Standard (NAAQS) nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The Act requires ozone nonattainment areas designated as marginal, moderate, serious, severe, and extreme to submit a SIP revision within three years of 1990 which contains a comprehensive, current, and accurate emission inventory. The 1990 base year emissions inventory is the primary inventory from which the periodic inventory, the Reasonable Further Progress (RFP) projection inventory, and the modeling inventory are derived. Further information on these inventories and their purpose can be found in the "Emission Inventory Requirements for Ozone State Implementation Plans," U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina, March 1991. The base year inventory may also serve as part of statewide inventories for purposes of regional modeling in transport areas. The base year inventory plays an important role in modeling demonstrations for areas classified as moderate and above outside transport regions.

The air quality planning requirements for marginal to extreme ozone nonattainment areas are set out in section 182 (a)-(e) of Title I of the Act. EPA has issued a General Preamble describing EPA's preliminary views on how EPA intends to review SIP revisions submitted under Title I of the Act, including requirements for the preparation of the 1990 base year inventory [see 57 FR 13502; April 16, 1992 and 57 FR 18070; April 28, 1992]. Because EPA is describing its interpretation here only in broad terms,

the reader should refer to the General Preamble (57 FR 18070, Appendix B, April 28, 1992) for a more detailed discussion of the interpretations of Title I advanced in today's action and the supporting rationale. In today's rulemaking on the New Jersey ozone base year emissions inventory, EPA is applying its interpretations taking into consideration the specific factual issues presented.

Those states containing ozone nonattainment areas classified as marginal to extreme are required under section 182(a)(1) of the Act to submit a final, comprehensive, current, and accurate inventory of actual ozone season, weekday emissions from all sources by November 15, 1992. This inventory is for calendar year 1990 and is denoted as the base year inventory. It includes both anthropogenic and biogenic sources of volatile organic compound (VOC), nitrogen oxides (NO_x), and carbon monoxide (CO). The inventory is to address actual VOC, NO_x, and CO emissions for the area during a peak ozone season, which is generally comprised of the summer months. All stationary point and area sources, as well as highway mobile sources within the nonattainment area, are to be included in the compilation. Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Today's Rulemaking

Section 110(k) of the Act sets out provisions governing EPA's review of base year emission inventory submittals in order to determine approval or disapproval under section 182(a)(1) (see 57 FR 13565-66, April 16, 1992). EPA is approving the 1990 base year ozone emission inventory submitted to EPA for the Atlantic City, New York/Northern New Jersey/Long Island, Philadelphia/Wilmington, Trenton, and Allentown/Bethlehem/Easton nonattainment areas, based upon the review procedures outlined in the next section.

A. Criteria for Approval

There are general and specific components of an acceptable emission inventory. In general, the emission inventory must meet certain minimum requirements for reporting each source category. Specifically, the source requirements are detailed below.

A Level I and II review process, which is described in supporting documentation, is used to determine that all components of the base year inventory are present. This review also evaluates the level of supporting

documentation provided by the state, assesses whether the emissions were developed according to current EPA guidance, and evaluates the quality of the data.

The level III review process is outlined here and consists of 10 points that the inventory must include. For a base year emission inventory to be acceptable it must pass all of the following acceptance criteria:

- Was there an approved Inventory Preparation Plan (IPP)? Was the QA program contained in the IPP implemented and was its implementation documented?
- Was documentation adequate to enable the reviewer to determine the emission estimation procedures and the data sources used to develop the inventory?
- Is the point source inventory complete?
- Were point source emissions prepared/calculated according to current EPA guidance?
- Is the area source inventory complete?
- Were the area source emissions prepared/calculated according to current EPA guidance?
- Were biogenic emissions prepared/calculated using PC-BEIS according to current EPA guidance?
- Was the method (e.g., Highway Performance Monitoring System (HPMS), network transportation planning model) used to develop Vehicles Miles Traveled (VMT) estimates in accordance with EPA guidance, and was it adequately described and documented in the inventory report?
- Was the MOBILE 4.1 vehicle emissions model correctly used to produce emission factors for each of the eight MOBILE 4.1 vehicle classes?
- Were the emission estimates for non-road source categories correctly prepared according to current EPA guidance?

The base year emission inventory is approvable if it passes Levels I, II, and III of the review process. Detailed Level I and II review procedures can be found in the following document: "Quality Review Guidelines for 1990 Base Year Emission Inventories," U.S. Environmental Protection Agency,

Office of Air Quality Planning and Standards, Research Triangle Park, NC, July 27, 1992. Level III review procedures are specified in a memorandum from David Mobley and G.T. Helms to the Regions "1990 O₃/CO SIP Emission Inventory Level III Acceptance Criteria," October 7, 1992 and revised in a memorandum from John Seitz to the Regional Air Directors dated June 24, 1993.

B. Procedural Background

The Act requires states to observe certain procedural requirements in developing emission inventory submissions to EPA. Section 110(a)(2) of the Act provides that each emission inventory submitted by a state must be adopted after reasonable notice and public hearing.¹ Final approval of the inventory will not occur until the state revises the inventory to address public comments. EPA created a "de minimis" exception to the public hearing requirement for minor changes. EPA defines "de minimis" for such purposes to be those in which the 15 percent reduction calculation and the associated control strategy or the maintenance plan showing, do not change. States will aggregate all such "de minimis" changes together when making the determination as to whether the change constitutes a SIP revision. The states will need to make the change through a formal SIP revision process, in conjunction with the change to the control measure or other SIP programs. Section 110(a)(2) of the Act similarly provides that each revision to an implementation plan submitted by a state under the Act must be adopted by such state after reasonable notice and public hearing.

C. State Submittal

The State of New Jersey held a public hearing on October 14 and 19, 1993 to receive public comment on the 1990 base year emission inventory for the Atlantic City, New York/Northern New Jersey/Long Island, Philadelphia/Wilmington/Trenton, and Allentown/Bethlehem/Easton nonattainment areas of New Jersey. The inventory was adopted by the State and signed and submitted by the Commissioner on November 15, 1993 as a proposed

revision to the SIP. On November 21, 1994, New Jersey submitted a technical amendment to its carbon monoxide SIP, which included revisions to the 1990 base year ozone emission inventory. In a letter dated April 16, 1994, EPA found the emission inventory to be complete.

Based on EPA's level III review findings, New Jersey has satisfied all of EPA's requirements for purposes of providing a comprehensive, accurate, and current inventory of actual emissions in the ozone nonattainment areas. A summary of EPA's level III findings is given below:

- New Jersey submitted an Inventory Preparation Plan for the Development of Ozone/CO SIP Inventory of Base Year 1990 Emissions, dated August 1991 and revised April 1992. This Plan contained a Quality Assurance Plan which was implemented and documented.
 - The inventory is well documented. New Jersey provided documentation detailing the methods used to develop emissions estimates for each category. In addition, New Jersey identified the sources of data used in developing the inventory.
 - The point and area source inventories are complete and were prepared/calculated in accordance with EPA guidance.
 - New Jersey biogenic emissions were prepared/calculated using the July, 1991 version of PC-BEIS according to current EPA guidance.
 - The method used to develop VMT estimates was in accordance with EPA guidance and was adequately described and documented in the inventory report.
 - The most current version of the mobile model was used correctly for each of the eight vehicle classes.
 - Emission estimates for the non-road mobile source categories were correctly prepared according to EPA guidance.

Based on EPA guidance, the inventory is complete and approvable. A more detailed discussion of how the emission inventory was reviewed and the results are presented in the supporting TSD.

A summary of the emission inventories broken down by point, area, biogenic, on-road, and non-road mobile sources are presented in the following tables:

¹ Also Section 172(c)(7) of the Act requires that plan provisions for nonattainment areas meet the applicable provisions of Section 110(a)(2).

NEW YORK/NORTHERN NEW JERSEY/LONG ISLAND OZONE NONATTAINMENT AREA (NEW JERSEY PORTION) EMISSIONS
[Tons/day]

Pollutant	Area source emissions	Point source emissions	On-road mobile source emissions	Non-road mobile source emissions	Biogenics	Total emissions
VOC	294	238	341	136	210	1,219
NO _x	53	451	397	140	N/A	1,041
CO	41	73	2162	974	N/A	3,250

ATLANTIC CITY MSA OZONE NONATTAINMENT AREA (NEW JERSEY PORTION) EMISSIONS
[Tons/day]

Pollutant	Area source emissions	Point source emissions	On-road mobile source emissions	Non-road mobile source emissions	Biogenics emissions	Total emissions
VOC	17	1	23	11	54	106
NO _x	2	62	29	13	N/A	106
CO	4	3	148	67	N/A	222

ALLENTOWN/BETHLEHEM MSA OZONE NONATTAINMENT AREA (NEW JERSEY PORTION) EMISSIONS
[Tons/day]

Pollutant	Area source emissions	Point source emissions	On-road mobile source emissions	Non-road mobile source emissions	Biogenics emissions	Total emissions
VOC	6	3	7	4	24	44
NO _x	1	11	10	2	N/A	24
CO	1	1	45	18	N/A	65

PHILADELPHIA/WILMINGTON/TRENTON CMSA OZONE NONATTAINMENT AREA (NEW JERSEY PORTION) EMISSIONS
[Tons/day]

Pollutant	Area source emissions	Point source emissions	On-road mobile source emissions	Non-road mobile source emissions	Biogenics emissions	Total emissions
VOC	100	112	108	46	203	569
NO _x	12	308	132	40	N/A	492
CO	15	55	701	314	N/A	1,085

Conclusion

EPA is fully approving the SIP ozone precursor emission inventory submitted to EPA by the State of New Jersey on November 15, 1993 and amended on November 21, 1994. The State has submitted a complete inventory containing point, area, biogenic, on-road, and non-road mobile source data, and adequate documentation.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each

request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. Thus, this direct final action will

be effective December 1, 1995, unless, by November 1, 1995, adverse or critical comments are received.

If the EPA receives such comments, this rule will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this

rule should do so at this time. If no adverse comments are received, the public is advised that this rule will be effective in 60 days. (See 47 FR 27073 and 59 FR 24059).

Under the Regulatory Flexibility Act, 5 U.S.C. § 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and Subchapter I, Part D of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v US EPA*, 427 US 246, 256-66 (S.Ct. 1976); 42 U.S.C. § 7410(a)(2).

Under sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a federal mandate that may result in estimated annual costs of \$100 million or more to the private sector, or to state, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the state and any affected local or tribal governments have elected to adopt the program provided for under sections 110 and 182 of the Clean Air Act. These rules may bind state, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. To the extent that the rules being approved by this action would impose any mandate upon the state, local or tribal governments either as the owner or operator of a source or as a regulator, or would impose any mandate upon the private sector, EPA's action will impose no new requirements; such sources are already subject to these regulations under state law. Accordingly, no additional costs to

state, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated annual costs of \$100 million or more to state, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Act, petitions for judicial review of this rule must be filed in the United States Court of Appeals for the appropriate circuit within 60 days from date of publication. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This rule may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: September 18, 1995.
William J. Muszynski,
Deputy Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart FF—New Jersey

2. Section 52.1582 is amended by adding paragraph (d) to read as follows:

§ 52.1582 Control strategy and regulations: Ozone (volatile organic substances) and carbon monoxide.

* * * * *

(d) The base year ozone precursor emission inventory requirement of section 182(a)(1) of the 1990 Clean Air Act Amendments has been satisfied for the Atlantic City, New York/ Northern

New Jersey/Long Island, Philadelphia/Wilmington/ Trenton, and Allentown/Bethlehem/Easton areas of New Jersey. The inventory was submitted on November 15, 1993 and amended on November 21, 1994 by the New Jersey Department of Environmental Protection as a revision to the ozone State Implementation Plan (SIP).

[FR Doc. 95-24461 Filed 9-29-95; 8:45 am]

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40 CFR Parts 52 and 81

[LA-15-1-6073a; FRL-5307-4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Louisiana; Approval of the Maintenance Plan for the New Orleans Consolidated Metropolitan Statistical Area (CMSA); Redesignation of the New Orleans CMSA To Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On October 15, 1994, the State of Louisiana submitted a revised maintenance plan and request to redesignate the New Orleans CMSA ozone nonattainment area to attainment. The New Orleans CMSA is comprised of six parishes: Jefferson, Orleans, St. Charles, St. Bernard, St. John the Baptist, and St. Tammany. Maintenance and contingency plans are not included in the action for the parishes of St. John the Baptist and St. Tammany. St. John the Baptist Parish was previously redesignated to attainment, and St. Tammany Parish has never been designated as nonattainment.

This maintenance plan and redesignation request was initially submitted to the EPA on April 23, 1993. Although the EPA deemed this initial submittal complete on September 10, 1993, certain approvability issues existed. The State of Louisiana addressed these approvability issues and has revised its submissions. Under the Clean Air Act (CAA), nonattainment areas may be redesignated to attainment if sufficient data are available to warrant the redesignation and the area meets the other CAA redesignation requirements. In this action, EPA is approving Louisiana's redesignation request because it meets the maintenance plan and redesignation requirements set forth in the CAA, and EPA is approving the 1990 base year emissions inventory. The approved maintenance plan will become a federally enforceable part of