

Dated: June 24, 2023.

Z. Merchant,

Captain, U.S. Coast Guard, Captain of the Port New York.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 12

[EPA-R02-OAR-2022-0459; FRL-10785-02-R2]

Approval of Air Quality Implementation Plans; New Jersey; New Jersey 2017 Periodic Emission Inventory SIP for the Ozone Nonattainment Area and PM_{2.5}/Regional Haze Areas, New Jersey Nonattainment Emission Inventory for 2008 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the New Jersey Department of Environmental Protection (NJDEP). The SIP revision consists of the following: 2017 calendar year ozone precursor emission inventory for volatile organic compounds (VOCs), oxides of nitrogen (NO_x), and carbon monoxide (CO) for the Northern New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT ozone nonattainment area (Northern New Jersey) and the Southern New Jersey portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE ozone nonattainment area (Southern New Jersey). The SIP revision also consists of the 2017 calendar year statewide periodic emissions inventory for New Jersey. The pollutants included in this inventory include VOC, NO_x, CO, particulate matter with an aerodynamic diameter less than or equal to 2.5 microns (PM_{2.5}), particulate matter with an aerodynamic diameter less than or equal to 10 microns (PM₁₀), ammonia (NH₃) and sulfur dioxide (SO₂). Additionally, EPA is approving a minor update to the 2011 nonattainment base year emission inventory. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This final rule is effective on September 15, 2023.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R02-OAR-2022-0459. All documents in the docket are listed on the <https://www.regulations.gov>

website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ysabel Banon, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3382, or by email at banon.ysabel@epa.gov.

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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- I. Background and Purpose
- II. Response to Comments
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I. Background and Purpose

On May 19, 2023 (88 FR 32167), the EPA published a Notice of Proposed Rulemaking (NPRM) that proposed to approve a State Implementation Plan (SIP) revision submitted by NJDEP on November 23, 2021. The NPRM proposed approval of three elements of the SIP submittal: the 2017 calendar year ozone season daily and annual ozone precursor emission inventory for CO, NO_x and VOCs for the Northern New Jersey and Southern New Jersey ozone nonattainment areas, the statewide 2017 emission inventory, and a revision to the 2011 base year emission inventory. In addition, the SIP revision submittal consisted of the 2017 calendar year PM_{2.5}/Regional Haze emissions inventory that was developed statewide for New Jersey. The pollutants included in the inventory are annual emissions for VOC, NO_x, PM_{2.5}, PM₁₀, NH₃ and SO₂.

These submittals were made, in part to meet requirements for serious areas for the 2008 ozone National Ambient Air Quality Standard (NAAQS). Other specific requirements of New Jersey's SIP revisions for the 2008 ozone NAAQS and the rationale for the EPA's proposed action are explained in the NPRM and will not be restated here.

II. Response to Comments

EPA provided a 30-day review and comment period for the May 19, 2023,

proposed rule. The comment period ended on Jun 20, 2023. In response to EPA's May 19, 2023, proposed rulemaking on New Jersey's SIP revision, EPA received one comment during the 30-day public comment period. The specific comment may be reviewed under Docket ID Number EPA-R02-OAR-2022-0459 on the <https://regulations.gov> website.

Comment

NJDEP submitted a comment on June 19, 2023. NJDEP noted that they submitted, on November 18, 2021, a SIP revision for the 2008 8-hour Ozone Attainment, Demonstration, and 2015 8-hr ozone Reasonable Available Control Technology (RACT) Determinations and Nonattainment New Source Review (NNSR) Program Compliance Certification and 2017 Periodic Emission Inventory. The EPA proposed to approve the New Jersey's 2017 Emission inventory for the 2008 NAAQS, PM_{2.5}, and Regional Haze, but did not propose to approve it for the 2015 Ozone NAAQS for either of New Jersey's ozone nonattainment areas.

Response

The EPA acknowledges the commenter's concern about New Jersey's 2017 periodic emission inventory statewide, for both New Jersey nonattainment areas for the 2008 and 2015 ozone standards. The EPA is approving the 2017 emission inventory that could be used for any relevant SIP planning requirements, including for the 2015 ozone NAAQS. The EPA inadvertently did not indicate in the NPRM that the 2017 periodic emission inventory was submitted by New Jersey to address 2015 ozone planning requirements. The EPA acknowledges that the NJDEP November 18, 2021, SIP revision submittal included the 2017 Emission Inventory for the 2015 Ozone NAAQS. The other elements of that submittal, New Jersey's statewide RACT certification and NNSR certification for the 2015 Ozone NAAQS, will be addressed under a separate future rulemaking and is not addressed within this action.

III. Final Action

The EPA is approving revisions to the New Jersey SIP which pertains to the following: 2017 calendar year ozone season daily and annual ozone precursor emission inventories for CO, NO_x, and VOC for the Northern New Jersey and Southern New Jersey ozone nonattainment areas, which is relevant to both the 2008 and 2015 ozone standards. In addition, the SIP revision submittal that EPA is approving also

consists of the 2017 calendar year PM_{2.5}/Regional Haze emissions inventory that was developed statewide for New Jersey. The pollutants included in the inventory are annual emissions for VOC, NO_x, PM_{2.5}, PM₁₀, NH₃ and SO₂. EPA is also approving a revision to the New Jersey 2011 base year emission inventory.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 14094 (88 FR 21879, April 11, 2023);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement

Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA.

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

Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The NJDEP did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for

people of color, low-income populations, and Indigenous peoples.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 16, 2023. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

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

Lisa Garcia,

Regional Administrator, Region 2.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart FF—New Jersey

- 2. Section 52.1570 is amended by adding entries to the end of the table in paragraph (e) to read as follows:

§ 52.1570 Identification of plan.

*	*	*	*	*
(e)	*	*	*	*

EPA-APPROVED NEW JERSEY NONREGULATORY AND QUASI-REGULATORY PROVISIONS

SIP element	Applicable geographic or nonattainment area	New Jersey submittal date	EPA approval date	Explanation
2011 VOC, NO _x and CO ozone summer season and annual emission inventory.	Northern New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad and on-road.
2011 base year emissions inventory.	State-wide	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.
2017 VOC, NO _x and CO ozone summer season daily and annual emission inventory.	Northern New Jersey portion of the New York-Northern New Jersey-Long Island NY-NJ-CT 8-hour ozone nonattainment area.	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.
2017 VOC, NO _x and CO ozone summer season daily and annual emission inventory.	Southern New Jersey portion of the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE 8-hour ozone nonattainment area.	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.
2017 base year emissions inventory.	State-wide	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.
2017 PM _{2.5} /Regional Haze associated precursor annual emission inventory.	State-wide	November 23, 2021	August 16, 2023, [insert Federal Register citation].	• Full approval. • The inventory contains point, nonpoint, nonroad, on-road and biogenic source data.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180****[EPA-HQ-OPP-2022-0234 and EPA-HQ-OPP-2022-0258; FRL-10679-01-OCSPP]****Fluxapyroxad; Pesticide Tolerances****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes tolerances for residues of fluxapyroxad in or on avocado; stevia, dried leaves; and stevia, fresh leaves and revises the tolerance for residues of fluxapyroxad in or on coffee, green bean. Interregional Project Number 4 (IR-4) and BASF Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective August 16, 2023. Objections and requests for hearings must be received on or before October 16, 2023, and must be filed in accordance with the

instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The dockets for this action, identified by docket identification (ID) numbers EPA-HQ-OPP-2022-0234 and EPA-HQ-OPP-2022-0258, are available at <https://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room and the OPP Docket is (202) 566-1744. For the latest status information on EPA/DC services, docket access, visit <https://www.epa.gov/>.

FOR FURTHER INFORMATION CONTACT: Charles Smith, Director, Registration Division (7505T), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (202) 566-1030; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Office of the Federal Register's e-CFR site at <https://www.ecfr.gov/current/title-40>.