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[FR Doc. 2016-24779 Filed 10-13-16; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2015-0362; FRL-9954-09-Region 4]

**Air Plan Approval; NC Infrastructure Requirements for the 2010 1-hour NO<sub>2</sub> NAAQS**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve the State Implementation Plan (SIP) submission, submitted by the State of North Carolina, through the North Carolina Department of Environmental Quality, Division of Air Quality (NCDAQ) on August 23, 2013, to demonstrate that the State meets certain infrastructure requirements of the Clean Air Act (CAA or Act) for the 2010 1-hour nitrogen dioxide (NO<sub>2</sub>) national ambient air quality standards (NAAQS). The CAA requires that each state adopt and submit a SIP for the implementation, maintenance and enforcement of each NAAQS promulgated by EPA, which is commonly referred to as an "infrastructure" SIP. NCDAQ certified that the North Carolina SIP contains provisions that ensure the 2010 1-hour NO<sub>2</sub> NAAQS is implemented, enforced, and maintained in North Carolina. EPA has determined that North Carolina's infrastructure SIP submission, provided to EPA on August 23, 2013, satisfies certain required infrastructure elements for the 2010 1-hour NO<sub>2</sub> NAAQS.

**DATES:** This rule is effective November 14, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2015-0362. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section,

Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Richard Wong can also be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background and Overview**

On January 22, 2010 (published at 75 FR 6474, February 9, 2010), EPA promulgated a new 1-hour primary NAAQS for NO<sub>2</sub> at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. Pursuant to section 110(a)(1) of the CAA, states are required to submit SIPs meeting the requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements and legal authority that are designed to assure attainment and maintenance of the NAAQS. States were required to submit such SIPs for the 2010 NO<sub>2</sub> NAAQS to EPA no later than January 22, 2013.

In a proposed rulemaking published on July 20, 2016 (81 FR 47115), EPA proposed to approve North Carolina's 2010 1-hour NO<sub>2</sub> NAAQS infrastructure SIP submission submitted on August 23, 2013, with the exception of the elements related to state boards of section 110(a)(2)(E)(ii), the PSD permitting requirements for major sources of sections 110(a)(2)(C), and (J), and the interstate requirements of 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4). On November 13, 2015, EPA approved North Carolina's August 23, 2013, infrastructure SIP submission regarding the state boards requirements of sections 110(a)(2)(E)(ii). See 80 FR 67645. On May 10, 2016 (81 FR 28797),

EPA proposed to approve in part and disapprove in part, North Carolina's December 4, 2015, infrastructure SIP submission regarding the PSD permitting requirements for major sources of sections 110(a)(2)(C), prong 3 of D(i) and (J) for the 2012 Annual PM<sub>2.5</sub> NAAQS. Today EPA is not taking final action pertaining to sections 110(a)(2)(C), prong 3 of D(i) and (J) for North Carolina for the 2010 1-hour NO<sub>2</sub> NAAQS but instead will consider final action of these elements in a separate rulemaking. Additionally, on June 3, 2016, EPA finalized a rule related to the prong 4 element of North Carolina's August 23, 2013, SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS. See 81 FR 35634. With respect to the interstate transport requirements of section 110(a)(2)(D)(i)(I) (prongs 1 and 2), North Carolina provided a separate submission and EPA is considering action related to these provisions through a separate rulemaking. The details of North Carolina's submission and the rationale for EPA's actions for this final rulemaking are explained in the July 20, 2016, proposed rulemaking. Comments on the proposed rulemaking were due on or before August 19, 2016. EPA received no adverse comments on the proposed action.

**II. Final Action**

With the exception of the elements related to state boards of section 110(a)(2)(E)(ii), the PSD permitting requirements for major sources of sections 110(a)(2)(C), and (J), and the interstate requirements of 110(a)(2)(D)(i)(I) and (II) (prongs 1 through 4), EPA is taking final action to approve North Carolina's infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS submitted on August 23, 2013. EPA is taking final action to approve North Carolina's infrastructure SIP submission for the 2010 1-hour NO<sub>2</sub> NAAQS because the submission is consistent with section 110 of the CAA.

**III. 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. See 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 13563 (76 FR 3821, January 21, 2011);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- 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; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where 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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. 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 December 13, 2016. 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.

Dated: October 3, 2016.

**Heather McTeer Toney**  
Regional Administrator, Region 4.

40 CFR part 52 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 II—North Carolina**

- 2. Section 52.1770(e), is amended by adding an entry for “110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO<sub>2</sub> NAAQS” at the end of the table to read as follows:

**§ 52.1770 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS**

Provision	State effective date	EPA approval date	Federal Register citation	Explanation
* 110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour NO <sub>2</sub> NAAQS.	* August 23, 2013 .....	* 10/14/16	* [Insert citation of publication].	* With the exception of sections: 110(a)(2)(E)(ii) concerning state boards; 110(a)(2)(C) and (J) concerning PSD permitting requirements; and 110(a)(2)(D)(i)(I) (prongs 1 through 4) concerning interstate transport requirements.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2016-0429; FRL-9952-59]

### Isometamid; Pesticide Tolerances for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes time-limited tolerances for residues of the fungicide isofetamid, *N*-[1,1-dimethyl-2-[2-methyl-4-(1-methylethoxy)phenyl]-2-oxoethyl]-3-methyl-2-thiophenecarboxamide, in or on caneberry subgroup 13-07A and bushberry subgroup 13-07B. This action is in response to EPA's granting of an emergency exemption, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on caneberry subgroup 13-07A and bushberry subgroup 13-07B. This regulation establishes maximum permissible levels for residues of isofetamid in or on these commodities. The time-limited tolerances expire on December 31, 2019.

**DATES:** This regulation is effective October 14, 2016. Objections and requests for hearings must be received on or before December 13, 2016, 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 docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2016-0429, is available at <http://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 is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

#### FOR FURTHER INFORMATION CONTACT:

Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDfRNNotices@epa.gov](mailto:RDfRNNotices@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 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tp=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tp=/ecfrbrowse/Title40/40tab_02.tpl).

#### C. How can I file an objection or hearing request?

Under section 408(g) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2016-0429 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before December 13, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2016-0429, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

### II. Background and Statutory Findings

EPA, on its own initiative, in accordance with FFDCA sections 408(e) and 408(l)(6) of, 21 U.S.C. 346a(e) and 346a(1)(6), is establishing time-limited tolerances for the fungicide, isofetamid, *N*-[1,1-dimethyl-2-[2-methyl-4-(1-methylethoxy)phenyl]-2-oxoethyl]-3-methyl-2-thiophenecarboxamide, in or on caneberry subgroup 13-07A at 4.0 parts per million (ppm) and bushberry subgroup 13-07B at 5.0 ppm. These time-limited tolerances expire on December 31, 2019.

Section 408(l)(6) of FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on FIFRA section 18 related time-limited tolerances to set binding precedents for the application of FFDCA section 408 and the safety standard to other tolerances and exemptions. Section 408(e) of FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, *i.e.*, without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is "safe." Section 408(b)(2)(A)(ii) of FFDCA