

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R02–OAR–2023–0468; FRL–12057–01–R2]

**Air Plan Approval; New Jersey; Interstate Transport Requirements for the 2010 1-Hour Sulfur Dioxide Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve the portions of a State Implementation Plan (SIP) submittal from the State of New Jersey demonstrating that the State satisfies the infrastructure requirements of the Clean Air Act (CAA) addressing interstate transport of pollution with respect to the 2010 1-hour Sulfur Dioxide (SO<sub>2</sub>) primary National Ambient Air Quality Standard (NAAQS). This action is being taken in accordance with the requirements of the CAA.

**DATES:** Written comments must be received on or before July 31, 2024.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA–R02–OAR–2023–0468 at <https://www.regulations.gov>. 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 electronically through <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy,

information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Robert Rutherford, Environmental Protection Agency, Air Programs Branch, Region 2, 290 Broadway, New York, New York 10007–1866, at (212) 637–3712, or by email at [rutherford.robert@epa.gov](mailto:rutherford.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Summary of the SIP Revision and the EPA's Analysis
- III. Environmental Justice Considerations
- IV. The EPA's Proposed Action
- V. Statutory and Executive Order Reviews

**I. Background**

On June 2, 2010, the EPA signed a revised primary NAAQS for SO<sub>2</sub> at a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations (hereafter “the 2010 1-hour SO<sub>2</sub> NAAQS”).<sup>1</sup> At the same time, the EPA also revoked the previous 24-hour and annual primary SO<sub>2</sub> standards. The previous SO<sub>2</sub> air quality standards were set in 1971, including a 24-hour average primary standard at 140 ppb and an annual average primary standard at 30 ppb.

Current scientific evidence links short-term exposures to SO<sub>2</sub>, ranging from five minutes to 24 hours, with an array of adverse respiratory effects including bronchoconstriction and increased asthma symptoms. These effects are particularly important for asthmatics at elevated ventilation rates (e.g., while exercising or playing). Studies also show a connection between short-term exposure and increased visits to emergency departments and hospital admissions for respiratory illnesses, particularly in at-risk populations including children, the elderly, and asthmatics.

Pursuant to section 110(a)(1) of the CAA, States are required to submit SIPs to meet the applicable 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. The EPA has historically referred to these SIPs as “infrastructure SIPs.” Section 110(a)(2) requires States to address basic SIP elements in their infrastructure SIPs to assure attainment and maintenance of the NAAQS—such as requirements for monitoring, basic program requirements, and legal authority.

<sup>1</sup> See 75 FR 35520 (June 22, 2010). See 40 CFR 50.11.

Section 110(a) imposes the obligation upon States to make a SIP submission to the EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances of each NAAQS and what is in each State's existing SIP. In particular, the data and analytical tools available at the time the State develops and submits the SIP revision for a new or revised NAAQS affect the content of the submission.

Section 110(a)(2)(D)(i)(I) of the CAA requires a State's SIP to include adequate provisions prohibiting any emissions activity in the State that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in any other State. The EPA sometimes refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or jointly as the “good neighbor” provision of the CAA.

**II. Summary of the SIP Revision and the EPA's Analysis**

On October 17, 2014, the New Jersey Department of Environmental Protection (NJDEP) submitted a revision to its SIP to address requirements under section 110(a)(2) of the CAA (the infrastructure requirements) related to the 2008 Lead, 2008 Ozone, 2010 NO<sub>2</sub>, 2010 SO<sub>2</sub>, 2006 PM<sub>10</sub>, 2011 CO, and 2012 PM<sub>2.5</sub> NAAQS.

The EPA finalized actions on all applicable section 110(a)(2) elements of the October 17, 2014 submittal with the exception of 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> NAAQS.<sup>2</sup> Further information regarding those actions can be found in the Technical Support Document (TSD) for this action, which is included in the docket for this rulemaking.

This proposed rulemaking action is addressing the portions of New Jersey's infrastructure submittal for the 2010 1-hour SO<sub>2</sub> NAAQS that pertain to the “good neighbor” provision of the CAA.

In their SIP submission to the EPA, NJDEP discussed how they have addressed the interstate transport requirements of CAA 110(a)(2)(D)(i)(I) through their state-adopted rules and enforceable consent decrees, which control sources that impact air quality in neighboring States. NJDEP emphasized that their rules do not hinder other States' air quality standards, and their emissions regulations are stricter than Federal and nearby State rules. New Jersey

<sup>2</sup> See 81 FR 64070 (September 19, 2016), 83 FR 24661 (May 30, 2018), 83 FR 40151 (August 14, 2018), and 85 FR 28883 (May 14, 2020).

highlighted its existing SIP-approved regulations and other federally enforceable control measures, including power plant consent decrees and low sulfur fuel requirements for distillate and residual fuels (N.J.A.C. 7:27–9) that have reduced SO<sub>2</sub> emissions that may be transported to other States.

For the reasons explained in the accompanying TSD in the docket, EPA proposes to determine that New Jersey's SIP is adequate to prevent sources in New Jersey from significantly contributing to nonattainment or interfering with maintenance in another State with respect to the 2010 1-hour SO<sub>2</sub> NAAQS. This determination is based on a weight of evidence analysis that takes into account the following considerations: SO<sub>2</sub> emissions statewide have declined significantly from 2014 to 2022; the absence of nearby SO<sub>2</sub> nonattainment areas in neighboring States or uncharacterized air quality near New Jersey point sources; SO<sub>2</sub> ambient air quality data far below the SO<sub>2</sub> NAAQS and exhibiting downward trends or remaining stable; EPA's impact assessment that shows that New Jersey sources within 50 kilometers of New Jersey's borders are unlikely to significantly contribute to nonattainment or interfere with maintenance in any nearby States based on emission trends, wind patterns, air monitoring, and modeling data; and New Jersey's existing control measures, which ensure that SO<sub>2</sub> emissions will continue to be effectively controlled for existing and new sources or modifications.

A detailed summary of EPA's review and rationale for the proposed approval of this SIP revision as meeting CAA section 110(a)(2)(D)(i)(I) for the 2010 1-hour SO<sub>2</sub> may be found in the TSD.

### III. Environmental Justice Considerations

New Jersey provided a supplement to the SIP submission being proposed for approval with this rulemaking on May 16, 2023. The supplemental submission briefed the EPA on Environmental Justice (EJ) considerations within New Jersey by detailing the State's programs and initiatives addressing the needs of communities with EJ concerns that have been ongoing since 1998. Although New Jersey included environmental justice considerations as part of its SIP submittal, the CAA and applicable implementing regulations neither prohibit nor require such an evaluation.

In its supplement, New Jersey discussed how the State has been addressing the needs of communities with EJ concerns since 1998, including assisting in the creation of the

Environmental Equity Task Force, which later evolved into the Environmental Justice Advisory Council (EJAC). EJAC and its predecessor have held regular meetings that include EJ advocates and the New Jersey Department of Environmental Protection (NJDEP) to discuss and address issues of concern.

New Jersey has also noted that the State has implemented numerous initiatives, collaborations, Administrative Orders and Executive Orders to address the needs and concerns of overburdened communities. New Jersey provided a timeline of the EJ actions implemented by the State, both prior to the SIP submittal on October 17, 2014, and subsequent to it, to note its continued attention to environmental justice in the state.

New Jersey's Administrative Orders (AO) and Executive Orders (E.O.) include the State's first EJ E.O. issued by Governor James E. McGreevey in 2004 (E.O. No. 96), an EJ E.O. issued by Governor Jon Corzine in 2009 (E.O. No. 131), an EJ AO issued by NJDEP Commissioner Bob Martin in 2016 (AO 2016–08) and an EJ E.O. issued by Governor Phil Murphy in 2018 (E.O. No. 23). Notably, U.S. Senator for New Jersey, Cory Booker, introduced the first Federal EJ bill in 2017 (S.1996—Environmental Justice Act of 2017).

Additionally, New Jersey also created the “What's In My Community?”<sup>3</sup> tool, a GIS-mapping web application that allows a user to see the air permits issued in their community. The tool also identifies overburdened communities, schools, hospitals, and emergency services. The public users can also see measurements from air monitors and generate a report when using the tool.

The EPA has reviewed this material but has determined that conducting a comprehensive EJ analysis is not necessary in the context of this SIP submission for interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS, as the CAA and its applicable implementing regulations neither prohibit nor require such an evaluation of EJ in relation to the relevant requirements. Additionally, there is no evidence suggesting that this action contradicts the goals of E.O. 12898 or that it will disproportionately harm any specific group or have severe health or environmental impacts.

However, the EPA expects that this action, which assesses whether New Jersey's SIP adequately addresses the

interstate transport of air pollution that affects downwind States' ability to attain and maintain the 2010 1-hour SO<sub>2</sub> NAAQS, will generally have a neutral impact on all populations, including communities of color and low-income groups. At the very least, it will not worsen existing air quality standards.

In summary, the EPA concludes, for informational purposes only, that this proposed rule will not disproportionately harm communities with environmental justice concerns. New Jersey did evaluate EJ considerations voluntarily in its SIP submission, but the EPA's assessment of these considerations is provided for context, not as the basis for the action. The EPA is taking action under the CAA independently of the State's EJ assessment.

### IV. The EPA's Proposed Action

The EPA is proposing to approve the portions of New Jersey's SIP submittal addressing interstate transport for the 2010 1-hour SO<sub>2</sub> NAAQS as meeting the requirements in section 110(a)(2)(D)(i)(I) of the CAA. The EPA is soliciting public comment on the issues discussed in this document. These comments will be considered before taking final action.

### V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the 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 proposed 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);

<sup>3</sup> Access the mapping application for locating facilities with an air permit registered with NJDEP's Division of Air Quality from their website at <https://njdep.maps.arcgis.com/app4s/webappviewer/index.html?id=76194937cbbe46b1ab9a9ec37c7d709b>.

- 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 Clean Air Act.

In addition, the SIP is not proposing 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 rulemaking 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 evaluated environmental justice as part of its SIP submittal even though the CAA and applicable implementing regulations neither prohibit nor require an evaluation. The EPA’s evaluation of the NJDEP’s environmental justice considerations is described above in the section titled, “Environmental Justice Considerations.” The analysis was done for the purpose of providing additional context and information about this rulemaking to the public, not as a basis of the action. The EPA is taking action

under the CAA on bases independent of New Jersey’s evaluation of environmental justice. In addition, there is no information in the record upon which this decision is based that is inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

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

**Lisa Garcia,**

*Regional Administrator, Region 2.*

[FR Doc. 2024–14268 Filed 6–28–24; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA–HQ–OPP–2024–0059; FRL–11682–05–OCSPJ]

### Receipt of a Pesticide Petition Filed for Residues of Pesticide Chemicals in or on Various Commodities (May 2024)

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

**ACTION:** Notice of filing of petition and request for comment.

**SUMMARY:** This document announces the Agency’s receipt of an initial filing of a pesticide petition requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

**DATES:** Comments must be received on or before July 31, 2024.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2024–0059, through the *Federal eRulemaking Portal* at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Dan Rosenblatt, Registration Division (RD) (7505T), main telephone number: (202) 566–2875, email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@epa.gov). The mailing address for each contact person is Office

of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001. As part of the mailing address, include the contact person’s name, division, and mail code. The division to contact is listed at the end of each application summary.

#### 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. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through [regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <https://www.epa.gov/dockets/comments.html>.

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on