

qualifications for Federal civilian employment, Federal contracts, or access to classified information. Unless sources can be assured that a promise of confidentiality will be honored, they will be less likely to provide information considered essential to the Department in making the required determinations.

(ii) From (e)(1) because in the collection of information for investigatory purposes, it is not always possible to determine the relevance and necessity of particular information in the early stages of the investigation. In some cases, it is only after the information is evaluated in light of other information that its relevance and necessity becomes clear. Such information permits more informed decision-making by the Department when making required suitability, eligibility, and qualification determinations.

\* \* \* \* \*

Dated: July 16, 2003.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 03-18649 Filed 7-22-03; 8:45 am]

BILLING CODE 5001-08-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NJ62-262, FRL-7535-4]

#### Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Emissions Inventories for 1996, 2005, and 2007 and Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the New Jersey State Implementation Plan (SIP) for the attainment and maintenance of the 1-hour national ambient air quality standard (NAAQS) for ozone. Specifically, EPA is approving New Jersey's: revised 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions budgets recalculated using MOBILE6; modified date for submittal of the State's mid-course review; and updated general conformity emissions budgets for McGuire Air Force Base. The intended effect of this action is to approve a SIP revision that will help the State continue to plan for

attainment of the 1-hour NAAQS for ozone in the New York-Northern New Jersey-Long Island nonattainment area (NAA) and the Philadelphia-Wilmington-Trenton NAA.

**EFFECTIVE DATE:** This rule will be effective August 22, 2003.

**ADDRESSES:** Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

New Jersey Department of Environmental Protection, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

#### FOR FURTHER INFORMATION CONTACT:

Michael Moltzen, Air Programs Branch, 290 Broadway, 25th Floor, New York, NY 10007-1866, (212) 637-4249.

#### SUPPLEMENTARY INFORMATION:

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##### I. Background

On May 5, 2003 (68 FR 23662), EPA published a notice of proposed rulemaking regarding a SIP revision submitted by the State of New Jersey for its portions of the two severe ozone NAAs—the New York-Northern New Jersey-Long Island Area and the Philadelphia-Wilmington-Trenton Area. For purposes of this action, these areas will be referred to as the Northern New Jersey NAA and the Trenton NAA, respectively. That notice proposed to approve New Jersey's revised 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions "budgets" recalculated using MOBILE6, modified date for submittal of the State's mid-course review, and updated general conformity emissions budgets for McGuire Air Force Base.

The SIP revision was proposed under a procedure called parallel processing, whereby EPA proposes a rulemaking

action concurrently with a state's procedures for amending its regulations. The proposed SIP revision was initially submitted to EPA on January 31, 2003, and the final SIP revision was formally submitted on April 8, 2003. New Jersey also submitted additional information in a letter dated June 26, 2003 to supplement the April 8, 2003 SIP revision. A detailed description of New Jersey's submittal and EPA's rationale for the proposed action were presented in the May 5, 2003 notice of proposed rulemaking and will not be restated here. In response to EPA's proposed action on this New Jersey SIP revision, no comments were received.

## II. What Are the Details of EPA's Specific Actions?

### A. Emission Inventories Revised with MOBILE6

New Jersey's April 8, 2003 SIP revision contained revised 1996, 2005, and 2007 motor vehicle emissions inventories recalculated with the MOBILE6 motor vehicle emissions factor model. Consistent with EPA's policy regarding the use of MOBILE6 in SIP development in its "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity" and "Clarification of Policy Guidance for MOBILE6 in Mid-course Review Areas", New Jersey included in the April 8, 2003 submittal a relative reduction comparison to show that its 1-Hour Ozone Attainment Demonstration SIP continues to demonstrate attainment using revised MOBILE6 inventories for the Northern New Jersey NAA and the Trenton NAA. The State's methodology for the relative reduction comparison consisted of comparing the new MOBILE6 inventories with the previously approved on February 4, 2002 (67 FR 5152) MOBILE5 inventories for the Northern New Jersey NAA and the Trenton NAA to determine if attainment will still be predicted by the established attainment dates. Specifically, the State calculated the relative reductions (expressed as percent reductions) in ozone precursors between the 1996 base year and attainment year inventory, both MOBILE5-based. These percent reductions were then compared to the percent reductions between the revised MOBILE6-based 1996 base year and attainment year inventories.

To further support the relative reduction comparison submitted in the April 8, 2003 submittal, New Jersey performed a supplemental analysis, submitted as an addendum on June 26, 2003, which estimated the change in emission factors in going from MOBILE5

to MOBILE6 for 1990 and the attainment years of 2005 and 2007 for the Trenton NAA and Northern New Jersey NAA, respectively. This supplemental analysis shows that the percent reduction calculated with MOBILE6 is greater than the percent reduction calculated with MOBILE5, thus the required emission reductions needed to attain the 1-hour ozone NAAQS are

achieved, and the SIP continues to demonstrate attainment. New Jersey's submittal satisfies the conditions outlined in EPA's MOBILE6 Policy guidance, and demonstrates that the new levels of motor vehicle emissions calculated using MOBILE6 continue to support achievement of the projected attainment of the 1-Hour Ozone NAAQS by the attainment dates

of 2007 for the Northern New Jersey NAA and 2005 for the Trenton NAA. Table 1 below summarizes the revised Reasonable Further Progress (RFP) and attainment year motor vehicle emissions inventories statewide and by nonattainment area in tons per summer day (tpd). EPA is approving these revised motor vehicle emissions inventories as part of New Jersey's SIP.

TABLE 1.—NEW JERSEY'S REVISED MOTOR VEHICLE EMISSIONS INVENTORIES

NAA area	2005			NO <sub>x</sub> (tpd)
	VOC (tpd)	NO <sub>x</sub> (tpd)	VOC (tpd)	
Atlantic City .....	14.63	22.07	(1)	(1)
Northern New Jersey .....	156.37	237.17	134.00	186.93
Trenton .....	50.48	77.72	(1)	(1)
Allentown .....	5.59	12.89	4.77	10.25
State total .....	227.08	349.85	(1)	(1)

<sup>1</sup> Not applicable.

*B. Motor Vehicle Emissions Budgets Revised With MOBILE6*

New Jersey's April 8, 2003 SIP revision contained revised motor vehicle emissions budgets recalculated using MOBILE6. For the South Jersey Transportation Planning Organization (SJTPO) and Delaware Valley Regional

Planning Commission (DVRPC) the 2005 budgets are revised attainment year budgets. For the North Jersey Transportation Planning Authority (NJTPA) the 2005 budgets are revised budgets based on the RFP Plans, while the 2007 budgets are revised attainment year budgets. On June 2, 2003 (68 FR

32749), EPA found the revised attainment year budgets adequate for transportation conformity purposes. EPA is approving all of these budgets as part of New Jersey's SIP. Table 2 below summarizes New Jersey's revised budgets contained in the April 8, 2003 submittal.

TABLE 2.—NEW JERSEY MOTOR VEHICLE EMISSIONS BUDGETS

Transportation planning area	2005		2007	
	VOC (tpd)	NO <sub>x</sub> (tpd)	VOC (tpd)	NO <sub>x</sub> (tpd)
North Jersey Transportation Planning Authority (NJTPA) .....	161.97	250.05	138.77	197.19
South Jersey Transportation Planning Organization (SJTPO) .....	22.12	36.36	(1)	(1)
Delaware Valley Regional Planning Commission (DVRPC) .....	42.99	63.44	(1)	(1)

(<sup>1</sup>) Not applicable, since the attainment year is 2005.

*C. Revised General Conformity Budgets*

New Jersey's April 8, 2003 SIP revision contained updated general conformity budgets for the McGuire Air Force Base, which replace the previous

budgets approved by EPA on February 4, 2002 (67 FR 5152). Specifically, New Jersey is increasing the 2005 NO<sub>x</sub> budget and decreasing the 2005 VOC budget consistent with EPA's policy on substitution of ozone precursor

emission reductions. Table 3 below summarizes the revised general conformity budgets. EPA is approving the revised 2005 general conformity emissions budgets.

TABLE 3.—MCGUIRE AIR FORCE BASE GENERAL CONFORMITY EMISSIONS BUDGETS

	Previously approved budgets		New budgets	
	VOC Tons/year	NO <sub>x</sub> Tons/year	VOC Tons/year	NO <sub>x</sub> Tons/year
1990 Baseline .....	1,112	1,038	1,112	1,038
1996 .....	1,186	1,107	1,186	1,107
1999 .....	1,223	1,142	1,223	1,142
2002 .....	1,405	875	1,405	875
*2005 .....	1,406	884	1,198	1,084

\*2005 budgets updated such that the increase in NO<sub>x</sub> is offset by a decrease in VOC, resulting in no expected net increase in ozone formation.

### *D. Modified Date for Submittal of the Mid-Course Review*

New Jersey's April 8, 2003 SIP revision contained a modified date for submittal of the State's mid-course review. As approved into New Jersey's SIP on February 4, 2002 (67 FR 5152), the State originally committed to submit its mid-course review analysis to EPA by December 31, 2003. However, EPA allowed states to revise their mid-course commitments to provide for the review no later than December 31, 2004 in order to include the benefit of the Regional NO<sub>x</sub> Program in its mid-course review and to be consistent with surrounding states. Therefore, New Jersey revised its commitment to perform a mid-course review to December 31, 2004. EPA is approving this revised commitment.

### III. Conclusions

EPA is taking final action to approve New Jersey's April 8, 2003 SIP revision. This submittal revises New Jersey's 1996, 2005, and 2007 motor vehicle emission inventories and 2005 and 2007 motor vehicle emissions budgets using MOBILE6, modifies the planned date to complete the State's mid-course review to December 31, 2004, and updates the general conformity emissions budgets for McGuire Air Force Base. In accordance with the parallel processing procedures, EPA has evaluated New Jersey's final SIP revision submitted on April 8, 2003 and supplemental information submitted on June 26, 2003, and finds that no substantial changes were made from the proposed SIP revision submitted on January 31, 2003. New Jersey has demonstrated that its revised 1-Hour Attainment Demonstration SIP for the Northern New Jersey NAA and the Trenton NAA continues to demonstrate attainment with the revised MOBILE6 inventories.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic

impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 10, 2003.

**Jane M. Kenny,**

*Regional Administrator, Region 2.*

■ 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 *et seq.*

### Subpart FF—New Jersey

■ 2. Section 52.1582 is amended by removing and reserving paragraphs (d)(4) and (h)(5), removing paragraphs (h)(7)(iii) and (h)(7)(iv) and adding paragraph (i) to read as follows:

#### § 52.1582 Control strategy and regulations: Ozone.

\* \* \* \* \*

(i)(1) The revised 1996, 2005 and 2007 motor vehicle emission inventories calculated using MOBILE6 included in New Jersey's April 8, 2003 State Implementation Plan revision is approved.

(2) The 2005 conformity emission budgets for the New Jersey portion of the Philadelphia/Wilmington/Trenton nonattainment area and the 2005 and 2007 conformity emission budgets for the New Jersey portion of the New York/Northern New Jersey/Long Island nonattainment area included in New Jersey's April 8, 2003 State Implementation Plan revision are approved.

(3) The conformity emission budgets for the McGuire Air Force Base included in New Jersey's April 8, 2003 State

Implementation Plan revision have been approved.

(4) The revised commitment to perform a mid-course review and submit the results by December 31, 2004 included in the April 8, 2003 SIP revision is approved.

[FR Doc. 03-18853 Filed 7-22-03; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2003-0242; FRL-7317-5]

#### Thiophanate Methyl; Pesticide Tolerance for Emergency Exemptions

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes a time-limited tolerance for residues of thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate (MBC) in or on fruiting vegetables. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on fruiting vegetables. This regulation establishes a maximum permissible level for residues of thiophanate methyl in this food commodity. The tolerance will expire and is revoked on December 31, 2005.

**DATES:** This regulation is effective July 23, 2003. Objections and requests for hearings, identified by docket ID number OPP-2003-0242, must be received on or before September 22, 2003.

**ADDRESSES:** Written objections and hearing requests may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit VII. of the **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Andrea Conrath, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9356; e-mail address: [conrath.andrea@epa.gov](mailto:conrath.andrea@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 potentially affected entities may include, but are not limited to:

- Crop producers (NAICS 111)
- Animal producers (NAICS 112)
- Food manufacturing (NAICS 311)
- Pesticide manufacturing (NAICS 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification ID number OPP-2003-0242. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at [http://www.access.gpo.gov/nara/cfr/cfrhtml\\_00/Title\\_40/40cfr180\\_00.html](http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title_40/40cfr180_00.html), a beta site currently under development.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at <http://www.epa.gov/edocket/> to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public

docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select "search," then key in the appropriate docket ID number.

## II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a tolerance for residues of the fungicide thiophanate methyl and its metabolite methyl 2-benzimidazolyl carbamate, in or on vegetables, fruiting, group 8 at 0.5 parts per million (ppm). This tolerance will expire and is revoked on December 31, 2005. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations.

Section 408(l)(6) of the 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 section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the 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 the 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 the FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that