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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2022-0714; FRL 11587-01-R2]

Approval of Source-Specific Air Quality Implementation Plan; New York; Finch Paper LLC

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State of New York's State Implementation Plan (SIP) for the ozone National Ambient Air Quality Standard (NAAQS) related to a Source-specific SIP (SSSIP) revision for Finch Paper LLC, located at 1 Glen Street, Glens Falls, New York (Facility). The control options in this SSSIP revision address nitrogen oxide (NOx) Reasonably Available Control Technology (RACT) for the Facility sources identified as four power boilers, a wood waste boiler, and four recovery boilers. The intended effect of this SSSIP revision is to approve NOx RACT for the Facility sources required for implementation of the 2008 and 2015 ozone NAAQS. This proposed action will not interfere with ozone NAAQS requirements and meets all applicable requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Submit your comments, identified by Docket Number EPA-R02-OAR-2022-0714, 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 *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. 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, such as 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: Linda Longo, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3565, or by email at *longo.linda@epa.gov*.

SUPPLEMENTARY INFORMATION: For additional information on regulatory background and the EPA's technical findings relating to the Facility RACT, the reader can refer to the Technical Support Document (TSD) that is contained in the EPA docket assigned to this *Federal Register* document.

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I. Background

Ground level ozone formation

Ground level ozone is predominantly a secondary air pollutant created by chemical reactions that occur when ozone precursors, including nitrogen oxides (NO_X) and volatile organic compounds (VOCs), chemically react in the presence of sunlight.[1] Emissions from industrial facilities are some of the human-caused sources of ozone precursors. The potential for ground-level ozone formation tends to be highest during months with warmer temperatures and stagnant air masses. Ozone levels are thus generally higher during the summer months, which are often referred to as "the ozone season". In New York, the ozone season takes place between April 15 and October 15, while the non-ozone season takes place between October 16 and April 14.

Ozone nonattainment

Nonattainment for ground level ozone is defined as a geographic area of the United States that is not meeting the primary or secondary National Ambient Air Quality Standard (NAAQS) for ozone. Nonattainment areas are classified as either marginal, moderate, serious, severe, or extreme. Currently, the EPA has two ozone NAAQS in effect. First, on March 12, 2008, the EPA promulgated a revision to the ozone NAAQS, lowering both the primary and secondary standards to 75 parts per million (ppm) averaged over an 8-hour time frame (2008 8-hour Ozone Standard). *See* 73 FR 16436 (March 27, 2008). Second, on October 1, 2015, the EPA lowered these standards once more to 70 ppm averaged over an 8-hour time frame (2015 8-hour Ozone Standard). *See* 80 FR 65292 (October 26, 2015).

[1] ***Primary standards*** provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. ***Secondary standards*** provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings.

The State of New York has two ozone nonattainment areas: (1) Jamestown, and (2) the New York Metro Area[2] for the Bronx County, Kings County, Nassau County, New York County, Queens County, Richmond County, Rockland County, Suffolk County, Westchester County. The State of New York is also located within the Ozone Transport Region (OTR) that triggers statewide RACT requirements. Although the Facility is not located in one of the two nonattainment areas, because it is in the OTR, the Facility is subject to RACT requirements.

Federal RACT Requirements

RACT is defined as the lowest emission limit that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility. The CAA section 182, Plan Submissions and Requirements, requires states with ozone nonattainment areas to include in their statewide SIPs, among other things, provisions to require the implementation of RACT. The State of New York is located within the OTR, which triggers the statewide RACT requirements. The CAA section 184(a) addresses RACT requirements for nonattainment areas located in the OTR and the CAA section 176A sets forth requirements to establish control measures for NOx RACT for major sources located in the OTR. The EPA has not generally prescribed RACT requirements. The EPA has provided that RACT for a particular source is determined on a case-by-case basis, considering the technological and economic circumstances of the individual source.

NYSDEC RACT Requirements

The New York State Department of Environmental Conservation (NYSDEC) RACT regulations require applicable facilities to meet presumptive RACT requirements. The presumptive requirements may include, but are not limited to, emission limits,

[2] The New York Metro Area is part of the greater nonattainment area: **New York-N. New Jersey-Long Island, NY-NJ-CT.**

control efficiency requirements, specific control technologies, averaging plans, and fuel/raw material switching. In some instances, the presumptive RACT requirements may not be achievable and a source-specific RACT determination can be granted by the state and submitted to the EPA as a SSSIP. The SSSIP will include the facility's RACT plan that demonstrates how RACT might be achievable. The SSSIP will also include CAA title V operating permit conditions for the RACT requirements. These permit conditions for the facility will become Federally enforceable upon EPA approval of the SSSIP.

The RACT determination required under existing NYSDEC RACT regulations assess all technologically feasible control options that meet the state's cost threshold. The cost threshold for NYSDEC RACT requirements is found under the NYSDEC 2013 policy, "DAR-20 Economic and Technical Analysis for Reasonably Available Control Technology (RACT)." Under this policy, facilities must consider in their RACT determinations technologies that achieve a dollar amount per ton of NOx removed which includes an inflation-adjusted economic threshold.[3]

II. The EPA's evaluation of New York's SSSIP revision

This action relates to a SSSIP revision that concerns a Facility that produces paper products. The paper manufacturing processes include pulp preparation, paper machines, acid recovery, bleaching operations, and wastewater facilities. The sources at issue in this action are the Facility's four power boilers, one wood-waste boiler, and four recovery boilers. NYSDEC RACT regulations establish presumptive RACT requirements for these sources in 1) 6 NYCRR part 227, "Stationary Combustion Installations", subpart 227-2, "Reasonably Available Control Technology for Major Facilities of Oxides of Nitrogen", last approved by the EPA on July 12, 2013. *See* 78 FR 41846 (July 12, 2013); and 2) 6

[3] The DAR-20 cost threshold was $3000 in 1994 dollars. State of New York relies on the U.S. Department of Labor, Bureau of Labor Statistics inflationary calculator to adjust the RACT economic feasibility threshold over time for inflation. *See* https://www.bls.gov/data/inflation_calculator.htm .

NYCRR part 212, “Process Operations”, subpart 212-3, “Reasonably Available Control Technology for Major Facilities”, last approved by the EPA on October 1, 2021. *See* 87 FR 54375 (October 1, 2021). However, the State regulations allow determination of source-specific RACT if the presumptive RACT requirements are not achievable; such a determination must be submitted to the EPA as a SSSIP.

This SSSIP was submitted by NYSDEC on May 24, 2022, and it replaces and withdraws the SSSIP that was submitted by the State on September 16, 2008. As to this more recent SSSIP submittal, the EPA has reviewed the RACT determination for the four power boilers, one wood-waste boiler, and four recovery boilers for consistency with the CAA and the EPA regulations, as interpreted through EPA actions and guidance.

The intended effect of this Source-specific SIP revision is to establish: 1) Source-specific emission limits and RACT control options for four large power boilers where the presumptive NOx limit is not technologically and economically feasible; 2) a case-by-case NOx emission limit for the wood waste boiler’s biomass fuel; and 3) NOx emission limits for four recovery boilers that are not covered by other New York RACT regulations, and therefore must follow 6 NYCRR part 212 as a process operation.

The EPA is proposing to determine through this SSSIP action that the NOx emission limits submitted by the State in this SSSIP for the Facility’s boilers are the lowest emission limits with the application of control technology that are reasonably available given the technological and economic feasibility considerations. These NOx RACT emission limits are contained in the Facility’s title V operating permit, 5-5205-00005/00059, under Condition 1-1, Condition 47, and Condition 60 respectively. This operating permit was issued by the State on December 20, 2021, modified on January 12, 2022, and expires on December 19, 2026. The Facility submitted a RACT re-evaluation for these emission limits and the NYSDEC reviewed and approved the emission limits as

being RACT for the sources. NYSDEC then submitted the Source-specific SIP revision at issue in this action. The next step is this current source-specific SIP revision process that the EPA is proposing to approve to make the emission limits Federally enforceable.

The following is a summary of the EPA's analysis of how the proposed NOx emission limits comprise RACT for the power boilers, wood waste boiler and the recovery boilers.

Power boilers, Permit Condition 1-1, Emission unit 3-00000

The Facility's power boilers are subject to the presumptive limit of 0.15 pounds NOx per million Btu (lb/MMBtu) and 1-hour compliance averaging time found in NYSDEC RACT regulations under 6 NYCRR subpart 227-2.4(b) because they are categorized as large boilers that burn gas/oil. The NYSDEC determined that the presumptive limit in 6 NYCRR subpart 227-2.4(b) is not technologically and economically feasible for the power boilers. Therefore, the Facility is allowed under 6 NYCRR 227-2.4(b)(2) to request a case-by-case higher emission limit. Such a case-by-case higher limit can be approved if supported by a RACT analysis, and then must be submitted to EPA for review as a SIP revision. The Facility provided a RACT analysis dated February 2019 and a RACT re-analysis dated May 2021 that includes, among other control considerations, the use of fuel switching and the use of a system averaging plan which are required under 6 NYCCR subpart 227-2.5(c). The Facility's RACT analysis suggests a series of higher limits to meet RACT for the power boilers based on time of year (ozone and non-ozone season) and measured with a 30-day/24-hour compliance average, and not the presumptive 1-hour compliance average.

NYSDEC reviewed the case-by-case analysis and determined that the submitted emission limits did comprise RACT for the power boilers. Specifically, NYSDEC approved the following source specific emission limits after determining they comprised RACT for this source: 1) Compliance measured using predictive emission monitoring

system (PEMS) for 0.225 NOx lb/MMBtu during the April 15 through October 15 ozone season with a 30-day average; 2) compliance measured using PEMS for 0.275 NOx lb/MMBtu during the October 16 through April 14 non-ozone season with a 30-day average; and 3) compliance measured using PEMS for 0.378 NOx lb/MMBtu during the October 16 through April 14 non-ozone season when recovery boilers are not burning liquor or the wood waste boiler is down with a 24-hour block average. The permit conditions for the three emission limits will be calculated daily based on boiler steaming rates and emission rate curves developed for each power boiler. These permit conditions allow the facility to determine compliance with the alternate NOx emission limits with averaging methods of 30-day, 24-hour block, that differ from those imposed by 6 NYCRR 227-2.6(b)(3)(i)(*c*) for 1-hour.

EPA is proposing to also determine that these limits comprise RACT for this source because: 1) The analysis developed by the source and approved by the State demonstrate that the presumptive RACT limits cannot be met; 2) the RACT analysis showed that no control technology beyond what is currently used at the power boilers is technically and economically feasible; 3) The power boilers do not operate at all times because they are swing boilers that operate only when the supporting boiler networks (wood waste and recovery) are operating close to load capacity or when the boiler networks not in operation; the power boilers are used to maintain steam rates for the paper operations; 4) compliance will be determined using PEMS which has been determined to be the equivalent to continuous emission monitoring system (CEMS) for this source; 5) compliance will be based on a daily calculation of the boiler steaming rates and emission rate curves developed for each boiler averaged monthly; while the 30-day average is a deviation from the presumptive 1-hour average, this is supported to be RACT for this source as demonstrated in the case-by-case justification. Further details

explaining how EPA made these determinations is provided in the TSD available in the docket for this rulemaking.

Swing function

The 4 power boilers (boiler Nos. 2, 3, 4, and 5) produce steam during cold weather (non-ozone season) and have a non-ozone season load limit with 0.375 lb/mmBtu NOx that does not apply during the ozone season. In addition, the swing function of the power boilers picks up the steam load when the wood waste boilers and the recovery boilers operate close to their load capacity or when these boilers are down for maintenance.[4] The result is that the power boilers operate below their load capacity during the ozone season because the demand for steam to heat the paper process is low due to the warmer temperatures in the summer months. The swing function helps maintain the NOx emission limits by preventing power boilers from reaching high loads.

30-day averaging time

The 30-day average is a deviation from the presumptive 1-hour averaging time under subpart 227-2.4(b). Because of the "swing" function of the power boilers, the 1-hour averaging is not economically or technologically feasible. As explained in the prior section and in the TSD available in the docket for this rulemaking, based on the case-by-case RACT analysis provided by the source, NYSDEC has determined, and EPA is herein proposing to approve, the use of PEMS instead of CEMS for the boilers. A PEMS calculates NOx on a daily basis based on boiler steam rates and emission steam rate curves developed for each boiler. Because the Facility demonstrated through a RACT analysis that the prescribed 1-hour averaging time is not RACT for the power boilers because they operate in a swing capacity, the NYSDEC added a permit condition that allows the Facility to determine compliance using PEMS based on averaging rates that

[4] Refer to Technical Support Document (TSD) for description of periods of required shutdown of Finch Paper boilers. See TSD section VI.a, "Scheduled shutdowns for boilers: 4 power, 1 wood waste, 4 recovery."

differ from the regulation's presumptive 1-hour method. The NYSDEC published an Environmental Notice Bulletin on March 30, 2022, for this action that provided the public an opportunity to comment and no public comments were received.

Summary of RACT controls

The power boilers No. 2 and No. 3 have been retrofitted with Low Nox Burner (LNB) control technology. Power boilers No. 4 and No. 5 currently have been upgraded to second generation LNB. While the Facility has considered the application of a third generation LNB for power boiler No. 4 and No 5, the third generation LNB would not provide consistent or acceptable NOx reductions without major retrofits to other mechanical aspects of the boiler system.[5] The geometry and configuration of the power boilers would likely preclude any contractor from providing a warrantable guarantee that the power boiler retrofit to third generation LNB would provide satisfactory NOx reduction.

In order to determine what NOx control technologies could potentially be considered as economically and technologically achievable for the power boilers, the EPA reviewed the Reasonably Available Control Technology/Best Available Control Technology/Lowest Achievable Emission Rate Clearinghouse (RBLC).[6] The EPA's review of the RBLC reveals that two similar U.S. facilities, one each in Arizona and Pennsylvania, have NOx controls that the Facility at issue in this action either already implemented (i.e., pollution prevention: decommission boiler, fuel switch) or are not achievable based on the Facility boiler configurations (i.e., retrofit limitations, vertical profile limitations). The EPA confirms that there can be a wide range in performance and emission levels due to differences in boiler design, capacity, and burner type.

[5] A third generation LNB has more technology than a second generation LNB.

[6] The RBLC contains case-specific information on the best available air pollution technologies that have been required to reduce the emission of air pollutants from stationary sources. *See* https://cfpub.epa.gov/rblc/index.cfm?action=Search.BasicSearch&lang=en.

Furthermore, the EPA confirms that the Facility's current boiler room and outside roof configuration would not sustain additional boiler equipment such that would be required for add on technology (e.g., high temperature fans and ductwork) without major retrofits that have been demonstrated in the RACT analysis to be over the regulatory cost threshold. For details on cost analysis, refer to the TSD available in the docket for this rulemaking.

Wood waste boiler, Condition 47, Emission unit 3-10000

The Facility operates one wood waste boiler, identified as boiler No. 9, that primarily combusts wood waste and can fire natural gas. The wood waste boiler is subject to 6 NYCRR subpart 227-2.4(b)(2). Wood is not one of the approved fuel types under 6 NYCRR subpart 227-2.4(b)(1)(ii) (i.e., gas, gas/oil, pulverized coal, or coal), so a case-by-case RACT emission limit is needed for this source. In addition, subpart 227-2.6(a) requires the operator to verify NOx emissions by performing applicable testing (i.e., test method 7E) to ensure the boiler continues to meet the appropriate emission limit. Here, stack testing from 2020 established an emission limit of 0.28 lbs of NOx emissions per MMBtu.

NYSDEC determined that the following emission limits comprise RACT for the wood waste boiler: 0.28 lbs of NOx emissions per MMBtu that emit through a separate stack. Emission testing to demonstrate compliance will be performed pursuant to the requirements under the boiler Maximum Achievable Control Technology (MACT) testing occurs (every 3 years). The last MACT test was conducted by the Facility in 2020. For this specific emission unit, MACT is more stringent regarding emission control than RACT. Emission testing will use test Method 7E for large boilers, Nitrogen Oxide Instrumental Analyzer. Reporting requirement is twice a year. The wood waste boiler No. 9 emits through a separate stack on the east side of the Facility's power house building.

EPA believes that the proposed limit for the wood waste boiler comprises RACT because the re-evaluated RACT analysis demonstrated that no new control technologies have become available that would be economically and technologically achievable for this boiler. Further detail on this analysis is available in the TSD available in the docket for this rulemaking.

Recovery boilers, Condition 60, Emission unit 3-20000

The Facility operates four recovery boilers (boiler IO, and Nos. 6, 7, 8) that have a primary purpose to burn spent sulfite cooking liquor from the paper pulping process to recover sulfur dioxide and reuse it to make more cooking liquor. The recovery boilers are subject to Federally approved RACT regulations under 6 NYCRR part 212 because they are a process source unlike the Facility's power boilers or wood waste boiler which are combustion sources subject to part 227-2.

NYSDEC determined that the following emission limits comprise RACT for the four recovery boilers: 464 parts per million (corrected to 7% oxygen) that emit through a single common stack. The emission limit is calculated on a monthly block average. NOx and oxygen are monitored continuously with CEMS to calculate a NOx emission rate. The recovery boilers currently have technically feasible control strategies to minimize NOx formation which include daily monitoring for opacity, a system wide NOx limit, and a CEMS. In addition, the recovery boilers currently have emission control equipment alternatives, absorbers, and mist eliminators.

EPA believes that the proposed limit for the recovery boilers comprises RACT because the re-evaluated RACT analysis demonstrated that costs for adding additional controls are beyond what is considered economically feasible for purposes of RACT. Further detail on this analysis is available in the TSD available in the docket for this rulemaking.

III. Environmental Justice Considerations

The CAA and applicable implementing regulations neither prohibit nor require an environmental justice evaluation and so the State of New York did not evaluate environmental justice considerations as part of its SSSIP submittal. The EPA performed an environmental justice analysis for the purpose of transparency about this rulemaking to the public and the analysis is not provided for the basis of this action. The EPA created a Community Report (Report) using its EJ Screen, Version 2.2. The Report is contained in the EPA docket assigned to this *Federal Register* document.

The Report represents a 1-mile ring centered at the Facility. All thirteen EJ Screen environmental indexes were considered for the Report: 1) Particulate matter; 2) ozone; 3) diesel particulate matter; 4) air toxics cancer risks; 5) air toxics respiratory health index; 6) toxics releases to air; 7) traffic proximity; 8) lead paint; 9) superfund proximity; 10) risk management plan (RMP) facility proximity; 11) hazardous waste proximity; 12) underground storage tanks; and 13) wastewater discharge. Both the **EJ Indexes** and the **Supplemental Indexes** were verified using the thirteen environmental indexes. The difference between the EJ and Supplemental indexes is that the EJ Indexes combine data on low income and people of color populations and the Supplemental Indexes combine data on percent low-income, percent linguistically isolated, percent less than high school education, percent unemployed, and low life expectancy. We analyze both EJ Indexes and Supplemental Indexes because they offer different perspectives on community level vulnerability based on different factors. We also consider all environmental indexes since the effects of different forms of pollution might accumulate upon each other. The EPA uses the National percentile for the Report results and not the State percentile since this SSSIP action is a Federal action. The EPA brings to your attention any environmental index result that is 80 percentile or greater because environmental indexes at this level are relatively high compared to the United States population. The “percentile” is what EJ Screen uses to compare the area of study to national figures.

The Report results in no National **EJ Indexes** above 80th percentile. The Report indicates the following National **Supplemental Indexes** above 80th percentile: Superfund proximity is at the 83rd percentile; and RMP facility proximity is at the 81st percentile. To understand the indexes that are over the 80th percentile, refer to docket assigned to this *Federal Register* document.

IV. Proposed Action

The EPA is proposing that the current Source-specific SIP revision is approvable because the limits included in the SSSIP are demonstrated to be RACT for the power boilers, wood waste boiler and the recovery boilers. Based on a thorough RBLC review of similar sources, consultation with NYSDEC and an analysis of this Source-specific SIP revision, the EPA proposes to approve Finch Paper LLC's operation under the NYSDEC approved NOx emission limits for emission unit 3-00000 power boilers, emission unit 3-10000 wood waste boiler, and emission unit 3-20000 recovery boilers.

Specifically, the EPA proposes to approve the following: 1) Emission unit 3-00000, four power boilers, at 0.225 NOx lb/MMBtu during ozone season (April 15 through October 15) and at 0.275 NOx lb/MMBtu during non-ozone season (October 16 through April 14) and at 0.378 NOx lb/MMBtu when recovery boilers are not burning liquor or when the wood waste boiler is down during non-ozone season; 2) emission unit 3-10000, No. 9 wood waste boiler, at 0.28 NOx lb/MMBtu; and 3) emission unit 3-20000, recovery boilers, at 464 parts per million (corrected to 7% oxygen) system wide.

V. Incorporation by Reference

In this document, the EPA is proposing to include regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference revisions to Finch Paper LLC title V operating permit conditions 1-1, 47, and 60 as described in section II. of this preamble. The EPA has made, and will continue to make, these materials generally available through

www.regulations.gov and at the EPA Region 2 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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 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 (Public Law 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 this action does not involve technical standards.

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 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, Feb. 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." resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The New York State Department of Environmental Conservation did not evaluate environmental justice considerations as part of its SSSIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The

EPA performed an environmental justice analysis, as 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. In addition, there is no information in the record upon which this decision is based inconsistent with the stated goal of EO 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements.

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

Lisa Garcia,
Regional Administrator,
Region 2.

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