

**§ 38.631 Graves marked with a private headstone or marker.**

(a) VA will furnish an appropriate Government marker for the grave of a decedent described in paragraph (b) of this section, but only if the individual requesting the marker certifies on VA Form 40-1330 that it will be placed on the grave for which it is requested or, if placement on the grave is impossible or impracticable, as close to the grave as possible within the grounds of the private cemetery where the grave is located.

(b) The decedent referred to in paragraph (a) of this section is one who:

(1) Died on or after September 11, 2001;

(2) Is buried in a private cemetery; and

(3) Was eligible for burial in a national cemetery, but is not an individual described in 38 U.S.C. 2402(4), (5), or (6).

(c) VA will deliver the marker directly to the cemetery where the grave is located or to a receiving agent for delivery to the cemetery.

(d) VA will not pay the cost of installing a Government marker in a private cemetery.

(e) The applicant must obtain certification on VA Form 40-1330 from a cemetery representative that the type and placement of the marker requested adheres to the policies and guidelines of the selected private cemetery.

(f) VA will furnish its full product line of Government markers for private cemeteries.

(g) The authority to furnish a marker under this section expires on December 31, 2006.

(Authority: 38 U.S.C. 501, 2306)

(The Office of Management and Budget has approved the information collection requirements in this section under control number 2900-0222.)

**§ 38.632 Headstone and marker application process.**

(a) Headstones and markers for graves in national cemeteries shall be ordered from the Record of Interment (VA Form 40-4956) prepared by the national cemetery superintendent at the time of interment. No further application is required.

(b) Submission of VA Form 40-1330, Application for Headstone or Marker, is required for the purpose of:

(1) Ordering a Government headstone or marker for any unmarked grave of any eligible veteran buried in a private or local cemetery.

(2) Ordering a Government headstone or marker for any unmarked grave in a post cemetery of the Armed Forces.

(3) Ordering a Government memorial headstone or marker for placement in a

national cemetery, in a private or local cemetery and any post cemetery of the Armed Forces.

**§ 38.633 Group memorial monuments.**

(a) *Definitions of terms.* For the purpose of this section, the following definitions apply:

(1) *Group*—all the known and unknown dead who perished in a common military event.

(2) *Memorial Monument*—a monument commemorating veterans, whose remains have not been recovered or identified. Monuments will be selected in accordance with policies established under 38 CFR 38.630.

(3) *Next of kin*—recognized in order: Surviving spouse; children, according to age; parents, including adoptive, stepparents, and foster parents; brothers or sisters, including half or stepbrothers and stepsisters; grandparents; grandchildren; uncles or aunts; nephews or nieces; cousins; and/or other lineal descendent.

(4) *Documentary evidence*—Official documents, records, or correspondence signed by an Armed Services branch historical center representative attesting to the accuracy of the evidence.

(b) The Secretary may furnish at government expense a group memorial monument upon request of next of kin. The group memorial monument will commemorate two or more identified members of the Armed Forces, including their reserve components, who died in a sanctioned common military event, (e.g., battle or other hostile action, bombing or other explosion, disappearance of aircraft, vessel or other vehicle) while in active military, naval or air service, and whose remains were not recovered or identified, were buried at sea, or are otherwise unavailable for interment.

(c) A group memorial monument furnished by VA may be placed only in a national cemetery in an area reserved for such purpose. If a group memorial monument has already been provided under this regulation or by any governmental body, e.g., the American Battle Monuments Commission, to commemorate the dead from a common military event, an additional group memorial monument will not be provided by VA for the same purpose.

(d) Application for a group memorial monument shall be submitted in a manner specified by the Secretary. Evidence used to establish and determine eligibility for a group memorial monument will conform to paragraph (a)(4) of this section.

(Authority: 38 U.S.C. 501, 2403)

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

[Region II Docket No. R02-OAR-2004-NY-0002, FRL-7851-1]

**Approval and Promulgation of Implementation Plans; New York; Low Emission Vehicle Program**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is approving a New York State State Implementation Plan (SIP) revision to revise its existing low emission vehicle (LEV) program. The State's revision adopts California's second generation low emission vehicle program for light-duty vehicles (LEV II). New York has revised its LEV rule to include a non-methane hydrocarbon standard and various administrative and grammatical changes to make its existing LEV rule identical to California's LEV II program. The intended effect of this rulemaking is to approve a control strategy which will result in emissions reductions that will help achieve attainment of national ambient air quality standards for ozone.

**DATES:** *Effective Date:* This rule will be effective March 2, 2005.

**ADDRESSES:** Copies of the state submittal 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 York State Department of  
Environmental Conservation, Office of  
Air and Waste Management, 14th  
Floor, 625 Broadway, Albany, New  
York 12233-1010.

**FOR FURTHER INFORMATION CONTACT:**  
David Risley, Air Programs Branch,  
Environmental Protection Agency, 290  
Broadway, 25th Floor, New York, New  
York 10007-1866, (212) 637-4249 or  
[risley.david@epa.gov](mailto:risley.david@epa.gov).

**SUPPLEMENTARY INFORMATION:****Table of Contents**

I. Description of the SIP Revision

II. Public Comments on the Proposed Action  
 III. Final EPA Action  
 IV. Administrative Requirements

### I. Description of the SIP Revision

In 1994, New York requested EPA to revise its SIP to include a LEV program. EPA approved that SIP revision on January 6, 1995 (60 FR 2022). At the time, New York's LEV program was identical to California's first-generation LEV program. More recently, New York has updated its LEV program to be identical to California's LEV II program. New York has adopted California's LEV II program by reference in the New York State Code of Rules and Regulations part 218, "Emission Standards for Motor Vehicles and Motor Vehicle Engines."

New York has requested that EPA take action on its revised LEV program. EPA has already approved the emissions reduction credits from the revised LEV program as part of our approval of New York's attainment demonstration SIP revision on February 4, 2002 (67 FR 5170). In the current SIP revision, New York requested Federal approval of the LEV program regulation. EPA's approval of New York's LEV program makes it Federally-enforceable, further ensuring that planned emissions reductions will continue to take place. For further information on the specifics of New York's LEV program see the September 24, 2004 Notice of Proposed Rulemaking (69 FR 57241).

### II. Public Comments on the Proposed Action

No comments were received on the Notice of Proposed Rulemaking, published in the September 24, 2004 **Federal Register** (69 FR 57241).

### III. Final EPA Action

EPA is approving the light-duty portion of New York's LEV program, which is identical to California's LEV II program. The LEV program that EPA is approving is contained in title 6, part 218, subparts 218-1, 218-2, 218-3, 218-5, 218-6, 218-7 and 218-8 of the Official Compilation of Codes, Rules and Regulations of the State of New York. Approval of New York's LEV program further ensures that planned emissions reductions attributable to this program will be achieved. These reductions are necessary for New York to achieve its clean air goals, as detailed in the State's 1-hour ozone attainment demonstration SIP. The updated program was filed on November 28, 2000 and adopted on December 28, 2000, as noticed in the New York State Register.

### IV. Administrative Requirements

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 1, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 23, 2004.

**Kathleen C. Callahan,**

*Acting 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 HH—New York**

■ 2. Section 52.1670 is amended by adding new paragraph (c)(107) to read as follows:

**§ 52.1670 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
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 (107) Revisions to the State Implementation Plan submitted on December 9, 2002, by the New York State Department of Environmental Conservation which consists of the adoption of California's second generation Low Emissions Vehicle (LEV) program.  
 (i) Incorporation by reference.  
 (A) Regulation part 218 "Emissions Standards for Motor Vehicles and Motor

Vehicle Engines" of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York (6NYCRR), part 218, subparts 218-1, 218-2, 218-3, 218-5, 218-6, 218-7 and 218-8 filed on November 28, 2000 and effective on December 28, 2000.

■ 3. Section 52.1679 is amended by revising the entry for part 218 under title 6 to read as follows:

**§ 52.1679 EPA-approved New York State regulations.**

New York State regulation	State effective date	Latest EPA approval date	Comments
<b>Title 6</b>			
Part 218, Emission Standards for Motor Vehicles and Motor Vehicle Engines:			EPA's approval of part 218 only applies to light-duty vehicles.
Subpart 218-1: Applicability and Definitions.	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-2: Certification and Prohibitions.	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-3: Fleet Average .....	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-4: Zero Emissions Vehicle Sales Mandate.	5/28/92	1/6/95, 60 FR 2025.	
Subpart 218-5: Testing .....	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-6: Surveillance .....	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-7: Aftermarket Parts .....	12/28/00	1/31/05, [insert FR citation of this document].	
Subpart 218-8: Severability .....	12/28/00	1/31/05, [insert FR citation of this document].	

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**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Parts 2, 25, and 101**

[IB Docket No. 02-10, FCC 04-286]

**Procedures To Govern the Use of Satellite Earth Stations on Board Vessels in the 5925-6425 MHz/3700-4200 MHz Bands and 14.0-14.5 GHz/11.7-12.2 GHz Bands**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document is a summary of the *Report and Order* adopted by the Commission in this proceeding. The Commission adopted licensing and service rules for satellite earth stations on vessels (ESVs) in the C- and Ku-bands that will provide regulatory

certainty to ESV licensees, while protecting existing users in the bands. The new rules will further the Commission's goal of promoting market-based deployment of broadband technologies.

**DATES:** Effective March 2, 2005, except for 47 CFR 25.221(c), 25.221(e), and 25.222(c) which contain information requirements that have not yet been approved by Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date of those sections. OMB, the general public, and other Federal agencies are invited to comment on the information collection requirements on or before April 1, 2005.

**ADDRESSES:** In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection(s) contained herein should be submitted to Judith B. Herman, Federal Communications

Commission, Room 1-C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10236 NEOB, 725 17th Street, NW., Washington, DC 20503 or via the Internet to *Kristy\_L.\_LaLonde@omb.eop.gov*.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Gorny or Gardner Foster, Policy Division, International Bureau, (202) 418-1460. For additional information concerning the Paperwork Reduction Act information collection(s) contained in this document, contact Judith B. Herman at (202) 418-0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Report and Order* in IB Docket No. 02-10, FCC 04-286, adopted December 15, 2004, and released on January 6, 2005. This proceeding was initiated by the Notice of Proposed Rule Making (*ESV NPRM*), 69 FR 3056, January 22, 2004. The full