

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 CAA. 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 CAA. 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 November 14, 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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 30, 2005.

**William Rice,**

*Acting Regional Administrator, Region 7.*

■ 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 Q—Iowa**

■ 2. In § 52.820(c) the table for Chapter 22 is amended by adding a new entry in numerical order for 567–22.9 to read as follows:

**§ 52.820 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED IOWA REGULATIONS**

Iowa citation	Title	State effective date	EPA approval date	Explanation
<b>Iowa Department of Natural Resources, Environmental Protection Commission [567]</b>				
* * * * *	<b>Chapter 22—Controlling Pollution</b>			
567–22.9 .....	Special Requirements for Visibility Protection ..	04/20/05	09/13/05 [insert FR page number where document begins]	
* * * * *				

\* \* \* \* \*  
[FR Doc. 05–18012 Filed 9–12–05; 8:45 am]  
BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Region II Docket No. NY69–280, FRL–7968–1]

**Approval and Promulgation of Implementation Plans; New York; Revised Motor Vehicle Emissions Budgets for 1990 and 2007 using MOBILE6**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the New York 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 York’s revised 1990 and 2007 motor vehicle emission budgets recalculated using MOBILE6 and modified date for submittal of the State’s mid-course review. 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 its portion of the New York-Northern New Jersey-Long Island nonattainment area (New York Metropolitan NAA).

**EFFECTIVE DATE:** This rule will be effective October 13, 2005.

**ADDRESSES:** Copies of the state submittals 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, 290  
Broadway, 25th Floor, New York, NY  
10007-1866, (212) 637-3741.

**SUPPLEMENTARY INFORMATION:**

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- IV. Statutory and Executive Order Reviews

**I. Background**

On October 28, 2003 EPA published a notice of proposed rulemaking (68 FR 61379) regarding a SIP revision submitted by the State of New York for the attainment and maintenance of the 1-hour NAAQS for ozone. That notice proposed to approve: Revised 1990 and 2007 motor vehicle emission budgets recalculated using MOBILE6; and a modified date for submittal of the State's mid-course review. The intended effect was to propose to approve a SIP revision that will help the State continue to plan for attainment of the 1-hour NAAQS for ozone in its portion of the New York Metropolitan NAA.

The proposed SIP revision was initially submitted to EPA on January 29, 2003 and later supplemented by a June 2, 2003 submission. A detailed description of New York's submittal and EPA's rationale for the proposed action were presented in the October 28, 2003 notice of proposed rulemaking and will not be restated here.

**II. Comments**

EPA received only one set of comments on the proposed approval, from the New York State Department of Environmental Conservation, in a letter dated January 18, 2005. The comments contained revised 2007 motor vehicle emissions budgets resulting from

updated planning assumptions including changes to vehicle registration data and diesel fraction data. The data revisions decrease estimated volatile organic compound (VOC) emissions by 2.7 tons per year in 2007, a decrease of nearly 2 percent of the total on-road VOC emission inventory. Additionally, the data revisions increase estimated oxides of nitrogen (NO<sub>x</sub>) emissions by 3.4 tons per year in 2007, an increase of nearly 1.4 percent of the total on-road NO<sub>x</sub> emission inventory. These revisions to the 2007 VOC and NO<sub>x</sub> motor vehicle emissions budgets are relatively small and do not change the results of the State's conclusion that the budgets as revised using MOBILE6 continue to be consistent with the State's 1-hour ozone attainment demonstration. The method used to demonstrate this consistency is described further below, and in more detail in the October 28, 2003 notice of proposed rulemaking.

**III. What Are the Details of EPA's Specific Actions?**

*A Motor Vehicle Emissions Budgets Revised With MOBILE6*

New York's revised budgets contained in the January 29, 2003 submittal and subsequently updated by New York's June 29, 2003 addendum and the State's January 28, 2005 comment letter, are summarized in Table 1 below. EPA has found that New York's revised MOBILE6 budgets are consistent with its 1-hour ozone Attainment Demonstration. EPA has articulated its policy regarding the use of MOBILE6 for SIP development in its "Policy Guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity"<sup>1</sup> and "Clarification of Policy Guidance for MOBILE6 in Mid-course Review Areas."<sup>2</sup> New York included in the January 29, 2003 submittal a relative reduction comparison to show that its 1-Hour Ozone Attainment Demonstration SIP continues to demonstrate attainment using revised MOBILE6 budgets for the New York Metropolitan NAA. This relative reduction comparison was subsequently updated in New York's June 29, 2003 addendum and again in its comments of January 18, 2005, see Table 2. New York's attainment

<sup>1</sup> Memorandum, "Policy Guidance on the Use of MOBILE6 for SIP development and Transportation Conformity," issued January 18, 2002. A copy of this memorandum can be found on EPA's Web site at <http://www.epa.gov/otaq/transp/traqconf.htm>.

<sup>2</sup> Memorandum, "Clarification of Policy Guidance for MOBILE6 SIPs in Mid-course Review Areas," issued February 12, 2003. A copy of this memorandum can be found on EPA's Web site at <http://www.epa.gov/otaq/transp/traqconf.htm>.

demonstration used photochemical grid modeling supplemented with a weight of evidence analysis. Consistent with EPA policy, as detailed in the aforementioned guidance documents, the State's methodology for the relative reduction comparison consisted of comparing the new MOBILE6 budgets with the previously approved, (67 FR 5170, February 4, 2002) MOBILE5 budgets for the New York Metropolitan NAA to determine if attainment will still be predicted by the 2007 attainment year. Specifically, the State calculated the percent reduction from the 1990 base year to the 2007 attainment year for NO<sub>x</sub> and VOC MOBILE5-based budgets. These percent reductions were then compared to the percent reductions between the revised MOBILE6-based 1990 base year and 2007 attainment year budgets.

**TABLE 1.—NEW YORK METROPOLITAN NAA MOTOR VEHICLE EMISSIONS BUDGETS, REVISED WITH MOBILE6**

	NO <sub>x</sub>	VOC
1990 .....	512	596
2007 .....	233.4	179.3

**TABLE 2.—RELATIVE REDUCTION COMPARISON BETWEEN MOBILE5-BASED BUDGETS AND MOBILE6-BASED BUDGETS FROM BASE YEAR TO ATTAINMENT YEAR**

	NO <sub>x</sub> (percent)	VOC (percent)
MOBILE5 .....	44.8	66.7
MOBILE6 .....	54.4	69.9

As shown in Table 2, New York's relative reduction comparison shows that for the New York Metropolitan NAA the percent reductions in VOC and NO<sub>x</sub> budgets obtained through the use of MOBILE6 are greater than the percent reductions calculated with MOBILE5-based budgets. As such, New York's MOBILE6 SIP revision 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 date of 2007 for the New York Metropolitan NAA, *i.e.* the SIP continues to demonstrate its purpose.

*B. Are New York's Motor Vehicle Emissions Budgets Approvable?*

EPA's October 28, 2003 notice of proposed rulemaking (68 FR 61379) determined that New York's revised

motor vehicle emission budgets, developed using appropriate methodology and supporting the SIP in demonstrating its purpose, were approvable. EPA posted the notice on EPA's conformity Web site on July 1, 2003 beginning the required 30-day comment period. EPA received no comments. Table 1 summarizes New York's revised budgets contained in the January 29, 2003 submittal and subsequently updated by New York's June 29, 2003 addendum and the State's January 28, 2005 comment letter. EPA is taking action to find these budgets adequate and concurrently approve these budgets. The revised 2007 attainment budget will apply for the New York Metropolitan Transportation Council's transportation conformity purposes.

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

As described in EPA's October 28, 2003 proposal, New York requested to revise the date by which it would submit a required mid-course review of the SIP's ability to meet attainment on-time. In order to be consistent with surrounding states and to include the benefit of the regional NO<sub>x</sub> program in its mid-course review, New York revised its commitment to perform a mid-course review to December 31, 2004 which is consistent with EPA guidance. New York has performed the mid-course review and has submitted it to EPA for review.

### III. Conclusions

EPA is taking final action to approve New York's January 29, 2003 SIP revision. This submittal revises New York's 1990 and 2007 motor vehicle emission budgets using MOBILE6 and modifies the planned date to complete the State's mid-course review to December 31, 2004. In accordance with the parallel processing procedures, EPA has evaluated New York's final SIP revision submitted on January 29, 2003 and supplemental information submitted on June 29, 2003 and New York's January 18, 2005 comment letter and finds that no substantial changes were made from the proposed SIP revision submitted on January 29, 2003. New York has demonstrated that its revised 1-Hour Ozone Attainment Demonstration SIP for the New York Metropolitan 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 (Pub. L. 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 November 14, 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 11, 2005.

**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 52.1683 is amended by removing and reserving paragraphs (h)(3) and (i)(4), removing paragraphs (i)(6)(v) and (i)(6)(vi) and adding paragraph (j) to read as follows:

**§ 52.1683 Control strategy: Ozone.**

\* \* \* \* \*

(j)(1) The 1990 and 2007 conformity emission budgets for the New York portion of the New York-Northern New Jersey-Long Island nonattainment area contained in New York's January 29, 2003 SIP revision, amended by New York's June 29, 2003 submittal and January 18, 2005 comment letter.

(2) The revised commitment to perform a mid-course review and submit the results by December 31, 2004 included in the January 29, 2003 SIP revision is approved.

[FR Doc. 05-18094 Filed 9-12-05; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[OPP-2005-0205; FRL-7725-7]

**Cyfluthrin; Pesticide Tolerance**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of cyfluthrin in or on almond hulls, cucurbit vegetable crop group 9, fruiting vegetable group 8; grass forage; grass hay; grape; grape, raisin; leafy Brassica greens, subgroup 5B; leafy vegetable group, except Brassica, group 4; pistachio; pome fruit group 11; stone fruit group 12; tuberous and corm vegetable subgroup 1C; peanut; peanut, hay; pea and bean, dried shelled, except soybean, subgroup 6C; tree nuts, Crop Group 14; turnip greens; wheat forage; wheat hay; and wheat straw. Bayer CropScience and the Interregional Research Project Number 4 (IR-4) requested the tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective September 13, 2005. Objections and requests for hearings must be received on or before November 14, 2005.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under docket

identification (ID) number OPP-2005-0205. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., 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.

**FOR FURTHER INFORMATION CONTACT:** Olga Odiott, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9369; e-mail address: [odiott.olga@epa.gov](mailto:odiott.olga@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 production (NAICS code 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS code 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS code 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS code 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

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 Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), 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 E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm/>.

**II. Background and Statutory Findings**

In the **Federal Register** of January 28, 2004 (69 FR 4143) (FRL-7339-6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petitions (PP 1F6290, 2F6445, and 2F6479) by Bayer CropScience, 2 T.W. Alexander Drive, Research Triangle Park, NC 27709; and (PP 1E6318, 3E6776, and 3E6583) by the Interregional Research Project Number 4 (IR-4), Technology Centre and Rutgers State University of New Jersey, 681 U.S. Highway #1 South, North Brunswick, NJ 08902-390. The petitions requested that 40 CFR 180.436 be amended by establishing tolerances for residues of the insecticide cyfluthrin, cyano (4-fluoro-3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate, in or on almond hulls at 1.0 parts per million (ppm); pistachio at 0.01 ppm; and tree nuts, crop group 14 at 0.01 ppm (PP 1F6290); cucurbit vegetable crop group at 0.10 ppm; fruiting vegetable group at 0.5 ppm; leafy Brassica greens subgroup at 7.0 ppm; leafy vegetable group at 6.0 ppm; pome fruit group at 0.10 ppm; pome fruit wet pomace at 0.30 ppm; stone fruit group at 0.30 ppm; wheat forage, wheat hay and wheat straw at 5.0 ppm; and wheat shorts at 3.5 ppm (PP 2F6445); grape at 0.8 ppm; grape, raisin at 3.5 ppm; peanut at 0.01 ppm; and peanut, hay at 6.0 ppm (PP 2F6479); tuberous and corm vegetable subgroup at 0.01 ppm (PP 1E6318); turnip greens at 7 ppm (PP 3E6583); and grass forage at 6 ppm; grass hay at 8 ppm; and pea and bean, dried shelled, except soybean, subgroup 6C at 0.15 ppm (PP 3E6776). That notice included a summary of the petition prepared by Bayer Crop Science, the registrant. The registrant has submitted a request to voluntarily