

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA-R02-OAR-2006-0303, FRL-8191-3]

Approval and Promulgation of Implementation Plans; New York Ozone State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the New York State Implementation Plan (SIP) related to the control of oxides of nitrogen (NO_x) and volatile organic compounds (VOC) from stationary sources. The SIP revision consists of amendments to Title 6 of the New York Codes, Rules and Regulations, Parts 214, "Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes." The revision was submitted to comply with the 1-hour ozone Clean Air Act reasonably available control technology requirements for major sources of VOC and NO_x not covered by Control Techniques Guidelines. The intended effect of this action is to approve control strategies which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: *Effective Date:* This rule will be effective August 21, 2006.

ADDRESSES: EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at www.regulations.gov and the docket ID for this action is EPA-R02-OAR-2006-0303. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B-108, 1301 Constitution Avenue, NW., Washington, DC; and the New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381 or Wieber.Kirk@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What was included in New York's submittal?

On July 8, 1994, New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a request to revise its SIP. The revisions consisted of amendments to Title 6 of the New York Codes, Rules and Regulations (NYCRR) Parts 214, "Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes." Parts 214 and 216 were adopted by the State on July 8, 1994, and became effective on September 22, 1994.

On May 2, 2005 (71 FR 25800), EPA proposed to approve revised Parts 214 and 216 into the federally approved New York SIP. For a detailed discussion on the content and requirements of the revisions to New York's regulations, the reader is referred to EPA's proposed rulemaking action.

II. What comments did EPA receive in response to its proposal?

In response to EPA's May 2, 2005, proposed rulemaking action, EPA received no adverse comments.

III. What is EPA's conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the revisions to Part 214, "By-Product Coke Oven Batteries" and Part 216, "Iron and/or Steel Processes" of New York's regulations meet the VOC and NO_x RACT "catch-up" requirements under sections 182(b)(2) and 182(f) of the Act for non-Control Techniques Guidelines major sources. Therefore, EPA is approving revised Parts 214 and 216 into the federally approved New York SIP.

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 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 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 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 Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 18, 2006. 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, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 23, 2006.

Alan J. Steinberg,

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)(110) to read as follows:

§ 52.1670 Identification of plans.

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(c) * * *
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(110) Revisions to the State Implementation Plan submitted on July

8, 1994, by the New York State Department of Environmental Conservation (NYSDEC), which consisted of amendments to Title 6 of the New York Codes, Rules and Regulations (NYCRR) Parts 214, "Byproduct Coke Oven Batteries," and 216, "Iron and/or Steel Processes."

(i) Incorporation by reference:

(A) Regulations Part 214, "Byproduct Coke Oven Batteries," and Part 216, "Iron and/or Steel Processes" of Title 6 of the New York Codes, Rules and Regulations (NYCRR), filed on August 23, 1994, and effective on September 22, 1994.

(ii) Additional information:

(A) Letter from New York State Department of Environmental Conservation, dated March 1, 2006, identifying the level of NO_x emissions from generic sources located in New York State that are subject to Parts 214 and 216.

■ 3. Section 52.1679 is amended by revising the entries under Title 6 for Part 214 and Part 216 in the table to read as follows:

§ 52.1679 EPA-approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
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Part 214, "Byproduct Coke Oven Batteries"	9/22/94	7/20/06 [Insert FR page citation].	
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Part 216, "Iron and/or Steel Processes"	9/22/94	7/20/06 [Insert FR page citation].	
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA-HQ-OAR-2003-0130-FRL-8199-9]

RIN 2060-AL90

Protection of Stratospheric Ozone: Minor Amendments to the Regulations Implementing the Allowance System for Controlling HCFC Production, Import and Export

AGENCY: Environmental Protection Agency [EPA].

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the current regulations governing the production and trade of certain ozone-depleting substances to address issues concerning the export of previously imported material, heels, the exemption allowance petition process for HCFC-141b for military and space vehicle applications, and the definition for "importer." We are making these minor adjustments to our regulations in response to requests from the regulated community, to ensure equitable treatment of stakeholders, and to reduce burden where the integrity of the requirements can still be sufficiently maintained.

DATES: This direct final rule is effective on October 18, 2006 without further notice unless EPA receives adverse comment by August 21, 2006, or by September 5, 2006 if a hearing is requested. If we receive adverse comment we will publish a timely withdrawal in the **Federal Register** informing the public that this rule, or an amendment paragraph or section of this rule, will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2003-0130, by one of the following methods:

- www.regulations.gov: Follow the on-line instructions for submitting comments.
- E-mail: a-and-r-Docket@epa.gov.
- Fax: 202-566-1741.