

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 approves a State rule implementing a Federal standard.

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. section 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. section 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 December 31, 2007. 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 22, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

■ 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 F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(342)(i)(D) and (c)(350) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(342) * * *

(i) * * *

(D) Great Basin Unified Air Pollution Control District.

(1) Rule 405, adopted on September 5, 1974 and revised on July 7, 2005.

* * * * *

(350) New and amended regulations were submitted on May 8, 2007, by the Governor's designee.

(i) Incorporation by reference.

(A) Great Basin Unified Air Pollution Control District.

(1) Rule 431, adopted on December 7, 1990 and revised on December 4, 2006.

(B) Mojave Desert Air Quality Management District.

(1) Rule 444, adopted on October 8, 1976 and amended on September 25, 2006.

[FR Doc. E7-21318 Filed 10-30-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R02-OAR-2007-0368, FRL-8478-5]

Approval and Promulgation of Implementation Plans; New York Emission Statement Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revision submitted by the State of New York on July 7, 2006 for the purpose of enhancing an existing Emission Statement Program for stationary sources in New York. The SIP revision consists of amendments to Title 6 of the New York Codes Rules and Regulations, Chapter III, Part 202, Subpart 202-2, Emission Statements. The SIP revision was submitted by New York to satisfy the ozone nonattainment provisions of the Clean Air Act. These provisions require states in which all or part of any ozone nonattainment area is located to submit a revision to its SIP which requires owner/operators of stationary sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) to provide the State with a statement, at least annually, of the source's actual emissions of VOC and NO_x.

The Emission Statement SIP revision EPA is approving enhances the reporting requirements for VOC and NO_x and expands the reporting requirement, based on specified emission thresholds, to include carbon monoxide (CO), sulfur dioxides (SO₂), particulate matter measuring 2.5 microns or less (PM_{2.5}), particulate matter measuring 10 microns or less (PM₁₀), ammonia (NH₃), lead (Pb) and lead compounds and hazardous air pollutants (HAPS). The intended effect is to obtain improved emissions related data from facilities located in New York, allowing New York to more effectively plan for and attain the national ambient air quality standards (NAAQS). The Emission Statement rule also improves EPA's and the public's access to facility-specific emission related data.

DATES: *Effective Date:* This rule is effective on November 30, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2007-0368. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available,

e.g., 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 through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

FOR FURTHER INFORMATION CONTACT:

Raymond K. Forde, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3716, forde.raymond@epa.gov.

SUPPLEMENTARY INFORMATION:

The following table of contents describes the format for this section:

- I. What Action Is EPA Taking?
- II. What Comments Did EPA Receive in Response to Its Proposal?
- III. What Role Does This Action Play in the Ozone SIP?
- IV. What Are EPA's Conclusions?
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking?

EPA is approving the State Implementation Plan (SIP) revision submitted by the State of New York on July 7, 2006 for the purpose of enhancing an existing Emission Statement program for stationary sources in New York. The SIP revision consists of amendments to Title 6 of the New York Codes Rules and Regulations (NYCRR), Chapter III, Part 202, Subpart 202-2, Emission Statements (Emission Statement rule).

The SIP revision was submitted by New York to satisfy the ozone nonattainment provisions of the Clean Air Act. These provisions require states in which all or part of any ozone nonattainment area is located to submit a revision to its SIP which requires owner/operators of stationary sources of volatile organic compounds (VOC) and oxides of nitrogen (NO_x) to provide the State with a statement, at least annually, of the source's actual emissions of VOC and NO_x. On July 7, 2006, New York submitted a SIP revision for ozone which included an adopted Emission Statement rule. The regulation amends Title 6 of the NYCRR, Subpart 202-2, Emission Statements, which was originally adopted on July 13, 2004. On April 12, 2005, the New York State Department of Environmental Conservation (NYSDEC) adopted these

amendments, which became effective on May 29, 2005. The reader is referred to the proposed rulemaking (July 20, 2007, 72 FR 39773) for further details.

II. What Comments Did EPA Receive in Response to Its Proposal?

EPA received no comments in response to the July 20, 2007 proposed rulemaking action.

III. What Role Does This Action Play in the Ozone SIP?

Emission Statements (Annual Reporting of VOC and NO_x)

Section 182(a)(3)(B)(i) of the Act requires states in which all or part of any ozone non-attainment area is located to submit SIP revisions to EPA by November 15, 1992, which require owner/operators of stationary sources of VOC and NO_x to provide the state with a statement, at least annually, of the source's actual emissions of VOC and NO_x. Sources were to submit the first emission statements to their respective states by November 15, 1993. Pursuant to the Emission Statement Guidance, if the source emits either VOC or NO_x at or above levels for which the State Emission Statement rule requires reporting, the other pollutant (VOC or NO_x) from the same facility should be included in the emission statement, even if the pollutant is emitted at levels below the minimum reporting level.

Section 182(a)(3)(B)(ii) of the Act allows states to waive, with EPA approval, the requirement for an emission statement for classes or categories of sources located in nonattainment areas, which emit less than 25 tons per year of actual plant-wide VOC and NO_x, provided the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA.

Consolidated Emission Reporting Rule (Annual Reporting for All Criteria Pollutants)

In order to consolidate reporting requirements by the states to EPA, on June 10, 2002 (See 67 FR 39602), EPA published the final Consolidated Emissions Reporting Rule (CERR). The purpose of the CERR is to simplify the states' annual reporting, to EPA, of criteria pollutants (VOC, NO_x, SO₂, PM₁₀, PM_{2.5}, CO, Pb) for which National Ambient Air Quality Standards (NAAQS) have been established, and annual reporting of NH₃, a precursor pollutant. The CERR also provides options for data collection and

exchange, and unified reporting dates for various categories of criteria pollutant emission inventories. The CERR requires states to report annually to EPA on emissions of VOC, NO_x, SO₂, PM₁₀, CO and Pb, for industrial point sources, based on specific emission thresholds. The CERR emissions reports for calendar year 2001 were due on June 1, 2003, and subsequent reports were due every year thereafter (i.e., calendar year 2002 emission inventory due June 1, 2004, etc.). Reporting of PM_{2.5} and NH₃ from point sources was not required until June 2004, for emissions that occurred during calendar year 2002.

IV. What Are EPA's Conclusions?

New York's Emission Statement rule, which requires facilities to report information for the criteria pollutants and the associated precursors mentioned earlier, satisfies the federal emission statement and CERR reporting requirements for major sources. In addition, New York's Emission Statement rule which requires facilities to report information for HAPs, assists the State in satisfying the HAPs reporting requirements for major sources. For EPA's detailed evaluation of New York's Emission Statement rule, the reader is referred to the proposed rulemaking notice (July 20, 2007, 72 FR 39773).

It should be noted that the State's Emission Statement program requires facilities to report individual HAPs that may not be classified as criteria pollutants or precursors to assist the State in air quality planning needs. While EPA recognizes the value of this information, EPA will not take SIP-related enforcement action should a facility not submit this information to the State in an emissions statement because these substances do not cause or exacerbate exceedances of the NAAQS.

EPA has concluded that the New York Emission Statement rule contains the necessary applicability, compliance, enforcement and reporting requirements for an approvable emission statement program. Accordingly, EPA is approving 6 NYCRR, Chapter III, Part 202, Subpart 202-2, Emission Statements, as part of New York's SIP adopted on April 12, 2005 and effective May 29, 2005.

V. 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 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 approves a state program.

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. section 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. section 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 December 31, 2007. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 26, 2007.

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)(112) to read as follows:

§ 52.1670 Identification of plans.

* * * * *
(c) * * *

(112) Revisions to the State Implementation Plan submitted on July 7, 2006 by the New York State Department of Environmental Conservation for the purpose of enhancing an existing Emission Statement Program for stationary sources in New York. The SIP revision consists of amendments to Title 6 of the New York Codes Rules and Regulations, Chapter III, Part 202, Subpart 202-2, “Emission Statements.”

(i) Incorporation by reference:

(A) Part 202, Subpart 202-2, Emission Statements of Title 6 of the New York Codes, Rules and Regulations, effective on May 29, 2005.

(ii) Additional information:

(A) July 7, 2006, letter from Mr. Carl Johnson, Deputy Commissioner, OAWM, NYSDEC, to Mr. Alan Steinberg, RA, EPA Region 2, requesting EPA approval of the amendments to Title 6 of the New York Codes Rules and Regulations, Chapter III, Part 202, Subpart 202-2, Emission Statements.

(B) April 11, 2007, letter from Mr. David Shaw, Director, Division of Air Resources, NYSDEC, to Mr. Raymond Werner, Chief, Air Programs Branch, EPA Region 2.

■ 3. Section 52.1679 is amended by revising under Title 6 the entry for part 202 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 |
|---------------------------|----------------------|--------------------------|----------|
|---------------------------|----------------------|--------------------------|----------|

Title 6:

| New York State regulation | State effective date | Latest EPA approval date | Comments |
|---|----------------------|--------------------------------------|--|
| * * * * * | | | |
| Part 202, Emissions Verification: | 3/24/79 | 11/12/81, 46 FR 55690. | |
| Subpart 202-1, "Emissions Testing, Sampling and Analytical Determinations". | | | |
| Subpart 202-2, "Emission Statements" | 5/29/2005 | 10/31/07, [Insert FR page citation]. | Section 202-2.3(c)(9) requires facilities to report individual HAPs that may not be classified as criteria pollutants or precursors to assist the State in air quality planning needs. EPA will not take SIP-related enforcement action on these pollutants. |
| * * * * * | | | |

[FR Doc. E7-21241 Filed 10-30-07; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-0227-200722(a); FRL-8488-5]

Approval and Promulgation of Implementation Plans; North Carolina: State Implementation Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), on February 8, 2007. The submittal encompasses revisions to NCDENR regulations .0605 "General Recordkeeping and Reporting Requirements," .0927 "Bulk Gasoline Terminals," and .0932 "Gasoline Truck Tanks and Vapor Collections." This action is being taken pursuant to section 110 of the Clean Air Act (CAA). The intended effect of these revisions is to clarify certain provisions and to ensure consistency with the requirements of the CAA.

DATES: This direct final rule is effective December 31, 2007 without further notice, unless EPA receives adverse comment by November 30, 2007. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2007-0227, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* lakeman.sean@epa.gov.
 3. *Fax:* (404) 562-9019.
 4. *Mail:* EPA-R04-OAR-2007-0227, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
 5. *Hand Delivery or Courier:* Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2007-0227. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in

the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the electronic docket are listed in the <http://www.regulations.gov> index. 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 <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.
FOR FURTHER INFORMATION CONTACT: Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9043. Mr. Lakeman can also be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: