

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE NEW MEXICO SIP

Name of SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date	Explanation
Air Pollution Episode Contingency Plan for New Mexico.	Statewide	7/7/1988	8/21/1990, 55 FR 34013 ..	
Infrastructure for the 1997 Ozone and 1997 PM <sub>2.5</sub> NAAQS.	Statewide	12/10/2007 3/3/2008	7/15/11, [Insert FR page number where document begins].	Approval for 110(a)(2)(A), (B), (C), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M).

■ 3. Section 52.1634 is amended by revising paragraph (a) to read as follows:

**§ 52.1634 Significant deterioration of air quality.**

(a) The plan submitted by the Governor of New Mexico on February 21, 1984 (as adopted by the New Mexico Environmental Improvement Board (NMEIB) on January 13, 1984), August 19, 1988 (as revised and adopted by the NMEIB on July 8, 1988), and July 16, 1990 (as revised and adopted by the NMEIB on March 9, 1990), Air Quality Control Regulation 707—Permits, Prevention of Significant Deterioration (PSD) and its Supplemental document, is approved as meeting the requirements of part C, Clean Air Act for preventing significant deterioration of air quality. Additionally, on November 2, 1988, EPA approved New Mexico’s stack height regulation into the SIP (53 FR 44191), thereby satisfying the conditions of EPA’s conditional approval of the State’s PSD program on February 27, 1987 (52 FR 5964). Therefore, the conditional approval was converted to a full approval on July 15, 2011.

\* \* \* \* \*

■ 4. Section 52.1640 is amended by revising paragraph (c)(66)(i)(B) to read as follows:

**§ 52.1640 Original identification of plan section.**

\* \* \* \* \*

- (c) \* \* \*
- (66) \* \* \*
- (i) \* \* \*

(B) New Mexico Administrative Code, Title 20, Chapter 2, Parts 3, 5, 7, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 30, 31, 32, 33, 34, 40, 41, 60, 61, 72 (Subparts I, II and III; Subpart V, Sections 501 and 502), 73, 75, 79, and 80; adopted by the New Mexico Environmental Improvement Board on October 20, 1995, and filed with the

State Records and Archives Center on October 30, 1995.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R02-2011-NY1, FRL-9430-3]

**Approval and Promulgation of Implementation Plans; New York; Revised Format of Materials Being Incorporated by Reference**

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

**ACTION:** Final rule; Administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is revising the format of materials submitted by the State of New York that have been incorporated by reference (IBR) into its State Implementation Plan (SIP). The regulations and other materials affected by this format change have all been previously submitted by New York and approved by EPA as SIP revisions.

This format revision will primarily affect the “Identification of plan” section of regulation, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Region 2 Office. EPA is also adding a table in the “Identification of plan” section, which summarizes the approval actions that EPA has taken on the regulatory and non-regulatory portions of the New York SIP. The sections of regulation pertaining to provisions promulgated by EPA, and state-submitted materials not subject to IBR review, remain unchanged.

**DATES:** *Effective Date:* This final rule is effective on July 15, 2011.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742. For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

**FOR FURTHER INFORMATION CONTACT:** Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

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## I. Background

### A. Description of a SIP

In accordance with Section 110 of the Clean Air Act (Act), 42 U.S.C. 7410, each state has a SIP containing the control measures and strategies to attain and maintain the National Ambient Air Quality Standards (NAAQS) established pursuant to Section 109 of the Act, 42 U.S.C. 7409. SIPs contain numerous elements such as air pollution control regulations, emission inventories, monitoring networks, attainment demonstrations, and enforcement mechanisms.

### B. How EPA Enforces SIPs

Before formally adopting rules that contain required control measures and strategies as part of a SIP, each state must provide the public with an opportunity to comment on them. The states then submit these rules to EPA as requested SIP revisions, on which EPA must formally act.

If and when these control measures and strategies are approved by EPA after notice and comment rulemaking, they become enforceable by EPA, and are incorporated into the federally approved SIP and identified in title 40 of the Code of Federal Regulations, part 52 (Approval and Promulgation of Implementation Plans) (40 CFR part 52). The actual state regulations approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are “incorporated by reference,” which has the same effect as including the entire state regulation in part 52. Incorporation by reference indicates that EPA has approved a given state regulation with a specific effective date, and that EPA, in addition to the state, may enforce that regulation once it takes effect and is formally a part of the SIP. This format allows both EPA and the public to know which state measures are contained in a given SIP and are therefore federally enforceable. It also helps identify the specific requirements that the state is implementing to attain and maintain the NAAQS.

### C. How the State and EPA Update the SIP

The SIP is periodically revised as necessary to address the specific or unique air pollution problems in the state. Therefore, EPA from time to time takes action on state SIP submissions containing new and/or revised regulations and other materials; if approved, they become part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally approved SIPs, as a result of consultations between EPA

and the Office of the **Federal Register** (OFR).

As a result, EPA began the process of developing the following: (1) A revised SIP document for each state that would be incorporated by reference under the provisions of title 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR; and (3) a revised format of the “Identification of plan” sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures, and “Identification of plan” format are discussed in further detail in the May 22, 1997, **Federal Register** document.

### D. How EPA Compiles the SIP

The federally approved regulations, source-specific requirements, and nonregulatory provisions (entirely or portions of) submitted by each state agency and approved by EPA have been organized into a “SIP compilation.” The compilation is contained in three-ring binders and will be updated, primarily on an annual basis. The New York SIP compilation is available at the Environmental Protection Agency, Region 2 Office: 290 Broadway, New York, New York 10007; (212) 637-4249.

### E. How EPA Organizes the SIP Compilation

Each SIP compilation contains three parts approved by EPA: part one contains regulations, part two contains source-specific requirements, and part three contains nonregulatory provisions. Each state’s SIP compilation contains a table of identifying information for each of these three parts. In this action, EPA is publishing the tables summarizing the applicable SIP requirements for New York. The effective dates in the tables indicate the date of the most recent state revision of each regulation. The EPA Region 2 Office has the primary responsibility for updating the compilation and ensuring its accuracy.

### F. Where You Can Find a Copy of the SIP Compilation

EPA’s Region 2 Office developed and will maintain the compilation for New York. A copy of the full text of New York’s regulatory and source-specific compilations will also be maintained at NARA and EPA’s Air Docket and Information Center.

### G. The Format of the New Identification of Plan Section

In order to better serve the public, EPA revised the organization of the “Identification of plan” section and

included additional information to clarify which provisions are the enforceable elements of the SIP. The revised Identification of plan section contains five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA-approved regulations, (d) EPA-approved source-specific requirements, and (e) EPA-approved nonregulatory provisions such as transportation control measures, statutes, control strategies, and monitoring networks.

### H. When a State Submission Becomes Part of the SIP and Federally Enforceable

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraphs (c), (d), or (e) of the applicable Identification of plan section found in each subpart of 40 CFR part 52.

### I. The Historical Record of SIP Revision Approvals

To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP compilation, EPA has retained the original Identification of plan section, previously appearing in the CFR as the first or second section of part 52 for each state subpart. After an initial two-year period, EPA will review its experience with the new table format and will decide whether or not to retain the historical Identification of plan appendices for some further period.

## II. What is EPA doing in this action?

Today’s rule constitutes a reformatting exercise to ensure that all revisions to the state programs and accompanying SIP that have already occurred are accurately reflected in 40 CFR part 52. State SIP revisions are subject to the EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish its proposed rulemaking in the **Federal Register** and provide for public comment before approval.

EPA has determined that today’s rule falls under the “good cause” exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation, and section 553(d)(3), which allows an agency to make a rule effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA. Today’s rule simply reorganizes and codifies provisions that are already in effect as a matter of law in Federal and approved state programs. Accordingly, we find that public

comment is “unnecessary” and “contrary to the public interest” under section 553 of the APA, since the reorganization and codification of the revised format for denoting IBR of the state materials into the SIP only reflects existing law and since immediate notice in the CFR benefits the public by removing outdated citations from the CFR.

### III. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a significant regulatory action and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a good cause finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also does 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), nor will it 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 rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This rule does not involve technical standards; 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. The rule also does not involve special consideration

of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings issued under the executive order. This rule does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). EPA’s compliance with these statutes and Executive Orders for the underlying rules are discussed in previous actions taken on the State’s rules.

#### B. Submission to Congress and the Comptroller General

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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today’s action simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of July 15, 2011. 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**. This rule is not a major rule as defined by 5 U.S.C. 804(2).

#### C. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the New York SIP compilation had previously

afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review for these “Identification of plan” reorganization actions for New York.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 1, 2011.

Judith A. Enck,

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. 7401–7671q.

#### Subpart HH—New York

##### § 52.1670 [Redesignated as § 52.1689]

■ 2. Section 52.1670 is redesignated as § 52.1689.

■ 3. In newly designated § 52.1689 the section heading and paragraph (a) are revised to read as follows:

##### § 52.1689 Original Identification of plan section.

(a) This section identifies the original “Air Implementation Plan for the State of New York” and all revisions submitted by New York that were Federally approved prior to January 1, 2011.

\* \* \* \* \*

■ 4. A new § 52.1670 is added to read as follows:

##### § 52.1670 Identification of plan.

(a) *Purpose and scope.* This section sets forth the applicable State Implementation Plan (SIP) for New York under section 110 of the Clean Air Act, as amended, 42 U.S.C. 7401 *et seq.*, and 40 CFR part 51 to meet National Ambient Air Quality Standards.

(b) *Incorporation by reference.*

(1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to January 1, 2011, was approved for incorporation by reference by the Director of the **Federal**

**Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with an EPA approval date after January 1, 2011, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 2 certifies that the rules/regulations provided by the EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an

exact duplicate of the officially promulgated State rules/regulations, which have been approved as part of the SIP as of January 1, 2011.

(3) Copies of the materials incorporated by reference may be inspected at the Environmental Protection Agency, Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007; the EPA, Air and Radiation Docket and Information Center, EPA Headquarters Library, Infoterra Room (Room Number 3334), EPA West Building, 1301 Constitution

Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566-1742. For information on the availability of this material at NARA, call 202-741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(c) EPA approved regulations.

EPA-APPROVED NEW YORK STATE REGULATIONS

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6: Part 200, General Provisions, Section 200.1.	3/5/09	11/17/10, 75 FR 70140	The word odor is removed from the Subpart 200.1(d) definition of "air contaminant or air pollutant." Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation. EPA is including the definition of "Federally enforceable" with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as Federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" applicable requirements.
Section 200.9, Table 1 (Part 231 references).	3/5/09	11/17/10, 75 FR 70140	EPA is approving reference documents that are not already Federally enforceable.
Sections 200.6, 200.7 and 200.9 .....	2/25/00	4/22/08, 73 FR 21548	EPA is approving reference documents that are not already Federally enforceable.
Part 201, Permits and Certificates .....	4/4/93	10/3/05, 70 FR 57511	This action removes subpart 201.5(e) from the State's Federally approved SIP.
Subpart 201-2.1(b)(21), Definitions .....	3/5/09	11/17/10, 75 FR 70140	EPA is including the definition of "Major stationary source or major source or major facility" with the understanding that the definition applies only to provisions of part 231.
Subpart 201-7.1, General .....	7/7/96	10/3/05, 70 FR 57511	
Subpart 201-7.2, Emission Capping Using Synthetic Minor Permits.	7/7/96	10/3/05, 70 FR 57511	
Part 202, Emissions Testing, Sampling and Analytical Determinations.	3/24/79	11/12/81, 46 FR 55690	
Subpart 202-2, Emission Statements .....	5/29/05	10/31/07, 72 FR 61530	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.
Part 204, NO <sub>x</sub> Budget Trading Program	2/25/00	5/22/01, 66 FR 28063	Incorporates NO <sub>x</sub> SIP Call and NO <sub>x</sub> Budget Trading Program for 2003 and thereafter.
Part 205, Architectural and Industrial Maintenance Coatings.	11/22/03	12/13/04, 69 FR 72118	
Part 207, Control Measures for an Air Pollution Episode.	2/22/79	11/12/81, 46 FR 55690	
Part 211, General Prohibitions .....	8/11/83	11/27/98, 63 FR 65559	Section 211.2 has been removed from the approved plan.
Part 212, General Process Emission Sources.	9/22/94	9/25/01, 66 FR 48961	
Part 213, Contaminant Emissions from Ferrous Jobbing Foundries.	5/1/72	9/22/72, 37 FR 19814	
Part 214, By-Product Coke Oven Batteries.	9/22/94	7/20/06, 71 FR 41163	
Part 215, Open Fires .....	6/16/72	9/22/72, 37 FR 19814	
Part 216, Iron and/or Steel Processes .....	9/22/94	7/20/06, 71 FR 41163	

## EPA-APPROVED NEW YORK STATE REGULATIONS—Continued

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 217, Motor Vehicle Emissions. Subpart 217–1, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements.	10/30/02	2/21/07, 72 FR 7829	
Subpart 217–4, Inspection and Maintenance Program Audits.	10/30/02	2/21/07, 72 FR 7829	
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, 70 FR 4773	
Subpart 218–2: Certification and Prohibitions.	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–3: Fleet Average .....	12/28/00	1/31/05, 70 FR 4773	
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, 70 FR 4773	
Subpart 218–6: Surveillance .....	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–7: Aftermarket Parts .....	12/28/00	1/31/05, 70 FR 4773	
Subpart 218–8: Severability .....	12/28/00	1/31/05, 70 FR 4773	
Part 219, Incinerators .....	5/1/72	9/22/72, 37 FR 19814	
Part 220, Portland Cement Plants .....	3/14/73	11/12/81, 46 FR 55690	
Part 222, Incinerators—New York City, Nassau and Westchester Counties.	6/17/72	9/22/72, 37 FR 19814	
Part 223, Petroleum Refineries .....	8/9/84	7/19/85, 50 FR 29382	
Part 224, Sulfuric and Nitric Acid Plants	5/10/84	7/19/85, 50 FR 29382	Variances adopted by the State pursuant to Part 224.6(b) become applicable only if approved by EPA as SIP revisions 7/19/85, 50 FR 29382.
Subpart 225–1, Fuel Composition and Use-Sulfur Limitations.	3/24/79	11/12/81, 46 FR 55690	Variances adopted by the State pursuant to §§ 225.2(b) and (c), 225.3, and 225.5(c) become applicable only if approved by EPA or SIP revisions (40 CFR 52.1675(e)).
Subpart 225–2, Fuel Composition and Use-Waste Fuel.	7/28/83	8/2/84, 49 FR 30936	
Part 225–3, Fuel Composition and Use—Gasoline.	11/4/01	9/8/05, 70 FR 53304	The Variance adopted by the State pursuant to section 225–3.5 becomes applicable only if approved by EPA as a SIP revision.
Part 226, Solvent Metal Cleaning Processes.	5/7/03	1/23/04, 69 FR 3240	
Part 227, Stationary Combustion Installations [1972 version]/section 227.2(b)(1).	5/1/72	9/22/72, 37 FR 19814	
Part 227, Stationary Combustion Installations.			Existing Part 227 is renumbered Subpart 227–1.
Subpart 227–1, Stationary Combustion Installations.	2/25/00	5/22/01, 66 FR 28063	Renumbered sections 227–1.2(a)(2), 227–1.4(a), and 227–1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227–2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO <sub>x</sub> ).	2/11/04	1/13/05, 70 FR 2358	
Subpart 227–3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	5/22/01, 66 FR 28063	Approval of NO <sub>x</sub> Budget Trading Program for 1999, 2000, 2001 and 2002. NO <sub>x</sub> caps in the State during 2003 and thereafter established in Part 204.
Part 228, Surface Coating Processes .....	7/23/03	1/23/04, 69 FR 3240	
Part 229, Petroleum and Volatile Organic Liquid Storage and Transfer.	4/4/93	12/23/97, 62 FR 67006	SIP revisions submitted in accordance with Section 229.3(g)(1) are effective only if approved by EPA.
Part 230, Gasoline Dispensing Sites and Transport Vehicles.	9/22/94	4/30/98, 63 FR 23668	
Part 231, New Source Review for New and Modified Facilities.	3/5/09	11/17/10, 75 FR 70140	Partial approval; no action taken on provisions that may require PSD permits for sources of greenhouse gas (GHG) emissions with emissions below the thresholds identified in EPA's final PSD and Title V GHG Tailoring Rule at 75 FR 31514, 31606 (June 3, 2010).
Part 232, Dry Cleaning .....	8/11/83	6/17/85, 50 FR 25079	EPA has not determined that § 232.3(a) provides for reasonably available control technology.

EPA-APPROVED NEW YORK STATE REGULATIONS—Continued

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 233, Pharmaceutical and Cosmetic Manufacturing Processes.	4/4/93	12/23/97, 62 FR 67006	SIP revisions submitted in accordance with Section 223.3(h)(1) are effective only if approved by EPA.
Part 234, Graphic Arts .....	4/4/93	12/23/97, 62 FR 67006	SIP revisions submitted in accordance with Section 234.3(f)(1) are effective only if approved by EPA.
Part 235, Consumer Products .....	10/15/09	5/28/10, 75 FR 29897	
Part 236, Synthetic Organic Chemical Manufacturing Facility Component Leaks.	1/12/92	7/27/93, 58 FR 40059	Variances adopted by the State pursuant to Part 236.6(e)(3) become applicable only if approved by EPA as a SIP revision.
Part 239, Portable Fuel Container Spillage Control.	7/30/09	5/28/10, 75 FR 29897	The specific application of provisions associated with alternate test methods, variances and innovative products, must be submitted to EPA as SIP revisions.
Part 243, CAIR NO <sub>x</sub> Ozone Season Trading Program.	10/19/07	1/24/08, 73 FR 4112	
Part 244, CAIR NO <sub>x</sub> Annual Trading Program.	10/19/07	1/24/08, 73 FR 4112	
Part 245, CAIR SO <sub>2</sub> Trading Program .....	10/19/07	1/24/08, 73 FR 4112	
Title 15: Part 79, Motor Vehicle Inspection Regulations, Sections 79.1–79.15, 79.17, 79.20, 79.21, 79.24, 79.25.	5/4/05	2/21/07, 72 FR 7829	

(d) EPA approved State source-specific requirements.

EPA-APPROVED NEW YORK SOURCE-SPECIFIC PROVISIONS

Name of source	Identifier/emission point	State effective/approval date	EPA approval date	Explanation
Dunlop Tire and Rubber Corporation.	Green tire spraying, bead dipping, and under tread and tread end cementing processes.	Consent Order [81–36, 9–0420]—8/19/81, Consent Order Amendment letters—1/29/82 and 3/3/82.	1/26/84, 49 FR 3436	Part 212 VOC RACT Compliance Plan.
Morton International Inc..	00027 .....	Permit—9/1/95 Special Permit Conditions letter—8/23/95.	9/23/97, 62 FR 49617	Part 227–2, NO <sub>x</sub> RACT determination.
University of Rochester.	00003 and 00005 .....	Permit—4/25/96 Special Permit Conditions letter— 3/19/96 .....	9/23/97, 62 FR 49617	Part 227–2, NO <sub>x</sub> RACT determination.
Algonquin Gas Transmission Company.	..... R0100 .....	Special Conditions—9/23/91 .....	9/23/97, 62 FR 49617	Part 227–2, NO <sub>x</sub> RACT determination.
	R0200 .....	Permit Correction—8/8/96 .....		
	R0300 .....	Permit—9/23/91, Special Permit Conditions letter— 3/18/96 .....		
	R0400 .....	Permit—9/23/91, Special Permit Conditions letter— 3/18/96 .....		
Tenneco Gas Corporation's (also known as Tenneco Gas Pipeline Company and Tennessee Gas Pipeline Company).	.....	Permit—9/23/91, Special Permit Conditions letter— 3/29/96, .....	7/21/03, 68 FR 42981	Part 227–2, NO <sub>x</sub> RACT determination.

EPA-APPROVED NEW YORK SOURCE-SPECIFIC PROVISIONS—Continued

Name of source	Identifier/emission point	State effective/approval date	EPA approval date	Explanation
Station 229 .....	0001A through 0006A.	Permits—8/22/95 .....		
Station 245 .....	00001 through 00006.	Special Permit Conditions letter—2/24/97.		
Station 254 .....	00001 through 00006.	Permits—10/4/95 Special Permit Conditions letter—9/15/95 .....		
General Chemical Corporation.	OSN1A and OSN1B	Permit conditions letter—12/16/97 .....	7/1/04, 69 FR 39858	Part 212, NO <sub>x</sub> RACT determination. 6/23/05 letter informing NYDSEDEC that the approval will automatically convert to a disapproval.

(e) EPA approved nonregulatory and quasi-regulatory provisions.

EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
SIP revision for carbon monoxide concerning the oxyfuel program.	New York-Northern New Jersey-Long Island carbon monoxide nonattainment area.	8/30/99	4/19/00, 65 FR 20909	
Stage II gasoline vapor recovery comparability plan.	Upstate portions of New York State .....	4/18/00	9/29/00, 65 FR 58364	
The 1990 base year emission inventory (Volatile organic compounds (VOC), Nitrogen oxides (NO <sub>x</sub> ) and Carbon monoxide (CO)).	Areas designated nonattainment for ozone since 1991 in New York State.	2/2/99	5/10/01, 66 FR 23851	
1996 and 1999 ozone projection year emission inventories.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
Photochemical assessment monitoring stations network.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
Enforceable commitments for ozone .....	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
15 Percent Rate of Progress Plan and the 9 Percent Reasonable Further Progress Plan for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	2/2/99	5/10/01, 66 FR 23851	
2002, 2005 and 2007 ozone projection year emission inventories.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Reasonable Further Progress Plans for milestone years 2002, 2005 and 2007 for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Contingency measures for ozone .....	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98	2/4/02, 67 FR 5194	
Reasonably Available Control Measure Analysis for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	10/1/01	2/4/02, 67 FR 5194	
Attainment demonstration for ozone .....	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	11/27/98, supplemented on 4/15/99, and 4/18/00	2/4/02, 67 FR 5194	
Enforceable commitments for future actions associated with attainment of the 1-hour ozone national ambient air quality standard.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	4/18/00	2/4/02, 67 FR 5194	
SIP revision to the carbon monoxide maintenance plan.	Onondaga County .....	6/22/04	9/8/05, 70 FR 53304	
1990 and 2007 conformity emission budgets for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	1/29/03, amended on 6/29/03 and 1/18/05	9/13/05, 70 FR 53944	

## EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
Revised commitment to perform a mid-course review for ozone.	New York portion of the New York-Northern New Jersey-Long Island 1-hour ozone nonattainment area.	1/29/03	9/13/05, 70 FR 53944	
New York reasonably available control technology (RACT) analysis for ozone.	Statewide and to the New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT and the Poughkeepsie 8-hour ozone moderate nonattainment areas.	9/1/06, supplemented on 2/8/08 and 9/16/08	7/23/10, 75 FR 43069	
Reasonably available control measure (RACM) analysis for ozone.	New York portion of the New York-Northern New Jersey-Long Island, NY-NJ-CT 8-hour ozone moderate nonattainment area.	2/8/08	7/23/10, 75 FR 43069	

**§ 52.1679 [Reserved]**

■ 5. Section 52.1679 is removed and reserved.

[FR Doc. 2011-17782 Filed 7-14-11; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2007-0927; FRL-9428-9]

#### Approval, Disapproval, and Promulgation of Air Quality Implementation Plans; Utah; Revisions to New Source Review Rules

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

**ACTION:** Final rule.

**SUMMARY:** EPA is partially approving and partially disapproving revisions to the State of Utah's Clean Air Act (CAA) State Implementation Plan (SIP). Utah has a federally-approved Prevention of Significant Deterioration (PSD) preconstruction permit program for new and modified sources impacting attainment areas in the State. Utah requested approval of its revised rules to implement the non-vacated provisions of EPA's New Source Review (NSR) Reform regulations. EPA proposed approval of these rules on January 7, 2009 and received adverse comments. In this action, EPA responds to these comments and announces EPA's final rulemaking action. This action affects major stationary sources in Utah that are subject to or potentially subject to the PSD preconstruction permit program. This action is being taken under section 110 of the CAA.

**DATES:** This action is effective on August 15, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R08-OAR-

2007-0927. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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 <http://www.regulations.gov> or in hard copy at EPA Region 8, Air Quality Planning Unit (8P-AR), 1595 Wynkoop Street, Denver, Colorado 80202. 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jody Ostendorf, Air Program, Mailcode 8P-AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129, (303) 312-7814, or [ostendorf.jody@epa.gov](mailto:ostendorf.jody@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document wherever "we", "us" or "our" are used, we mean EPA. Information is organized as follows:

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- I. Background for This Action
  - A. What revisions to the Utah SIP does this action address?
  - B. What comments did we receive on our proposal for these revisions?
    - 1. Section 110(l)
      - a. Summary of Comments Regarding Section 110(l)
      - b. EPA Response to Section 110(l)-Related Comments
    - 2. Section 193
      - a. Summary of Comments Regarding Section 193

b. EPA Response to Section 193—Related Comments

#### II. Final Action

- A. Rules To Approve Into the Utah SIP
- B. Rules To Disapprove and Therefore Not Incorporate Into the Utah SIP
- C. Scope of Action

#### III. Statutory and Executive Order Reviews

#### I. Background for This Action

Title I of the CAA, as amended by Congress in 1990, specifies the general requirements for states to submit SIPs to attain and/or maintain the National Ambient Air Quality Standards (NAAQS) and EPA's actions regarding approval of those SIPs. SIPs must include, among other requirements, an NSR preconstruction permit program, which, for attainment areas, meets federal PSD requirements.

On February 12, 1982, EPA approved into the Utah SIP PSD permitting regulations. On December 31, 2002, EPA published revisions to the federal PSD and non-attainment NSR regulations in 40 CFR parts 51 and 52 (67 FR 80186). These revisions are commonly referred to as the "NSR Reform" regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. For information on subsequent court decisions and regulatory revisions to these rules, see <http://www.epa.gov/nsr>.

On September 15, 2006, October 1, 2007, and March 7, 2008, the Utah Department of Environmental Quality (DEQ) submitted numerous rule changes and requested that the Utah SIP be revised to reflect those changes. These changes include revisions to Utah's Rule R307-405 ("Permits: Major Sources in Attainment or Unclassified Areas (PSD)") and to Utah's Rule R307-110-9 ("Section VIII, Prevention of Significant Deterioration of the Utah Air Quality Rules").

On January 7, 2009 EPA proposed to partially approve and partially disapprove the revisions submitted by the Utah DEQ. 74 FR 667 (January 7,