

does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2-1, paragraph (34)(g), of the Instruction because it involves the establishment of a safety zone. A final environmental analysis checklist and a categorical exclusion determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

#### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 46 U.S.C. Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Pub. L 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09-0765 to read as follows:

#### § 165.T09-0765 Safety Zone; Seafood Festival Fireworks Display, Marquette, Michigan.

(a) *Location.* All U.S. navigable waters of Marquette Harbor within a 1000-foot radius of the fireworks launch site, centered approximately 1250 feet south of the Mattson Park Bulkhead Dock and 450 feet east of Ripley Rock, at position 46°32'21.7" N, 087°23'07.60" W [DATUM: NAD 83].

(b) *Effective and enforcement period.* This rule is effective and will be enforced from 9:30 p.m. until 11:00 p.m. on August 25, 2012.

#### (c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

(3) The "on-scene representative" of the Captain of the Port, Sector Sault Sainte Marie, is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port, Sector Sault Sainte Marie, to act on his or her behalf. The on-scene representative of the Captain of the Port, Sector Sault Sainte Marie, will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter the safety zone or operate within the safety zone shall contact the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative to obtain permission to do so. The Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port, Sector Sault Sainte Marie, or his or her on-scene representative.

Dated: August 13, 2012.

**J.C. McGuiness,**

*Captain, U.S. Coast Guard, Captain of the Port Sault Sainte Marie.*

[FR Doc. 2012-20698 Filed 8-21-12; 8:45 am]

**BILLING CODE 9110-04-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-RO1-OAR-2008-0117; EPA-RO1-OAR-2008-0107; EPA-RO1-OAR-2008-0445; FRL-9672-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Connecticut, Massachusetts, and Rhode Island; Reasonable Further Progress Plans and 2002 Base Year Emission Inventories

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan revisions submitted by the States of Connecticut, Massachusetts, and Rhode Island. These revisions establish 2002 base year emission inventories and reasonable further progress emission reduction plans for areas within these states designated as nonattainment of EPA's 1997 8-hour ozone standard. The intended effect of this action is to approve these states' 2002 Base Year Inventories and reasonable further progress (RFP) emission reduction plans, and to approve the 2008 motor vehicle transportation budgets and contingency measures associated with the RFP plans. EPA also is approving three rules adopted by Connecticut that will reduce volatile organic compound emissions in the state. This action is being taken in accordance with the Clean Air Act.

**DATES:** *Effective Date:* This rule is effective on September 21, 2012.

**ADDRESSES:** EPA has established dockets for these actions under Docket Identification Numbers EPA-RO1-OAR-2008-0117 for our action for Connecticut, EPA-RO1-OAR-2008-0107 for our action for Massachusetts, and EPA-RO1-OAR-2008-0445 for our action for Rhode Island. All documents in the dockets are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality

Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the respective State Air Agency: Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106-1630; Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108; Office of Air Resources, Department of Environmental Management, 235 Promenade Street, Providence, RI 02908-5767.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Air Quality Planning Unit, U.S. EPA Region 1—New England, 5 Post Office Square, Boston, MA 02109-3912, phone number: 617-918-1046; eMail: [mccconnell.robert@epa.gov](mailto:mccconnell.robert@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. 2002 Base Year Emission Inventories
  - A. What is a base year inventory and why are these states required to prepare one?
  - B. Summary of 2002 Base Year Inventories
  - C. What action is EPA taking on these inventories?
- III. Reasonable Further Progress Plan, Contingency Plans, and State VOC Rules
  - A. What is a Reasonable Further Progress (RFP) plan, and why were these states required to prepare one?
  - B. What action is EPA taking on these RFP plans?
  - C. Is EPA approving any state control measures in this action?
  - D. Have these states met their contingency measure obligation?
  - E. How do these plans affect transportation conformity?
- IV. Final Action
- V. Statutory and Executive Order Reviews

**I. Background and Purpose**

On September 20, 2010 (75 FR 57221), EPA published a Notice of Proposed Rulemaking (NPR) for the States of Connecticut, Massachusetts, and Rhode

Island. The NPR proposed approval of 2002 base year emission inventories and reasonable further progress emission reduction plans for areas within these states designated as nonattainment of EPA's 1997 8-hour ozone standard. Additionally, the NPR proposed approval of the 2008 motor vehicle transportation budgets and contingency measures associated with the RFP plans. EPA also proposed approval of three rules adopted by Connecticut that will reduce volatile organic compound emissions in the state. In today's final rule we are approving the items for which we proposed approval in the NPR. Today's final rule was originally signed on May 2, 2012, but due to a clerical error was not published.

On April 30, 2004, EPA designated portions of the country as being in nonattainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) (69 FR 23858).<sup>1</sup> All parts of Connecticut, Massachusetts, and Rhode Island were designated as nonattainment for ozone, and all were classified as moderate. There were five nonattainment areas created that encompassed the entirety of these states, as shown in Table 1.

TABLE 1—8-HOUR OZONE NONATTAINMENT AREAS IN CONNECTICUT, MASSACHUSETTS, AND RHODE ISLAND

State	Area name	Geographic area covered (counties)
CT	New York-N. New Jersey-Long Island, NY-NJ-CT (NY-NJ-CT area).	Fairfield, Middlesex, New Haven.
CT	Greater Connecticut area	Hartford, Litchfield, New London, Tolland, Windham.
MA	Bos-Law-Wor (E. MA) area	Barnstable, Bristol, Dukes, Essex, Middlesex, Nantucket, Norfolk, Plymouth, Suffolk, Worcester.
MA	Springfield (W. MA) area	Berkshire, Franklin, Hampden, Hampshire.
RI	Providence area	Statewide.

As discussed in our September 20, 2010 NPR, the Act contains air quality planning and control requirements for ozone nonattainment areas. For more information about these requirements and our evaluation of each state's means of addressing them, please refer to the more detailed analysis presented within the September 20, 2010 NPR.

**II. 2002 Base Year Emission Inventories**

*A. What is a base year inventory and why are these states required to prepare one?*

The Act contains a number of requirements for moderate ozone nonattainment areas. One requirement, found at section 182(a)(1) of the Act and made applicable to moderate ozone nonattainment areas through section

182(b), compels the preparation and submittal of a “comprehensive, accurate, current inventory of actual emissions from all sources.” In August, 2005, EPA published supplemental guidance for states to use in development of their base year inventories entitled, “Emission Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulation” (EPA-454/R-05-001). This guidance describes for states the requirements for development of comprehensive emission estimates from stationary point and area sources, and from mobile on-road and non-road sources, such that complete emission inventories are available to support SIP development for the 8-hour ozone

standard. Each state complemented these emission estimates from man-made sources with biogenic (naturally occurring) emission estimates from plants, trees, grasses and crops prepared by EPA. The guidance directs states to prepare their emission estimates on a “typical summer day” basis to reflect emissions that occur during high ozone episodes, which occur predominantly during the warm summer months.

As mentioned above, Connecticut, Massachusetts, and Rhode Island all contain ozone nonattainment areas designated as moderate for the 1997 8-hour ozone standard. Therefore, they were required to develop 2002 base year emission inventories of VOC and NO<sub>x</sub>, as these compounds react in the presence of heat and sunlight to form ozone.

<sup>1</sup> The 1997 8-hour ozone standard itself is codified at 40 CFR 50.10.

*B. Summary of 2002 Base Year Inventories*

The 2002 VOC and NO<sub>x</sub> base year inventories prepared by Connecticut,

Massachusetts, and Rhode Island are shown below in Tables 2a through 2e. EPA has concluded that these states have adequately derived and

documented the 2002 base year VOC and NO<sub>x</sub> emissions for these areas, and our intention is to approve these inventories into the SIP for each state.

TABLE 2a—2002 BASE YEAR INVENTORY FOR THE NY-NJ-CT AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
NY-NJ-CT area:		
Point .....	11.3	37.7
Area .....	84.1	7.2
On-road .....	48.1	102.7
Non-road .....	66.0	38.7
Biogenics .....	125.6	0.7
Total .....	335.3	187.0

TABLE 2b—2002 BASE YEAR INVENTORY FOR THE GREATER CONNECTICUT AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
Greater Connecticut area:		
Point .....	4.6	19.0
Area .....	75.5	6.4
On-road .....	45.1	89.3
Non-road .....	56.2	30.8
Biogenics .....	268.9	1.3
Total .....	450.3	146.8

TABLE 2c—2002 BASE YEAR INVENTORY FOR THE BOS-LAW-WOR (E. MA) AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
Bos-Law-Wor (E. MA) area:		
Point .....	13.6	116.6
Area .....	282.0	33.9
On-road .....	127.4	381.4
Non-road .....	196.2	122.1
Biogenics .....	535.7	4.4
Total .....	1,154.9	658.4

TABLE 2d—2002 BASE YEAR INVENTORY FOR THE SPRINGFIELD (W. MA) AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
Springfield (W. MA) area:		
Point .....	2.4	13.0
Area .....	45.5	5.2
On-road .....	24.5	71.7
Non-road .....	27.7	22.4
Biogenics .....	254.6	1.1
Total .....	354.7	113.4

TABLE 2e—2002 BASE YEAR INVENTORY FOR THE PROVIDENCE AREA

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
Providence area:		
Point .....	10.3	7.0

TABLE 2e—2002 BASE YEAR INVENTORY FOR THE PROVIDENCE AREA—Continued

Nonattainment area	2002 VOC emissions (tons/day)	2002 NO <sub>x</sub> emissions (tons/day)
Area .....	47.9	3.4
On-road .....	32.3	42.4
Non-road .....	26.8	19.7
Biogenics .....	124.2	0.7
Total .....	241.5	73.2

*C. What action is EPA taking on these inventories?*

We are approving the 2002 base year inventories listed in Tables 2a through 2e above.

**III. Reasonable Further Progress Plans, Contingency Plans, and State VOC Rules**

*A. What is a Reasonable Further Progress (RFP) plan and why were these states required to prepare one?*

A reasonable further progress (RFP) plan illustrates how an ozone nonattainment area will make emission reductions of a set amount over a given time period. EPA's Phase 2 implementation rule for the 1997 ozone standard interpreted how Section 182(b)(1) of the CAA would apply to

areas designated as moderate (or higher) nonattainment of the 1997 8-hour ozone standard. See 40 CFR part 51 subpart X. Of relevance for Connecticut, Massachusetts and Rhode Island is what the Phase 2 rule required for areas with attainment dates greater than 5 years from designation that previously accomplished a 15% reduction in VOC emissions pursuant to one-hour ozone nonattainment requirements, as all three of these states meet these criteria. For such areas, the Phase 2 rule indicates that RFP will be met if the area can demonstrate a 15% reduction in ozone precursor emissions (VOC and/or NO<sub>x</sub>) will occur between 2002 and 2008.<sup>2</sup> See 40 CFR 51.910(b)(2)(ii)(A)–(B). These states prepared RFP plans for each of the nonattainment areas shown in Table

1 above, and our September 20, 2010 notice of proposed rulemaking contains a summary of these plans and the results of our evaluation of them.

*B. What action is EPA taking on these RFP plans?*

We are approving the RFP plans submitted by Connecticut, Massachusetts, and Rhode Island for the moderate ozone nonattainment areas shown in Table 1 above, as revisions to these states' SIPs. Note that regarding the NY-NJ-CT moderate area, we are taking action today only on the Connecticut portion of the RFP plan for that area. The VOC and NO<sub>x</sub> emission target levels and modeled, controlled 2008 emissions for each nonattainment area are shown within Table 3 below.

TABLE 3—2008 RFP EMISSION TARGET LEVELS AND MODELED, CONTROLLED EMISSIONS

Nonattainment area	VOC emissions target; modeled 2008 emissions (tons/day)	NO <sub>x</sub> emissions target; modeled 2008 emissions (tons/day)
NY-NJ-CT area .....	184.6; 167.6	167.9; 142.6
Greater Connecticut area .....	159.4; 149.3	130.0; 107.1
Bos-Law-Wor area .....	588.1; 525.7	562.7; 440.6
Springfield area .....	94.4; 84.2	92.0; 66.9
Providence area .....	113.7; 115.4	57.8; 55.3

Note that in Table 3 above, all of the modeled 2008 emission levels are lower than the corresponding 2008 emission target levels with the exception of the Providence area's VOC emissions which are 1.5% higher than the 2008 VOC target. In light of this, Rhode Island allocated an additional 1.5% NO<sub>x</sub> reduction (which translates to 1.1 tons) to cover this shortfall. Thus, Rhode Island has set its 2008 NO<sub>x</sub> target to 57.8 tons/day rather than 58.9 tons/day. In essence, Rhode Island has selected a 16.6% reduction in NO<sub>x</sub> emissions and a 1.5% increase in VOC emissions, resulting in a combined reduction of

15.1%. A more detailed discussion of this is contained within our September 20, 2010 proposal.

Additionally, a typographical error within our September 20, 2010 proposal occurred within step 6 of Table 3d, where the detailed RFP target level calculations for the Springfield area are shown. The error is that the information for step 5 is repeated and appears as step 5 and also as step 6, resulting in the correct information for step 6 not being shown. The correct step 6 information that should have been shown within our September 20, 2010 action for VOC emissions in tons/day is: 100.2 – 5.8 =

94.4; and for NO<sub>x</sub> emissions, also in tons/day, is: 113.1 – 21.1 = 92.0.

*C. Is EPA approving any state control measures in this action?*

We are approving three VOC control measures from Connecticut. Two of these rules consist of amendments to existing rules. The two amended rules are a solvent metal cleaning rule, located at section 22a–174–20(l) of the Regulations of Connecticut State Agencies, and the second rule is the state's asphalt paving rule, located at 22a–174–20(k) of the Connecticut regulations. We are approving the

<sup>2</sup> If the area wishes to use NO<sub>x</sub> reductions to meet part or all of this 15% requirement, the calculation is not done by measuring the overall percent of

combined VOC and NO<sub>x</sub> reductions, but rather by separately calculating the percent of VOC

reductions and the percent of NO<sub>x</sub> reductions, and adding those percentages together.

amended solvent metal cleaning rule and the amended asphalt paving rule as they were submitted to EPA, with the exception of the bracketed text as that language represents regulatory text from a prior version of the rule which Connecticut has retracted. The third rule we are approving is Connecticut's architectural and industrial maintenance (AIM) coatings rule, located at section 22a-174-41 of the Connecticut regulations. The solvent metal cleaning and AIM coatings rules have compliance dates in May of 2008, and so achieve emission reductions that help Connecticut demonstrate compliance with its RFP obligation. The amendment to the asphalt paving rule has a May 1, 2009 compliance date and was submitted to help the state demonstrate that it meets the Clean Air Act section 182(b)(2) requirement that sources in the state use reasonably available control technology (RACT) to control air pollution. We are not taking action on Connecticut's overall RACT or reasonably available control measure (RACM) submittals at this time. Additional details regarding our approval of these three Connecticut rules are available within our September

20, 2010 proposal. Our approval of these rules makes them part of Connecticut's federally enforceable SIP.

*D. Have these states met their contingency measure obligation?*

Section 172(c)(9) of the CAA requires, in part, that nonattainment areas provide for contingency measures "to be undertaken if the area fails to make reasonable further progress, or to attain the national primary ambient air quality standard by the attainment date applicable under this part." As noted in our September 20, 2010 proposal, for Connecticut and Massachusetts we are approving each state's use of the surplus emission reductions that are documented within their RFP emission target level calculations.

For Rhode Island, we are approving use of the emission reductions from two stationary source measures as meeting the state's contingency plan requirement. In 2009, Rhode Island adopted VOC control regulations establishing emission limits for consumer and commercial products, and for architectural and industrial maintenance coatings. A public hearing on these proposed rules was held on

February 20, 2009, and they were promulgated as final state regulations May 15, 2009, with an effective date of June 4, 2009. Rhode Island submitted these regulations to EPA as SIP revisions, and we approved them in a direct final rule published in the **Federal Register** on March 13, 2012 (77 FR 14691).

*E. How do these plans affect transportation conformity?*

Section 176(c) of the CAA, and EPA's transportation conformity rule at 40 CFR part 93 subpart A, require that transportation plans, programs, and projects conform to state air quality implementation plans. States are required to establish motor vehicle emission budgets in any control strategy SIP that is submitted for attainment and maintenance of the NAAQS. The RFP plans submitted by Connecticut, Massachusetts, and Rhode Island are control strategy SIPs, and they contain 2008 motor vehicle budgets for VOCs and NO<sub>x</sub> by nonattainment area. Table 4 contains these VOC and NO<sub>x</sub> transportation conformity budgets in units of tons per summer day:

TABLE 4—CONFORMITY BUDGETS IN THE CONNECTICUT, MASSACHUSETTS, AND RHODE ISLAND RFP PLANS

Area name	2008 Transportation conformity budgets (tons/day)	
	VOC	NO <sub>x</sub>
NY-NJ-CT area (CT portion) .....	29.7	60.5
Greater Connecticut .....	28.5	54.3
Bos-Law-Wor (E. MA) area .....	68.30	191.30
Springfield (W. MA) area .....	11.80	31.30
Providence .....	24.64	28.26

In today's action, we are approving the 2008 conformity budgets for VOC and NO<sub>x</sub> for the areas shown in Table 4 above.

Other specific requirements of these state's inventories, RFP plans, and Connecticut's VOC control regulations and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

**IV. Final Action**

EPA is approving 2002 emission inventories and reasonable further progress plans as revisions to the Connecticut, Massachusetts, and Rhode Island SIP. We are also approving the 2008 motor vehicle emission budgets and contingency measures associated with these RFP plans. Additionally, we are approving three Connecticut VOC control regulations, Sections 22a-174-

20(k), 22a-174-20(l), and 22a-174-41 as revisions to the Connecticut SIP.

**V. Statutory and Executive Order**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under

Executive Order 12866 (58 FR 51735, October 4, 1993);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or

safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 October 22, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Volatile organic compounds.

Dated: August 9, 2012.

**Ira W. Leighton,**

*Acting Regional Administrator, EPA New England.*

Part 52 of 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 H—Connecticut

■ 2. Section 52.370 is amended by adding paragraph (c)(100), to read as follows:

##### § 52.370 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(100) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 1, 2008 and January 8, 2009.

(i) Incorporation by reference.

(A) State of Connecticut Regulation, Section 22a-174-20(k), Restrictions on VOC Emissions from Cutback and Emulsified Asphalt (excluding the text that appears in brackets), effective in the state of Connecticut on January 1, 2009.

(B) A letter from Barbara Sladeck, RLS Assistant Coordinator, Office of the Secretary of the State, State of Connecticut, to Hon. Gina McCarthy, Commissioner, Department of Environmental Protection, dated July 26, 2007, stating that the effective date of the Amendment of Section 22a-174-20(l), Metal Cleaning, and Adoption of Section 22a-174-41, pertaining to Architectural and Industrial Maintenance Products, is July 26, 2007.

(C) State of Connecticut Regulation, Section 22a-174-20(l), Metal Cleaning, effective in the state of Connecticut on July 26, 2007, revisions to the following provisions (including the text that appears in underline and excluding the text that appears in brackets): Sections 22a-174-20(l)(1)(A) through (C) and (J) through (L), Sections 22a-174-20(l)(3), (A) through (D), (F) through (H), and (J) through (L), Sections 22a-174-20(l)(5) introductory text, (B), (E), and (M), and Section 22a-174-20(l)(6); and addition of Sections 22a-174-20(l)(7) through (9).

(D) State of Connecticut Regulation, Section 22a-174-41, Architectural and Industrial Maintenance Products, effective in the state of Connecticut on July 26, 2007.

■ 3. Section 52.377 is amended by adding paragraph (k) to read as follows:

##### § 52.377 Control strategy: Ozone.

\* \* \* \* \*

(k) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 1, 2008. These revisions are for the purpose of satisfying the rate of progress requirement of section 182(b)(1) from 2002 through 2008, and the contingency measure requirement of sections 172(c)(9) and of the Clean Air Act, for the Greater Connecticut moderate 8-hour ozone nonattainment area, and the Connecticut portion of the New York-New Jersey-Long Island moderate 8-hour ozone nonattainment area. These revisions establish motor vehicle emission budgets for 2008 of 29.7 tons per day of volatile organic compounds (VOCs) and 60.5 tons per day of nitrogen oxides (NO<sub>x</sub>) to be used in transportation conformity in the Connecticut portion of the New York-New Jersey-Long Island moderate 8-hour ozone nonattainment area. These revisions also establish motor vehicle emission budgets for 2008 for the Greater Connecticut moderate 8-hour ozone nonattainment area of 28.5 tons per day for VOCs, and 54.3 tons per day for NO<sub>x</sub>.

■ 4. Section 52.384 is amended by adding paragraph (d) to read as follows:

##### § 52.384 Emission inventories.

\* \* \* \* \*

(d) The state of Connecticut submitted base year emission inventories representing emissions for calendar year 2002 from the Connecticut portion of the NY-NJ-CT moderate 8-hour ozone nonattainment area and the Greater Connecticut moderate 8-hour ozone nonattainment area on February 1, 2008 as revisions to the State's SIP. The 2002 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for these areas. The inventories consist of emission estimates of volatile organic compounds and nitrogen oxides, and cover point, area, non-road mobile, on-road mobile and biogenic sources. The inventories were submitted as revisions to the SIP in partial fulfillment of obligations for nonattainment areas under EPA's 1997 8-hour ozone standard.

■ 5. In § 52.385, Table 52.385 is amended by:

■ a. Revising the entry with "Metal Cleaning" in the "Title/subject" column, in the series of rows pertaining to Connecticut State citation 22a-174-20.

■ b. Adding an entry with “Restrictions on VOC Emissions from Cutback and Emulsified Asphalt” in the “Title/subject” column, to the end of the series

of rows pertaining to Connecticut State citation 22a–174–20.

The revisions and additions read as follows:

■ c. Adding a new state citation 22a–174–41 in alpha-numeric order.

**§ 52.385-EPA-approved Connecticut regulations.**

\* \* \* \* \*

TABLE 52.385—EPA-APPROVED REGULATIONS

Connecticut state citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comment/description
		Date adopted by state	Date approved by EPA			
*	* Metal Cleaning .....	* 7/26/07	* 8/22/12	* [Insert <b>Federal Register</b> page number where the document begins].	* (c)(100)	* Changes to solvent metal cleaning rule.
	* Restrictions on VOC Emissions from Cutback and Emulsified Asphalt.	* 12/29/08	* 8/22/12	* [Insert <b>Federal Register</b> page number where the document begins].	* (c)(100)	* Changes to cutback and emulsified asphalt paving rule.
* 22a–174–41 .....	* Architectural and Industrial Maintenance Products.	* 7/26/07	* 8/22/12	* [Insert <b>Federal Register</b> page number where the document begins].	* (c)(100)	* New rule limiting VOC emissions from architectural and industrial maintenance coatings.
*	*	*	*	*	*	*

**Subpart W—Massachusetts**

■ 6. Section 52.1125 is amended by adding paragraph (d) to read as follows:

**§ 52.1125 Emission inventories.**

\* \* \* \* \*

(d) The state of Massachusetts submitted base year emission inventories representing emissions for calendar year 2002 from the Boston-Lawrence-Worcester moderate 8-hour ozone nonattainment area and the Springfield moderate 8-hour ozone nonattainment area on January 31, 2008 as revisions to the State’s SIP. The 2002 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for these areas. The inventories consist of emission estimates of volatile organic compounds and nitrogen oxides, and cover point, area, non-road mobile, on-road mobile and biogenic sources. The inventories were submitted as revisions to the SIP in partial fulfillment of obligations for nonattainment areas under EPA’s 1997 8-hour ozone standard.

■ 7. Section 52.1129 is amended by adding paragraph (i) to read as follows:

**§ 52.1129 Control strategy: Ozone.**

\* \* \* \* \*

(i) Revisions to the State Implementation Plan submitted by the Massachusetts Department of Environmental Protection on January

31, 2008. These revisions are for the purpose of satisfying the rate of progress requirement of section 182(b)(1) from 2002 through 2008, and the contingency measure requirement of sections 172(c)(9) and of the Clean Air Act, for the Boston-Lawrence-Worcester (E. MA) moderate 8-hour ozone nonattainment area, and the Springfield (W. MA) moderate 8-hour ozone nonattainment area. These revisions establish motor vehicle emission budgets for 2008 of 68.30 tons per day of volatile organic compounds (VOCs) and 191.30 tons per day of nitrogen oxides (NO<sub>x</sub>) to be used in transportation conformity in the Boston-Lawrence-Worcester (E. MA) moderate 8-hour ozone nonattainment area. These revisions also establish motor vehicle emission budgets for 2008 for the Springfield (W. MA) moderate 8-hour ozone nonattainment area of 11.80 tons per day for VOCs, and 31.30 tons per day for NO<sub>x</sub>.

**Subpart OO—Rhode Island**

■ 8. Section 52.2086 is amended by adding paragraph (e) to read as follows:

**§ 52.2086 Emission inventories.**

\* \* \* \* \*

(e) The state of Rhode Island submitted base year emission inventories representing emissions for calendar year 2002 from the Providence moderate ozone nonattainment area on April 30, 2008 as revisions to the State’s

SIP. The 2002 base year emission inventory requirement of section 182(a)(1) of the Clean Air Act, as amended in 1990, has been satisfied for this area. The inventory consists of emission estimates of volatile organic compounds and nitrogen oxides, and cover point, area, non-road mobile, on-road mobile and biogenic sources. The inventory was submitted as a revision to the SIP in partial fulfillment of obligations for nonattainment areas under EPA’s 1997 8-hour ozone standard.

■ 9. Section 52.2088 is amended by adding paragraph (e) to read as follows:

**§ 52.2088 Control strategy: Ozone.**

\* \* \* \* \*

(e) Revisions to the State Implementation Plan submitted by the Rhode Island Department of Environmental Management on April 30, 2008. The revision is for the purpose of satisfying the rate of progress requirement of section 182(b)(1) from 2002 through 2008, and the contingency measure requirement of sections 172(c)(9) and of the Clean Air Act, for the Providence moderate ozone nonattainment area. The revision establishes motor vehicle emission budgets for 2008 of 24.64 tons per day of volatile organic compounds and 28.26 tons per day of nitrogen oxides to be used in transportation conformity in

the Providence moderate 8-hour ozone nonattainment area.

[FR Doc. 2012-20390 Filed 8-21-12; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R01-OAR-2008-0599 ; A-1-FRL-9716-7]

### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Regional Haze

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the New Hampshire State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. The revision was submitted by the New Hampshire Department of Environmental Services (NHDES) on January 29, 2010, with supplemental submittals on January 14, 2011, and August 26, 2011. This revision addresses the requirements of the Clean Air Act (CAA) and EPA's rules that require States to prevent any future, and remedy any existing, manmade impairment of visibility in mandatory Class I Areas caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the "regional haze program").

**DATES:** *Effective Date:* This rule is effective on September 21, 2012.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2008-0599. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. 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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact 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 legal holidays.

Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095.

**FOR FURTHER INFORMATION CONTACT:** Anne McWilliams, Air Quality Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square—Suite 100, (Mail Code OEP05-02), Boston, MA 02109—3912, telephone number (617) 918-1697, fax number (617) 918-0697, email [mcwilliams.anne@epa.gov](mailto:mcwilliams.anne@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. Background and Purpose
- II. Response to Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. Background and Purpose

On February 28, 2012, EPA published a Notice of Proposed Rulemaking (NPR) for the State of New Hampshire. See 77 FR 11809. The NPR proposed approval of the New Hampshire State Implementation Plan (SIP) that addresses regional haze for the first planning period from 2008 through 2018. It was submitted by the New Hampshire Department of Environmental Services (NHDES) on January 29, 2010, with supplemental submittals on January 14, 2011, and August 26, 2011. Specifically, EPA proposed to approve New Hampshire's January 29, 2010 SIP revision, and its supplements, as meeting the applicable implementing regulations found in 40 CFR 51.308. EPA also proposed to approve, and incorporate into the New Hampshire SIP, New Hampshire's regulation Env-A 2300 Mitigation of Regional Haze and a permit for Public Service of New Hampshire (PSNH) Merrimack Station.

A detailed explanation of the requirements for regional haze SIPs, as well as EPA's analysis of New Hampshire's Regional Haze SIP submittal was provided in the NPR and is not restated here.

#### II. Response to Comments

EPA received a number of comments on our proposal to approve New

Hampshire's Regional Haze SIP submittal. Comments were received from NHDES, the U.S. Forest Service, the National Park Service (NPS), and the Sierra Club. The following discussion summarizes and responds to the relevant comments received on EPA's proposed approval of New Hampshire's Regional Haze SIP.

*Comment:* The U.S. Forest Service commented that they are pleased that current permit conditions require Merrimack Station to submit calendar monthly emission rates for the preceding twelve months by December 31, 2014, in order to determine the maximum sustainable rate of control for the facility. In addition, they acknowledged the work that the State of New Hampshire has accomplished and encouraged the State of New Hampshire to continue to reduce regional haze.

*Response:* EPA acknowledges this comment from the U.S. Forest Service.

*Comment:* NHDES noted that EPA incorrectly referred to the New Hampshire Air Toxic Control Act, NH Revised Statutes Annotated (RSA) 125-I, and the regulations promulgated thereunder as requiring the installation of the wet flue gas desulfurization (FGD) system for mercury removal on the two coal-fired boilers at PSNH Merrimack Station. The correct citation is NH RSA 125-O, the Multiple Pollutant Reduction Program statute. The sections of the law that specifically address mercury removal and require a FGD system are RSA 125-O:11-18.

*Response:* EPA agrees that there was an error in the citation of the law requiring the FGD system.

*Comment:* NPS commented that the Best Available Retrofit Technology (BART) modeling and interpretation did not follow EPA's BART modeling guidelines or the methods recommended by the Mid-Atlantic/Northeast Visibility Union (MANE-VU) States and the Federal Land Managers (FLMs). NPS stated that since only one year of meteorological data was modeled, NHDES should have used the 20% best natural background visibility conditions in the modeling and reported the maximum visibility impact at the Class I areas due to the source's baseline emissions and emissions control options. NPS noted that in NHDES's August 2011 revision, the BART modeling was partially corrected to use the natural background visibility, but still incorrectly reports the visibility impact for the 20% worst days and the 20% best days rather than the single day with the maximum visibility impact. NPS stated that while correcting the modeling results may not change the BART control decisions, EPA should