

(COTP) or the designated representatives.

(1) *Definitions.* The following definitions apply to this section:

(i) *Designated Representative.* A “designated representative” is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP, Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(ii) *Official Patrol Vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP Sector Long Island Sound.

(iii) *Spectators.* All persons and vessels not registered with the event sponsor as participants or official patrol vessels.

(2) Spectators desiring to enter or operate within the regulated area should contact the COTP Sector Long Island Sound at 203-468-4401 (Sector LIS command center) or the designated representative via VHF channel 16 to obtain permission to do so. Spectators given permission to enter or operate in the regulated area must comply with all directions given to them by the COTP Sector Long Island Sound or the designated on-scene representative.

(3) Upon being hailed by a U.S. Coast Guard vessel or the designated representative, by siren, radio, flashing light or other means, the operator of the vessel shall proceed as directed. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(4) Fireworks barges used in this location will have a sign on their port and starboard side labeled “FIREWORKS—STAY AWAY”. This sign will consist of 10 inch high by 1.5 inch wide red lettering on a white background.

Dated: June 20, 2013.

**J.M. Vojvodich,**

*Captain, U. S. Coast Guard, Captain of the Port Sector Long Island Sound.*

[FR Doc. 2013-16713 Filed 7-11-13; 8:45 am]

**BILLING CODE 9110-04-P**

## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2012-1084]

#### Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** At various times throughout the month of July, the Coast Guard will enforce certain safety zones for annual fireworks events in the Captain of the Port Buffalo Zone. This action is necessary and intended for the safety of life and property on navigable waters during this event. During each enforcement period, no person or vessel may enter the respective safety zone without the permission of the Captain of the Port Buffalo.

**DATES:** The regulations in 33 CFR 165.939 will be enforced on the dates and times listed in the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this notice, call or email Waterways Management Division, Coast Guard Sector Buffalo, 1 Fuhrmann Blvd. Buffalo, NY 14203; Coast Guard telephone 716-843-9343, email [SectorBuffaloMarineSafety@uscg.mil](mailto:SectorBuffaloMarineSafety@uscg.mil).

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zones; Annual Fireworks Events in the Captain of the Port Buffalo Zone listed in 33 CFR 165.939 for the following events:

(1) *Sheffield Lake Fireworks, Sheffield Lake, OH;* The safety zone listed in 33 CFR 165.939(a)(27) from 9:30 p.m. to 10:50 p.m. on July 12, 2013.

(2) *French Festival Fireworks, Cape Vincent, NY;* The safety zone listed in 33 CFR 165.939(a)(3) from 9:15 p.m. to 11 p.m. on July 13, 2013.

(3) *Oswego Harborfest, Oswego, NY;* The safety zone listed in 33 CFR 165.939(a)(7) from 8:30 p.m. to 10:30 p.m. on July 27, 2013.

Pursuant to 33 CFR 165.23, entry into, transiting, or anchoring within these safety zones during an enforcement period is prohibited unless authorized by the Captain of the Port Buffalo or his designated representative. Those seeking permission to enter one of these safety zones may request permission from the Captain of Port Buffalo via channel 16, VHF-FM. Vessels and persons granted permission to enter one

of these safety zones shall obey the directions of the Captain of the Port Buffalo or his designated representative. While within a safety zone, all vessels shall operate at the minimum speed necessary to maintain a safe course.

This notice is issued under authority of 33 CFR 165.939 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via Broadcast Notice to Mariners or Local Notice to Mariners. If the Captain of the Port Buffalo determines that one of these safety zones need not be enforced for the full duration stated in this notice he or she may use a Broadcast Notice to Mariners to grant general permission to enter the respective safety zone.

Dated: June 27, 2013.

**J.S. Imahori,**

*Commander, U.S. Coast Guard, Acting Captain of the Port Buffalo.*

[FR Doc. 2013-16863 Filed 7-11-13; 8:45 a.m.]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R02-OAR-2013-0180, FRL-9830-7]

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

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of oxides of nitrogen. The SIP revision consists of amendments to Title 6 of the New York Codes, Rules and Regulations Part 200, “General Provisions,” Part 212, “General Process Emission Sources,” Part 220, “Portland Cement Plants and Glass Plants,” and Subpart 227-2, “Reasonably Available Control Technology (RACT) For Major Facilities of Oxides of Nitrogen (NO<sub>x</sub>).” The intended effect of this action is to approve control strategies, required by the Clean Air Act, which will result in emission reductions that will help attain and maintain the national ambient air quality standards for ozone.

**DATES:** This rule will be effective August 12, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2013-0180. 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, 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](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. The Air Programs Branch dockets are available from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Air Programs Branch telephone number is 212-637-4249.

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

#### SUPPLEMENTARY INFORMATION:

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#### I. What was included in New York's submittals?

On August 19, 2010 and December 15, 2010, the New York State Department of Environmental Conservation (NYSDEC), submitted to EPA proposed revisions to the SIP, which included State adopted revisions to four regulations contained in Title 6 of the New York Code of Rules and Regulations (6 NYCRR) Part 200, "General Provisions," Part 212, "General Process Emission Sources," Part 220, "Portland Cement Plants and Glass Plants," and Part 227-2, "Reasonably Available Control Technology (RACT) For Major Facilities of Oxides of Nitrogen (NO<sub>x</sub>)," with effective dates of January 1, 2011, September 30, 2010, July 11, 2010 and July 8, 2010, respectively.

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

On April 10, 2013 (78 FR 21302), EPA proposed to approve New York's revised Parts 200, 212, 220 and 227-2. For a detailed discussion on the content and requirements of the revisions to New York's regulations, the reader is referred to EPA's proposed rulemaking action.

In response to EPA's April 10, 2013 proposed rulemaking action, EPA received no public comments.

#### III. What is EPA's evaluation of part 212, "General Process Emission Sources"?

The NYSDEC revised 6 NYCRR Part 212, by adding section 212.12, "Hot mix asphalt production plants," to include control requirements for hot mix asphalt production plants. These control requirements will be specifically aimed at reducing NO<sub>x</sub> emissions resulting from combustion during the aggregate drying and heating process.

With the exception of section 212.12, NO<sub>x</sub> RACT requirements under Part 212 affect only major facilities. Major facilities or major sources are those that have a potential to emit NO<sub>x</sub> emissions in excess of 100 tons/yr (upstate) and 25 tons/yr (downstate) or in the New York Metropolitan Area). Most, if not all, hot mix asphalt plants in New York State are minor sources. These new requirements will therefore be targeted primarily at minor sources. On February 28, 2013, New York submitted a letter to EPA certifying that there are no "major source" asphalt production plants located in New York State.

Part 212 contains the required elements for a federally enforceable rule: Emission control requirements, compliance procedures and test methods, compliance dates and record keeping provisions. Therefore, EPA is approving the revisions to Part 212.

#### IV. What is EPA's evaluation of part 220, "Portland Cement Plants and Glass Plants"?

The NYSDEC revised 6 NYCRR Part 220, which is divided into two subparts: 220-1 for portland cement plants; and 220-2 for glass manufacturing plants. In addition to other requirements, the existing regulation imposed RACT requirements on NO<sub>x</sub> emissions from portland cement kilns. The NYSDEC revised Part 220 to require updated NO<sub>x</sub> RACT for cement kilns at portland cement plants, and to require NO<sub>x</sub> RACT for glass furnaces at glass plants. The revisions will apply statewide to major facilities only. Major facilities are those that have a potential to emit NO<sub>x</sub> emissions that exceed 100 tons/yr (upstate) and 25 tons/yr (downstate).

The NYSDEC is taking a RACT approach that requires a facility specific analysis. The plant owner or operator will be required to perform a facility specific RACT analysis for emissions of NO<sub>x</sub> that includes proposed NO<sub>x</sub> RACT emission limit(s), identifies the procedures and monitoring equipment to be used to demonstrate compliance with the proposed NO<sub>x</sub> RACT emission limit(s), and includes a schedule for equipment installation. The RACT analysis will be submitted to the NYSDEC for review and approval and subsequently submitted to EPA as a proposed revision to the SIP.

##### *Subpart 220-1 Portland Cement Plants*

It is EPA's understanding that there are three portland cement plants located in New York State that are subject to the RACT provisions of subpart 220-1 (Holcim, Lafarge and Lehigh). These three facilities are also subject to New York's regional haze plan's best available retrofit technologies (BART) provisions pursuant to 6 NYCRR Part 249.

On August 28, 2012 (77 FR 51915), EPA approved the BART determinations for the three portland cement plants pursuant to Part 249. Although EPA believes that the BART determinations approved for these facilities would also constitute RACT, New York is obligated to perform RACT evaluations and submit the RACT determinations to EPA as SIP revisions in order to satisfy the subpart 220-1.6(b)(4) RACT requirement and sections 172(c)(1) and 182(b) of the Clean Air Act (Act). In a letter dated February 28, 2013 to EPA, New York commits to submit the applicable single source NO<sub>x</sub> RACT determinations to EPA by December 1, 2013.

EPA evaluated the provisions of subpart 220-1 for consistency with the Act, EPA regulations, and EPA policy, and is conditionally approving them based on New York submitting the individual single source RACT determinations to EPA by December 1, 2013.

##### *Subpart 220-2 Glass Plants*

It is EPA's understanding that there are four glass plants located in New York State. Subpart 220-2 does not identify a specific control strategy or emission limit as RACT for these facilities and requires individual source specific RACT determinations. To date, EPA has not received any of those source specific RACT determinations. However, in a letter dated February 28, 2013 to EPA, New York commits to submit the applicable single source NO<sub>x</sub>

RACT determinations to EPA by December 1, 2013.

EPA evaluated the provisions of subpart 220–2 for consistency with the Act, EPA regulations, and EPA policy, and is conditionally approving them based on New York submitting the individual single source RACT determinations to EPA by December 1, 2013.

#### **V. What is EPA's evaluation of part 227–2, "Reasonably Available Control Technology (RACT) for Major Facilities of Oxides of Nitrogen (NO<sub>x</sub>)"?**

New York adopted revisions to Subpart 227–2 for the purpose of imposing more stringent emission limits on major stationary sources of NO<sub>x</sub> that contribute to local and regional nonattainment of the 1997 and 2008 ozone standards. The revisions to Subpart 227–2 essentially entail increasing the stringency of emissions limits for six of the source categories and lowering of the size thresholds for two categories of sources. There are also two revisions that will allow subject sources increased flexibility in achieving compliance—one allows different owners to engage in a systems averaging plan and the second allows a permanent shutdown by a date certain as a compliance option.

Regarding the systems averaging plan, EPA has not classified any 8-hour ozone nonattainment areas in New York as "severe." However, EPA classified the New York City Metropolitan area (NYMA) as severe nonattainment for the 1-hour standard. Although EPA revoked the 1-hour standard, the "severe" classification for the NYMA 1-hour area was retained to maintain consistency with existing SIP-approved regulations and the "anti-backsliding" provisions of the Act. The counties affected by the 1-hour "severe" classification are the same counties defined by EPA for New York's marginal 2008 8-hour ozone nonattainment area for the NYMA and include the same counties now being maintained for the 1997 8-hour moderate ozone NYMA. As discussed in the April 10, 2013 proposed rule, since New York avoids potential confusion by defining the affected counties in the "severe nonattainment area," this is acceptable to EPA.

Therefore, since the NYMA is the only area designated as severe for ozone, sources in the NYMA cannot average with sources outside the NYMA.

EPA believes that the new presumptive emission limits and other control requirements will result in additional NO<sub>x</sub> reductions throughout the State thereby strengthening New York's ozone SIP and will help the State

attain and maintain the 1997 ozone standard and help achieve attainment of the 2008 8-hour ozone standard. In addition, New York's revised system averaging plan is acceptable to EPA as it is enforceable through federally enforceable Title V operating permits and it reflects current situations where there could be multiple ownership of a particular facility.

EPA evaluated the provisions of Part 227–2 for consistency with the Act, EPA regulations, and EPA policy and is approving them.

#### **VI. What other revisions did New York make?**

New York also made administrative changes to Part 200, "General Provisions" which reflect implementation of the Part 212, 220 and 227–2 provisions. The Part 200 revisions also reflect implementation of provisions for three previously approved New York regulations, Part 228, "Surface Coating Processes, Commercial and Industrial Adhesives, Sealants and Primers," Part 234, "Graphic Arts," and Part 241, "Asphalt Pavement and Asphalt Based Surface Coating," (see 77 FR 13974). It is important to note that EPA is approving only those revisions made to Part 200, specifically sections 200.1 and 200.9, as effective January 1, 2011.

#### **VII. What is EPA's conclusion?**

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is approving revisions made to 6 NYCRR Part 200, "General Provisions," Part 212, "General Process Emission Sources," Part 220, "Portland Cement Plants and Glass Plants," and Part 227–2, "Reasonably Available Control Technology (RACT) For Major Facilities of Oxides of Nitrogen (NO<sub>x</sub>)" with effective dates of January 1, 2011, September 30, 2010, July 11, 2010 and July 8, 2010, respectively, as meeting the SIP requirements of the Act. EPA is: Approving sections 200.1 and 200.9; approving Part 212; conditionally approving Part 220 based on New York's commitment to submit the individual RACT determinations to EPA as SIP revisions by December 1, 2013; and, approving Part 227–2. These revisions meet the requirements of the Act and EPA's regulations, and are consistent with EPA's guidance and policy. EPA is taking this action pursuant to section 110 and part D of the Act and EPA's regulations.

EPA is conditionally approving New York's proposed revisions to 6 NYCRR Part 220 based on New York's February 28, 2013 letter, committing to submit

the applicable NO<sub>x</sub> RACT single source SIPs by December 1, 2013.

EPA is also correcting a typographical error to table (c), "EPA approved regulations" in 40 CFR 52.1670 for the Part 241, "Asphalt Pavement and Asphalt Based Surface Coating" entry which EPA approved on March 8, 2012 (77 FR 13974).

#### **VIII. Statutory and Executive Order Reviews**

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 September 10, 2013. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Oxides of Nitrogen, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 27, 2013.

**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—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

■ 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. In 52.1670, the table in paragraph (c) is amended under Title 6 by:
  - a. Revising the entry for Part 200, Section 200.1;
  - b. Removing the entry for Sections 200.6, 200.7 and 200.9, and adding in its place an entry for Sections 200.6 and 200.7, and an entry for Section 200.9;
  - c. Revising the entries for Parts 212, 220, Subpart 227–2 and Part 241 to read as follows:

**52.1670 Identification of plan.**

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

**EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS**

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6: Part 200, General Provisions Section 200.1	1/1/11	7/12/13 [Insert page number where the document begins].	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.
Sections 200.6 and 200.7 Section 200.9	2/25/00 1/1/11	4/22/08, 73 FR 21548. 7/12/13 [Insert page number where the document begins].	EPA is approving reference documents that are not already Federally enforceable.
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Part 212, General Process Emission Sources.	9/30/10	7/12/13 [Insert page number where the document begins].	SIP revisions submitted in accordance with §212.10(c)(3) and 212.12(c) are effective only if approved by EPA.
* * * * *	* * * * *	* * * * *	* * * * *
Part 220, Portland Cement Plants and Glass Plants.	7/11/10	7/12/13 [Insert page number where the document begins].	SIP revisions submitted in accordance with §220–1.6(b)(4) and 220–2.3(a)(4) are effective only if approved by EPA.

EPA-APPROVED NEW YORK STATE REGULATIONS AND LAWS—Continued

New York State regulation	State effective date	Latest EPA approval date	Comments
* Subpart 227–2, Reasonably Available Control Technology (RACT) For Major Facilities of Oxides of Nitrogen (NO <sub>x</sub> ).	* 7/8/10	* 7/12/13 [Insert page number where the document begins].	* SIP revisions submitted in accordance with §227–2.3(c) are effective only if approved by EPA.
* Part 241, Asphalt Pavement and Asphalt Based Surface Coating.	* 1/1/11	* 3/8/12, 77 FR 13974.	* 
* 	* 	* 	* 

[FR Doc. 2013–16493 Filed 7–11–13; 8:45 am]

BILLING CODE 6560–50–P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R04–OAR–2007–0602; FRL–9831–6]

**Approval and Promulgation of Implementation Plans for North Carolina: Partial Withdrawal**

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

**ACTION:** Final rule; partial withdrawal.

**SUMMARY:** Due to comments received, EPA is publishing a partial withdrawal of the direct final approval of revisions to the North Carolina State Implementation Plan (SIP). EPA stated in the direct final rule that if EPA received adverse comments by June 17, 2013, the rule would be withdrawn and not take effect.

**DATES:** This partial withdrawal is effective July 12, 2013.

**FOR FURTHER INFORMATION CONTACT:** Sara Waterson, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Phone number: (404) 562–9061; Email: [waterson.sara@epa.gov](mailto:waterson.sara@epa.gov).

**SUPPLEMENTARY INFORMATION:** On May 16, 2013 (78 FR 28747), EPA published a direct final rulemaking to approve a portion of North Carolina’s February 3, 2010, SIP submission that updates the North Carolina SIP to incorporate EPA’s current national ambient air quality standards (NAAQS) for ozone, lead, and particulate matter (PM). The SIP submission contains amendments to North Carolina Rules 15A NCAC 02D .0405, .0408, .0409, and .0410 reflecting EPA’s current NAAQS for the

aforementioned criteria pollutants. On May 16, 2013, EPA also published an accompanying proposed rulemaking to approve the SIP revision in the event that EPA received adverse comments on the direct final rulemaking. See 78 FR 28775.

In the direct final rulemaking, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revision should an adverse comment be filed. EPA also noted that the rules would be effective on July 15, 2013, without further notice unless the Agency received adverse comment by June 17, 2013. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. It was also explained that all public comments received would then be addressed in a subsequent final rule based on the proposed rule, and that EPA would not institute a second comment period on these actions. The public was advised that if no comments were received that the rules would be effective on July 15, 2013, with no further actions on the proposed rule.

On May 23, 2013, EPA received a comment from a single commenter that could be viewed as adverse with regard to the approval action that EPA contemplated for the PM portion of the North Carolina SIP revision. In summary, the commenter noted that the portion of North Carolina’s SIP revision related to the PM<sub>2.5</sub> NAAQS that was addressed in EPA’s May 16, 2013, rulemaking actions did not reflect EPA’s

December 2012 revision to this standard. The commenter recommended that EPA approve the SIP as submitted and encourage North Carolina to update its SIP to reflect the December 2012 update within a reasonable amount of time. The commenter expressed support for EPA’s approval of the portions of the SIP revision that incorporated updates to the other NAAQS subject to the May 16, 2013, rulemakings.

As result of this comment, EPA is withdrawing the direct final action related solely to the PM portion of the North Carolina SIP revision. Specifically, through today’s action, EPA is withdrawing the May 16, 2013, direct final approval of North Carolina’s SIP submission to update the PM NAAQS via incorporation of amended North Carolina Rules 15A NCAC 02D .0410 “PM<sub>2.5</sub> Particulate Matter” and 15A NCAC 02D .0409 “PM<sub>10</sub> Particulate Matter” into the SIP.

As indicated in the direct final rulemaking, EPA’s May 16, 2013, proposed rulemaking approving North Carolina’s SIP revision related to the PM NAAQS is still in effect. The Agency is not opening an additional comment period and will only consider the comments received prior to June 17, 2013, the close of the public comment period. If EPA determines that it is appropriate to finalize the proposed approval of the North Carolina SIP revision related to the PM NAAQS, EPA will publish a final rule which will include a response to the comment received. In the event that EPA determines that it is not appropriate to finalize the proposed approval related to the PM NAAQS, EPA may issue a subsequent proposal with a different course of action.

Today’s withdrawal action does not affect EPA’s May 16, 2013, direct final action on North Carolina’s SIP revision related to the ozone and lead NAAQS.