

EPA-APPROVED REGULATIONS IN THE TEXAS SIP—Continued

State citation	Title/subject	State approval/submittal date	EPA approval date	Explanation
Section 115.912	Calculations for Determining Alternate Means of Control Reductions.	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.913	Procedures for Alternate Means of Control Plan Submittal.	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.914	Procedures for an Alternate Means of Control Plan Approval.	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.915	Public Notice Format	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.916	Review of Approved Alternate Means of Control Plans and Termination of Alternate Means of Control Plans.	04/26/02	09/28/06 [Insert FR page number where document begins].	
Division 2: Early Reductions				
Section 115.920	Applicability	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.923	Documentation	04/26/02	09/28/06 [Insert FR page number where document begins].	
Division 3: Compliance and Control Plan Requirements				
Section 115.930	Compliance Dates	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.932	Control Plan Procedure	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.934	Control Plan Deviation	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.936	Reporting Procedure	11/10/93	05/22/97, 62 FR 27964.	
Section 115.940	Equivalency Determination	04/26/02	09/28/06 [Insert FR page number where document begins].	
Section 115.950	Use of Emissions Credits for Compliance.	12/06/00	09/06/06, 71 FR 52698	
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[FR Doc. E6-15933 Filed 9-27-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2006-0728; FRL-8225-1]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Emission Reductions To Meet Phase II of the Nitrogen Oxides (NO_x); SIP Call

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to convert a conditional approval in the West Virginia State Implementation Plan (SIP) to a full approval. The SIP revision pertains to nitrogen oxides (NO_x) emission reductions required in West Virginia to meet Phase II of the NO_x SIP Call. In order to meet the Phase II submission due date, the West Virginia Department of Environmental Protection (WVDEP) adopted its Phase II regulation under its emergency rule procedures. EPA granted conditional approval of the emergency rule contingent upon the WVDEP adopting a permanent rule with an effective date no later than the June 2, 2006 sunset date of its emergency rule and submitting the permanent rule as a formal SIP revision to EPA by July 1,

2006. West Virginia has met all the terms of the conditional approval by adopting its permanent rule with an effective date of May 1, 2006, and submitting the permanent rule to EPA before July 1, 2006. EPA is approving this revision to West Virginia's SIP in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on November 27, 2006 without further notice, unless EPA receives adverse written comment by October 30, 2006. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-

R03-OAR-2006-0728 by one of the following methods:

A. *http://www.regulations.gov*. Follow the online instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov*.

C. *Mail: EPA-R03-OAR-2006-0728*, Makeba Morris, Chief, Air Quality Planning Branch Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery*: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2006-0728. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly

available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers, (215) 814-2308, or by e-mail at *powers.marilyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On October 20, 2005 (70 FR 61104), EPA published a Notice of Proposed Rulemaking (NPR) proposing to grant conditional approval of West Virginia's emergency regulation 45CSR1 to control NO_x emissions from large stationary internal combustion engines in the State. No comments were received by EPA and on January 11, 2006 (71 FR 1696), EPA finalized the conditional approval. EPA's rationale for conditionally approving West Virginia's emergency rule as well as a summary of the requirements of Phase II of the NO_x SIP Call were provided in the October 20, 2005 NPR, and will not be restated here. In the January 11, 2006 rulemaking, EPA conditioned full approval contingent upon the WVDEP adopting a permanent rule that corresponds to emergency rule 45CSR1, with an effective date prior to the sunset date of the emergency rule, and submitting the permanent rule as a SIP revision to EPA by July 1, 2006. On May 22, 2006, as amended on June 16, 2006, WVDEP submitted to EPA a revision to its SIP to satisfy the conditional requirements.

II. Summary of SIP Revision

On May 22, 2006, the WVDEP submitted a formal revision to its SIP, and on June 16, 2006 amended the revision to include documents that were inadvertently omitted. The SIP revision consists of the State's fully-adopted permanent rule 45CSR1 which became effective on May 1, 2006, and which immediately superseded and replaced its emergency rule.

III. Final Action

West Virginia has corrected the deficiencies identified by EPA in its conditional approval, and has satisfied all the terms of the conditional approval. EPA is, therefore, converting its conditional approval of the West Virginia emergency rule 45CSR1 to a

full approval of its permanent rule 45CSR1.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on November 27, 2006 without further notice unless EPA receives adverse comment by October 30, 2006. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. 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 therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the

relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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. 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

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 November 27, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality

of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action to convert West Virginia's NO_x SIP Call Phase II rule from a conditional approval to a full approval 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 20, 2006.

Donald S. Welsh,
Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (c) is amended by revising entries for [45CSR] Series 1, Sections 1–5, 22, 70–72, 74, and 100, and by adding entries for Sections 89 and 90 to read as follows:

§ 52.2520 Identification of plan.

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(c) *EPA-Approved Regulations*

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
[45 CSR] Series 1—Control and Reduction of Nitrogen Oxides From Non-Electric Generating Units As a Means to Mitigate Transport of Ozone Precursors				
Section 45–1–1	General	5/1/06		
Section 45–1–2	Definitions	5/1/06		
Section 45–1–3	Acronyms	5/1/06		
Section 45–1–4	NO _x Budget Trading Program Applicability	5/1/06		
Section 45–1–5	Retired Unit Exemption	5/1/06		
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Section 45–1–22	Information Requirements for NO _x Budget Permit Applications.	5/1/06		
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Section 45–1–70	General Monitoring Requirements	5/1/06		
Section 45–1–71	Initial Certification and Recertification Procedures	5/1/06		
Section 45–1–72	Out of Control Periods	5/1/06		
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Section 45–1–74	Recordkeeping and Reporting	5/1/06		
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Section 45–1–89	Appeal Procedures	5/1/06		New Section.

EPA-APPROVED REGULATIONS IN THE WEST VIRGINIA SIP—Continued

State citation [Chapter 16–20 or 45 CSR]	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.2565
[45 CSR] Series 1—Control and Reduction of Nitrogen Oxides From Non-Electric Generating Units As a Means to Mitigate Transport of Ozone Precursors				
Section 45–1–90	Requirements for Stationary Internal Combustion Engines	5/1/06		New Section.
Section 45–1–100	Requirements for Emissions of NO _x from Cement Manufacturing Kilns.	5/1/06		
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§ 52.2522 [Removed and Reserved]
 ■ 3. In § 52.2522, paragraph (i) is removed and reserved.
 [FR Doc. E6–15981 Filed 9–27–06; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 82

[EPA–HQ–OAR–2003–0118; FRL–8223–9]

RIN 2060–AG12

Protection of Stratospheric Ozone: Notice 21 for Significant New Alternatives Policy Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Acceptability.

SUMMARY: This Notice of Acceptability expands the list of acceptable substitutes for ozone-depleting substances (ODS) under the U.S. Environmental Protection Agency’s (EPA) Significant New Alternatives Policy (SNAP) program. The substitutes are for use in the following sectors: refrigeration and air conditioning, foam blowing, cleaning solvents, aerosols, and sterilants. The determinations concern new substitutes.

DATES: This notice of acceptability is effective on September 28, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0118 (continuation of Air Docket A–91–42). All electronic documents in the docket are listed in the index at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically at www.regulations.gov or in hard copy at the EPA Air Docket (No.

A–91–42), EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT:

Margaret Sheppard by telephone at (202) 343–9163, by facsimile at (202) 343–2338, by e-mail at sheppard.margaret@epa.gov, or by mail at U.S. Environmental Protection Agency, Mail Code 6205J, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Overnight or courier deliveries should be sent to the office location at 1310 L Street, NW., 8th floor, Washington, DC, 20005.

For more information on the Agency’s process for administering the SNAP program or criteria for evaluation of substitutes, refer to the original SNAP rulemaking published in the **Federal Register** on March 18, 1994 (59 FR 13044). Notices and rulemakings under the SNAP program, as well as other EPA publications on protection of stratospheric ozone, are available at EPA’s Ozone Depletion World Wide Web site at <http://www.epa.gov/ozone/> including the SNAP portion at <http://www.epa.gov/ozone/snap/>.

SUPPLEMENTARY INFORMATION:

- I. Listing of New Acceptable Substitutes
 - A. Refrigeration and Air Conditioning
 - B. Foam Blowing
 - C. Cleaning Solvents
 - D. Aerosols
 - E. Sterilants
 - II. Section 612 Program
 - A. Statutory Requirements
 - B. Regulatory History
- Appendix A—Summary of Acceptable Decisions

I. Listing of New Acceptable Substitutes

This section presents EPA’s most recent acceptable listing decisions for substitutes in the following industrial sectors: Refrigeration and air conditioning, foam blowing, cleaning

solvents, aerosols and sterilants. For copies of the full list of ODS substitutes in all industrial sectors, visit EPA’s Ozone Depletion Web site at <http://www.epa.gov/ozone/snap/lists/index.html>.

The Agency has determined that the Clean Air Act does not authorize EPA to regulate for global climate change purposes (Memo to Acting Administrator, Marianne L. Horinko from Robert E. Fabricant. 2003. Subject: EPA’s Authority to Impose Mandatory Controls to Address Global Climate Change under the Clean Air Act). The Agency has not yet concluded how this determination would affect its consideration of the global warming potential of substitutes under the SNAP program. Regardless, for the substitutes considered here, the global warming potential of the alternatives was not a determinative factor in EPA’s acceptable subject to use conditions determination.

The sections below discuss each substitute listing in detail. Appendix A contains a table summarizing today’s listing decisions for new substitutes. The statements in the “Further Information” column in the table provide additional information, but are not legally binding under section 612 of the Clean Air Act. In addition, the “further information” may not be a comprehensive list of other legal obligations you may need to meet when using the substitute. Although you are not required to follow recommendations in the “further information” column of the table to use a substitute, EPA strongly encourages you to apply the information when using these substitutes. In many instances, the information simply refers to standard operating practices in existing industry and/or building-code standards. Thus, many of these statements, if adopted, would not require significant changes to existing operating practices.

You can find submissions to EPA for the use of the substitutes listed in this document and other materials supporting the decisions in this action