

position check. At both check-in and follow-on position check, VTC New Orleans will advise the vessel on traffic approaching Eighty-One Mile Point.

(2) Prior to proceeding downriver past MM 187.9, LMR, COS-MAR Lights, vessels shall contact Vessel Traffic Center (VTC) New Orleans on VHF Channel 63A to check-in. Vessels must provide name, destination, confirm proper operation of their automated identification system (AIS) if required under 33 CFR 164.46 and, if applicable, size of tow and number of loaded and empty barges. At MM 183.9 LMR, Wyandotte Chemical Dock Lights, descending vessels shall contact VTC New Orleans and provide a follow-on position check. At both check-in and follow-on position check VTC New Orleans will advise the vessel on traffic approaching Eighty-One Mile Point.

(3) All vessels getting underway between miles 167.5 and 187.9 must check-in with VTC New Orleans on VHF Channel 63A immediately prior to getting underway and must comply with the respective ascending and descending check-in and follow-on points listed in paragraphs (g)(1) and (g)(2) above.

(4) Fleet vessels must check-in with VTC New Orleans if they leave their respective fleet or if they move into the main channel. Fleet vessels are not required to check-in if they are operating exclusively within their fleet.

Dated: July 16, 2007.

J.R. Whitehead,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. E7-14697 Filed 7-30-07; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA-R02-OAR-2006-0162, FRL-8444-9]

Approval and Promulgation of Implementation Plans; Implementation Plan Revision; State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a request from the State of New Jersey to revise its State Implementation Plan (SIP) for ozone to incorporate state-adopted amendments to Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen" and related amendments to

Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds." The amendments relate to the control of oxides of nitrogen (NO_x) emissions from stationary industrial sources. This SIP revision consists of control measures needed to meet the shortfall in emission reductions in New Jersey's 1-hour ozone attainment demonstration SIP as identified by EPA.

The intended effect of this action is to approve the state control strategy, which will result in emission reductions that will help achieve attainment of the national ambient air quality standards for ozone required by the Clean Air Act (the Act).

DATES: *Effective Date:* This rule will be effective August 30, 2007.

ADDRESSES: EPA has established a docket for this action under the Federal Docket Management System (FDMS) which replaces the Regional Materials in EDOCKET (RME) docket system. The new FDMS is located at <http://www.regulations.gov> and the docket ID for this action is EPA-R02-OAR-2006-0162. All documents in the docket are listed in the FDMS index. Publicly available docket materials are available either electronically in FDMS 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. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room 3334, 1301 Constitution Avenue, NW., Washington, DC; and the New Jersey Department of Environmental Protection, Office of Energy, Bureau of Air Quality Planning, 401 East State Street, CN027, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella, Gardella.anthony@epa.gov, Air Programs Branch, U.S. Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3892.

SUPPLEMENTARY INFORMATION: For detailed information and EPA's analysis of New Jersey's revision to its State Implementation Plan (SIP) for ozone see EPA's proposed rulemaking action (72 FR 11812, March 14, 2007) which can be viewed at <http://www.regulations.gov>.

The following table of contents describes the format for this notice.

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I. What Action Is EPA Taking Today?

New Jersey submitted a revision to the State Implementation Plan (SIP) for ozone dated December 16, 2005, for EPA approval, that includes a new rule and amendments to Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen"; Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds"; Subchapter 8 "Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit)"; and Subchapter 22 "Operating Permits."

Except for certain Open Market Emissions Trading (OMET) Program provisions in Subchapters 8, 16, and 19, and compliance dates beyond November 15, 2007 for repowering and innovative control technology, EPA is approving, as revisions to the New Jersey ozone SIP, the state-adopted amendments to Subchapter 19 and Subchapter 16, each adopted by New Jersey on September 8, 2005, and submitted to EPA on December 16, 2005. EPA is currently reviewing past amendments to Subchapter 8 and will address the approvability of all Subchapter 8 amendments at the same time in a future action. Subchapter 22 is New Jersey's operating permit rule that was separately approved under title V of the Clean Air Act and therefore Subchapter 22 should not have been submitted as a SIP revision. EPA has reviewed the new amendments to Subchapter 22 and will formally respond to New Jersey with a letter.

New Jersey amended Subchapter 19 to reduce emissions of NO_x in response to emission reduction shortfalls, identified by EPA (64 FR 70380, December 16, 1999), for attainment of New Jersey's 1-hour ozone standard. New Jersey amended Subchapter 16 to be consistent with amendments to Subchapter 19. Except for certain OMET provisions in Subchapters 8, 16, and 19, and compliance dates beyond November 15, 2007 for repowering and innovative control technology, New Jersey's state-adopted Subchapters 16 and 19 are fully approvable as a SIP-strengthening measure for New Jersey's ground level ozone SIP. The amendments to Subchapters 16 and 19 in New Jersey's submittal to EPA meet New Jersey's commitment by adopting control measures for additional emission reductions to attain the 1-hour ozone

standard and close the shortfall. Because EPA is determining that the State has now adopted measures to fulfill its SIP commitment to address the NO_x shortfall, EPA will not proceed with the May 27, 2004 (69 FR 30249) proposed Finding of Failure to Implement. For a detailed discussion on the content and EPA's analysis of New Jersey's SIP submittal, the reader is referred to EPA's proposed rulemaking action (72 FR 11812, March 14, 2007).

II. What Comments Were Received and How Has EPA Responded to Them?

The public comment period on EPA's proposed approval of New Jersey's December 16, 2005 SIP submittal ended on April 13, 2007. EPA received one comment on the proposed approval action. The comment addressed EPA's proposed approval of the rule regarding emergency generators. Although EPA proposed to approve the rule, EPA (1) noted that in February 2006 the Agency sent a letter to the State indicating that NSR and title V permits should continue to include an hours of operation limit in permits; and (2) recommended that New Jersey revise its regulations to include emergency generator restrictions that were in the previous SIP-approved version of the rule. The comment and EPA's response follows.

Comments: The Division of Air Quality, New Jersey Department of Environmental Protection (NJDEP) commented that it "disagrees with the USEPA suggestion that all NJDEP issued permits for emergency units include an operating hour limitation to cover emergencies (*i.e.*, 500 hours per year). Rather, the only operating time limitation in permits for emergency units should be that time needed for testing or maintenance, as per manufacturer's specifications and government safety ordinances." NJDEP continued, "It is unreasonable to base maximum potential emissions on emergency scenarios which may or may not materialize." Additionally, NJDEP noted that the Subchapter 19 definition of "Emergency Generator" and "Emergency" make the 500 hour limitation superfluous and that if operation of an emergency generator is consistent with those definitions an hourly restriction is unnecessary. NJDEP also noted that it currently utilizes a total operating hour limit in title V permits as requested by EPA, but objects to its use there also.

Response: EPA notes that it did not propose to condition approval of the SIP rule on the recommendations it made in the February 2006 letter or in the proposed rule. Thus, these

recommendations were not intended to have binding effect. Because it is not necessary for the rules to reflect these recommendations in order to be fully approvable, EPA is moving forward with its approval. EPA will continue to discuss with New Jersey the concerns noted in their comment, which concerns were raised by EPA with respect to New Jersey's permitting programs. Specifically, as noted in EPA's proposed rule, potential to emit (PTE) requirements for emergency generators should be included in the provisions of New Jersey's permitting regulations that identify which sources must obtain a permit, *i.e.* Subchapters 8 and 22. For rule consistency, EPA believes it appropriate, although not required, that New Jersey revise the current state-adopted Subchapter 19 to include the emergency generator restrictions (*e.g.*, (1) the 500 hour annual operating restriction, and (2) the 25 tons per year (tpy) PTE source exemption).

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

When EPA evaluated New Jersey's 1-hour ozone attainment demonstrations, EPA determined that additional emission reductions were needed for the State's severe nonattainment areas in order for the State to attain the 1-hour ozone standard (64 FR 70380; December 16, 1999). EPA provided that states in the Ozone Transport Region could achieve these emission reductions through regional control programs. New Jersey decided to participate with the other states in the Northeast in an Ozone Transport Commission (OTC) regulatory development effort which lead to six model control measures. These amendments to Subchapter 19 incorporate a portion of the OTC model rule for additional NO_x control measures. The emission reductions from this control measure fully meet the commitment in the New Jersey SIP to achieve an additional 0.88 tpy NO_x reduction in the New Jersey portion of the Philadelphia, Wilmington, Trenton nonattainment area and 3.45 tpy NO_x reduction in the New Jersey portion of the New York, Northern New Jersey, Long Island nonattainment area. The emission reductions will help ensure attainment of the 1-hour ozone standard.

IV. What Are EPA's Conclusions?

EPA evaluated New Jersey's submittal for consistency with the Act, EPA regulations and EPA policy. The adopted new control measures will strengthen the SIP by achieving the additional NO_x emission reductions that the State committed to achieve.

Accordingly, EPA is approving the revisions to Subchapter 19, and related revisions to Subchapter 16, as adopted on September 8, 2005, except that EPA is not acting, at this time, on OMET Program provisions in Subchapters 16 and 19 or the new amendments to phased compliance plans by repowering and innovative control technology in sections 19.21 and 19.23, respectively. Additionally, EPA is not approving any dates that allow for NO_x RACT compliance beyond May 31, 1995, in general, and beyond May 1, 1999 for completion of repowering, for sources that should have complied by those dates as required in the EPA-approved SIP. At a later date, EPA will act on Subchapter 8, as adopted by New Jersey on September 8, 2005.

With the adoption of Subchapter 19, New Jersey has fulfilled its obligation to adopt all six control measures that New Jersey identified as necessary to attain the 1-hour ozone standard. These six control measures are applicable statewide and the emission reductions projected from their implementation meets the additional emission reductions that EPA identified as necessary to attain the 1-hour ozone standard. Because New Jersey has now implemented the elements of its SIP that were the subject of EPA's May 27, 2004 (69 FR 30249) proposed Finding of Failure to Implement, EPA will not move forward to finalize that finding.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the 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 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 Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 1, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 13, 2007.

Alan J. Steinberg,
Regional Administrator, Region 2.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(81) to read as follows:

52.1570 Identification of plans.

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

(81) Revisions to the State Implementation Plan for ozone dated December 16, 2005 by the State of New Jersey Department of Environmental Protection (NJDEP) that establishes revised control measures for achieving additional reductions of NO_x emissions from stationary combustion sources.

(i) Incorporation by reference:

(A) Title 7, Chapter 27, Subchapter 19, of the New Jersey Administrative Code entitled “Control and Prohibition of Air Pollution from Oxides of Nitrogen,” effective October 17, 2005 and Title 7, Chapter 27, Subchapter 16 of the New Jersey Administrative Code entitled “Control and Prohibition of Air Pollution by Volatile Organic Compounds,” effective October 17, 2005.

(ii) Additional information:

(A) December 16, 2005 letter from Commissioner Bradley M. Campbell, NJDEP, to Alan J. Steinberg, EPA, requesting EPA approval of revisions to Subchapters 8, 16, 19, and 22.

■ 3. In 52.1605, the table is amended by revising the entries for Subchapters 16 and 19 under the headings “Title 7, Chapter 27” to read as follows:

§ 52.1605 EPA-approved New Jersey regulations.

State regulation	State effective date	EPA approved date	Comments
* * * * *			
Title 7, Chapter 27			
* * * * *			
Subchapter 16, “Control and Prohibition of Air Pollution by Volatile Organic Compounds.”	October 17, 2005	July 31, 2007 [Insert FR page citation].	Subchapter 16 is approved into the SIP except for Open Market Emissions Trading (OMET) provisions at 16.1A(g) and 16.1A(h).

State regulation	State effective date	EPA approved date	Comments
* Subchapter 19, "Control and Prohibition of Air Pollution from Oxides of Nitrogen."	* October 17, 2005	* July 31, 2007 [Insert FR page citation].	* Subchapter 19 is approved into the SIP except for the following provisions: (1) Open Market Emissions Trading (OMET) provisions at 19.3(g), 19.3(h), 19.27 and 19.27 Appendix; and (2) New amendments to phased compliance plan through repowering in §19.21 that allow for implementation beyond May 1, 1999; and (3) New amendments to phased compliance plan through the use of innovative control technology in §19.23 that allow for implementation beyond May 1, 1999.
* *	* *	* *	* *

[FR Doc. E7-14480 Filed 7-30-07; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2007-0295, FRL-8443-5]

Approval and Promulgation of Implementation Plans; States of Arizona and Nevada; Interstate Transport of Pollution

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve state implementation plans submitted by the States of Arizona and Nevada that address interstate transport with respect to the 8-hour ozone and fine particulate matter national ambient air quality standards. In so doing, EPA has determined that the plans submitted by Arizona and Nevada and approved herein satisfy requirements under Clean Air Act section 110(a)(2)(D)(i) for each State to submit a plan containing adequate provisions to prohibit interstate transport with respect to the standards for 8-hour ozone and fine particulate matter. EPA is taking this action pursuant to those provisions of the Clean Air Act that obligate the Agency to take action on submittals of state implementation plans. The effect of this action is to approve the Arizona and Nevada state implementation plans addressing interstate transport with respect to the 8-hour ozone and fine particulate standards and to eliminate obligations on the Agency to promulgate Federal implementation plans for these States addressing this same requirement.

DATES: This rule is effective on October 1, 2007, without further notice, unless

EPA receives adverse comments by August 30, 2007. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2007-0295 by one of the following methods:

- *Federal eRulemaking portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
- *E-mail:* tax.wienke@epa.gov.
- *Fax:* (415) 947-3579 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901.
- *Hand Delivery:* Wienke Tax, Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:55 p.m., excluding federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R09-OAR-2007-0295. 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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

Docket: All documents in the docket are listed in the <http://www.regulations.gov> index. 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, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Office of Air Planning, Environmental Protection Agency (EPA), Region IX, Mailcode AIR-2, 75 Hawthorne Street, San Francisco, California 94105-3901. EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket