

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[Region II Docket No. NJ 67-274 FRL-7788-6]

**Approval and Promulgation of Implementation Plans New Jersey Emission Statement Program****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the State Implementation Plan (SIP) revision submitted by the State of New Jersey on January 23, 2003, for the purpose of enhancing an existing Emission Statement Program for stationary sources in New Jersey. The SIP revision consists of amendments to the New Jersey Administrative Code (N.J.A.C.) title 7, chapter 27, subchapter 21, Emission Statements.

The SIP revision was submitted by New Jersey to satisfy the Clean Air Act requirements for stationary sources to report annually to the State on their emissions of volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO), in order for the State to make this data available to EPA and the public.

The rule enhances the reporting requirements of VOC and NO<sub>x</sub> and expands the reporting requirement based on specified emission thresholds to include CO, sulfur dioxides (SO<sub>2</sub>), total suspended particulate matter (TSP), particulate matter measuring 2.5 microns or less (PM<sub>2.5</sub>), particulate matter measuring 10 microns or less (PM<sub>10</sub>), ammonia (NH<sub>3</sub>), lead (Pb), hazardous air pollutants (HAPs), and carbon dioxide (CO<sub>2</sub>) and methane (CH<sub>4</sub>). The intended effect is to provide improved information to plan for and attain the air quality standards.

**EFFECTIVE DATE:** This rule will be effective September 1, 2004.

**ADDRESSES:** Copies of the state submittal(s) are available at the following addresses for inspection during normal business hours:

New Jersey Department of Environmental Protection and Energy, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866.

**FOR FURTHER INFORMATION CONTACT:** Raymond K. Forde, Air Programs

Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3716, [forde.raymond@epa.gov](mailto:forde.raymond@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. What Action Is EPA Taking Today?**

EPA is approving a revision to New Jersey's ozone SIP submitted on January 23, 2003. New Jersey submitted a SIP revision which included an adopted Emission Statement Regulation. The regulation amends N.J.A.C. title 7, chapter 27, subchapter 21, Emission Statements. The amendments were adopted on January 23, 2003, by the New Jersey Department of Environmental Protection (NJDEP) and became effective on February 18, 2003. The reader is referred to the proposed rulemaking (December 9, 2003, 68 FR 68581) for additional details.

**II. What Role Does This Action Play in the Ozone and CO SIP?**

Section 182(a) of the Act establishes requirements for stationary sources of air pollution to prepare and submit to the state statements each year showing actual emissions of VOC and NO<sub>x</sub>. Further, states with ozone nonattainment areas are required to submit a SIP revision establishing this Emission Statement Program.

Facilities are required to submit their first emission statement to a state within three years of promulgation of the Act and annually thereafter. If either VOC or NO<sub>x</sub> is emitted at or above the minimum reporting level established in a state Emission Statement Program, the other pollutant (NO<sub>x</sub> or VOC) from the same facility should be included in the emission statement, even if the pollutant is emitted at levels below the minimum reporting level.

Section 182(a)(3)(B)(ii) of the Act allows states to waive, with EPA approval, the requirement for an emission statement for classes or categories of sources with less than 25 tons per year of actual plant-wide NO<sub>x</sub> and VOC emissions in nonattainment areas if the class or category is included in the base year and periodic inventories and emissions are calculated using emission factors established by EPA (such as those found in EPA publication AP-42) or other methods acceptable to EPA.

**Consolidated Emission Reporting Rule (Annual Reporting for All Criteria Pollutants)**

In order to consolidate federal reporting requirements, on June 10, 2002 (67 FR 39602), EPA published the final Consolidated Emissions Reporting rule. The purpose of the Consolidated

Emissions Reporting rule is to simplify the states' annual reporting of criteria pollutants (SO<sub>2</sub>, NO<sub>x</sub>, PM<sub>2.5</sub>, PM<sub>10</sub>, CO and Pb) to EPA and their precursors (VOC, NO<sub>x</sub> and NH<sub>3</sub>) for which the National Ambient Air Quality Standards (NAAQS) have been established. The Consolidated Emissions Reporting rule also offers options for data collection and exchange and unifies reporting dates for various categories of criteria pollutant emission inventories. States are to report emissions from industrial point sources (based on specific emission thresholds) starting with calendar year (CY) 2001 and due June 1, 2003, and continuing every year thereafter (*i.e.*, CY 2002 emission inventory due June 1, 2004, CY 2003 emission inventory due June 1, 2005 \* \* \* etc.). One important element of the Consolidated Emissions Reporting rule is a requirement that states collect PM<sub>2.5</sub> and NH<sub>3</sub> emissions data from industrial facilities. Reporting of PM<sub>2.5</sub> and NH<sub>3</sub> from point sources becomes effective June 2004, for emissions that occurred during calendar year 2002.

New Jersey's rule appropriately requires facilities anywhere in the State which emit or have the potential to emit 10 tpy or more of VOC or 25 tpy or more of NO<sub>x</sub> to submit an annual emission statement. In accordance with the provisions to waive reporting requirements, New Jersey will continue to allow its previously established waiver from the Emission Statement Program for sources emitting less than 10 tpy of VOC and less than 25 tpy of NO<sub>x</sub>. New Jersey has included these sources of emissions (calculated using emission factors established or approved by EPA) in the base year inventory and will continue to do so for the periodic inventories.

New Jersey's Emission Statement rule, enhances the reporting requirements of VOC and NO<sub>x</sub> and expands the reporting requirement based on specified emission thresholds to include CO, SO<sub>2</sub>, TSP, PM<sub>2.5</sub>, PM<sub>10</sub>, NH<sub>3</sub>, Pb, 36 HAPs, CO<sub>2</sub> and CH<sub>4</sub>. The intended effect is to provide improved information to plan for and attain the air quality standards.

New Jersey's Emission Statement rule, which requires facilities to report information for criteria pollutants, their associated precursors mentioned above and HAPs, will now enable the State to satisfy the federal Consolidated Emissions Reporting rule requirements for major sources and help the State to develop a HAPs emission inventory for use in National Air Toxics Assessment.

The State's Emission Statement program requires facilities to report on the following pollutants to assist the

State in air quality planning needs: hydrochloric acid, hydrazine, methylene chloride, tetrachloroethylene, 1,1,1-trichloroethane, CO<sub>2</sub> and CH<sub>4</sub>. While EPA recognizes the value of this information, EPA will not take a SIP-related enforcement action should a facility not submit this information to the State in an emission statement because these substances do not cause or exacerbate exceedances of the NAAQS.

### III. What Are EPA's Conclusions?

EPA has concluded that the New Jersey program contains the necessary applicability, compliance and reporting provisions necessary to meet the requirements for an Emission Statement Program. Accordingly, EPA is approving Subchapter 21, Emission Statements, as part of the SIP.

### IV. 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 (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 standard, 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.*).

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 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 1, 2004. 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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 30, 2004.

**Jane M. Kenny,**

*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)(75) to read as follows:

#### § 52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(75) Revisions to the State Implementation Plan submitted on January 23, 2003 by the State of New Jersey Department of Environmental Protection for the purpose of enhancing an existing Emission Statement Program for stationary sources in New Jersey. The SIP revision was submitted by New Jersey to satisfy the Clean Air Act requirements for stationary sources to report annually to the State on their emissions of volatile organic compounds (VOC), oxides of nitrogen (NO<sub>x</sub>) and carbon monoxide (CO), in order for the State to make this data available to EPA and the public.

(i) Incorporation by reference:

(A) Amended Regulation Subchapter 21 of Title 7, Chapter 27 of the New Jersey Administrative Code, entitled "Emission Statements," adopted on January 23, 2003 and effective on February 18, 2003.

(ii) Additional material:

(A) Letter from State of New Jersey Department of Environmental Protection dated January 23, 2003, requesting EPA approval of a revision to the Ozone and CO SIP which contains amendments to the Subchapter 21 "Emission Statements."

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■ 3. Section 52.1605 is amended by revising the entry under Title 7, Chapter

27 for Subchapter 21 in the table 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 21, "Emission Statements." .....	* * Feb. 18, 2003 .....	* * August 2, 2004, FR page citation.	* * Section 7:27–21.3(b)(1) and 7:27–21.3(b)(2) of New Jersey's Emission Statement rule requires facilities to report on the following pollutants to assist the State in air quality planning needs: hydrochloric acid, hydrazine, methylene chloride, tetrachloroethylene, 1, 1, 1 trichloroethane, carbon dioxide and methane. EPA will not take SIP-related enforcement action on these pollutants.
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[NV117a–OPP; FRL–7795–6]

**Approval and Promulgation of Operating Permits Program; State of Nevada, Clark County Department of Air Quality Management**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a revision to the Clark County Department of Air Quality Management (DAQM) Operating Permits (Title V) Program. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving a rule revision that addresses when a timely application for title V permit renewal must be submitted.

**DATES:** These rule revisions are effective on October 1, 2004, without further notice, unless EPA receives adverse comments by September 1, 2004. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that these revisions will not take effect.

**ADDRESSES:** Send comments to Gerardo Rios, Permits Office Chief (AIR–3), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 or e-mail to [r9airpermits@epa.gov](mailto:r9airpermits@epa.gov). Comments may also be submitted at <http://www.regulations.gov>.

You can inspect copies of the submitted rule revision and other supporting documentation relevant to this action during normal business hours at Air Division, EPA Region IX, 75 Hawthorne Street, San Francisco, California 94105.

You may also see copies of the State's submittal at the Nevada Division of Environmental Protection, 333 W. Nye Lane, Room 138, Carson City, Nevada or at the Clark County Department of Air Quality Management, 500 S. Grand Central Parkway, Las Vegas, Nevada 89155.

**FOR FURTHER INFORMATION CONTACT:** Roger Kohn, EPA Region IX, Air Division, Permits Office (AIR–3), at (415) 972–3973 or [kohn.roger@epa.gov](mailto:kohn.roger@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. The Part 70 Operating Permits Program
  - A. What is the part 70 operating permits program?
  - B. What is the federal approval process for revisions to an operating permits program?
- II. This action
  - A. What revision is being approved?
  - B. Have the requirements for approval been met?
  - C. Public comment and final action.
- III. Statutory and Executive Order Reviews

**I. The Part 70 Operating Permits Program**

*A. What Is the Part 70 Operating Permits Program?*

The Clean Air Act Amendments (CAA) of 1990 require all states to develop an operating permits program that meets federal criteria listed in 40 Code of Federal Regulations (CFR) part 70. In implementing this program, the states are to require certain sources of air pollution to obtain permits that contain all applicable requirements

under the CAA. One purpose of the part 70 operating permits program (also known as a Title V program) is to improve enforcement and compliance by issuing each source a single permit that consolidates all of the applicable CAA requirements into a federally-enforceable document. By consolidating all of the applicable requirements for a facility into one document, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

*B. What Is the Federal Approval Process for Revisions to an Operating Permits Program?*

In order for state regulations to be incorporated into the federally-enforceable part 70 operating permits program, states must formally adopt regulations consistent with state and federal requirements. Once a state regulation is adopted, the state submits it to the EPA for inclusion into the approved operating permits program. The EPA must provide public notice and seek additional public comment regarding the proposed federal action on the state submission. If adverse comments are received, they must be addressed prior to any final federal action by EPA.

**II. This Action**

*A. What Revision Is Being Approved?*

EPA is approving a revision to DAQM Section 19, Part 70 Operating Permits, that addresses the submittal of timely permit applications. DAQM revised Section 19.3 to state that for the purposes of permit renewal, a timely and complete application is one that is submitted "between six (6) and eighteen