

disbursing officer shall be liable for any payment made from moneys due from, or payable by the Postal Service or the Postal Rate Commission to any individual pursuant to legal process regular on its face.

(d) The Postal Service, the Postal Rate Commission, any disbursing officer or any other employee shall not be liable to pay money damages for failure to comply with legal process.

#### § 491.9 Restrictions on garnishment.

Garnishments under this section shall be subject to the restrictions in 15 U.S.C. 1671-1677, including limits on the amounts which can be withheld from an employee's pay and the priority of garnishments.

**Stanley F. Mires,**

*Chief Counsel, Legislative Division.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[NH-7162a; A-1-FRL-6196-1]

#### Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; 15 Percent Rate-of-Progress and Contingency Plans; Vapor Recovery Controls for Gasoline Distribution and Dispensing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions establish 15 percent rate-of-progress (ROP) and contingency plans for ozone nonattainment areas in the State. The revisions also include regulations adopted by New Hampshire to control volatile organic compound (VOC) emissions from gasoline dispensing facilities and from gasoline tank trucks. The intended effect of this action is to approve these plans and regulations as revisions to the State's SIP. This action is being taken in accordance with the Clean Air Act.

**EFFECTIVE DATE:** This rule is effective on January 6, 1999.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th

floor, Boston, MA; and the Air Resources Division, Department of Environmental Services, 64 North Main Street, Caller Box 2033, Concord, NH 03302-2033.

**FOR FURTHER INFORMATION CONTACT:** Robert McConnell, (617) 565-9266.

**SUPPLEMENTARY INFORMATION:** Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to reduce volatile organic compounds (VOC) emissions by 15 percent from 1990 baseline levels. There are two serious ozone nonattainment areas in New Hampshire. The areas are referred to as the Portsmouth-Dover-Rochester area (the "Por-Dov-Roc area"), and the New Hampshire portion of the Boston-Lawrence-Worcester area (the "Bos-Law-Wor area"). New Hampshire is, therefore, subject to the 15 percent ROP requirement.

### I. Background

On October 27, 1997 (62 FR 55544), EPA published a Notice of Proposed Rulemaking (NPR) for the State of New Hampshire. The NPR proposed approval of the State's 15 percent ROP and contingency plans. The formal SIP revision was submitted by New Hampshire on August 29, 1996.

The proposed approval of New Hampshire's 15 percent ROP and contingency plans which was published in the October 27, 1997 **Federal Register** (62 FR 55544), stated that EPA accepted the level of emission reductions projected to occur from the State's VOC RACT rules, Stage I rule, and Stage II rule. EPA's proposed rulemaking noted that although the State had submitted these rules to EPA, they had not been approved by EPA as of October 27, 1997. On March 10, 1998 (63 FR 11600), EPA approved the New Hampshire VOC RACT rules into the State's SIP. On September 21, 1998 (63 FR 50180), EPA proposed approval of New Hampshire's Part Env-A 1205 "Volatile Organic Compounds (VOC): Gasoline Dispensing Facilities and Gasoline Tank Trucks." This regulation contains the State's Stage I and Stage II vapor recovery control requirements. Today's action also includes a final approval of New Hampshire's Part Env-A 1205.

### Transportation Conformity Budgets

Under EPA's transportation conformity rule the 15 percent plans are a control strategy SIP. The plans for New Hampshire establish VOC emission budgets for on-road mobile sources within the respective nonattainment areas. These plans do not establish NO<sub>x</sub> emission budgets for on-road mobile

sources. However, New Hampshire submitted an ozone attainment demonstration SIP revision to EPA on June 30, 1998. The ozone attainment demonstration establishes the VOC and NO<sub>x</sub> emission budgets for 2003 shown in Table 1.

TABLE 1.—2003 EMISSION BUDGETS FOR ON-ROAD MOBILE SOURCES

Nonattainment area	VOC Budget tons per summer day	NO <sub>x</sub> Budget tons per summer day
NH portion of Bos-Law-Wor area .....	10.72	21.37
Por-Dov-Roc area .....	6.97	13.68

By letter dated August 19, 1998, EPA informed New Hampshire that the motor vehicle budgets contained within the State's ozone attainment demonstration were adequate for conformity purposes. EPA believes that the VOC and NO<sub>x</sub> budgets established by the New Hampshire ozone attainment demonstration are currently the controlling budgets for conformity determinations for 2003 and later years. The budgets in the attainment demonstration specifically address anticipated mobile source emissions in 2003, whereas the 15 percent plan establishes a budget for 1996. The time period for the budget in the 15 percent plans has passed. Additionally, the attainment demonstration establishes a more stringent budget.

EPA's rationale for granting approval to these plans, and the details of New Hampshire's submittal are contained in the NPR and the accompanying technical support document and will not be restated here.

### II. Public Comments

No comments were received on the October 27, 1997 NPR regarding EPA's proposed action on the New Hampshire 15 percent ROP and contingency plans, or on the September 21, 1998 NPR regarding the State's Gasoline Dispensing Facilities and Gasoline Tank Trucks regulation.

### III. Final Action

EPA is approving the New Hampshire 15 percent ROP and contingency plans as revisions to the State's SIP. EPA is also approving New Hampshire's Part Env-A 1205 "Volatile Organic Compounds (VOC): Gasoline Dispensing Facilities and Gasoline Tank Trucks" into the New Hampshire SIP.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future

request for revision to any State implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### IV. Administrative Requirements

##### A. Executive Orders 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

##### B. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates."

Today's rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

##### C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and

explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an "economically significant" action under Executive Order 12866.

##### D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

##### E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already

imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

##### F. Unfunded Mandates

Under Sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

##### G. 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).

#### H. 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 February 5, 1999. 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone.

**Note:** Incorporation by reference of the State Implementation Plan for the State of New Hampshire was approved by the Director of the Federal Register on July 1, 1982.

Dated: November 19, 1998.

**John P. DeVillars,**

*Regional Administrator, Region I.*

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

#### PART 52—[AMENDED]

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

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

#### Subpart EE—New Hampshire

2. Section 52.1520 is amended by adding paragraphs (c)(53) and (c)(58) to read as follows:

#### § 52.1520 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(53) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on August 29, 1996. This revision is for the purpose of satisfying the rate-of-progress requirement of section 182(b) and the contingency measure requirement of section 172(c)(9) of the Clean Air Act, for the Portsmouth-

Dover-Rochester serious ozone nonattainment area, and the New Hampshire portion of the Boston-Lawrence-Worcester serious ozone nonattainment area.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated August 29, 1996 submitting a revision to the New Hampshire State Implementation Plan.

\* \* \* \* \*

(58) Revisions to the State Implementation Plan submitted by the New Hampshire Air Resources Division on November 25, 1992.

(i) Incorporation by reference.

(A) Letter from the New Hampshire Air Resources Division dated November 24, 1992 submitting a revision to the New Hampshire State Implementation Plan.

(B) Part Env-A 1205 "Volatile Organic Compounds (VOC): Gasoline Dispensing Facilities and Gasoline Tank Trucks," effective in the State of New Hampshire on August 17, 1992.

(ii) Additional materials.

(A) New Hampshire Department of Environmental Services "Stage II Equivalency Demonstration," dated November 1992.

(B) Nonregulatory portions of the submittal.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[DE100-2014 & DC100-1017; FRL-6193-6]

#### Approval and Promulgation of Air Quality Implementation Plans; Delaware and District of Columbia; Revised Format for Materials Being Incorporated by Reference

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is revising the format of 40 CFR part 52 for materials submitted by Delaware and the District of Columbia that are incorporated by reference (IBR) into their respective State implementation plans (SIPs). The regulations affected by this format change have all been previously submitted by the respective State agency and approved by EPA. This format revision will primarily affect the "Identification of plan" sections of CFR part 52, as well as the format of the SIP materials that will be available for

public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review remain unchanged.

**EFFECTIVE DATE:** This final rule is effective on December 7, 1998.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; Delaware Department of Natural Resources & Environmental Control, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19903; and the District of Columbia Department of Public Health, Air Quality Division, 2100 Martin Luther King Ave, S.E., Washington, DC 20020.

**FOR FURTHER INFORMATION CONTACT:** Harold A. Frankford, (215) 566-2108 or by e-mail at frankford.harold@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The supplementary information is organized in the following order:

- What a SIP is.
- How EPA enforces SIPs.
- How the state and EPA updates the SIP.
- How EPA compiles the SIPs.
- How EPA organizes the SIP compilation.
- Where you can find a copy of the SIP compilation.
- The format of the new Identification of Plan section.
- When a SIP revision become Federally enforceable.
- The historical record of SIP revision approvals.
- What EPA is doing in this action.
- How this document complies with the Federal administrative requirements for rulemaking.

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#### What a SIP Is

Each state has a SIP containing the control measures and strategies used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as air pollution control regulations, emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms.