

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 RME or 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 RME index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Phone: (404) 562-9031. E-mail: [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, see the direct final rule which is published in the Rules section of this **Federal Register**.

Dated: August 12, 2005.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 05-16803 Filed 8-23-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR PART 52

[R05-OAR-2005-OH-0002; FRL-7958-4]

#### Approval and Disapproval of Ohio Implementation Plan for Particulate Matter

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

**ACTION:** Proposed rule; reopening of the public comment period.

**SUMMARY:** EPA is reopening the comment period for a proposed rule published June 27, 2005 (70 FR 36901). On June 27, 2005, EPA proposed to disapprove revisions to Ohio rules that provide for use of continuous opacity monitoring data but allow more exceedances of the general opacity limit in cases where the owner of an eligible large coal fired boiler opts to use these data for determining compliance. EPA also proposed to approve other elements of Ohio's rule submittal that clarified Ohio's rules. In response to requests from the Ohio Environmental Protection Agency and from the law firm of Shumaker, Loop & Kendrick, EPA is reopening the comment period through August 24, 2005. All comments received on or before August 24, 2005 will be entered into the public record and considered by EPA before taking final action on the proposed rule.

**DATES:** Comments must be received on or before August 24, 2005.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2005-OH-0002, to: John Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Phone: (312) 886-4447. E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov). Additional instructions to comment can be found in the notice of proposed rulemaking published June 27, 2005 (70 FR 36901).

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Criteria Pollutant Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number: (312) 353-4761, E-mail Address: [summerhays.john@epa.gov](mailto:summerhays.john@epa.gov).

Dated: August 2, 2005.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 05-16811 Filed 8-23-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R01-OAR-2005-ME-0007; A-1-FRL-7959-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Maine; Nitrogen Oxides Exemption Request for Northern Maine

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve an exemption request from the requirements contained in Section 182(f) of the Clean Air Act (CAA or Act) for Northern Maine (specifically, Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, and portions of Hancock and Waldo Counties). This area, along with the rest of the State of Maine, are part of the Ozone Transport Region (OTR) as provided for in section 184(a) of the Act. Section 182(f) in combination with section 184 (relating to ozone transport regions) of the Act requires States in the OTR, such as Maine, to adopt reasonably available control technology (RACT) rules for major stationary sources of nitrogen oxides (NO<sub>x</sub>) and to provide for nonattainment area new source review (NSR) for new sources and modifications that are major for NO<sub>x</sub>. This exemption request, submitted by the State of Maine on March 24, 2005 with supplemental submittals dated April 19, 2005 and June 28, 2005, is based on a demonstration that NO<sub>x</sub> emissions in the exemption area are not impacting Maine's nonattainment areas or other nonattainment areas in the OTR during times when elevated ozone levels are monitored in those areas. As such, additional reductions in NO<sub>x</sub> emissions from this area beyond what the State regulations already provide for are not necessary for future attainment in any of Maine's ozone nonattainment areas or other ozone nonattainment areas in the OTR. Thus, as provided for in section 182(f)(2), additional NO<sub>x</sub> reductions in these areas would constitute excess reductions that can be waived under the Act. This action is being taken under the CAA.

**DATES:** Written comments must be received on or before September 23, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R01-OAR-2005-ME-0007 by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/> Regional Material in EDocket (RME), EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [conroy.dave@epa.gov](mailto:conroy.dave@epa.gov).

4. Fax: (617) 918-01661.

5. Mail: "RME ID Number R01-OAR-2004-ME-0007", David Conroy, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114-2023.

6. Hand Delivery or Courier. Deliver your comments to: David Conroy, Chief, Air Programs Branch, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**Instructions:** Direct your comments to Regional Material in EDocket (RME) ID Number R01-OAR-2004-ME-0007. 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://docket.epa.gov/rmepub/>, 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 through Regional Material in EDocket (RME), [regulations.gov](http://www.regulations.gov), or e-mail, information that you consider to be CBI or otherwise protected. The EPA RME Web site and the Federal regulations.gov Web site are "anonymous access" systems, 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 RME or [regulations.gov](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 Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>. 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 RME or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard P. Burkhart, Air Quality Planning, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114-2023. Phone: 617-918-1664, Fax: (617) 918-0664, E-mail: [burkhart.richard@epa.gov](mailto:burkhart.richard@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

###### *A. How Can I Get Copies of This Document and Other Related Information?*

In addition to the publicly available docket materials available for inspection electronically in Regional Material in EDocket, and the hard copy available at the Regional Office, which are identified in the **ADDRESSES** section above, copies

of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at The Bureau of Air Quality Control, Department of Environmental Protection, First Floor of the Tyson Building, Augusta Mental Health Institute Complex, Augusta, ME 04333-0017.

###### *B. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

##### **II. Rulemaking Information**

The following outline is provided to aid in locating information in this document.

- A. Background and Purpose.
- B. Clean Air Act Requirements
- C. Scope of Exemptions
  1. Inspection and Maintenance (I/M) Program
  2. Conformity
- D. Criteria for Evaluation of Section 182(f) Exemption Requests
- E. Summary of State Request
- F. Technical Justification for the Request

###### *A. Background and Purpose*

On March 24, 2005, Maine Department of Environmental Protection (DEP) submitted an exemption request from the requirements for NO<sub>x</sub> control contained in Section 182(f) of the Clean Air Act (CAA or Act) for the Northern Maine area (specifically, Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, and portions of Hancock and Waldo Counties). On April 19, 2005 and June 28, 2005, Maine DEP submitted additional analyses to EPA justifying its

waiver request, which EPA is using as a basis for this proposal. All submittals are available in the docket.

The area for which Maine is requesting a waiver, along with the rest of the State of Maine, are part of the Ozone Transport Region as provided for in section 184(a) of the Act. In addition, the waiver area is designated unclassifiable/attainment for the 8-hour ozone standard. Section 182(f) in combination with section 184 (relating to ozone transport regions) of the Act requires States in the OTR, such as Maine, to adopt reasonably available control technology (RACT) rules for major stationary sources of nitrogen oxides and to provide for nonattainment area new source review for new sources and modifications that are major for NO<sub>x</sub>. This exemption request, is based on a demonstration that NO<sub>x</sub> emissions in this area are not impacting Maine's ozone nonattainment areas or any other ozone nonattainment area in the OTR during times when elevated ozone levels are monitored in those areas. As such, additional reductions in NO<sub>x</sub> emissions from this area beyond what the State regulations already provide for are not necessary for future attainment in any of Maine's ozone nonattainment areas or other ozone nonattainment area in the OTR. Thus, as provided for in section 182(f)(2), additional NO<sub>x</sub> reductions in these areas would constitute excess reductions that can be waived under the Act. A Technical Support Document (TSD) has been prepared for this action. The TSD is available in the docket.

#### B. Clean Air Act Requirements

The air quality planning requirements for the reduction of NO<sub>x</sub> emissions are set out in section 182(f) of the Act. Section 182(f) of the Act requires states with areas designated and classified as moderate nonattainment and above for ozone, or in ozone transport regions, to impose the same control requirements for major stationary sources of NO<sub>x</sub> as apply to major stationary sources of volatile organic compounds (VOC). These requirements include the adoption of RACT rules for major stationary sources and nonattainment area NSR for major new sources and major modifications. Section 182(f) provides further that these requirements do not apply for nonattainment areas inside an ozone transport region if EPA determines that reductions of NO<sub>x</sub> from such areas would not contribute to net ozone benefits in the OTR. In addition, implementation of NO<sub>x</sub> controls may be limited if EPA determines it is necessary to avoid achieving excess reductions. Also, NO<sub>x</sub>-related general conformity

provisions do not apply in an area that is granted a section 182(f) exemption. The area for which Maine is requesting a NO<sub>x</sub> waiver is designated unclassifiable/attainment for the 8-hour ozone standard and does not have any 8-hour ozone conformity requirements.

The area for which Maine DEP has requested a waiver includes the following counties: Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, and Aroostook. Also included in the area requested for a waiver are the portions of Waldo and Hancock Counties that are designated unclassifiable/attainment for the 8-hour ozone standard. In Waldo County, this includes the following towns: Belfast, Belmont, Brooks, Burnham, Frankfort, Freedom, Jackson, Knox, Liberty, Lincolnville, Monroe, Montville, Morrill, Northport, Palermo, Prospect, Searsport, Searsport, Stockton Springs, Swanville, Thorndike, Troy, Unity, Waldo, and Winterport. In Hancock County, this includes the following towns and townships: Amherst, Aurora, Bucksport, Castine, Dedham, Eastbrook, Ellsworth, Franklin, Great Pond, Mariaville, Orland, Osborn, Otis, Penobscot, Verona, Waltham, Oqiton Township (T4 ND), T3 ND, T39 MD, T40 MD, T41 MD, T32 MD, T34 MD, T35 MD, T28 MD, T22 MD, T16 MD, T8 SD, T9 SD, T10 SD, and T7 SD.

As stated above, each of the counties or partial counties for which Maine DEP is seeking an exemption is within the OTR. For attainment areas within the OTR, the application of NO<sub>x</sub> requirements under the CAA may be limited if it is shown that additional NO<sub>x</sub> reductions are excess to the attainment needs throughout the region. EPA believes, in the case of these areas in Maine at the northern extremity of the OTR, that NO<sub>x</sub> requirements can be waived because the Maine DEP has submitted an acceptable demonstration that additional reductions beyond what the state regulations already provide for are not necessary for the nonattainment areas in the state to attain, because emissions from this area are not contributing to the ozone nonattainment problem in any other nonattainment area in the OTR, and because reductions in this area are not necessary for purposes of showing future attainment anywhere in the OTR. Maine DEP has made this showing through air modeling trajectory analyses, NO<sub>x</sub> emission analysis, and meteorological analyses. Most of this same geographic area in Maine received approval by EPA of a similar NO<sub>x</sub> waiver request under the 1-hour ozone standard on December 26, 1995 (60 FR 66748). At this time, the 1-hour NO<sub>x</sub> waiver remains as approved

in 1995. The implementation policy for the 8-hour ozone standard (69 FR 23951) requires areas to request a separate waiver under the 8-hour ozone standard. This is the only area in the OTR that received a NO<sub>x</sub> waiver under the 1-hour ozone standard, and is the first area in the OTR to request a NO<sub>x</sub> waiver under the 8-hour ozone standard.

#### C. Scope of Exemptions

If the EPA Administrator determines, under section 182(f) of the Act, that additional reductions of NO<sub>x</sub> are excess, the area at issue shall automatically (*i.e.*, a State would not need to submit an exemption request for each requirement) be exempt from the following requirements (as applicable): Inspection and Maintenance program NO<sub>x</sub> requirements, the NO<sub>x</sub>-related general conformity provisions, the NO<sub>x</sub>-related transportation conformity provisions in 40 CFR part 93, NO<sub>x</sub> RACT, and nonattainment area NSR for new sources and modifications that are major for NO<sub>x</sub>.

##### 1. Inspection and Maintenance (I/M) Program

I/M is not required in any portion of Northern Maine, therefore, EPA's action on this request has no impact on I/M requirements.

##### 2. Conformity

The transportation conformity rule requires emissions analysis of motor vehicle NO<sub>x</sub> emissions for ozone nonattainment and maintenance areas in order to determine the conformity of transportation plans and programs to state implementation plan requirements. The waiver area is currently designated unclassifiable/attainment for the 8-hour standard, and does not need to do transportation conformity. General conformity is also not required in this area. Because conformity is not required in this area, EPA's action on this request has no impact on any conformity requirements.

#### D. Criteria for Evaluation of Section 182(f) Exemption Requests

The criteria established for the evaluation of an exemption request from the section 182(f) requirements are set forth in a memorandum from Stephen D. Page, Director, OAQPS, dated January 14, 2005, and titled: "Guidance On Limiting Nitrogen Oxides Requirements Related To 8-Hour Ozone Implementation."

#### E. Summary of State Request

On March 24, 2005, the Maine DEP submitted an exemption request from

the requirements contained in section 182(f) of the CAA for Northern Maine. In all, EPA received three submittals from Maine. The initial request dated March 24, 2005, and a first supplement dated April 19, 2005, and a second supplement dated June 28, 2005.

This exemption request is based on a demonstration that NO<sub>x</sub> emissions in this multi-county area are not impacting Maine's two 8-hour ozone nonattainment areas or other 8-hour ozone nonattainment areas in the OTR during times when elevated 8-hour ozone levels are monitored in those areas. As such, additional reductions in NO<sub>x</sub> emissions from these counties (*i.e.*, NO<sub>x</sub> reductions beyond what the state regulations provide for) are not necessary for the two nonattainment areas in the State to attain and are also not necessary for 8-hour ozone attainment purposes anywhere in the OTR. Under these circumstances, as section 182(f)(2) provides, such additional reductions may be waived as excess reductions.

#### *F. Technical Justification for the Request*

Maine submitted a detailed technical analysis showing that NO<sub>x</sub> emissions from the proposed NO<sub>x</sub> waiver area do not impact either of the two 8-hour nonattainment areas in Maine or any other 8-hour ozone nonattainment in the OTR. The request relies on several different techniques to prove Maine's case, with the primary technique being back trajectories using the HYSPLIT trajectory model.

Maine DEP created back trajectories for each day that experienced an 8-hour ozone exceedance in either of Maine's nonattainment areas during 1998 through 2004 time period. When 8-hour exceedances for a given day were recorded in either of Maine's 8-hour nonattainment areas, back trajectories were run from locations in each of the nonattainment areas. For each ozone exceedance that was analyzed, back trajectories were run for each hour that recorded ozone in excess of 0.08 parts per million, and run for multiple heights in the atmosphere. In all, Maine DEP ran over 1000 back trajectories for 61 separate exceedance days during 1998 to 2004.

Maine then analyzed each of these back trajectories to see if there was potential impact from the NO<sub>x</sub> waiver area. These trajectory analyses show convincingly that the source region for Maine's 8-hour ozone exceedances are to the south and west of southern Maine. The trajectories also show convincingly that the proposed NO<sub>x</sub> waiver area does not contribute to

Maine's 8-hour ozone nonattainment problems. This is identical to the conclusion that was reached for 1-hour ozone exceedances in southern Maine for the 1-hour NO<sub>x</sub> waiver approved by EPA in 1995.

In addition, Maine provided NO<sub>x</sub> emission inventory data for the entire OTR and additional meteorological analyses to add further evidence that the proposed NO<sub>x</sub> waiver area does not contribute to ozone nonattainment in the two nonattainment areas of Maine or anywhere in the OTR. Whenever there are 8-hour ozone exceedances in New Hampshire or Massachusetts, the two states nearest to Maine, the winds are not from Maine. Therefore, Maine does not contribute to ozone nonattainment in Massachusetts, nor New Hampshire, the only two states in the OTR, outside Maine, where it is reasonable to expect that Maine's emissions might potentially contribute to ozone nonattainment. Moreover, EPA has performed extensive air quality modeling throughout the Northeast over the past several years in support of its Clean Air Interstate Rule (CAIR), and the ozone modeling domain used for the CAIR rule covers much of northern Maine. In the CAIR rulemaking, EPA did not find that Maine was significantly contributing to future ozone nonattainment anywhere in the CAIR domain, which includes the rest of the OTR plus most of the eastern half of the United States. Thus, the State of Maine was not included in the CAIR rule. EPA's CAIR modeling plus the data provided in Maine's submittals support this proposed approval of Maine's NO<sub>x</sub> waiver request.

EPA's review of this request indicates that a NO<sub>x</sub> waiver is justified for Northern Maine. A TSD has been prepared on this action and contains a detailed analysis of Maine's request. EPA is proposing to approve the exemption request for the Northern Maine area from the Section 182(f) NO<sub>x</sub> requirements. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the ADDRESSES section of this notice.

#### **III. Proposed Action**

EPA is proposing to approve the exemption request for the Northern and Western Maine area from the section 182(f) NO<sub>x</sub> requirements based upon the evidence provided by the State and the State's compliance with the

requirements outlined in the applicable EPA guidance. This action proposes to exempt Oxford, Franklin, Somerset, Piscataquis, Penobscot, Washington, Aroostook, and portions of Hancock and Waldo counties from the requirements of nonattainment area NSR for new sources and modifications that are major for NO<sub>x</sub>, and NO<sub>x</sub> RACT on existing sources. If EPA determines based on future air quality analyses that NO<sub>x</sub> controls in this area are necessary for ozone attainment purposes, rulemaking may be initiated which may mean that this NO<sub>x</sub> exemption no longer applies.

EPA is soliciting public comments on the issues discussed in this proposal or on other relevant matters. These comments will be considered before EPA takes final action. Interested parties may participate in the federal rulemaking procedure by submitting written comments to the EPA New England Regional Office listed in the ADDRESSES section of this action, or by submitting comments electronically, by mail, or through hand delivery/courier following the directions in the SUPPLEMENTARY INFORMATION, I. General Information section of this action.

#### **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). The proposed exemption does not create any new requirements, but allows suspension of the indicated requirements for the life of the exemption. 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 suspends certain requirements, 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), because it merely approves a state request to waive certain requirements, 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 this submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a waiver request to require VCS in a 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.*)

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

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

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

Dated: August 15, 2005.

**Robert W. Varney,**

*Regional Administrator, EPA New England.*  
[FR Doc. 05-16814 Filed 8-23-05; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[OAR-2002-0057; FRL-7959-3]

RIN 2060-AM25

### National Emission Standards for Hazardous Air Pollutants: Hydrochloric Acid Production

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

**ACTION:** Proposed rule; amendments.

**SUMMARY:** On April 17, 2003, we published the national emission standards for hazardous air pollutants (NESHAP) for hydrochloric acid (HCl) production facilities, including HCl production at fume silica facilities (HCl Production NESHAP) (68 FR 19076). We are proposing to amend the existing rule by clarifying certain applicability provisions, emission standards, and testing, maintenance, and reporting requirements. The proposed amendments would also correct several omissions and typographical errors in the final rule. We are proposing the amendments to facilitate compliance and improve understanding of the final rule requirements.

**DATES:** *Comments.* Comments must be received on or before October 24, 2005.

*Public Hearing.* If anyone contacts the EPA requesting to speak at a public hearing by September 13, 2005, a public hearing will be held on September 23, 2005.

**ADDRESSES:** *Comments.* Submit your comments, identified by Docket ID No. OAR-2002-0057 (formerly Docket ID No. A-99-41), by one of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Agency Web site: <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- E-mail: [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).
- Fax: (202) 566-1741.
- Mail: Air Docket, EPA Docket Center, U.S. EPA West, Mailcode 6102T, Room B-108, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies.

- Hand Delivery: EPA Docket Center, Room B-108, U.S. EPA West, 1301 Constitution Avenue, NW., Washington, DC 20004. 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. OAR-2002-0057. 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.epa.gov/edocket>, 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 EDOCKET, [regulations.gov](http://www.epa.gov/regulations.gov), or e-mail. The EPA EDOCKET and the Federal [regulations.gov](http://www.epa.gov/regulations.gov) websites are "anonymous access" systems, 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 EDOCKET or [regulations.gov](http://www.epa.gov/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 EDOCKET on-line or see the **Federal Register** of May 31, 2002 (67 FR 38102). For additional instructions on submitting comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket.* EPA has established an official public docket for this action including both Docket ID No. OAR-2002-0057 and legacy Docket ID No. A-99-41. The official public docket consists of the information related to this action. Not all items are listed under both docket numbers, so interested parties should inspect both docket numbers to ensure that they have received all materials relevant to the proposed amendments. 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