

Paperwork Reduction Act

This rule contains no new information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Regulatory Flexibility Act

The Commission, in accordance with the Regulatory Flexibility Act (5 U.S.C. 606(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

List of Subjects in 29 CFR Part 1610

Freedom of Information.

For the Commission.

Cari M. Dominguez,
Chair.

■ Accordingly, for the reasons set forth in the preamble, EEOC amends 29 CFR part 1610 as follows:

PART 1610—AVAILABILITY OF RECORDS

■ 1. The authority citation for part 1610 continues to read as follows:

Authority: 42 U.S.C. 2000e-12(a), 5 U.S.C. 552 as amended by Pub. L. 93-502, Pub. L. 99-570, and Pub. L. 105-231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

■ 2. Section 1610.1 is amended by adding paragraphs (e) through (i) as follows:

§ 1610.1 Definitions.

* * * * *

(e) *Direct costs* refers to those expenses that EEOC actually incurs in searching for and duplicating (and, in the case of commercial requesters, reviewing) records to respond to a request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery. Not included in direct costs are overhead expenses such as costs of space and

heating or lighting of the facility in which the records are stored.

(f) *Search* refers to the time spent looking for and retrieving material that is responsive to a request. It includes page-by-page or line-by-line identification of information within documents and also includes reasonable efforts to locate and retrieve information from records maintained in electronic formats. EEOC employees should ensure that searching for materials is done in the most efficient and least expensive manner reasonably possible. For example, employees shall not search line-by-line when merely duplicating a document would be quicker and less expensive.

(g) *Duplication* refers to the process of making a copy of a record or document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, electronic formats (for example magnetic tape or disk), among others. Employees shall honor a requester's specified preference of format of disclosure if the record is readily reproducible with reasonable efforts in the requested format by the office responding to the request.

(h) *Attestation* refers to the authentication of copies of Commission documents by an affidavit or unsworn declaration from the records custodian without the Commission Seal.

(i) *Certification* refers to the authentication of copies of Commission documents by an affidavit or unsworn declaration from the records custodian under the Commission Seal.

■ 3. Section 1610.15(c) is revised to read as follows:

§ 1610.15 Schedule of fees and method of payment for services rendered.

* * * * *

(c) Except as otherwise provided, the following specific fees for direct costs shall be applicable with respect to services rendered to members of the public under this subpart:

(1) For manual search and review time:

(i) By clerical personnel—at the rate of \$5.00 per quarter hour.

(ii) By paralegals—at the rate of \$9.00 per quarter hour.

(iii) By professional personnel—at the rate of \$10.00 per quarter hour.

(iv) By managers—at the rate of \$17.50 per quarter hour.

(v) By SES employees—at the rate of \$20.00 per quarter hour.

(2) For computer searches of records, requesters will be charged at the actual direct cost of providing the service. This includes the operator/programmer salary apportionable to the search based

on the rates listed in paragraph (c)(1) of this section.

(3) For copies made by photocopy—\$0.15 per page (maximum of 10 copies). For copies prepared by computer, such as tapes or printouts, EEOC will charge the direct cost incurred by the agency, including operator time. For other forms of duplication, EEOC will charge the actual costs of that duplication.

(4) For attestation of documents—\$25.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(5) For certification of document—\$50.00 per authenticating affidavit or declaration. Additionally, there may be search and review charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(6) For each signed statement of negative result of search for record—\$10.00. Additionally, there may be search charges assessed in accordance with the rates listed in paragraph (c)(1) of this section.

(7) For retrieval of records from a Federal Records Center—the amount charged to EEOC for retrieval of such records.

(8) All other direct costs of search, review, duplication or delivery (other than normal mail), shall be charged to the requester as appropriate in the same amount as incurred by the agency.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[Region 2 Docket No. R02-OAR-2005-NY-0003, FRL-7971-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is approving a revision to the New York State Implementation Plan (SIP) concerning New York's permitting program. The SIP revision consists of amendments to Title 6 of the New York Code, Rules and Regulations, Part 201, "Permits and Certificates." The intended effect of this approval is to incorporate administrative changes to New York's permitting program into the SIP.

DATES: This rule will be effective November 2, 2005.

ADDRESSES: A copy of the New York submittal is available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,
Region 2 Office, Air Programs Branch,
290 Broadway, 25th Floor, New York,
New York 10007-1866.
New York State Department of
Environmental Conservation, Division
of Air Resources, 625 Broadway,
Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-3381 or Wieber.Kirk@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Was Included in New York's Submittal?

On June 16, 1996, David Sterman, then Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the State Implementation Plan (SIP) which included revisions to Title 6 of the New York Codes, Rules and Regulations (NYCRR), Part 201, "Permits and Certificates." The revisions to Part 201 were submitted by New York in support of its Title V Operating Permit Program under the Clean Air Act (Act), and became State effective on July 7, 1996. New York requested at that time that Subparts 201-1, 201-2, 201-3, 201-4, 201-5, 201-7, 201-8 and Appendix B be incorporated into the federally approved SIP, replacing the existing federally approved version of Part 201. EPA has deferred taking action on those revisions to Part 201 due to unresolved concerns raised by the EPA and NYSDEC regarding specific Subparts. However, on May 27, 2005, Carl Johnson, Deputy Commissioner, NYSDEC, submitted a SIP revision requesting EPA's approval of only Subparts 201-7.1, "General" and 201-7.2, "Emission Capping Using Synthetic Minor Permits," as were State effective on July 7, 1996, and the removal of Subpart 201.5(e) of the existing federally approved version of Part 201. On July 21, 2005 (70 FR 42021), EPA proposed to approve revised Subparts 201-7.1 and 201-7.2 into the federally approved New York SIP and remove existing Subpart 201.5(e) from the federally approved New York SIP. For a detailed discussion on the content and requirements of the revisions to New York's regulations, the reader is referred to EPA's proposed rulemaking action.

II. What Comments Did EPA Receive in Response to Its Proposal?

In response to EPA's July 21, 2005 proposed rulemaking action, EPA received no adverse comments.

III. What Is EPA's Conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the revisions made to Part 201-7, "Federally Enforceable Emission Caps," specifically the inclusion of Subparts 201-7.1, "General" and 201-7.2, "Emission Capping Using Synthetic Minor Permits" meet the SIP revision requirements of the Act. In addition, EPA has determined that existing Subpart 201.5(e) should no longer be included in the federally approved SIP. Therefore, EPA is approving revised Subparts 201-7.1 and 201-7.2 into the federally approved New York SIP and removing existing Subpart 201.5(e) from the federally approved New York 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 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 December 2, 2005. 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 12, 2005.

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 HH—New York

■ 2. Section 52.1670 is amended by adding new paragraph (c)(109) to read as follows:

§ 52.1670 Identification of plans.

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

(109) Revisions to the State Implementation Plan submitted on June 16, 1996 and May 27, 2005, by the New York State Department of Environmental Conservation, which consist of administrative changes to Title 6 of the New York Code, Rules and

Regulations, Part 201, “Permits and Certificates.”

(i) Incorporation by reference:

(A) Regulations Subparts 201–7.1, “General” and 201–7.2, “Emission Capping Using Synthetic Minor Permits” of Part 201–7, “Federally Enforceable Emission Caps” of Title 6 of the New York Code of Rules and Regulations (NYCRR), filed on June 7, 1996, and effective on July 7, 1996.

■ 3. In 52.1679, the table is amended by revising the entry under Title 6 for Part 201 and adding new entries under Title 6 for Subparts 201–7.1 and 201–7.2, in numerical order to read as follows:

§ 52.1679 EPA—approved New York State regulations.

New York State regulation	State effective date	Latest EPA approval date	Comments
Title 6:			
* * * * *			
Part 201, “Permits and Certificates”	4/4/93	10/3/05 [Insert FR page citation]	This action removes subpart 201.5(e) from the State’s federally approved SIP.
Subpart 201–7.1, “General”	7/7/96	10/3/05 [Insert FR page citation]	
Subpart 201–7.2, “Emission Capping Using Synthetic Minor Permits”.	7/7/96	10/3/05 [Insert FR page citation]	
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0084; FRL–7978–4]

RIN 2060–AN38

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: On March 23, 2000, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for secondary aluminum production under section 112 of the Clean Air Act (CAA), and on December 30, 2002, we published final amendments to the standards based on two separate settlement agreements. This amendment corrects a punctuation

error in the definition of “clean charge” previously promulgated in the December 30, 2002 amendments and a typographical error in the operating temperature of a scrap dryer/delacquering kiln/decoating kiln afterburner. We are making the amendment by direct final rule, without prior proposal, because we view the revision as noncontroversial and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register**, we are publishing a separate document that will serve as the proposal to amend the national emission standards for secondary aluminum production, if adverse comments are filed.

If we receive any adverse comments on the direct final rule, we will publish a timely withdrawal in the **Federal Register** informing the public that the amendments are being withdrawn due to adverse comment. We will address all public comments in a subsequent final rule based on the proposed rule. If we do not receive adverse comment on the direct final rule, it will become effective on the date set out below. We will not

institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

DATES: The direct final rule will be effective on December 2, 2005 without further notice, unless EPA receives adverse written comments by November 2, 2005 or by November 17, 2005 if a public hearing is requested. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating that the rule is being withdrawn due to adverse comment.

ADDRESSES: Submit your comments, identified by Docket ID No. OAR–2002–0084, 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 and colyer.rick@epa.gov.