

**ADDRESSES:** Materials referred to in this document are available for inspection or copying at Commander (dpw), Eleventh Coast Guard District, Building 50-2, Coast Guard Island, Alameda, CA 94501-5100, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (510) 437-3516. The Eleventh Coast Guard District maintains the public docket for this temporary deviation.

**FOR FURTHER INFORMATION CONTACT:** David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District, telephone (510) 437-3516.

**SUPPLEMENTARY INFORMATION:** The California Department of Transportation requested a temporary change to the operation of the Tower Drawbridge, mile 59.0, over the Sacramento River, at Sacramento, CA. The Tower Drawbridge navigation span provides a vertical clearance of 30 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal as required by 33 CFR 117.5. Navigation on the waterway is commercial and recreational.

The drawspan will be secured in the closed-to-navigation position 1:45 p.m. through 2:45 p.m. on February 19, 2008 to allow participants in the Tour of California Bicycle Race to cross the bridge during the event. This temporary deviation has been coordinated with waterway users. There are no scheduled river boat cruises or anticipated levee maintenance during this deviation period. No objections to the temporary deviation were raised.

Vessels that can transit the bridge, while in the closed-to-navigation position, may continue to do so at any time.

In the event of an emergency the drawspan can be opened with 30 minutes advance notice.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: January 29, 2008.

**C.E. Bone,**

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

[FR Doc. E8-2689 Filed 2-12-08; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2007-1002; FRL-8521-5]

#### Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Regulation No. 7, Section XII, Volatile Organic Compounds From Oil and Gas Operations

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the State of Colorado. On August 3, 2007, the Governor's designee submitted revisions to Colorado's Regulation No. 7, "Emissions of Volatile Organic Compounds," Section XII, "Volatile Organic Compounds (VOC) From Oil and Gas Operations." EPA is approving the revisions to Regulation No. 7, Section XII. This action is being taken under Section 110 of the Clean Air Act.

**DATES:** This direct final rule is effective on April 14, 2008 without further notice, unless EPA receives adverse comment by March 14, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket Number EPA-R08-OAR-2007-1002, by one of the following methods:

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

- *E-mail:* [videtich.callie@epa.gov](mailto:videtich.callie@epa.gov) and [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

- *Fax:* (303) 312-6064 (please alert the individual listed in the **FOR FURTHER INFORMATION CONTACT** if you are faxing comments).

- *Mail:* Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129.

- *Hand Delivery:* Callie A. Videtich, Director, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R08-OAR-2007-1002. EPA's policy is that all comments received will be included in the public docket without change and may be made available at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA, without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>. For additional instructions on submitting comments, go to Section I. General Information of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. EPA requests that if at all possible, you contact the individual listed in the **FOR**

**FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kerri Fiedler, Air and Radiation Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P-AR, 1595 Wynkoop Street, Denver, Colorado 80202-1129, phone (303) 312-6493, and e-mail at: [fiedler.kerri@epa.gov](mailto:fiedler.kerri@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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##### Definitions

For the purpose of this document, we are giving meaning to certain words or initials as follows:

- (i) The words or initials *Act* or *CAA* mean or refer to the Clean Air Act, unless the context indicates otherwise.
- (ii) The words *EPA*, *we*, *us* or *our* mean or refer to the United States Environmental Protection Agency.
- (iii) The initials *NAAQS* mean National Ambient Air Quality Standard.
- (iv) The initials *SIP* mean or refer to State Implementation Plan.
- (v) The word *State* means the State of Colorado, unless the context indicates otherwise.

##### I. General Information

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

1. *Submitting CBI.* Do not submit this information to EPA through <http://regulations.gov> or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- I. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- II. Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- III. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- IV. Describe any assumptions and provide any technical information and/or data that you used.
- V. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- VI. Provide specific examples to illustrate your concerns, and suggest alternatives.
- VII. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- VIII. Make sure to submit your comments by the comment period deadline identified.

##### II. What is the purpose of this action?

In this action, we are approving revisions to Regulation No. 7, Section XII, for the control of VOC emissions from oil and gas operations. James B. Martin, the Executive Director of the Colorado Department of Public Health and Environment, submitted these revisions to us on August 3, 2007.

We previously approved Regulation No. 7, Section XII, on August 19, 2005 (see 70 FR 48652) as part of Denver's Early Action Compact (EAC) SIP for the 8-hour ozone standard. The purpose of the EAC SIP is to prevent exceedances of the 8-hour ozone standard in the Denver EAC area.<sup>1</sup> Due to unanticipated growth of condensate tank emissions in the oil and gas sector, the State determined that the version of Regulation No. 7, Section XII, that we approved in 2005 needed to be revised.

<sup>1</sup> In April 2004, EPA designated the Denver area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, and parts of Larimer and Weld counties) as non-attainment for the 8-hour ozone standard, but deferred the effective date of the designation based on a commitment from the State of Colorado, the Regional Air Quality Council and others to implement ozone control measures sooner than required by the Clean Air Act. This commitment was contained in the Denver Early Action Compact (EAC). The non-attainment designation for the area became effective November 20, 2007, as a result of a violation for 2005-2007, which triggers requirements for future revisions to the attainment demonstration SIP for the Denver EAC area.

The version of Regulation No. 7, Section XII, submitted August 3, 2007 requires a greater level of control of condensate tank emissions in the 8-hour ozone non-attainment area.

##### III. What is the State's process to submit these materials to EPA?

Section 110(k) of the CAA addresses our actions on submissions of SIP revisions. The CAA requires States to observe certain procedural requirements in developing SIP revisions. Section 110(a)(2) of the CAA requires that each SIP revision be adopted by a State after reasonable notice and public hearing. This must occur before a State submits the revision to us.

The Colorado Air Quality Control Commission (AQCC) held public hearings for the revisions to Regulation No. 7, Section XII, on November 17, 2006, November 18, 2006, and December 17, 2006. The AQCC adopted the revisions on January 5, 2007. The revisions became State effective on March 4, 2007.

We have evaluated the revisions to Regulation No. 7, Section XII, and have determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2) of the CAA.

##### IV. EPA's Evaluation of the Regulation No. 7, Section XII, Revisions

Colorado's Regulation No. 7, Section XII, "Volatile Organic Compound Emissions From Oil And Gas Operations," imposes emission control requirements on oil and gas condensate tanks located in the Denver EAC area, with the majority of affected facilities being located in southern Weld County. Among other things, Regulation No. 7, Section XII, includes definitions; required emission reductions for the high ozone season and rest of the year; numerous recordkeeping requirements for a spreadsheet to determine weekly and other periodic compliance; emission factors used to demonstrate compliance; reporting requirements for certain equipment if a construction or Title V permit is issued by the State; a methodology for approval of alternative emissions control equipment; requirements for gas-processing plants; requirements for controlling emissions from dehydration units; and a methodology for approval to develop testing methods and revised emission factors.

The condensate tank requirements, along with other requirements applicable to oil and gas operations and natural gas fired reciprocating internal combustion engines, were initially promulgated in March 2004, and later

revised in December 2004. Colorado submitted these requirements to us as a SIP revision, which we approved on August 19, 2005 (see 70 FR 48652). Colorado designed the emission limits in the 2004 revision of Regulation No. 7, Section XII, to achieve total condensate tank VOC emissions in the Denver EAC area during the summer ozone season of no more than 91.3 tons per day (tpd) as of May 1, 2007, and 100.9 tpd as of May 1, 2012. These daily values were relied on to demonstrate attainment of the 8-hour ozone standard in the modeling analysis, as part of the EAC SIP. However, because of unanticipated growth of condensate tank emissions, the State later determined that the emission limits in the 2004 version of Regulation No. 7 would be insufficient to meet these daily emission numbers. The 2007 revisions require a greater level of control of condensate tank emissions within the 8-hour ozone non-attainment area boundary. The State's goal remains to achieve the same daily emission targets for condensate tank VOC emissions.

We note that the VOC emission reductions that are required by Regulation No. 7, Section XII, are achieved not by specific requirements on each condensate tank, but instead by overall or system-wide emission reductions for each affected company's operations. As stated in Regulation No. 7, Section XII, the requirement to control emissions applies to owners or operators of condensate tanks with a cumulative total of 30 tons per year or more of VOC emissions. In practice, industry has controlled the condensate tank VOC emissions with flares or vapor recovery units, and Regulation No. 7, Section XII, requires these types of emission control devices to achieve 95% control efficiency.

Revised Regulation No. 7, Section XII, raises the system-wide control requirements for the ozone season from the 47.5% VOC reduction requirement that applied from May 1, 2006, through September 30, 2006, to 75% from May 1 through September 30 of each year from 2007 through 2011. For the period from May 1 through September 30 of each year, beginning with 2012, VOC emissions from condensate tanks must be reduced by 78% from uncontrolled actual emissions. Determination of compliance during the ozone season will be on a weekly basis. For the non-ozone season, the State revised the required reduction of condensate tank VOC emissions from 38% to 60% in 2007, and beginning in 2008, and each year thereafter, VOC emissions between October 1 and April 30 must be reduced

by 70% from uncontrolled actual emissions. Emission reductions during the non-ozone season must be calculated as an average of the emission reductions achieved during this seven-month period.

In addition to the changes to the system-wide reduction requirements, the State adopted significant changes to the monitoring, recordkeeping, and reporting requirements. Owners or operators of any condensate storage tank that is being controlled under Regulation No. 7, Section XII, must inspect or monitor the control equipment at least weekly. Types of equipment include combustion devices, vapor recovery units, valves, and thief hatches. As noted above, the record-keeping provisions require owners or operators to maintain a spreadsheet to track emission reductions on a weekly basis during the ozone season (May 1 through September 30). In addition to the spreadsheet, owners or operators are required to maintain records of monitoring and inspection activities. The reporting provisions require owners or operators to submit an annual report by April 30 of each year, and also a semi-annual report by November 30 of each year, detailing emission reductions during the preceding year and ozone season, respectively. Finally, provisions have been added to require owners or operators subject to the condensate storage tank reduction requirements to submit a list of all their controlled tanks on April 30 of each year; to notify the State monthly during the ozone season of any change to the list of controlled tanks; and to notify the State monthly of any instance where the air pollution control equipment was not properly functioning and the steps taken to correct the problem. We have reviewed and are approving the revisions to Regulation No. 7, Section XII, "Volatile Organic Compounds From Oil and Gas Operations" because they require greater reductions in emissions and meet the requirements of section 110 of the CAA.

#### V. Consideration of Section 110(l) of the CAA

Section 110(l) of the CAA states that a SIP revision cannot be approved if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress towards attainment of a NAAQS, or any other applicable requirement of the CAA. The revisions to Regulation No. 7, Section XII, will not interfere with attainment, reasonable further progress, or any other applicable requirement of the CAA.

#### VI. Final Action

In this action, EPA is approving the revisions to Regulation No. 7, Section XII, that were submitted on August 3, 2007. The version of Section XII we are approving supersedes and replaces the prior version we approved at 70 FR 48652 (August 19, 2005). EPA is publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comments. However, in the "Proposed Rules" section of today's **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective April 14, 2008 without further notice unless the Agency receives adverse comments by March 14, 2008. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### VII. 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 *April 14, 2008*. 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 40 CFR Part 52

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

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

Dated: January 15, 2008.

**Robert E. Roberts,**

*Regional Administrator, Region VIII.*

■ 40 CFR part 52 is amended to read 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 G—Colorado

■ 2. Section 52.320 is amended by adding paragraph (c)(112) to read as follows:

##### § 52.320 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(112) On August 3, 2007, the Governor of Colorado submitted revisions to the Colorado's Regulation No. 7 "Emissions of Volatile Organic Compounds" that made several changes and additions to Section XII, "Volatile Organic Compound Emissions From Oil and Gas Operations."

(i) Incorporation by reference.

(A) Regulation No. 7 "Emissions of Volatile Organic Compounds," 5 CCR 1001-9, Section XII, "Volatile Organic

Compound Emissions From Oil and Gas Operations," effective on March 4, 2007.

[FR Doc. E8-2512 Filed 2-12-08; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0976; FRL-8526-8]

### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Budget Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** EPA is granting final approval to Ohio's request for the retirement and withdrawal of 240 oxides of nitrogen (NO<sub>x</sub>) allowances from the State's 2005 new source set aside. Retiring 240 new source set aside allowances will provide surplus emission reductions to help compensate for the discontinuation of Ohio's motor vehicle inspection and maintenance program (known as "E-Check") in the Cincinnati and Dayton areas for the year 2006. (Ohio is in the process of seeking approval of the removal of E-Check as an active program from the State Implementation Plan (SIP), which will be addressed in a separate action.) EPA received adverse comments and one positive comment on our proposed rulemaking on the allowance retirement. These comments are addressed in this notice. As a result of this action, 240 NO<sub>x</sub> allowances from the State's 2005 new source set aside will be withheld and permanently retired.

**DATES:** This final rule is effective on March 14, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0976. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago,