

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of September 11, 2000 (65 FR 54855), FDA announced that a food additive petition (FAP 0A4722) had been filed by Alcide Corp., 8561 154th Ave., NE., Redmond, WA 98052. The petition proposed to amend the food additive regulations in § 173.325 *Acidified sodium chlorite solution* (21 CFR 173.325) to provide for the safe use of acidified sodium chlorite solutions as a component of a post-chill carcass spray or dip when applied to poultry meat, organs, or related parts or trim.

FDA has evaluated data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of the additive is safe, that the additive will achieve its intended technical effect, and, therefore, that the regulation in § 173.325 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

In the notice of filing, FDA gave interested parties an opportunity to submit comments on the petitioner's environmental assessment. FDA received no comments in response to that notice.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

Any person who will be adversely affected by this regulation may at any time file with the Dockets Management Branch (address above) written objections by June 6, 2001. Each objection shall be separately numbered, and each numbered objection shall

specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents are to be submitted and are to be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 173 is amended as follows:

#### PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

**Authority:** 21 U.S.C. 321, 342, 348.

2. Section 173.325 is amended by removing "or" at the end of paragraph (b)(1)(iii), removing the period at the end of paragraph (b)(1)(iv) and adding "; or" in its place, and adding paragraph (b)(1)(v) to read as follows:

#### § 173.325 Acidified sodium chlorite solutions.

\* \* \* \* \*

(b)(1) \* \* \*

(v) As a component of a post-chill carcass spray or dip solution when applied to poultry meat, organs, or related parts or trim.

\* \* \* \* \*

Dated: April 27, 2001.

**L. Robert Lake,**

*Director of Regulations and Policy, Center for Food Safety and Applied Nutrition.*

[FR Doc. 01-11330 Filed 5-4-01; 8:45 am]

**BILLING CODE 4160-01-S**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. 45-216; FRL-6924-3]

### Approval and Promulgation of Implementation Plans; New York; Motor Vehicle Inspection and Maintenance Program

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency is announcing the approval of a State Implementation Plan revision submitted by New York. This revision consists of New York's demonstration of the effectiveness of the enhanced motor vehicle inspection and maintenance (I/M) program decentralized testing network which satisfies the requirements of section 348 of the National Highway Systems Designation Act (NHSDA). In addition, EPA is approving New York's test method, NYTEST, and its effectiveness in relation to the IM240 test method and the regulations implementing the program. The intended effect of this action is to fully approve New York's enhanced I/M program, a requirement of the Clean Air Act.

**EFFECTIVE DATE:** This rule will be effective June 6, 2001.

**ADDRESSES:** Copies of the State submittals are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region II 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, 50 Wolf Road, Albany, New York 12233; and Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Judy-Ann Mitchell, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637-4249.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 2, 2000 (65 FR 58698), EPA published a notice of proposed rulemaking for the State of New York. The notice proposed approval of revisions to the State Implementation Plan (SIP) for New York's enhanced inspection and maintenance (I/M)

program. The formal SIP revision was submitted on May 24, 1999 and additional information was submitted on October 7, 1999 and October 29, 1999. A description of New York's submittals and EPA's rationale for our proposed action were presented in the proposal and will not be restated here.

## II. Public Comments/Response to Comments

One comment was submitted to the docket during the comment period for the notice of proposed rulemaking published in the October 2, 2000 **Federal Register**. Copies of the original comment letter are available at EPA's Region II Office at the address listed in the **ADDRESSES** section of this document.

The commentor, an emissions inspection and automotive repair station owner, commented on problems he has been experiencing with his NYTEST equipment including the responsiveness of the New York State Department of Environmental Conservation (NYSDEC) and the equipment manufacturer. Through discussions with the NYSDEC, EPA has learned that the State has been working with the commentor to address his concerns. These comments to the docket do not address the approvability of New York's I/M program nor do they address the emissions reduction effectiveness of the NYTEST test type. Therefore, these comments will not be addressed in this document.

## III. Conclusion

EPA is approving New York's enhanced I/M program SIP revision pursuant to section 348 of the NHSDA and the Clean Air Act. By so doing, EPA is finding that New York has adequately remedied the six de minimus deficiencies previously identified and has demonstrated that its decentralized I/M program network is substantially as effective as a centralized program network in achieving emission reductions according to the following:

- 88 percent as effective for HC emission reductions.
- 84 percent as effective for CO emission reductions.
- 86 percent as effective for NO<sub>x</sub> emission reductions.

In addition, EPA is affording emissions reduction credit to the NYTEST as follows:

- 95 percent of IM240 credit for HC.
- 99 percent of IM240 credit for CO.
- 99 percent of IM240 credit for NO<sub>x</sub>.

EPA is approving the latest revisions to the enhanced I/M program regulations. Specifically, these are found at 6NYCRR Part 200, General Provisions, Section 200.9 and Part 217, Motor Vehicle Emissions, Subparts 217-

1, 217-2, and 217-4, that became effective on May 22, 1997. These are also found at 15NYCRR Part 79, Motor Vehicle Inspection, Sections 79.1-79.15, 79.17, 79.20, 79.21, 79.24-79.26, that became effective on June 4, 1997.

This approval removes the interim status of EPA's interim approval promulgated on October 24, 1997 (64 FR 32411).

### *Administrative Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This final 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 final 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 (Public Law 104-4). For the same reason, this final rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This final rule will 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 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 final rule also is not subject to Executive Order 13045 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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**. This rule is not a "major" rule as defined by 5 U.S.C. 804(2). This rule will be effective June 6, 2001.

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 July 6, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: December 15, 2000.

**William J. Muszynski,**

*Acting 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)(99) to read as follows:

**§ 52.1670 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(99) Revisions to the New York State Implementation Plan (SIP) for the Motor

Vehicle Inspection and Maintenance Program, submitted on March 6, 1996, May 24, 1999, October 7, 1999, October 29, 1999, and May 22, 2000 by the New York State Department of Environmental Conservation.

(i) Incorporation by reference. Revision to 6NYCRR Part 217, Motor Vehicle Emissions, Subparts 217–1, 217–2, and 217–4, that became effective on May 22, 1997 and revisions to 15NYCRR Part 79, Motor Vehicle Inspection, Sections 79.1–79.15, 79.17, 79.20, 79.21, 79.24–79.26, that became effective on June 4, 1997.

(ii) Additional material:

(A) March 6, 1996, submittal of revisions to the enhanced motor vehicle inspection and maintenance program.

(B) May 24, 1999, submittal of the demonstration of the effectiveness of New York's decentralized inspection and maintenance program network.

(C) October 7, 1999, supplemental submittal of the demonstration of the effectiveness of New York's decentralized inspection and maintenance program network.

(D) October 29, 1999, letter clarifying October 7, 1999, supplemental submittal.

(E) May 22, 2000, Instrumentation/Protocol Assessment Pilot Study analysis of the NYTEST.

3. In § 52.1679, the table is amended by:

a. Adding a new heading for “Title 6” to the beginning of the table;

b. Revising the entry for part 217;

c. Adding a new heading for “Title 15” and new entries for part 79 to the end of the table.

The revisions and entries 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 217, Motor Vehicle Emissions:			
Subpart 217–1, Motor Vehicle Enhanced Inspection and Maintenance Program Requirements.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
Subpart 217–2, Motor vehicle NY91 Inspection and Maintenance Program Requirements.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
Subpart 217–4, Inspection and Maintenance Program Audits.	May 22, 1997 .....	May 7, 2001, 66 FR 22924.	
* * * * *	* * * * *	* * * * *	* * * * *
Title 15:			
Part 79, Motor Vehicle Inspection:			
Sections 79.1–79.15, 79.17, 79.20, 79.21, and 79.24–79.26.	June 4, 1997 .....	May 7, 2001, 66 FR 22924.	

**§ 52.1683 [Amended]**

4. Section 52.1683 is amended by removing and reserving paragraphs (b), (c), (d), and (e).

[FR Doc. 01–10429 Filed 5–4–01; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[MD 064/109/111/113–3065a; FRL–6973–3]**

**Approval and Promulgation of Air Quality Implementation Plans; State of Maryland; Approval of Revisions to Volatile Organic Compounds, Regulations and Miscellaneous Revisions**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the Maryland State Implementation Plan (SIP) submitted by the Maryland Department of Environment (MDE). The revisions replace the existing regulation and adopt a new regulation for control of volatile organic compounds (VOC) from expandable polystyrene operations (EPO), establish VOC reasonably available control technology (RACT) standards for facilities that recycle bakery and confectionary waste, adopt by reference the EPA definition of VOC and include other miscellaneous revisions. EPA is approving these revisions to the State of Maryland's SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 6, 2001 without further notice, unless EPA receives adverse written comment by June 6, 2001. If EPA receives such comments, it will publish a timely

withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.