

this action must be filed in the United States Court of Appeals for the appropriate circuit by September 15, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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: May 27, 2008.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of 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 O—Illinois

■ 2. Section 52.720 is amended by adding paragraph (c)(181) to read as follows:

##### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(181) On August 17, 2005 and January 29, 2008, Illinois submitted revised regulations that are consistent with 40 CFR 51.100(s)(1), as amended by 69 FR 69298. The compounds 1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C<sub>3</sub>F<sub>7</sub>OCH<sub>3</sub>), 3-ethoxy 1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl)hexane (HFE-7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC-227ea), and methyl formate were added to the list of negligibly reactive compounds excluded from the definition of VOM in 35 IAC 211.7150(a). Tertiary-butyl acetate is also listed in 35 IAC 211.7150(a) with a notation that it must also meet the requirements of 35 IAC 211.7150(e), which state that tertiary-butyl acetate is considered a VOC for recordkeeping, emissions reporting, modeling, and inventory requirements, but is not

considered a VOC for emission limits or content requirements.

(i) *Incorporation by reference.*

(A) Illinois Administrative Code Title 35: Environmental Protection, Part 211: Definitions and General Provisions, Subpart B: Definitions, Section 211.7150: Volatile Organic Matter (VOM) or Volatile Organic Compound (VOC), Subsections 211.7150(a) and 211.7150(e). Effective January 16, 2008.

[FR Doc. E8-15815 Filed 7-15-08; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[EPA-R08-OAR-2007-0645; FRL-8692-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Wyoming; Revisions to New Source Review Rules

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

**ACTION:** Final rule.

EPA is approving the State Implementation Plan (SIP) revisions submitted by the State of Wyoming on December 13, 2006. The proposed revisions modify the State's Prevention of Significant Deterioration (PSD) regulations to address changes to the federal NSR regulations promulgated by EPA on December 31, 2002, and reconsidered with minor changes on November 7, 2003. The State of Wyoming has a federally-approved PSD program for new and modified sources impacting attainment areas in the State. Wyoming does not have a Nonattainment New Source Review (NNSR) program. This action is being taken under section 110 of the Clean Air Act.

**DATES:** *Effective Date:* This final rule is effective August 15, 2008.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2007-0645. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 <http://www.regulations.gov>, or in hard

copy at the Air 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:

Domenico Mastrangelo, Air Program, U.S. Environmental Protection Agency, Region 8, Mailcode 8P-A, 1595 Wynkoop Street, Denver, Colorado 80202, (303) 312-6416, [mastrangelo.domenico@epa.gov](mailto:mastrangelo.domenico@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### 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 *SIP* mean or refer to State Implementation Plan.

(iv) The words *State* or *Wyoming* mean the State of Wyoming unless the context indicates otherwise.

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#### I. What Action Is EPA Taking?

EPA is taking final action to approve revisions to the State of Wyoming SIP regarding the Wyoming PSD program. On April 1, 2008 (73 FR 17289), EPA published an action of proposed rulemaking to approve Wyoming's revisions to their Prevention of Significant Deterioration regulations, Chapter 6, Section 4 of the Wyoming Air Quality Standards and Regulations (WAQS&R). The formal SIP revision was submitted to EPA by the State of Wyoming on December 13, 2006. EPA's proposed rule action published April 1, 2008 (73 FR 17289) provides more detailed information about the Wyoming SIP revisions being approved today. The public comment period for the proposed action ended on May 1, 2008. No comments, adverse or otherwise, were received on EPA's proposed action.

#### II. Background

On December 31, 2002, EPA published revisions to the Federal PSD

and non-attainment NSR regulations in 40 Code of Federal Regulations (CFR) Parts 51 and 52 (67 FR 80186). This action was reconsidered with minor changes on November 7, 2003 (68 FR 63021). Collectively, these two final actions are referred to as the “NSR Reform” regulations and became effective nationally in areas not covered by a SIP on March 3, 2003. These regulatory revisions included provisions for baseline emissions determinations, actual-to-future-actual methodology, plantwide applicability limits (PALs), Clean Units, and Pollution Control Projects (PCPs). As stated in the December 31, 2002 rulemaking, State and local permitting agencies must adopt and submit revisions to their part 51 permitting programs implementing the minimum program elements (67 FR 80240). With the December 13, 2006 submittal, Wyoming requested approval of program revisions into the State SIP that satisfy this requirement.

In the November 7, 2003 reconsideration noted earlier, EPA clarified two provisions in the regulations by including a definition of “replacement unit” and by clarifying that the PALs baseline calculation procedures for newly constructed units do not apply to modified units (68 FR 63021).

On October 27, 2003 EPA published a rulemaking action related to, but not part of, the 2002 NSR Reform. EPA published the Routine Equipment Replacement Provision (ERP) amendments (68 FR 61248) which specified at 40 CFR 51.166(b)(2)(iii)(a) the criteria for the routine replacement of equipment.

On December 24, 2003, the United States Court of Appeals for the District of Columbia Circuit, on challenges to the October 27, 2003 EPA rulemaking, stayed EPA’s final Routine Equipment Replacement Provision, *State of New York v. EPA*, No. 03–1380. On March 17, 2006, the same Court vacated these provisions. On June 24, 2005, the same Appeals Court issued a ruling on challenges to the December 2002 NSR Reform revisions, *State of New York et al. v. EPA*, 413 F.3d 3 (D.C. Cir. 2005). Although the Court upheld most of EPA’s rules, it vacated both the Clean Unit (CU) and the PCP provisions and remanded back to EPA the recordkeeping provisions at 40 CFR 52.21(r)(6) that required a stationary source to keep records of projects when there was a “reasonable possibility” that the project could result in a significant emissions increase.

EPA brought its NSR Reform regulations in conformity with the Court’s June 24, 2005 ruling in final

rulemakings published on June 13 and December 21, 2007 (72 FR 32526, 72 FR 32526). In these actions, EPA removed from the Code of Federal Regulations (CFR) the PCP and CU provisions contained in sections 40 CFR 51.165, 51.166, and 52.21(72 FR 32526), and identified the criteria triggering the “reasonable possibility” recordkeeping and reporting standard (72 FR 72607).

The revised Chapter 6, Section 4 of the WAQS&R submitted to EPA on December 13, 2006, consistent with the Court rulings noted above, does not include the vacated Clean Unit, PCP, and ERP provisions. As for the “reasonable possibility” phrase, the Wyoming revised PSD provisions included recordkeeping requirements omitting the “reasonable possibility” language objected to by the Court. This omission makes the Wyoming recordkeeping requirements, set at Chapter 6, Section 4(b)(i)(H)(I), more stringent than the equivalent EPA provisions in the 2002 NSR Reform rules, and therefore approvable. To make the State NSR SIP provisions we are approving consistent with the EPA December 21, 2007 rulemaking on the “reasonable possibility” recordkeeping and reporting standard (72 FR 72607), the State of Wyoming needs to submit a notice to EPA within 3 years to acknowledge that their regulations fulfill these requirements.

The Wyoming PSD revisions do not address the definition of “replacement unit” approved by EPA in the November 7, 2003 reconsideration of the 2002 NSR Reform. This omission was based on the State’s understanding that the NSR Reform Rules contained “replacement unit” references only within the PCPs and CU provisions that Wyoming, as noted above, has not adopted. As the State realized that both its revised and its EPA-approved NSR SIPs include a reference to “replacement unit” in their definition of “Net emission increase” at Chapter 6, Section 4(a)(viii), the State addressed this issue to the satisfaction of EPA. In an exchange of e-mails with EPA on August 13 and September 5, 2007 (included as part of the docket for this action), the State of Wyoming indicated its agreement with EPA’s interpretation of the definition of “replacement unit” detailed in the EPA “Technical Support Document (TSD) for the Prevention of Significant Deterioration (PSD) and Nonattainment Area New Source Review (NSR): Reconsideration.” As a result, EPA concluded that the omission of this definition from Chapter 6, Section 4 of Wyoming regulations is approvable, but also recommends that the State of Wyoming make these provisions

formally consistent with the Federal language by adopting the definition of “replacement unit” in a future rulemaking.

### III. Final Action

EPA is taking final action to approve Wyoming’s revisions to their Wyoming Air Quality Standards and Regulations, Chapter 6, Section 4, Prevention of Significant Deterioration, submitted to EPA by the State of Wyoming on December 13, 2006. These revisions to Chapter 6, Section 4 were adopted by the Wyoming Environmental Quality Council (EQC) on July 27, 2006, effective October 6, 2006, and supersede and replace the EPA-approved Chapter 6, Section 4 of the WAQS&R rules.

### IV. Statutory and Executive Order Review

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 *September 15, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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,

Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: June 30, 2008.

**Judith Wong,**

*Acting Deputy Regional Administrator, Region 8.*

■ 40 CFR part 52 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 ZZ—Wyoming

■ 2. In § 52.2620, the table in paragraph (c)(1) is amended under Chapter 6 by revising the entry for Section 4 to read as follows:

#### § 52.2620 Identification of plan.

*	*	*	*	*
(c)	*	*	*	*
(1)	*	*	*	*

State citation	Title/Subject	State adopted and effective date	EPA approval date and citation <sup>1</sup>	Explanations
* * *	* * *	* * *	* * *	* * *
Chapter 6				
* * *	* * *	* * *	* * *	* * *
Section 4	Prevention of significant deterioration.	7/27/06, 10/6/06	7/16/08. [insert FR page number where document begins].	
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<sup>1</sup> In order to determine the EPA effective date for a specific provision that is listed in this table, consult the **Federal Register** cited in this column for that particular provision.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Docket No. EPA-R02-OAR-2008-0004; FRL-8576-6]

### Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New Jersey

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is announcing approval of a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. The SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO<sub>x</sub>) from stationary internal combustion engines operated by the Trigen-Trenton Energy Co., L.P. This action approves the source-specific RACT determination that was made by New Jersey in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this action is to approve source-specific emission limitations required by the Clean Air Act.

**DATES:** *Effective Date:* This rule will become effective on *August 15, 2008*.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2008-0004. All documents in the docket are listed on the <http://www.regulations.gov> Web site. 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, 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 <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New