

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 CAA. This 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 CAA. 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 CAA. 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 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.*).

#### B. Submission to Congress and the Comptroller General

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).

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to revisions to the Maryland SIP establishing requirements for distilled spirits facilities, must be filed in the United States Court of Appeals for the appropriate circuit by July 23, 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, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 2, 2001.

**William C. Early,**

*Acting Regional Administrator, Region III.*

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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(160) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(160) Revisions to the Maryland State Implementation Plan submitted on November 13, 2000 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) A letter dated November 13, 2000 from the Maryland Department of the Environment transmitting additions to Maryland's State Implementation Plan, pertaining to volatile organic compound (VOC) regulations in Maryland's air quality regulations, COMAR 26.11.19.29.

(B) Addition of new COMAR 26.11.19.29—Control of Volatile Organic Compounds from Distilled Spirits Facilities, adopted by the Secretary of

the Environment on September 11, 2000 and effective on October 2, 2000.

(ii) Additional Materials—Remainder of the November 13, 2000 submittal pertaining to COMAR 26.11.19.29—Control of VOC Emissions from Distilled Spirits Facilities.

[FR Doc. 01-12714 Filed 5-21-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region II Docket No. NY48-221; FRL-6979-2]

### Approval and Promulgation of Implementation Plans; New York; Nitrogen Oxides Budget and Allowance Trading Program

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New York. This SIP revision meets the requirements of the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," known as the "NO<sub>x</sub> SIP Call." The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO<sub>x</sub>) budget and a NO<sub>x</sub> allowance trading program that begins in 2003 for large electricity generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

**EFFECTIVE DATE:** This rule will be effective June 21, 2001.

**ADDRESSES:** Copies of the state submittal 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.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Ted Gardella at (212) 637-3892 for general information, Rick Ruvo at (212) 637-4014 for information on the Trading Program, or Raymond Forde at (212) 637-3716 for information on the Budget Demonstration, all of the Air Programs Branch, EPA Region II Office.

**SUPPLEMENTARY INFORMATION:**

**Overview**

The Environmental Protection Agency (EPA) is approving the New York State Department of Environmental Conservation's (New York's) Nitrogen Oxides (NO<sub>x</sub>) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

I. EPA's Action

- A. What action is EPA approving today?
- B. What administrative changes result from today's action?
- C. Why is EPA approving this action?
- D. What is Phase 2 of the NO<sub>x</sub> SIP Call and how does it relate to today's action?
- E. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
- F. When did EPA propose to approve New York's SIP revision?
- G. What are the public comments on EPA's proposal?
- H. Where is additional information available on EPA's action?

II. Conclusion

III. Administrative Requirements

**I. EPA's Action**

*A. What Action is EPA Approving Today?*

EPA is approving revisions to New York's ground level ozone SIP which New York submitted on April 3, 2000 and April 18, 2000. These SIP revisions include a new regulation, 6 NYCRR Part 204, "NO<sub>x</sub> Budget Trading Program," adopted January 18, 2000, and a narrative entitled, "New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO<sub>x</sub>) Budget Requirements Contained In The NO<sub>x</sub> SIP Call (63 FR 57356, October 27, 1998)," dated April 18, 2000 and supplemented on May 16, 2000. New York submitted the regulation and narrative, including NO<sub>x</sub> reducing measures, in order to strengthen its one-hour ozone SIP and to comply with the NO<sub>x</sub> SIP Call during each ozone season, *i.e.*, May 1 through September 30, beginning in 2003. EPA has determined that New York's submittal is fully approvable as a SIP-

strengthening measure for New York's one-hour ground level ozone SIP and as meeting the NO<sub>x</sub> SIP Call requirements.

Separately, EPA is also approving administrative revisions to the New York SIP.

*B. What Administrative Changes Result From Today's Action?*

Independent of New York's NO<sub>x</sub> SIP Call SIP revision, New York submitted various regulations as revisions to New York's SIP on August 10, 1979. The August 1979 submittal included, among other things, the repeal of part 204 "Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area," because part 204 was superceded by part 229. By **Federal Register** notice published on February 5, 1980 (45 FR 7803), one of the conditions EPA imposed was either to regulate the storage of petroleum liquids other than gasoline or provide acceptable justification for not regulating such storage. New York submitted adopted revisions to part 229 to address the inclusion of petroleum liquids. On July 1, 1980 (see 45 FR 44273), EPA took final rulemaking to remove this condition after New York revised part 229 to include petroleum liquids. Since part 229 regulated all the sources previously regulated in part 204 and in some cases was more stringent, EPA should have, but inadvertently failed to, remove part 204 from the SIP at that time.

As part of today's action, EPA is now revising Title 40, § 52.1679 "EPA-approved New York State regulations," by removing the entry for old part 204, Hydrocarbon Emissions From Storage and Loading Facilities—New York City Metropolitan Area, and adding an entry for the new part 204, "NO<sub>x</sub> Budget Trading Program."

In addition to part 204, New York made administrative amendments to regulations part 200 "General Provisions," part 220 "Portland Cement Plants," Subpart 227-1, "Stationary Combustion Installations," subpart 227-2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO<sub>x</sub>)," and subpart 227-3, "Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program."

EPA is approving amendments to part 200, subpart 227-1, subpart 227-2, and subpart 227-3 for the purposes of enforcing the SIP, as well as for enforcing New York's NO<sub>x</sub> Budget Trading Program. Since New York's amendments to part 200, subpart 227-1, subpart 227-2, and subpart 227-3 were administrative, EPA is revising the SIP to include the amended regulations. With respect to the administrative

amendments to part 220, "Portland Cement Plants," EPA is currently reviewing other amendments to part 220 adopted on January 18, 2000. Therefore, EPA will address all part 220 amendments at the same time in a future rulemaking.

*C. Why is EPA Approving This Action?*

EPA is approving this action in order to:

- Approve New York's NO<sub>x</sub> Budget Trading Program (part 204) under the NO<sub>x</sub> SIP Call as a control program that reduces NO<sub>x</sub> emissions, a precursor of ozone, and which therefore helps to achieve the national ambient air quality standard for ozone in the New York City metropolitan nonattainment area,
- Fulfill New York's and EPA's requirements under the NO<sub>x</sub> SIP Call,
- Approve administrative changes to New York's regulations part 200, part 204, subpart 227-1, subpart 227-2 and subpart 227-3.
- Make New York's NO<sub>x</sub> allowance trading regulation federally enforceable and available for credit in the SIP, and
- Make New York's SIP narrative, including the ozone season NO<sub>x</sub> budget and State reporting requirements, federally enforceable as part of the New York SIP.

These actions have the effect of assuring that the section 126 requirements will no longer apply to New York sources.

*D. What is Phase 2 of the NO<sub>x</sub> SIP Call and how Does it Relate to Today's Action?*

On March 3, 2000, the Circuit Court of the District of Columbia handed down its decision in *Michigan v. EPA*, which largely upheld the NO<sub>x</sub> SIP Call but remanded a few minor issues to EPA. After this decision, EPA decided to separate the requirements of the regional strategy into two phases. The deadline for states to submit their plans to comply with Phase 1 of the strategy was October 30, 2000. Details of Phase 1 were outlined in April 11, 2000 letters to Governors in the affected states, including New York. New York met the Phase 1 SIP submittal requirements by its April 2000 SIP revision.

On January 5, 2001, the outgoing Administrator signed a notice of proposed rulemaking for Phase 2 of the NO<sub>x</sub> SIP Call. This notice was placed on EPA's website at <http://www.epa.gov/ttn/rto/sip/related.html#prop> but has not been published pending further EPA evaluation. Phase 2 is designed to respond to issues remanded by the court by addressing, among other things, whether, and if so, how, a small subclass of facilities that generate

electricity—cogenerators—should be included in the rule, and what control levels should be assumed in reducing NO<sub>x</sub> from large, stationary internal combustion (IC) engines. The proposal would affect 22 jurisdictions,<sup>1</sup> including New York, and would identify a range of due dates for the affected states subject to Phase 2 to submit a SIP revision.

EPA fully expects that the Phase 2 rule would have no more than a slight effect on New York Statewide NO<sub>x</sub> emission budgets. In the January 5, 2001 version of EPA's notice of proposed rulemaking, New York's Phase 2 Statewide 2007 NO<sub>x</sub> emissions budget would be 240,285 tons or 240,322 tons based on IC engines with control efficiencies of 91% and 82%, respectively. The corresponding Phase 2 NO<sub>x</sub> emission reductions from the 2007 baseline emissions would be 15,368 tons and 15,331 tons, respectively. New York's April 2000 SIP revision, which EPA is approving today, includes a demonstration, including a detailed emission inventory, that the Statewide emissions would not exceed 239,549 tons in 2007, corresponding to NO<sub>x</sub> reductions of 16,103 tons (see 65 FR 76197). Therefore, EPA fully expects that New York's April 2000 SIP revision will meet the Phase 2 Statewide budgets when finalized by EPA.

Therefore, in today's action EPA is also approving New York's April 2000 SIP revision as fully meeting the NO<sub>x</sub> SIP Call requirements including the Phase 2 Statewide NO<sub>x</sub> emissions budget that will apply when the Phase 2 rulemaking is completed. EPA recognizes that its Phase 2 rulemaking has not been completed, but as noted above, fully expects that the final Statewide budget promulgated in that rulemaking will be no more stringent than New York's current budget. Once EPA finalizes the Phase 2 rule, should New York's adopted 2007 NO<sub>x</sub> emissions budget (as submitted in April 2000) exceed the final Phase 2 budget (so that additional NO<sub>x</sub> reductions are needed), EPA will take appropriate action.

#### *E. What is the Impact of Today's Action on EPA's Finding Under the Clean Air Act Section 126 Rule?*

As stated in the December 6, 2000 Proposed Rulemaking (see 65 FR 76197 at 76202), a SIP meeting the March 2, 2000 budgets and providing for

reductions by May 1, 2003, should fully address the significant NO<sub>x</sub> transport from that state. Therefore, upon approval of such a SIP, § 52.34(i) of the section 126 rule would apply to automatically withdraw the section 126 requirements for sources in that state. As noted immediately above, EPA has no reason to expect that the Phase 2 budget for New York, when finalized, will mandate any additional NO<sub>x</sub> reductions. Thus, meeting the March 2, 2000 budget is adequate for New York's SIP to meet the NO<sub>x</sub> SIP Call requirements. Since the New York SIP revision meets the March 2, 2000 budgets, provides for reductions by May 1, 2003, and is fully approved today as proposed, the section 126 requirements are automatically withdrawn, as of the effective date of this final rule, for sources in the State of New York pursuant to 40 CFR 52.34(i).

#### *F. When Did EPA Propose To Approve New York's SIP Revision?*

On December 6, 2000, EPA published in the **Federal Register** (65 FR 76197) a Proposed Rulemaking to approve New York's regulation and SIP narrative as a SIP revision and providing for a 30-day public comment period, which ended on January 5, 2001.

#### *G. What Are the Public Comments on EPA's Proposal?*

EPA received no public comments regarding the Proposed Rulemaking.

#### *H. Where is Additional Information Available on EPA's Action?*

A detailed discussion of this program is available in the December 6, 2000 Proposed Rulemaking (65 FR 76197). A Technical Support Document, prepared in support of the proposed rulemaking, contains the full description of New York's submittal and EPA's evaluation. A copy of the Technical Support Document is available upon request from the EPA Regional Office listed in the **ADDRESSES** section.

## **II. Conclusion**

EPA is approving New York's April 3, 2000 and April 18, 2000 SIP submittals, as supplemented on May 16, 2000, that address EPA's NO<sub>x</sub> SIP Call. EPA has reviewed New York's control measures and projected reductions and finds them approvable. Therefore, EPA is approving Part 204 and the SIP narrative into the New York SIP at this time. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New York.

## **III. Administrative Requirements**

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. 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 (Public Law 104-4). This rule also does 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) nor will this rule 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 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

<sup>1</sup> Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Massachusetts, Maryland, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia.

section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this 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.*)

*Submission to Congress and the Comptroller General*

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 21, 2001.

*Petitions for Judicial Review*

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 23, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 7, 2001.

**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)(100) to read as follows:

**§ 52.1670 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(100) Revisions to the State Implementation Plan submitted on April 3, 2000, April 18, 2000 and as supplemented on May 16, 2000 by the New York State Department of Environmental Conservation that establishes the NO<sub>x</sub> Budget Trading Program, a 2007 Statewide NO<sub>x</sub> emissions budget, and a commitment by New York to comply with the § 51.122 reporting requirements.

(i) *Incorporation by reference:*

(A) Regulation Part 204 of Title 6 of the New York Code of Rules and

Regulations, entitled "NO<sub>x</sub> Budget Trading Program," adopted on January 18, 2000 and effective on February 25, 2000.

(B) Amendments to Title 6 of the New York Code of Rules and Regulations, Part 200, "General Provisions," Subpart 227-1, "Stationary Combustion Installations," and Subpart 227-2, "Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO<sub>x</sub>)" adopted on January 18, 2000 and effective on February 25, 2000.

(ii) *Additional material:*

(A) Letter from New York State Department of Environmental Conservation dated April 3, 2000, requesting EPA approval of the NO<sub>x</sub> Budget Trading Program as a revision to the New York State Implementation Plan for ozone.

(B) Letter from New York State Department of Environmental Conservation dated April 18, 2000, requesting EPA approval of the Oxides of Nitrogen (NO<sub>x</sub>) SIP, entitled "New York State Implementation Plan For Ozone; Meeting The Statewide Oxides of Nitrogen (NO<sub>x</sub>) Budget Requirements Contained In The NO<sub>x</sub> SIP Call (63 FR 57356, October 27, 1998)," as a revision to the New York State Implementation Plan for ozone.

(C) Letter from New York State Department of Environmental Conservation dated May 16, 2000, transmitting supplemental information to the Oxides of Nitrogen (NO<sub>x</sub>) SIP submitted on April 18, 2000.

3. Section 52.1679 is amended by revising the entry Under Title 6 for Part 200, Part 204, Subpart 227-1, Subpart 227-2, and Subpart 227-3 in the table 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 200, General Provisions Sections 200.1, 200.6, 200.7 and 200.9.	2/25/00	5/22/01 66 FR 28062 ....	Redesignation of non-attainment areas to attainment areas (200.1(av)) does not relieve a source from compliance with previously applicable requirements as per letter of Nov. 13, 1981 from H. Hovey, NYSDEC. Changes in definitions are acceptable to EPA unless a previously approved definition is necessary for implementation of an existing SIP regulation.

New York State regulation	State effective date	Latest EPA approval date	Comments
Part 204, NO <sub>x</sub> Budget Trading Program .....	2/25/00	5/22/01 66 FR 28063 ....	EPA is including the definition of "federally enforceable" with the understanding that (1) the definition applies to provisions of a Title V permit that are correctly identified as federally enforceable, and (2) a source accepts operating limits and conditions to lower its potential to emit to become a minor source, not to "avoid" applicable requirements. EPA is approving incorporation by reference of those documents that are not already federally enforceable.
Subpart 227-1, Stationary Combustion Installations.	2/25/00	5/22/01 66 FR 28063 ....	Renumbered sections 227-1.2(a)(2), 227-1.4(a), and 227-1.4(d) continue to be disapproved according to 40 CFR 52.1678(d) and 52.1680(a). (New York repealed existing Part 227.5.)
Subpart 227-2, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NO <sub>x</sub> ).	2/25/00	5/22/01 66 FR 28063 ....	
Subpart 227-3, Pre-2003 Nitrogen Oxides Emissions Budget and Allowance Program.	3/5/99	5/22/01 66 FR 28063 ....	Approval of NO <sub>x</sub> Budget Trading Program for 1999, 2000, 2001 and 2002. NO <sub>x</sub> caps in the State during 2003 and thereafter established in Part 204.

[FR Doc. 01-12700 Filed 5-21-01; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[Region II Docket No. NJ44-220; FRL-6979-1]

**Approval and Promulgation of Implementation Plans; New Jersey; Nitrogen Oxides Budget and Allowance Trading Program**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of New Jersey. This SIP revision meets the requirements of the EPA's regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," known as the "NO<sub>x</sub> SIP Call." The SIP revision includes a narrative and a regulation that establish a statewide nitrogen oxides (NO<sub>x</sub>) budget and a NO<sub>x</sub> allowance trading program that begins in 2003 for large electricity

generating and industrial sources. The intended effect of this SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone. EPA is approving this action pursuant to section 110 of the Clean Air Act. In addition, as a result of today's action, the Clean Air Act section 126 rule requirements will no longer apply to sources in the State of New Jersey.

**EFFECTIVE DATE:** This rule will be effective June 21, 2001.

**ADDRESSES:** Copies of the state submittal 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 Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625.

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Ted Gardella at (212) 637-3892 for general information, Rick Ruvo at (212) 637-4014 for information on the Trading Program, or Demian Ellis at (212) 637-

3713 for information on the Budget Demonstration, all of the Air Programs Branch, Region II Office.

**SUPPLEMENTARY INFORMATION:**

**Overview**

The Environmental Protection Agency (EPA) is approving the New Jersey Department of Environmental Protection's (New Jersey's) Nitrogen Oxides (NO<sub>x</sub>) SIP Call State Implementation Plan (SIP) revision. The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

- I. EPA's Action
  - A. What action is EPA approving today?
  - B. Why is EPA approving this action?
  - C. What is Phase 2 of the NO<sub>x</sub> SIP Call and how does it relate to today's action?
  - D. What is the impact of today's action on EPA's finding under the Clean Air Act section 126 rule?
  - E. When did EPA propose to approve New Jersey's SIP revision?
  - F. What are the public comments on EPA's proposal?
  - G. Where is additional information available on EPA's action?
- II. Conclusion
- III. Administrative Requirements

**I. EPA's Action**

*A. What action is EPA approving today?*

EPA is approving revisions to New Jersey's ground level ozone SIP which New Jersey submitted on December 10,