

Federalism

We have analyzed this rule under Executive Order 13132 and have determined that this rule does not have implications for federalism under that Order.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) governs the Issuance of Federal Regulations that require unfunded mandates. An unfunded mandate is a regulation that requires a State, local, or tribal government or the private sector to incur direct costs without the Federal Government's having first provided the funds to pay those unfunded mandate costs. This rule will not impose an unfunded mandate.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environmental

The Coast Guard considered the environmental impact of this rule and concluded under Figure 2–1, paragraph 34(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. A new temporary § 165.T07–096 is added to read as follows:

§ 165.T07–096 Security Zone; U.S. Coast Guard Group Charleston Facility, Charleston, South Carolina.

(a) *Location.* This security zone will include the area around the U.S. Coast Guard Group Charleston Facility. The zone encompasses waters of the Ashley River 200 yards up river and 700 yards down river from the Coast Guard pier, from the Charleston Facility to the centerline of the channel. Buoys, at approximate positions 32°46'45" N, 79°56' 91" W, and 32°46'13" N, 79°56'42" W, mark the length of the zone. The Coast Guard will issue a broadcast notice to mariners and Coast Guard vessels will be on scene strictly enforcing this security zone.

(b) *Regulations.* In accordance with the general regulations in § 165.33 of this part, entry into and movement within this zone is prohibited except as authorized by the Captain of the Port, or a Coast Guard commissioned, warrant, or petty officer designated by him. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF FM Marine Band Radio, Channel 13 or 16.

(c) *Dates.* This section is effective from 6:30 a.m. (EDT) on September 11, 2001 through 4 p.m. (EDT) on October 15, 2001.

Dated: September 11, 2001.

G.W. Merrick,

Commander, U.S. Coast Guard, Captain of the Port, Charleston, South Carolina.

[FR Doc. 01–23822 Filed 9–24–01; 8:45 am]

BILLING CODE 4910–15–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY53–230a, FRL–7057–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to the New York State Implementation Plan (SIP) related to the control of oxides of nitrogen (NO_x) and volatile organic compounds (VOC) from stationary sources. The SIP revision consists of amendments to New York's Code of Rules and Regulations (NYCRR)

Part 212, "General Process Emission Sources." The revision was submitted to comply with the Clean Air Act reasonably available control technology (RACT) requirements for major sources of VOC and NO_x not covered by Control Techniques Guidelines.

EPA is also taking this opportunity to announce that it is accepting the State's determination that there are no emission sources in the New York portion of the New York-Northern New Jersey-Long Island ozone nonattainment area (New York Metropolitan Area) from facilities that would be regulated by NYCRR Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants." With this approval, New York has met the Clean Air Act Section 182 requirements for RACT on stationary sources in the New York Metropolitan Area.

DATES: This direct final rule is effective on November 26, 2001 without further notice, unless EPA receives adverse comment by October 25, 2001. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, 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: Kirk J. Wieber, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

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I. What Are the Clean Air Act Requirements?

A. What Are the Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) Requirements?

The Clean Air Act (the Act) as amended in 1990 sets forth a number of requirements that states with areas designated as nonattainment for ozone must satisfy and a timetable for satisfying these requirements. The specific requirements vary depending upon the severity of the ozone problem. One of the requirements, and the subject of this proposed rulemaking, requires states to adopt RACT rules for various VOC source categories. EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979).

Section 182 of the Act sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the Act, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the Act was amended in 1990. The second requirement, set forth in section 182(b)(2) of the Act, applies to moderate (or worse) ozone nonattainment areas as well as to ozone transport regions. The goal of this latter requirement is to ensure that areas not required previously to adopt RACT for some or all of the major stationary sources, adopt rules and "catch-up" to those areas subject to more stringent RACT requirements.

EPA issued three sets of Control Techniques Guideline (CTG) documents, establishing a "presumptive norm" for RACT for various categories of VOC sources. The three sets of CTGs were (1) Group I—issued before January 1978 (15 CTGs); (2) Group II—issued in 1978 (9 CTGs); and (3) Group III—issued

in the early 1980's (5 CTGs). Those sources not covered by a CTG are referred to as non-CTG sources. Section 182(b)(2) of the Act requires states with ozone nonattainment areas classified as moderate or worse to develop RACT for all pre-enactment CTG source categories, for all sources subject to post-enactment CTGs and for all non-CTG major sources in those areas. Under the pre-1990 Clean Air Act, ozone nonattainment areas were required to adopt RACT rules for sources of VOC emissions.

New York has previously addressed most of these requirements and EPA has approved these revisions into the New York State Implementation Plan (SIP).

B. What Are the Oxides of Nitrogen (NO_x) RACT Requirements?

The air quality planning requirements for the reduction of NO_x emissions using RACT are set out in section 182(f) of the Act. EPA further defines the section 182(f) requirements in a notice, "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," published November 25, 1992 (57 FR 55620). Refer to the November 25, 1992 notice for detailed information on the NO_x requirements. Also refer to additional guidance memoranda that EPA released subsequent to the NO_x Supplement. The additional guidance includes: EPA publication EPA-452/R-96-005 (March 1996) entitled "NO_x Policy Documents for The Clean Air Act of 1990"; EPA's policy memorandum on the approval options for generic RACT rules submitted by states entitled "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements" (November 7, 1996); EPA's draft system-wide averaging trading guidance (December 1993); EPA's publications of "Alternative Control Technique Documents" which are technical documents identifying alternative controls for most categories of stationary sources of NO_x; and other related EPA policy and guidance documents.

The Act requires that states establish requirements, where practicable, for major stationary sources to include NO_x RACT controls by May 31, 1995.

II. What Did New York Include in Its Submittals?

On July 8, 1994, New York State Department of Environmental Conservation (NYSDEC) submitted to EPA a request to revise its SIP. The revisions consisted of amendments to

New York's Code of Rules and Regulations (NYCRR) Part 212 "General Process Emission Sources." Part 212 was adopted by the State on July 8, 1994 and became effective on September 22, 1994. This regulation is intended to address, at least in part, the requirements of the Act explained in Section I of this notice. It should be noted that because the specific requirements of the Act which New York must address vary relative to the severity of the ozone problem in a specific metropolitan area, the applicability of New York's Part 212 regulations also vary accordingly. A summary of EPA's review and findings concerning the revisions to Part 212 follows. The July 8, 1994 submittal also included revisions to NYCRR Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants." However, EPA is not acting on these regulations as a SIP revision at this time. For the purpose of the 1-hour Ozone Attainment SIP for the New York Metropolitan Area, on July 11, 2001, New York submitted a "negative declaration" affirming that there are no emission sources in the New York Metropolitan Area from facilities that would be regulated by Parts 214, 216 and 220. The July 11, 2001 submittal also indicates that the attainment demonstration for the New York Metropolitan Area is not dependent upon emission reductions from Part 214, 216 and 220 sources in other parts of the State.

III. What Are the Requirements of Part 212, "General Process Emission Sources"?

The State of New York has established specific air pollution control requirements for numerous industrial and commercial sources of air pollution. Part 212 provides for control of air pollution sources that are not covered by industry-specific regulations. Part 212 provides for control of such sources throughout the State but also establishes deadlines for compliance with the existing requirements for RACT in the New York City Metropolitan Area which is composed of New York City and the counties of Nassau, Suffolk, Westchester and Rockland and seven municipalities in Orange County—Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick and Woodbury.

Facilities subject to Part 212 must either review their applicable NO_x and VOC emission points to implement RACT, or limit the facility's potential to emit these contaminants below threshold applicability levels. In either case, a compliance plan was required by October 20, 1994. Facilities that could

exceed these levels only if they increased production (i.e., their actual hours of operation increased and they became "potential" major facilities), did not need to conduct the RACT analysis if they requested enforceable operating limits before May 31, 1995.

A. What Are Generic Provisions and Does Part 212 Contain Generic RACT Provisions?

Generic provisions are those portions of a regulation which require the application of RACT to an emission point, but the degree of control is not specified in the rule and is to be determined on a case-by-case basis taking technological and economic factors into consideration. Under the Act, these individually determined RACT limits would then need to be submitted by a state as a SIP revision for EPA approval. On November 7, 1996, EPA issued a policy memorandum providing additional guidance for approving regulations which contain these "generic provisions." (Sally Shaver, Director, Air Quality Strategies and Standards Division, memorandum to EPA Division Directors, "Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO_x RACT Requirements").

EPA policy allows for the full approval of state generic RACT rules prior to actual EPA approval of SIP revisions establishing RACT for each individual major source. However, to allow this, the state must provide an analysis that concludes that the remaining source RACT determinations involve a de minimis level of emissions. Such an approval does not exempt the remaining sources from RACT; but does provide an opportunity for EPA to make a determination that the state has met a non-CTG requirement prior to taking action on all of the individual case-by-case RACT determinations. Provisions within Part 212 establish a procedure for a case-by-case determination of what represents RACT for an item of equipment, process or source.

B. What Other RACT Provisions Does Part 212 Contain and Are They Federally Approvable?

Section 212.10 provides that owners and/or operators of major sources may petition for an exemption from NO_x RACT if it can be demonstrated that net ozone air quality benefits are greater in the absence of NO_x reductions from a facility. EPA interprets this provision as consistent with the NO_x RACT exemption available in section 182(f) of the Act. New York's provision is

consistent with EPA guidance and therefore approvable.

Pursuant to 40 CFR part 51 subpart I and 40 CFR parts 60 and 61, state requirements, such as subdivision 212.10(d), that provide for "capping out," must be federally enforceable. Under section 212.10 a facility with federally and state enforceable conditions in Certificates to Operate which limits its annual potential to emit NO_x and VOCs below the applicability levels of section 212.10 by May 31, 1995 is exempt from the RACT analysis and implementation requirements of section 212.10. In addition, records must be maintained which verify the facility's annual actual emissions and any exceedances of its annual potential to emit conditions must be reported to the State.

EPA has determined that the subsection 212.10(d) requirements are federally enforceable because the section provides for the incorporation of compliance measures and schedules into operating permits which are issued and/or altered in conformance with Part 201 ("Permits and Certificates"). Part 201 has been previously incorporated into the New York SIP and, therefore, is already federally enforceable. While subsection 212.10(d) does not explicitly define federally enforceable, the provision refers to limitations that would be incorporated into a federally enforceable operating permit, adopted pursuant to the procedures provided in Part 201.

Facilities which conduct a RACT analysis are required to review control device technologies and capture control efficiencies of these controls for VOC sources, keeping in mind the reasonable economics of RACT. Pursuant to subsection 212.10(c)(4), the following source categories are considered equipped with RACT: VOC emission points which are equipped with a capture system and control device with an overall removal efficiency of at least 81 percent or surface coating processes that use coatings not exceeding 3.5 pounds VOC per gallon as applied (minus water and excluded VOC). Through these provisions, New York has established a presumptive RACT requirement for VOC consistent with the EPA guidance on generic regulations.

Facilities that are subject to Part 212 and have very small emission points (i.e., NO_x and VOC emission rate potentials which are both less than three pounds per hour and in the absence of control equipment less than fifteen pounds per day) do not have to perform a RACT analysis for those very small emission points.

For those sources not subject to specific NO_x and VOC emission limitations or work practice standards, subsection 212.10(c) provides a schedule for submission of and requirements for a compliance plan which must be followed in order to comply with Part 212. Should a source not comply with these requirements it would constitute a violation of Part 212 which may subject the source owner or operator to civil and applicable criminal penalties. EPA has determined that this is sufficient to insure that sources comply and should EPA need to take enforcement action, it could use the same provisions to require compliance. The process specific RACT demonstrations are required to be submitted to EPA for approval as SIP revisions. The deadline for implementation of RACT was May 31, 1995. These revisions to Part 212 are consistent with EPA guidance, therefore, EPA is approving Part 212.

C. How Has New York Addressed the Case-by-Case RACT Determinations?

In a letter dated August 31, 2001, New York provided sufficient data for EPA to evaluate the de minimis level of NO_x emissions from generic sources in the State. Given the State's data, EPA has determined that 1.55 percent of the NO_x emissions subject to RACT controls have either not yet been submitted to EPA as SIP revisions or, if submitted, have not yet been approved by EPA.¹ EPA has determined this amount to be de minimis. The 1.55 percent de minimis level includes emissions from seven facilities for which New York is required to submit single source SIP revisions containing RACT requirements. Therefore, EPA has determined that New York's NO_x RACT regulation conforms with EPA's policy regarding the approval of generic RACT provisions or rules, thereby allowing EPA to approve Part 212. Subsection 212.10(c) requires New York to submit the remaining case-by-case RACT determinations for the NO_x sources to EPA for approval as SIP revisions.

New York has also informed EPA that the permits, pursuant to Title V of the Act, "Operating Permits," are being processed for the NO_x sources controlled by Part 212. Upon the completion of the Title V process for these sources, the State will prepare and submit to EPA source specific SIP revisions for these facilities.

¹ EPA guidance provides that where the non-approved RACT requirements concern sources whose emissions represent less than 5% of the 1990 stationary source NO_x inventory, excluding utility boilers, it may be appropriate to issue a full approval of the generic RACT regulation.

IV. Are New York's Non-CTG RACT Requirements Consistent With EPA's Proposal of the 1-Hour Ozone Attainment Demonstration?

On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour Ozone Attainment SIP for the New York Metropolitan Area. EPA must take final action approving all measures relied on for attainment, including the measures associated with the VOC and NO_x RACT requirements for major non-CTG sources, before EPA can issue a final full approval of the 1-hour Ozone Attainment SIP for the New York Metropolitan Area.

New York has submitted adopted regulations for all CTG and non-CTG major sources of VOC and NO_x. EPA has approved the majority of these in past **Federal Register** actions. The remaining New York regulations with provisions relating to RACT applicable to the New York Metropolitan Area are Parts 212, "General Process Emission Sources," 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants."

On July 11, 2001, New York submitted a "negative declaration" affirming that no sources affected by the provisions of Parts 214, 216 and 220 exist in the Urban Airshed Model modeling domain for the New York Metropolitan Area and that New York does not rely on emission reductions from Parts 214, 216 or 220 to demonstrate attainment in that area. EPA has determined that with this certification and today's approval of Part 212, New York has fulfilled the Section 182(b)(2) and 182(f) of the Act requirements for major non-CTG VOC and NO_x RACT sources in the New York Metropolitan Area.

V. Conclusion

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is approving Part 212, "General Process Emission Sources" of New York's regulations as meeting the VOC and NO_x RACT "catch-up" requirements of sections 182(b)(2) and 182(f) of the Act for major non-CTG sources. EPA is also approving the State's negative declaration that there are no sources regulated by Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants" in, or relied on in the attainment demonstration for, the New York portion of the New York-Northern New Jersey-Long Island severe 1-hour ozone nonattainment area. EPA also finds that New York has SIP approved regulations

for all CTG and non-CTG major sources of VOC and NO_x for the New York Metropolitan Area.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective November 26, 2001 without further notice unless the Agency receives adverse comments by October 25, 2001.

If the EPA receives adverse comments, then 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.

VI. 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. 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 it 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 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 Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act.

Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. 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.*).

The Congressional Review Act, 5 U.S.C. section 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. section 804(2). This rule will be effective November 26, 2001 unless EPA receives adverse written comments by October 25, 2001.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 26, 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) of the Act.)

List of Subjects in 40 CFR Part 52

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

Dated: September 10, 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)(101) to read as follows:

§ 52.1670 Identification of plan.

* * * * *
 (c) * * *
 (101) Revisions to the State Implementation Plan submitted on July 8, 1994 by the New York State Department of Environmental Conservation that establishes VOC and NO_x Reasonably Available Control Technology requirements statewide for general process emission sources.

(i) Incorporation by reference:
 (A) Regulation Part 212 of Title 6 of the New York Code of Rules and Regulations, entitled "General Process Emission Sources" filed on August 23,

1994 and effective on September 22, 1994.

(ii) Additional information.
 (A) Letter from the New York State Department of Environmental Conservation dated July 8, 1994, submitting the Part 212 Regulation and amendments as revisions to the New York State Implementation Plan for ozone.

(B) Letter from the New York State Department of Environmental Conservation dated August 31, 2001 submitting an analysis of mass NO_x emissions from generic sources throughout the State.

(C) Letter from the New York State Department of Environmental Conservation dated July 11, 2001 affirming that there are no sources regulated by Parts 214, "Byproduct Coke Oven Batteries," 216, "Iron and/or Steel Processes," and 220, "Portland Cement Plants" in, or considered in the attainment demonstration for, the New York portion of the New York-Northern New Jersey-Long Island severe 1-hour ozone nonattainment area.

3. In section 52.1679, the table is amended by revising the entry for Part 212 to read as follows:

§ 52.1679 EPA—approved New York State regulations

New York State regulation	State effective date	Latest EPA approval date	Comments
* * * * *	* * * * *	* * * * *	* * * * *
Part 212, General Process Emission Sources	9/22/94	September 25, 2001, 66 FR 48961.	
* * * * *	* * * * *	* * * * *	* * * * *

[FR Doc. 01-23762 Filed 9-24-01; 8:45 am]
BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-301177; FRL-6802-9]

[RIN 2070-AB78]

Spinosad; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of spinosad in or on asparagus at 0.020 part per million (ppm), bushberry subgroup (crop subgroup 13B) at 0.250 ppm, cranberry at 0.01 ppm, foliage of legume vegetable group (crop group 7) at 8.0 ppm, garden beet roots at 0.10 ppm, globe artichoke

at 0.30 ppm, juneberry at 0.250 ppm, leaves of root and tuber vegetable group (crop group 2) at 10.0 ppm, lingonberry at 0.250 ppm, okra at 0.40 ppm, pistachio at 0.020 ppm, pome fruit group (crop group 11) at 0.20 ppm, salal at 0.250 ppm, strawberry at 1.0 ppm, sugar beet roots at 0.10 ppm, and the tree nut group (crop group 14) at 0.020 ppm. The Interregional Research Project Number 4 (IR-4) requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996. This final rule establishes permanent tolerances for spinosad and as part of that process the Agency has reassessed existing tolerances. By law, EPA is required to reassess 66% of the tolerances in existence on August 2, 1996, by August 2002, or about 6,400 tolerances. All permanent tolerances for spinosad were established after August 2, 1996. Consequently, regarding the actions in this final rule, no tolerance

reassessments are counted toward the August 2002 review deadline of FFDC section 408(q).

DATES: This regulation is effective September 25, 2001. Objections and requests for hearings, identified by docket control number OPP-301177, must be received by EPA on or before November 26, 2001.

ADDRESSES: Written objections and hearing requests may be submitted by mail, in person, or by courier. Please follow the detailed instructions for each method as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, your objections and hearing requests must identify docket control number OPP-301177 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection