Because an adverse comment was received, EPA is withdrawing the direct final rule approving the revisions to the West Virginia SIP that remove the CAIR annual trading programs for NO_X and SO_2. EPA will address the comment received in a subsequent final action based upon the proposed rulemaking action also published on September 25, 2017 (82 FR 44544), for the two July 13, 2016 SIP submissions. EPA will not institute a second comment period on this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 22, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

■ Accordingly, the amendments to § 52.2520(c) published on September 25, 2017 (82 FR 44525), which were to become effective December 26, 2017, are withdrawn as of December 12, 2017.

[FR Doc. 2017–26408 Filed 12–11–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2017–0459; FRL–9971–83–Region 2]

Approval and Promulgation of Implementation Plans; New York; Reasonably Available Control Technology for the 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is conditionally approving a State Implementation Plan (SIP) submitted by the State of New York for purposes of implementing Reasonably Available Control Technology (RACT) for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) related to control of volatile organic compounds (VOCs) from industrial cleaning solvents. The EPA is approving New York's Ozone Transport Region RACT SIP as it applies to non-control technique guideline major sources of VOCs and major sources of oxides of nitrogen. The EPA is also approving the State of New York's state-wide non-attainment new source review certification as sufficient for purposes of satisfying the 2008 8-hour ozone NAAQS. The EPA is approving New York's certification that there are no sources within the State for the following CTGs: Manufacture of Vegetable Oils and Application of Agricultural Pesticides. This action is being taken in accordance with the requirements of the Clean Air Act.

DATES: This final rule is effective on January 11, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID Number EPA–R02–OAR–2017–0459. All documents in the docket are listed on the *http://www.regulations.gov* website. 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 electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Anthony (Ted) Gardella, Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866, at (212) 637–3892, or by email at *Gardella.Anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: The **SUPPLEMENTARY INFORMATION** section is arranged as follows:

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I. What is the background for this action?
II. What comments were received in response to the EPA's proposed action?
III. What action is the EPA taking?
IV. What are the consequences if a condition is not met?
A. What are the Act's provisions for sanctions?
B. What Federal implementation plan provisions apply if a state fails to submit an approvable plan?
V. Statutory and Executive Order Reviews

I. What is the background for this action?

On September 14, 2017 (82 FR 43209), the EPA published a Notice of Proposed Rulemaking that proposed to conditionally approve the State of New York's December 22, 2014 State Implementation Plan (SIP) submittal,[1] for purposes of implementing Reasonably Available Control Technology (RACT)[2] for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). The EPA proposed to approve New York's Ozone Transport Region RACT SIP as it applies to non-control technique guideline major sources of VOCs and major sources of oxides of nitrogen. The EPA also proposed to approve the State of New York's state-wide non-attainment new source review certification as sufficient for purposes of satisfying the 2008 8-hour ozone NAAQS.[3] In addition, the EPA proposed to approve New York's certification that there are no sources within the State for the following CTGs: (a) Manufacture of Vegetable Oils and (b) Application of Agricultural Pesticides.

The proposed approval was conditioned on New York finalizing revisions to RACT requirements related sources subject to the industrial cleaning solvents control techniques guidelines (CTG). As the SIP submittal indicates, the RACT requirements for the 2008 ozone NAAQS have been fulfilled with the exception of sources subject to the industrial cleaning solvents CTG. In the SIP submittal, New York committed to address sources subject to this CTG through a timely revision to Title 6 of the New York Codes, Rules and Regulations Part 226 entitled, ''Solvent Metal Cleaning Processes'' (6 NYCRR Part 226). Therefore, consistent with section 110(k)(4) of the Clean Air Act (CAA), the EPA's September 14, 2017 rulemaking, signed September 6, 2017 and published September 14, 2017, proposed to conditionally approve New York's December 2014 SIP submittal. On September 6, 2017, New York supplemented its SIP submittal with a letter to the EPA committing to fulfill the requirements of the industrial cleaning solvents CTG by finalizing revisions to Part 226 by November 30, 2018. Therefore, based on the State's September 6, 2017 commitment letter, the EPA is conditionally approving New York's December 2014 SIP submittal, as it applies to CTG requirements for VOC major sources, for purposes of implementing RACT statewide for the 2008 8-hour ozone NAAQS.

The specific details of New York's December 2014 SIP submittal and the rationale for the EPA's approval action are explained in the EPA's proposed rulemaking and are not restated in this

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[1] New York supplemented its SIP submittal by letter dated September 6, 2017.

[2] The 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).

[3] New York's nonattainment new source review certification addresses both the New York-Northern New Jersey-Long Island, NY-NJ-CT and the Jamestown nonattainment areas.

final action. For this detailed information, the reader is referred to the EPA's September 14, 2017 proposed rulemaking (82 FR 43209).

II. What comments were received in response to the EPA's proposed action?

In response to the EPA's September 14, 2017 proposed rulemaking on New York's December 2014 SIP submittal, the EPA received the following four comments summarized below. The specific comments may be viewed under Docket ID Number EPA–R02–OAR–2017–0459 on the *http://www.regulations.gov* Website.

Comment 1: An anonymous citizen comments that he or she ''believes the proposed rule will help improve the environment greatly.''

Response 1: The EPA acknowledges the commenter's support of the EPA's proposed rule.

Comment 2: A New York State citizen provides extensive comments related to the EPA's encouragement (see 82 FR 43209 (September 14, 2017)) to New York to strengthen its ozone SIP by adopting and submitting as a SIP revision additional control measures needed for attainment of the 8-hour ozone NAAQS as it relates to: The adoption of more stringent emission limits for simple cycle combustion turbines firing distillate oil or more than one fuel and submitting a SIP revision that addresses HEDD (High Electric Demand Day) sources. The citizen states that regional ozone modeling that analyzes emissions data from 2015 or 2016 is necessary before New York should consider, much less implement, the SIP revisions that EPA ''encourages'' New York to adopt and submit as SIP revisions.

The commenter states that he had prepared comments and analyses that support his recommendation to do further modeling before implementing any further controls. The commenter states that he had compared NO_X emissions from all New York sources reporting NO_X emissions to EPA and all New York combustion turbines with ozone concentration measurements at the Fairfield, CT ozone monitoring station on all Ozone Season days with valid observations at this monitoring station from 2006 to 2016. The commenter states that the Fairfield monitoring site is the downwind ambient monitor with the highest New York impact according to EPA's modeling for its Cross-State Air Pollution Rule (CSAPR). The commenter notes that all combustion turbines that meet this criterion are either in New York City or on Long Island. The commenter's detailed 52-page modeling and statistical summary appears in Attachment 1 to his October 11, 2017 comment letter. The commenter's summary concludes that the ''results indicate that refined modeling with recent emissions has to be performed to confirm that further controls will reduce ozone enough to warrant further controls on any of the New York sources included in this analysis.''

The commenter concludes his letter by stating that there are complex meteorological conditions during ozone episodes downwind of New York (land and sea breezes, elevated terrain concerns, and the nocturnal boundary layer structure along the coast) that need to be incorporated into regional ozone modeling analyses. The commenter states that if regional ozone modeling analyses that use post-2015 emissions data and incorporate complex meteorology are not used then New York runs the risk of implementing a control program that cannot succeed. Concluding, the commenter states, ''Given the level of effort and time doing the modeling right it might be necessary to delay implementation of further SIP control requirements.''

Response 2: The EPA thanks the commenter for the detailed analyses and recommendations with respect to the additional control measures. These comments are not germane to the EPA's proposed approval of New York's December 2014 SIP but rather are relevant to future planning requirements associated with the moderate area classification. The EPA, therefore, is not responding to them in this action. These detailed modeling and statistical analyses are best directed to New York State as the State develops planning requirements for progressing, under moderate area classification, toward attainment of the 8-hour ozone standard.

Comment 3: Similar to Comment 2 above, a comment from the Environmental Energy Alliance of New York, LLC (the ''Alliance'') provides extensive comments related to the EPA's encouragement (see 82 FR 43209, September 14, 2017) to New York to strengthen its ozone SIP by adopting and submitting as a SIP revision with additional control measures needed for attainment of the 8-hour ozone NAAQS as it relates to more stringent emission limits on simple cycle turbines units and peaking units that operate on high electric demand days (HEDD). Alliance members own and operate electric generating and transmission and distribution facilities throughout New York and elsewhere. Alliance members operate the majority of the peaking units in the New York Metropolitan Area (NYMA).

The Alliance expresses concern that the imposition of emission limits needs to be balanced with the need to maintain reliable electricity service to New York. While the Alliance supports New York's and the EPA's efforts to reach attainment of the ozone NAAQS, the Alliance suggests that the need to reduce emissions in the NYMA and the Alliance's requirement to maintain reliable service to its customers is a more complex issue than simply imposing more stringent emission limits. The Alliance comments that there are over 100 peaking turbines (about 3000 megawatts (MW)) in the NYMA to maintain system reliability and support renewables. The Alliance states that with the impending closure of 2000 MW of nuclear generation, the combined effect of the peaking unit regulation changes and retirements suggests any new rule implementation should proceed with flexibility and caution.

The Alliance states that it has worked cooperatively with New York to develop an approach to replace, repower, or retrofit controls of existing peaking units. The Alliance's October 16, 2017 comment letter includes as an attachment a September 8, 2017 letter commenting on New York's July 25, 2017 pre-proposal entitled ''Combustion Turbine (Peaking Unit) Pre-Proposal Outline'' which outlines, according to the Alliance, New York's efforts to achieve attainment of the ozone NAAQS in the NYMA as it relates to peaking units. In its September 2017 letter to New York, the Alliance expresses the hope to collectively design cost-effective solutions compatible with the need to maintain reliable service to ratepayers. In addition, in its September 2017 letter, the Alliance provides detailed comments and recommendations related to the following issues: the compliance schedule, emission limits, performance of control options, potential for collateral increase in carbon monoxide, system averaging, emission limits for dual-fueled units, compliance requirements during the interim period before unit retirement, and alternative approaches to NO_X reductions in the NYMA.

Response 3: The EPA appreciates the Alliance's comments with respect to their concern for electric system reliability within the NYMA and the need for caution and flexibility when developing and implementing new NO_X control measures on peaking units. EPA acknowledges the importance of maintaining reliable electric service to

ratepayers while implementing new NO_X controls.

These extensive and detailed comments concerning the connection between reliability of the electric grid and the development and implementation of NO_X emission limits on electric generating units are best directed to New York State as the State engages in planning for progressing, under moderate area classification, to attainment of the 8-hour ozone standard. These comments relating to the reliability of the electric grid are not germane as they do not specifically address the EPA's proposed action on New York's December 2014 SIP submittal that addresses the implementation of RACT for the 8-hour 2008 ozone standard.

Comment 4: The State of New Jersey Department of Environmental Protection (NJDEP or New Jersey) comments that New York's December 2014 RACT SIP will provide necessary emission reductions in NO_X and VOC for the New York-Northern New Jersey-Connecticut (NY-NJ-CT) ozone nonattainment area to move towards attainment of the 2008 ozone NAAQS (75 ppb ozone), but more still needs to be done for the area to attain. NJDEP recommends that the EPA require New York to adequately address three source categories that emit significant amounts of emissions that impact ozone levels in the NY-NJ-CT area:

1. Adopt rules that reduce NO_X emissions from peaking turbines during high ozone days in the NY-NJ-CT area.
2. Adopt rules that reduce NO_X emissions from stationary engines used for demand-side management that generate electricity during high ozone days in the NY-NJ-CT area.
3. Assess lightering operations in the New York harbor that emit VOC from crude oil, gasoline, and other volatile product transfers.

As part of the State's October 10, 2017 comment letter, NJDEP attached its August 20, 2014 comment letter to New York at the time New York proposed its RACT SIP in 2014. NJDEP's August 2014 comment letter to New York provides NJDEP's detailed arguments as to why New York needs to address the above mentioned three source categories as RACT sources. NJDEP states that the first two source categories are subject to the New Jersey's RACT regulation but not the third source category since there are no lightering operations in New Jersey waters. NJDEP comments that New York, in finalizing its 2014 RACT SIP, did not adequately address the same three source categories since New York responded that the three source categories did not meet their definition of RACT. NJDEP comments that it believes these source categories should be covered under RACT requirements because they are existing, major stationary sources for which reasonably available control technology exists. NJDEP comments that the lightering activities can be considered a major stationary source, similar to the EPA's treatment of some airports for emissions inventory, since the activities are occurring within established areas of New York Harbor. NJDEP further comments that the State of Delaware has had regulations addressing lightering activities since 2007 thus establishing reasonably available control technology.

Response 4: The EPA appreciates the comments from NJDEP. NJDEP recommends that New York consider the three source categories identified in its comment as RACT but NJDEP does not provide supporting technical details to demonstrate that certain control measures for these three source categories can be considered RACT in New York.

As stated in our proposed rule dated September 14, 2017 (82 FR 43209), New York's December 22, 2014 SIP submittal included a response to a comment that ''once the NYMA is reclassified to moderate nonattainment for the 2008 ozone NAAQS and an attainment SIP is required, DEC [New York] will undertake a review of its many NO_X control options to determine which would most efficiently and effectively reduce emissions in the NYMA.'' New York made a similar response to a comment related to VOC emissions from lightering operations. Since the NYMA was reclassified from a marginal to a moderate nonattainment area on May 4, 2016 (81 FR 26697), effective June 3, 2016, the following EPA response to NJDEP comments is a recommendation that New York include, as part of its upcoming attainment demonstration SIP for the 8-hour ozone NAAQS for the NYMA moderate nonattainment area, an evaluation of the NJDEP and the EPA's recommended additional control measures for purposes of reducing additional NO_X and VOC emissions.

In response to NJDEP's August 2014 letter, New York issued a document entitled ''Assessment of Public Comments New York State Implementation Plan for 8-hour Ozone: Reasonably Available Control Technology'' (Assessment) which is included in the docket for this action. In its Assessment, New York responded to the three source category comments from NJDEP as summarized below.

For peaking turbines, New York responded that peaking generating units that exceed major source emission threshold are subject to the State's NO_X RACT regulation for combustion turbines and New York maintained that these emission limits represent RACT for combustion turbines. New York further responded that the most recently adopted and SIP approved (78 FR 41846, July 12, 2013) NO_X RACT regulation requires case-by-case evaluations for combined-cycle combustion turbines. New York further stated that combustion turbines are also used as part of a system-wide averaging plan for NO_X RACT and therefore more stringent limits may not necessarily result in a one-for-one reduction in NO_X.

In response to New Jersey's comment, the EPA finds that New York's OTR NO_X RACT SIP submittal is sufficient. System-wide averaging is an EPA approved RACT compliance option.

The EPA, however, encourages New York to evaluate whether NO_X emission limits, for the combustion turbines not part of a system-wide averaging program, could be more stringent. As stated in our September 2017 proposal, the EPA encourages New York to evaluate lowering the NO_X emission limit for simple cycle combustion turbines combusting distillate oil or more than one fuel since New York's neighboring states of New Jersey and Connecticut have more stringent emission limits than New York's limit of 100 parts per million (ppm). For this source category, Connecticut has adopted NO_X emission limits of 40–75 ppm for June 2018 and 40–75 ppm for June 2023 and New Jersey's adopted limit is equivalent to 43 ppm. In addition, the EPA encourages New York to propose and submit as a SIP revision for the EPA's approval any revised case-by-case RACT determinations for combined-cycle combustion turbines.

For stationary engines used for demand-side management, New York responded in its Assessment that the majority of combustion engines used for demand-side management are minor sources based on NO_X emission levels and are therefore not subject to RACT; and engines that do exceed major source emission threshold are subject to the State's NO_X RACT regulation. New York maintained that these requirements fulfill RACT.

In response to New Jersey's comment, the EPA herein responds that we concur with New York's logic, as articulated in its Assessment (see preceding paragraph) regarding RACT applicability for sources considered minor and major. EPA nonetheless encourages New York to consider a more stringent NO_X emission limit for internal combustion engines firing with

distillate oil (solely or in combination with other fuels) from the current limit of 2.3 grams per brake horsepower-hour (g/bhp-hr) to the limit adopted in Connecticut of 1.5 (for rich burn engine)-2.3 (for lean burn engine) g/bhp-hr, starting in June 2023. In addition, New Jersey's SIP approved (72 FR 41626, July 31, 2007) NO_X RACT regulation, Subchapter 19, includes a NO_X emission limit of 1.5 g/bhp-hr for rich burn engines.

For lightering operations in the New York harbor, New York, in its Assessment, responded that they do not consider tank vessels or service vessels to be stationary sources; such vessels are considered mobile sources and are not permitted under the Title V stationary source permitting program. New York concluded that it is not appropriate to address lightering operations in the New York SIP. In response to New Jersey's comment, the EPA finds that New York's OTR VOC RACT SIP submittal is approvable given New York's current treatment of tank vessels and service vessels.

The EPA recognizes that, as New Jersey indicates in its comment, the State of Delaware regulates lightering operations in the State's ''Regulation No. 1124—Control of Volatile Organic Compound Emissions (formally Regulation No. 24), section 46 entitled, Crude Oil Lightering Operations.'' The EPA approved Delaware's VOC RACT Regulation 1124, section 46, Crude Oil Lightering Operations, into the SIP on September 13, 2007 (72 FR 52285). As discussed above, in response to a comment received by the State during its RACT rulemaking process, New York states that, if the NYMA is reclassified to moderate nonattainment, ''New York will investigate the need and appropriateness for additional emission reductions and evaluate lightering controls and/or other emission reductions strategies in order to determine the most effective manner in which to attain the ozone NAAQS.'' Therefore, the EPA recommends that New York review the lightering operations in New York's harbor for possible applicability to RACT as it relates to New York's future submittal of its attainment SIP for the NYMA nonattainment area.

To summarize, since the NYMA has been reclassified from marginal to a moderate nonattainment area, New York is required to submit a new RACT determination as part of the State's attainment demonstration for the 2008 ozone standard for the NYMA moderate nonattainment area. New York should include an evaluation of the three source categories suggested by NJDEP, as well as the other recommendations discussed by the EPA as in the September 14, 2017 proposal, in its RACT evaluation as part of the State's attainment demonstration for the 2008 ozone standard.

III. What action is the EPA taking?

The EPA is conditionally approving New York's statewide RACT submittal dated December 22, 2014, as supplemented on September 6, 2017, for purposes of satisfying the 2008 8-hour ozone standard RACT requirement, as it applies to CTG requirements for VOC major sources. New York must meet its commitment to adopt a revised Part 226 by November 30, 2018.

The EPA is approving the remainder of New York's OTR RACT SIP submittal, as it applies to non-CTG major sources of VOCs and to major sources of NO_X.

The EPA is also approving New York's non-attainment new source review certification, state-wide, as sufficient for purposes of the 2008 ozone NAAQS. Finally, the EPA is approving New York's certification that there are no sources within the State for the following CTGs: (a) Manufacture of Vegetable Oils and (b) Application of Agricultural Pesticides.

Under section 110(k) of the CAA, the EPA may conditionally approve a plan revision based on a commitment by the State to adopt specific enforceable measures by a date certain but not later than one year after the date of approval of the plan revision. If New York meets its commitment within the applicable time frame, the conditionally approved submission will remain as part of the SIP until the EPA takes final action approving or disapproving the SIP requirement in question. If New York fails to meet its commitment within the specified time period, the conditional approval will, by operation of law, become a disapproval. If the conditional approval becomes a disapproval, this commitment will no longer be a part of the approved SIP for New York, and an 18-month clock for sanctions under CAA section 179(a)(2) and a two-year clock for a federal implementation plan (FIP) under CAA section 110(c)(1) would commence. The EPA subsequently will publish a document in the **Federal Register** notifying the public that the conditional approval converted to a disapproval.

IV. What are the consequences if the condition is not met?

The Act provides for the imposition of sanctions and the promulgation of a FIP if States fail to correct any deficiencies identified by the EPA in a final disapproval action within certain timeframes.

A. What are the Act's provisions for sanctions?

If the EPA disapproves a required SIP submittal or component of a SIP submittal, section 179(a) provides for the imposition of sanctions unless the deficiency is corrected within 18 months of the final disapproval. The first sanction would apply 18 months after the EPA disapproves the SIP submittal or if the State fails to make the required submittal. Under the EPA's sanctions regulations, 40 CFR 52.31, the first sanction would be 2:1 offsets for sources subject to the new source review requirements under section 173 of the Act. If the State has still failed to submit a SIP 6 months after the first sanction is imposed, the second sanction will apply. The second sanction is a limitation on the receipt of Federal highway funds. The EPA also has authority under section 110(m) to sanction a broader area.

B. What Federal implementation plan provisions apply if a state fails to submit an approvable plan?

In addition to sanctions, if the EPA finds that a State failed to submit the required SIP revision or disapproves the required SIP revision, or a portion thereof, the EPA must promulgate a FIP no later than 2 years from the date of the finding if the deficiency has not been corrected.

V. Statutory and Executive Order Reviews

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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 February 12, 2018. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 29, 2017.

Peter D. Lopez,

Regional Administrator, Region 2.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 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. In § 52.1670, the table in paragraph (e) is amended by adding the entries ''2008 8-hour Ozone RACT analysis'' and ''2008 8-hour Ozone Nonattainment New Source Review Requirements'' at the end of the table to read as follows:

§ 52.1670 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED NEW YORK NONREGULATORY AND QUASI-REGULATORY PROVISION

Action/SIP element	Applicable geographic or nonattainment area	New York submittal date	EPA approval date	Explanation
*	*	*	*	*
2008 8-hour Ozone RACT analysis.	Statewide and to the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) and the Jamestown 8-hour ozone nonattainment areas.	12/22/14	12/12/17	• Full approval as it applies to non-CTG major sources of VOCs and to major sources of NO_X. • Conditional approval as it applies to CTG for VOC major sources.
2008 8-hour Ozone Nonattainment New Source Review Requirements.	Statewide and to the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) and the Jamestown 8-hour ozone nonattainment areas.	12/22/14	12/12/17	• Full approval.

■ 3. Amend § 52.1683 by adding paragraphs (b)(2) and (3) and (p) to read as follows:

§ 52.1683 Control strategy: Ozone.

* * * * *

(b) * * *

(2) Manufacture of Vegetable Oils.

(3) Application of Agricultural Pesticides.

* * * * *

(p)(1) The December 22, 2014 New York reasonably available control technology (RACT) analysis plan, as supplemented on September 6, 2017, submitted pursuant to the 2008 8-hour ozone national ambient air quality standard (NAAQS), which applies to the entire State, including the New York portion of the New York-Northern New Jersey-Long Island (NY-NJ-CT) and the Jamestown 8-hour ozone marginal nonattainment areas, is conditionally approved as it applies to the Clean Air Act control techniques guidelines (CTG)

requirements for major sources of volatile organic compounds (VOC).

(2) The remainder of New York's December 22, 2014 RACT analysis plan, pursuant to the 2008 8-hour ozone NAAQS as applied to the entire State, including the New York portion of the NY-NJ-CT and the Jamestown 8-hour ozone marginal nonattainment areas, and as it applies to non-CTG major sources of VOCs and to major sources of oxides of nitrogen (NO_X), is approved.

(3) The December 22, 2014 New York plan submittal providing a nonattainment new source review (NNSR) certification as sufficient for purposes of the state-wide 2008 8-hour ozone NAAQS, including the New York portion of the NY-NJ-CT and the Jamestown 8-hour ozone nonattainment areas, is approved.

[FR Doc. 2017–26657 Filed 12–11–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R06–OAR–2016–0406; FRL–9971–43–Region 6]

Approval and Promulgation of Implementation Plans; New Mexico; Albuquerque and Bernalillo County; Regional Haze Progress Report State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a revision to a State Implementation Plan (SIP) for the City of Albuquerque and Bernalillo County, New Mexico (the County) submitted by the Governor on June 24, 2016. The SIP revision addresses requirements of the Act and the EPA's rules that require the County to submit a periodic report assessing reasonable progress goals (RPGs) for regional haze with a determination of the adequacy of the existing regional haze SIP.

DATES: This rule is effective on January 11, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2016–0406. All documents in the docket are listed at the *http://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: James E. Grady, (214) 665–6745; *grady.james@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' each mean ''the EPA.''

I. Background

The background for this action is discussed in detail in the October 2, 2017 proposal (82 FR 45762). In that document the EPA proposed to approve the County's regional haze progress report SIP revision (submitted on June 24, 2016) as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10). In addition, the EPA proposed to approve the County's determination that the current regional haze SIP is adequate to meet the State's 2018 RPGs for the first planning period and does not require further substantive revision to achieve the established regional haze goals. The public comment period for the proposal closed on November 1, 2017. The EPA did not receive any comments regarding the proposal during its public comment period.

II. Final Action

The EPA is approving the County's regional haze progress report SIP revision (submitted on June 24, 2016) as meeting the applicable regional haze requirements set forth in 40 CFR 51.309(d)(10)(i)(A) through (G). The EPA is also approving the County's determination that the current regional haze SIP requires no further substantive revision at this time in order to achieve the established 2018 RPGs for visibility improvement and emission reduction (40 CFR 51.309(d)(10)(ii)). This action is being taken under section 110 of the Act.

III. Statutory and Executive Order Reviews

Under the CAA, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 CAA; 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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