

21, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: All comments should be addressed to: William S. Baker, Chief, Air Programs Branch, Air and Waste Management Division, Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Copies of the state submittal are available at the following locations for inspection during normal business hours:

Environmental Protection Agency,
Region II Office, Air Programs Branch,
26 Federal Plaza, Room 1034A, New
York, New York 10278.

New Jersey Department of
Environmental Protection, Bureau of
Air Quality Planning, 401 East State
Street, CN027, Trenton, New Jersey
08625.

Environmental Protection Agency,
Public Information Reference Unit,
401 M Street, S.W., Washington, DC
20460.

FOR FURTHER INFORMATION CONTACT:
Michael P. Moltzen, Environmental
Engineer, Technical Evaluation Section,
Air Programs Branch, Environmental
Protection Agency, 26 Federal Plaza,
Room 1034A, New York, New York
10278, (212) 264-2517.

SUPPLEMENTARY INFORMATION:

Background

On April 21, 1993, the New Jersey Department of Environmental Protection and Energy (NJDEP) submitted to the EPA revisions to the State's ozone SIP. This notice describes EPA's decision to approve as described below, those revisions to New Jersey's motor vehicle fuels volatility regulation, Subchapter 25 "Control and Prohibition of Air Pollution by Vehicular Fuels," Title 7, Chapter 27 of the New Jersey Administrative Code (NJAC). Notice of Adoption of these revisions appeared in the New Jersey Register on September 3, 1991. Subchapter 25 was first adopted by New Jersey on January 27, 1989 and approved by EPA on June 16, 1989 in 54 FR 25572. Approval of that regulation was based in part on NJDEP's commitment at the time to replace its test methodology to an EPA promulgated method (see 54 FR 25581). Today's revision to NJAC 7:27-25.4(d) fulfills that commitment.

This EPA action on New Jersey's SIP revision takes into account the interaction of the New Jersey regulations and the federal reformulated gasoline regulations, promulgated by EPA on February 16, 1994. The New Jersey standard for RVP is a maximum of 9.0

psi, which EPA approved on June 16, 1989. New Jersey also is subject to federal reformulated gasoline requirements, which set an RVP maximum of 8.1 psi for the period May 1 through September 15 for calendar years 1995 through 1997. 40 CFR 80.41, 80.65(a), 80.78(a)(1)(v). Starting in 1998, the reformulated gasoline standard changes from an RVP standard to a VOC performance standard. The then applicable federal standard will be a maximum RVP of 9.0 psi. 40 CFR 80.27(a)(2). Thus, the New Jersey RVP standard is identical to the federal standard starting in 1998, but the reformulated gasoline summertime RVP standard is more stringent for the years 1995-1997.

EPA promulgated the reformulated gasoline rules under the authority of both § 211(k) and § 211(c)(1), thereby triggering application of § 211(c)(4). This provision preempts states from prescribing or attempting to enforce any "control or prohibition of the characteristic or component of a fuel or fuel additive" that is nonidentical to one the Administrator has promulgated under § 211(c)(1). There is an exception for a nonidentical standard contained in a state SIP where the standard is "necessary to achieve" the primary or secondary NAAQS that the SIP implements.

New Jersey's volatility regulations include a nonidentical standard for RVP during the annual periods of the three years that the federal RVP standard for reformulated gasoline will be in effect. During these periods, the federal standard preempts the state standard, and the nonidentical standard cannot be enforced. New Jersey has not changed its RVP standard since EPA last approved the state regulations.

New Jersey's submission consists of various amendments to its previously approved State RVP regulations. It has not resubmitted the unamended portions of those regulations, and EPA takes no action on the unamended State regulations, including the RVP standard. EPA approves the amendments to New Jersey's State volatility regulations for purposes other than enforcement of New Jersey's 9.0 RVP standard for the period May 1 through September 15 for calendar years 1995-1997.

NJDEP's submittal contained the following revisions to Subchapter 25:

The revision to NJAC 7:27-25.4(a)1 extends the period during which refiners, importers, blenders and distributors are required to test and prepare test reports documenting the RVP of gasoline they ship. This period, which was previously designated April 15 through September 1, has been

extended fifteen days, making it April 15 through September 15. This revision revises the State's required RVP testing period to encompass both the "high ozone season" (the period from June 1 to September 15) as well as the federally mandated "regulatory control period" (the period from May 1 to September 15) as defined in 40 CFR § 80.27, "Controls and prohibitions on gasoline volatility." EPA approves this revision for calendar year 1998 and later.

Another revision to NJAC 7:27-25.4(a)1. allows persons subject to reporting requirements to substitute other documentation, in place of a test report, that certifies that the gasoline invoiced has a maximum RVP of 9.0 psi and complies with all applicable State and federal regulations. This revision is intended to reduce the paperwork burden on affected parties. EPA approves the reporting revision for calendar year 1998 and later.

The revision to NJAC 7:27-25.4(d) replaces the method previously employed by the State to determine the RVP of gasoline with two EPA-promulgated methods published at 40 CFR part 80, appendix E: Method 1—Dry RVP Measurement Method and Method 2—Herzog Semi-Automatic Method. The previous method, the American Society for Testing and Materials (ASTM) Method D-323, was determined by EPA to understate the true RVP of gasoline when oxygenated additives are present in the fuel.

The new section NJAC 7:27-25.7 establishes procedures whereby a waiver may be obtained to use gasoline which does not conform to the RVP standards for research and development purposes. New section 7:27-25.8 establishes service fees for the application of these waivers and annual compliance fees for operations which obtain these waivers. The RVP standard is in effect during the May 1 through September 15 period. In addition to this new regulation, New Jersey has submitted an inventory estimating the excess emissions of volatile organic substances (VOS) from non-conforming gasoline used for research and development purposes. The requirements in NJAC 7:27-25.7, which must be fulfilled before a party can obtain a waiver are at least as stringent as those contained in 40 CFR 80.27(e) "Testing exemptions." EPA approves the revisions to the test procedure regulations, but not for purposes of enforcing the State RVP requirement during calendar years 1995-1997.

The revision to NJAC 7:27-25.2 adds new definitions for the terms: ASTM, EPA, facility, non-conforming gasoline, product development, research, trial use