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#### **SUPPLEMENTARY INFORMATION:**

### **I. What Is Required by the Clean Air Act and How Does It Apply to New York?**

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. The New York-Northern New Jersey-Long Island area is classified as a severe ozone nonattainment area. Under section 182, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour standard. On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour ozone attainment demonstration SIP for the New York-Northern New Jersey-Long Island nonattainment area. In that rulemaking, EPA identified an emission reduction shortfall associated with New York's 1-hour ozone attainment demonstration SIP, and required New York to address the shortfall. In a related matter, the Ozone Transport Commission (OTC) developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing these model rules. These model rules were designed for use by states in developing their own regulations to achieve additional emission reductions to close emission shortfalls.

On February 4, 2002 (67 FR 5170), EPA approved New York's 1-hour ozone attainment demonstration SIP. This approval included an enforceable commitment submitted by New York to adopt additional control measures to close the shortfall identified by EPA for attainment of the 1-hour ozone standard.

### **II. What Was Included in New York's Submittal?**

On December 30, 2002, Carl Johnson, Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the SIP which included state adopted revisions to two regulations. The two regulations consist of New York Codes, Rules and Regulations (NYCRR), part 235, "Consumer Products" and part 239, "Portable Fuel Container Spillage Control." In addition, on January 17,

2003, Deputy Commissioner Johnson submitted to EPA a revision to the SIP which included state proposed revisions to NYCRR, part 226, "Solvent Metal Cleaning." All of these revisions will provide volatile organic compound (VOC) emission reductions to address, in part, the shortfall identified by EPA. New York used the OTC model rules as guidelines to develop its rules.

#### *A. What Do the Revisions to Part 226, "Solvent Metal Cleaning" Consist of?*

Part 226 is intended to establish hardware and operating requirements for vapor cleaning machines used to clean metal parts as well as solvent volatility limits and operating practices for cold cleaners. The revisions to part 226 include clarifications to the general requirements; equipment specifications; and operating requirements, including recordkeeping requirements for cold cleaning degreasers; and exemptions. The revisions to part 226 also include a solvent vapor pressure specification of 1.0 millimeters of mercury at 20 degrees Celsius which becomes mandatory January 1, 2004, unless a process-specific Reasonably Available Control Technology (RACT) demonstration has been approved by the NYSDEC and EPA. The alternate RACT provision is available for situations in which it can be demonstrated that a solvent metal cleaning process cannot be controlled to comply with the requirements of part 226 for reasons of technological and economic infeasibility.

#### *B. What Do the Revisions to Part 235, "Consumer Products" Consist of?*

The revisions to part 235 include VOC content limits for 43 separate consumer product categories. Revised part 235 establishes that no person shall sell, supply, offer for sale, or manufacture consumer products on or after January 1, 2005, which contain VOCs in excess of the VOC content limits specified by New York for those products. Part 235 includes specific exemptions, as well as certification and product labeling requirements, recordkeeping and reporting requirements, and test methods and procedures, and provisions for acquiring variances and approvals of innovative products exemptions (IPEs) and alternative compliance plans (ACPs).

The part 235 IPE and ACP provisions provide alternatives to complying with the VOC content limits specified in the Table of Standards in part 235. The State has provided criteria for documentation of emissions and the VOC content limit of the product as well as procedures for submissions to apply for IPEs and ACPs. Part 235 also allows

a manufacturer who was granted an IPE or ACP pursuant to the California Air Resource Board (CARB) provisions in sections 94511, 94503.5 and 94540-94555 of title 17 of the California Code of Regulations to apply for and obtain an IPE or ACP in New York State. The IPE or ACP can become effective in New York State for the period of time that the CARB IPE or ACP remains in effect, provided that all the consumer products within the CARB IPE or ACP are regulated by part 235. Any manufacturer seeking such an exemption on this basis must submit to the NYSDEC, a copy of the CARB IPE or ACP decision (*i.e.*, the Executive Order) which includes all conditions established by CARB applicable to the IPE or ACP. For those consumer products that have not been granted an exemption by CARB, the manufacturer may apply to the NYSDEC for an IPE or ACP in accordance with the criteria specified in part 235.

Part 235 also establishes procedures for obtaining a variance. Any person who cannot comply with requirements set forth in part 235, due to extraordinary reasons that are beyond that person's reasonable control, may apply in writing to the NYSDEC for a variance. An application for a variance must specify the grounds upon which the variance is sought, the proposed date(s) by which compliance with the part 235 VOC limits will be achieved and a compliance report reasonably detailing the method(s) by which compliance will be achieved.

#### *C. What Do the Requirements of Part 239, "Portable Fuel Container Spillage Control" Consist of?*

Part 239 is intended to reduce refueling emissions from those equipment and engines in the off-road categories that are predominantly refueled with portable fuel containers. Part 239 applies to any person who sells, supplies, offers for sale, or manufactures for sale in New York State portable fuel container(s) or spout(s) or both for use in New York State. Part 239 includes exemptions; administrative requirements which include date coding; compliance certification; labeling; recordkeeping requirements; a manufacturer warranty requirement; and test methods and procedures.

Part 239 establishes performance standards applicable on or after January 1, 2003, which are divided into two sections. One standard specifically addresses spill-proof systems and the other addresses spill-proof spouts for use in portable fuel containers. Included are performance standards for automatic shut off, automatic closure, container openings, fuel flow rates and fill levels.