review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Intergovernmental relations, Incorporation by reference, Intergovernmental relations, Incorporation by reference Nitrogen dioxide, Ozone, Particulate Matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 10, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

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 II—North Carolina

■ 2. Section 52.1770(e) is amended by adding a new entry at the end of the table for ''North Carolina Transportation Conformity Air Quality Implementation Plan'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
*	*	*	*
North Carolina Transportation Conformity Air Quality Implementation Plan.	July 12, 2013	December 26, 2013 [Insert citation of publication].	

[FR Doc. 2013–30542 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2008–0117; A–1–FRL–9904–45–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone Attainment Demonstration for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the ozone attainment demonstration submitted by Connecticut to meet Clean Air Act requirements for attaining the 1997 8-hour ozone national ambient air quality standard. EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone standard as it relates to the Greater Connecticut 1997 8-hour ozone nonattainment area. EPA is also approving the reasonably available control measures (RACM) analysis for this same area.

DATES: This rule is effective on January 27, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2008–0117. All documents in the docket are listed on the *www.regulations.gov.* Web site. Although listed in the index, some information is not publicly available, i.e., 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 either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the State Air Agency: the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1664, fax number (617) 918–0664, email *Burkhart.Richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''Agency,'' ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. What actions is EPA taking?
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I. What actions is EPA taking?

EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS or standard) for the Greater Connecticut moderate ozone nonattainment area, submitted on February 1, 2008. EPA is also approving the associated RACM analysis for this same area.

On May 9, 2013 (78 FR 27161), EPA issued a notice of proposed rulemaking (NPR) which proposed approval of Connecticut's ozone attainment demonstrations for the 1997 ozone standard for two different nonattainment areas: (1) The Greater Connecticut ozone nonattainment area, and (2) the Connecticut portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT ozone nonattainment area (the New York City area). The NPR also proposed approval of the RACM analyses for these areas. Today's action approves the ozone attainment demonstration and RACM analysis for the Greater Connecticut area only. EPA is not taking action on the ozone attainment demonstration and the RACM analysis for the Connecticut portion of the New York City ozone nonattainment area at this time.

As stated in the NPR, the EPA is approving Connecticut's 1997 8-hour ozone attainment demonstration and RACM analysis, for the Greater Connecticut ozone nonattainment area,

because the basic photochemical grid modeling used by Connecticut in its SIP submittal meets EPA's guidelines and is acceptable to EPA. As also noted in the NPR, complete, quality assured and certified ambient air monitoring data show that the Greater Connecticut area attained the 1997 ozone standard for the 2007–2009 monitoring period (i.e., by the area's June 15, 2010 attainment date) and show that this area continued to attain the standard through 2011.[1] The purpose of the attainment demonstration is to show how the area will meet the standard by the attainment date. All the control measures necessary for attainment of the 1997 8-hour ozone standard have already been adopted, submitted, approved and implemented.[2] Based on (1) the state following EPA's modeling guidance, (2) the air quality data through 2011, (3) the area attaining the standard by the attainment date, and (4) the implemented SIP-approved control measures, EPA is approving the Connecticut attainment demonstration and RACM SIP submissions for the Greater Connecticut 1997 8-hour ozone moderate nonattainment area.

II. Response to Comments

As noted above, EPA's May 9, 2013 (78 FR 27161) NPR proposed approval of the Connecticut attainment demonstration and RACM SIP submissions for two nonattainment areas. EPA received a comment letter on our NPR. Most of the comments were solely relevant to the New York City area ozone attainment demonstration. EPA is not taking action on the New York City attainment demonstration and RACM analysis at this time. Consequently, this action does not address comments that pertain solely to the New York City area. In today's action, EPA is approving the Greater Connecticut ozone attainment demonstration and RACM analysis. There was, however, one comment that could be interpreted as applying to the attainment demonstrations for both areas. That comment is summarized below with EPA's response for the Greater Connecticut nonattainment area.

Comment: The commenter stated that EPA must disapprove the attainment demonstration, because it fails to include an analysis under Section 110(l) of the Clean Air Act. The commenter states that EPA must analyze whether approval of the attainment demonstration for the 1997 ozone NAAQS would interfere with any applicable requirements regarding the 2008 ozone NAAQS or the 2010 nitrogen dioxide NAAQS. The commenter specifically requests that EPA evaluate whether approval of this attainment demonstration, which does not require any additional emission reductions, foregoes some NOx RACT limits which the Connecticut Department of Energy and Environmental Protection (CTDEEP) previously proposed, and does not apply an 0.07 lb/mmbtu limit for coal-fired EGUs, will interfere with attaining the 2008 ozone NAAQS as expeditiously as practicable.

Response: EPA interprets this comment to apply to the Greater Connecticut area and our response solely applies to that area. Section 110(l) states: ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this chapter.''

The SIP submittal that is the subject of this action does not contain revisions to any control measures or other regulatory requirements. It does not add, remove, or revise any regulatory requirements in the list of Federally-enforceable regulations at 40 CFR 52.370 or 40 CFR 52.385. Rather, this SIP submission is a demonstration that, with respect to the 1997 ozone NAAQS, regulations and control measures already approved into Connecticut's SIP will (1) provide for the implementation of all reasonably available control measures as expeditiously as practicable, as required by section 172(c)(1) of the Clean Air Act, and (2) provide for attainment of the 1997 ozone NAAQS in the Greater Connecticut area by the applicable attainment date (June 15, 2010), as required by sections 172(c)(1) and 182(c)(2)(A). This particular SIP submission does not (and was not required to) make any demonstrations regarding the adequacy of the SIP with respect to any other NAAQS, such as the 2008 ozone NAAQS or the 2010 nitrogen dioxide NAAQS.

It is arguable whether section 110(l) applies to this submission, as this submission is not revising any substantive elements of the SIP, such as control measures. As noted above, the submission that EPA is approving does not include any increases in emissions or relaxations of Federally-enforceable control measures to existing SIP-approved emissions control regulations in the list of Federally-enforceable regulations at 40 CFR 52.370 or 40 CFR 52.385, where we would need to determine if such changes would meet the Section 110(l) requirement. Rather, EPA is simply revising § 52.377 to reflect EPA's conclusion that Connecticut has an adequate control strategy for the 1997 ozone standard with respect to the Greater Connecticut ozone nonattainment area.

Specifically, the 1997 8-hour ozone attainment demonstration submitted by Connecticut includes: (1) A detailed ozone photochemical grid modeling analysis (including a weight of evidence analysis) that meets EPA guidance; (2) an analysis of air quality data, which is supplemented in the NPR by EPA with more up-to-date ozone data; and (3) a list of measures that will bring the area into attainment. The purpose of the 1997 8-hour ozone attainment demonstration for the Greater Connecticut area is to demonstrate how, through enforceable and approvable emission reductions, that area will meet the standard by the attainment date (June 15, 2010). All ozone control measures necessary for attainment of the 1997 8-hour ozone NAAQS have already been adopted, submitted, approved into the SIP and implemented. Based on (1) Connecticut following EPA's modeling guidance, (2) the air quality data through 2011, (3) the area attaining the standard by the attainment date, and (4) the implemented SIP-approved control measures, EPA is approving the Connecticut ozone attainment demonstration, including the RACM analysis, for the Greater Connecticut area.

Furthermore, the Greater Connecticut area is designated ''marginal'' nonattainment for the 2008 ozone standard. (See 40 CFR 81.307) As a result of its ''marginal'' classification, the area is required to attain the 2008 ozone standard by December 31, 2015 (77 FR 30167, May 21, 2012) but is not required to submit an attainment demonstration for the 2008 ozone standard. Approval of this submission will not interfere with attainment of the 2008 ozone standard, because it will not

[1] Subsequently, final, certified 2012 ozone data, and preliminary 2013 ozone data, indicate continued attainment of the 1997 8-hour ozone NAAQS for this area. The area, however, remains designated nonattainment for the 2008 8-hour ozone NAAQS.

[2] At the time of publication of the NPR, three Connecticut state SIP revisions had not yet been approved by EPA. All were subsequently approved. Specifically, Connecticut's December 8, 2006 reasonably available control technology (RACT) SIP submission was approved on June 27, 2013 (78 FR 38587). The final rulemaking notice approving Connecticut's VOC content limits for consumer products (Regulations of Connecticut State Agencies (RCSA) section 22a–174–40) and Connecticut's restrictions on the manufacture and use of adhesives and sealants (RCSA section 22a–174–44) was signed by the Regional Administrator on November 12, 2013. A copy of the signed notice is available in the docket for today's action.

change any control requirements or alter ambient concentrations of ozone.

While many of the control measures that CTDEEP has implemented for attaining the 1997 standard may also assist the Greater Connecticut area in meeting the 2008 standard, it is possible that the area may also need additional measures that were not needed to attain the 1997 standard. The fact that Connecticut did not find it necessary to implement a particular measure in order to attain the 1997 standard does not mean that Connecticut may not find it necessary to implement that same (or a similar) measure in the future, to fulfill other requirements of the Clean Air Act. By the same token, EPA's approval of Connecticut's attainment demonstration for the 1997 ozone standard without certain measures does not foreclose either Connecticut or EPA from finding, at a future date with respect to a distinct future obligation, that Connecticut needs those (or similar) measures in order to meet other requirements. *See Ky. Resources Council, Inc.* v. *EPA,* 467 F.3d 986, 996 (6th Cir. 2006).

Connecticut is designated unclassifiable/attainment for the 2010 1-hour NAAQS for nitrogen dioxide (see 40 CFR 81.307), and therefore has no requirement to submit an attainment demonstration. However, a similar analysis illustrates that, assuming section 110(l) applies, approval of this submission will not interfere with attainment or maintenance of the nitrogen dioxide NAAQS. Approval of this SIP submission will not alter any control measures currently in the SIP. Thus, there is no reason to believe that approval of this SIP submission will change the ambient concentrations of nitrogen dioxide that would otherwise occur, or that approval would interfere with attainment or maintenance of the nitrogen dioxide NAAQS.

For these reasons, even assuming section 110(l) applies to this submittal, EPA concludes the submittal will not interfere with attainment of the 2008 ozone NAAQS, the 2010 nitrogen dioxide NAAQS, or any other requirement of the Clean Air Act.

III. Final Action

EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone national ambient air quality standard for the Greater Connecticut moderate 8-hour ozone nonattainment area submitted on February 1, 2008. EPA is also approving the associated RACM analysis for this same area.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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 CAA. The approval of an attainment demonstration and RACM analysis does not impose additional requirements beyond those imposed by state law and the CAA. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 2014. 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: December 10, 2013.

Michael P. Kenyon,

Acting Regional Administrator, EPA New England.

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 H—Connecticut

■ 2. Section 52.377 is amended by adding a new paragraph (n) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(n) Approval—An attainment demonstration for the 1997 8-hour ozone standard to satisfy requirements of section 182(c)(2)(A) of the Clean Air Act, and a Reasonably Available Control Measure (RACM) analysis to satisfy requirements of section 172(c)(1) of the Clean Air Act for the Greater Connecticut ozone nonattainment area, submitted by the Connecticut Department of Energy and Environmental Protection on February 1, 2008.

[FR Doc. 2013–30735 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 17]

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2014

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

SUMMARY: According to data from FRA's Management Information System, the rail industry's random drug testing positive rate has remained below 1.0 percent for the last two years. FRA's Administrator has therefore determined that the minimum annual random drug testing rate for the period January 1, 2014, through December 31, 2014, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2014, through December 31, 2014. Railroads remain free, as always, to conduct random testing at higher rates.

DATES: This notice of determination is effective December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, FRA Drug and Alcohol Program Manager, W38–105, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, (telephone 202–493–6313); or Sam Noe, FRA Drug and Alcohol Program Specialist, (telephone 615–719–2951).

Issued in Washington, DC on December 20, 2013.

Karen J. Hedlund,

Deputy Administrator.

[FR Doc. 2013–30806 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–R9–MB–2011–0077; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY59

Migratory Bird Hunting; Revision of Language for Approval of Nontoxic Shot for Use in Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, revise our regulations regarding the approval of nontoxic shot types to make the regulations easier to understand. The language governing determination of Estimated Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems is altered to make clear the shot size and number of shot to be used in calculating the EECs. We specify the pH level to be used in calculating the EEC in water. We also move the requirement for in vitro testing to Tier 1, which will allow us to better assess applications and minimize the need for Tier 2 applications. We add language for withdrawal of shot types that have been demonstrated to have detrimental environmental or biological effects, or for which no suitable field-testing device is available. We expect these changes to reduce the time required for nontoxic shot approvals. Finally, we add fees to cover our costs in evaluating these applications.

DATES: This rule is effective on January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service (FWS or USFWS) regulates the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, we have sought to identify shot types that are not significant toxicity hazards to migratory birds or other wildlife. Producers of potential nontoxic shot types submit them for FWS approval under 50 CFR 20.134 as nontoxic for waterfowl hunting.

We revise the regulations to clarify them for applicants and to provide for withdrawal of approval of a shot type that is not readily detectable in the field or has environmental effects or direct toxicological effects on biota.

Comments on the Proposed Rule

We published a proposed rule on this regulations revision on March 4, 2013 (78 FR 14060). We received eight comments or sets of comments on the proposed rule. We respond to the significant comments below and explain subsequent changes we are making to the proposed regulations.

Comment. We agree . . . that there is no need to publish a ''Notice of Application'' in the **Federal Register**.

Comment. ''. . . I speak principally for the handloading hunter when I explain how simple it should be to identify his shotshells as non-lead in nature. The shot he might be using will be of two types usually; either steel or tungsten/alloy balls. Steel is easy to detect by simple magnet identification. Tungsten alloys usually deflect at least slightly when they are exposed to a rare earth magnet. A simple exam of the pellets involves using a needle nose pliers to open up the shell and squeeze the shot, and makes obvious to the agent how much softer the lead ball is compared to a tungsten/alloy ball. The shell is able to be reclosed usually on the spot and no big harm or inconv[en]ience has been done to either hunter or agents.

Now, it is important to understand that these Tungsten alloys are not purposely made to be non magnetic. When we make them, if we use high enough concentrations of iron to make them more magnetic in nature, they spuriously loose [sic] density and become harder, both of which is unacceptable to the user . . . So why do we want to create entrepreneurial as well as manufacturing hurdles when it is usually accepted hunters are doing the right thing and using non-toxic shells. Simple common sense should