

providing clarification on the interpretation and implementation of certain regulations on air pollution control.

(B) Letter of March 29, 1996 from the West Virginia Division of Environmental Protection to EPA transmitting the regulation to prevent and control particulate air pollution from combustion of fuel in indirect heat exchangers.

(C) Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(56)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ56-250a, FRL-7527-5]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for Specific Sources in the State of New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is announcing approval of revisions to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. These revisions consist of source-specific reasonably available control technology (RACT) determinations for controlling oxides of nitrogen (NO_x) emissions from seven facilities in New Jersey.

The EPA is also announcing that, for an eighth facility, New Jersey has revised a NO_x RACT permit emission limit that EPA previously approved and EPA is incorporating the revised stricter limit into the State's SIP.

This direct final rule approves the source-specific RACT determinations that were made by New Jersey in accordance with provisions of its regulation. The intended effect of this rulemaking is to approve source-specific emission limitations required by the Clean Air Act.

DATES: This direct final rule is effective on October 10, 2003 without further notice, unless EPA receives adverse comment by September 10, 2003. If an adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Comments may be submitted either by mail or electronically. Written comments should be mailed to Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region II Office, 290 Broadway, New York, New York 10007-1866. Electronic comments could be sent either to Werner.Raymond@epa.gov or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. Please follow the on-line instructions for submitting comments.

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

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866;

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625;

Environmental Protection Agency, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Anthony (Ted) Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249 or at Gardella.Anthony@epa.gov.

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I. What Action Is EPA Taking Today?

EPA is approving revisions to New Jersey's ozone SIP submitted on January 21, 1998, June 12, 1998 and April 26, 1999. Seven specific sources are addressed in these SIP revisions. New Jersey revised and submitted these revisions in response to a Clean Air Act (CAA) requirement that States require Reasonably Available Control Technology (RACT) at all major stationary sources of NO_x. The seven sources addressed are: American Ref-Fuel Company/Essex County Resource Recovery Facility; Co-Steel Corporation of Sayreville (formerly New Jersey Steel Corporation); Co-Steel Raritan Corporation; Homasote Company; Milford Power Limited Partnership; University of Medicine and Dentistry of Newark, and Roche Vitamins, Inc.

Additionally, on February 21, 2001, in a letter to EPA, New Jersey indicated that with regard to the Township of Wayne, in accordance with a previously submitted and approved SIP revision the State had changed the permitted NO_x limit to a more stringent limit. The previously approved SIP revision for this source indicated that the emission limits may be revised to reflect results from required stack testing. The permit required tests had been completed and New Jersey has established a new, more stringent emission limit based upon the results of these tests. This new limit is also being incorporated into the SIP.

II. What Are EPA's Findings of Each State Submittal?

This action includes a summary of each RACT submittal. These summaries are organized into four groups as follows:

- A. "Facility-Specific NO_x Emission Limits" for four major NO_x facilities that contain a source operation or item of equipment for which New Jersey has not established an emission limit pursuant to Subchapter 19,
- B. "Alternative NO_x Emission Limits" for two major NO_x facilities that contain a source operation or item of equipment of a category listed in section 19.2 for which an owner or operator seeks approval of a RACT emission limit that is different from the one established in Subchapter 19,
- C. "Phased Compliance Through Repowering" for one major NO_x facility for which an owner or operator seeks approval, pursuant to section 19.21, for a plan for phased compliance through repowering of a specific source, and

D. "Revised Facility-Specific NO_x Emission Limits" for one major NO_x facility for which permit conditions are revised in accordance with a previously submitted and EPA approved source-specific SIP revision which allowed for revisions based on the results of compliance tests.

EPA is only acting on the permitted emission rates and conditions related to emissions of NO_x. This action is not being taken on any other pollutants from these sources for which New Jersey may have taken permit actions.

A. Facility-Specific NO_x Emission Limits

1. American Ref-Fuel Company

The American Ref-Fuel Company owns and operates three mass burning water wall incinerators at the Essex County Resource Recovery Facility located at Newark, Essex County. The State's June 1998 SIP submittal is a revision to a May 1995 SIP revision for the same facility that was approved by EPA on January 17, 1997 (62 FR 2581). The EPA previously approved RACT controls at this facility that include Selective Non Catalytic Reduction (SNCR) technology with ammonia injection, based on a 1989 Best Available Control Technology (BACT) analysis. EPA's January 1997 approval included a facility-specific NO_x emission limit of 95 pounds per hour (lbs/hr) per unit, with a concentration limit of 174 parts per million (ppm), based on a three hour average. In the June 1998 SIP revision, the facility's RACT analysis concluded, and New Jersey agreed, that the new facility-specific NO_x emission limit is 155 ppm, based on a twenty-four hour average, while maintaining the 95 lbs/hr/unit limit based on a three hour average.

2. Co-Steel Corporation of Sayreville (Formerly New Jersey Steel Corporation)

Co-Steel Corporation owns and operates a mini steel mill, located at Sayreville, Middlesex County, that has the capability of producing 800,000 tons per year (tpy) of steel billets. The facility includes an electric arc furnace (EAF) that melts and refines scrap steel in a continuous mode of operation, and a billet reheat furnace (BRF) that reheats steel billets for producing reinforcing bars for the construction industry. The facility's RACT analysis concluded, and New Jersey agreed, that there are no control technologies available to control NO_x emissions from EAF's and the State established an emission limit based on engineering judgement. Subsequent to New Jersey's SIP submittal which EPA is acting on today, and based on actual

stack emission testing, the State lowered the NO_x emission limit from 168 tpy to 78.8 tpy.

In addition, since February 2003, the State has been reviewing a new Prevention of Significant Deterioration (PSD) permit application for the EAF which may slightly increase the NO_x emission limit above the current 78.8 tpy State limit. The 78.8 tpy limit has not been submitted as a SIP revision. CSS submitted this new PSD application because it plans to increase production at the EAF. The State hopes to complete, within approximately a year, its review and public notice and comment period.

This SIP revision includes the original NO_x emission limit of 168 tpy. On the effective date of this SIP approval it will become the federally enforceable NO_x SIP limit. In order for the current State permit limit to become the federally enforceable NO_x limit, or for any future State permit limit to become the federally enforceable NO_x limit, it must be submitted and EPA must approve of it as a SIP revision.

It should be noted that while any aspect of a State permit limit is federally enforceable because it is part of a permit which is issued under the federally approved State permit program, it is not the federally enforceable NO_x SIP limit required to satisfy the SIP. A federally enforceable permit condition can be made more or less stringent in accordance with State permitting procedures. However once a permit condition is submitted and approved of as a SIP emission limit, in accordance with sections 110(l) and 116¹ of the CAA, it can not be made more or less stringent than the federally approved limit unless it is submitted and approved by EPA as a SIP revision, or unless the approved SIP establishes procedures which allow for making the limit more stringent.

Furthermore, if the PSD permit limit revision is considered "major" then the Title V permit must also be revised at the same time as the PSD revision. However, if the PSD permit limit revision is considered "minor" then the Title V permit revision may be revised at the next scheduled cycle.

NO_x emissions from the BRF are produced primarily from natural gas fired burners with oil as the backup fuel. The facility's RACT analysis concluded, and New Jersey agreed, that RACT is conversion of the existing four North American Manufacturing Twin

¹ Section 116 of the CAA establishes that the State may not adopt or enforce an emission limit which is less stringent than the limit in effect under an applicable SIP.

Bed burners with low NO_x burners and staged fuel injection. The new facility-specific NO_x emission limit is 169.5 tpy or 0.27 pounds per million BTU (lb/mmBTU) heat input, as verified by annual stack tests. Additionally, the State's Conditions of Approval include: (1) Annual adjustment of the combustion process according to Subchapter 19.16; and (2) use of natural gas as the primary fuel with Number 2 fuel oil as a standby fuel to be used only during natural gas curtailment and up to a maximum of 1000 hours of operation in any one calendar year.

3. Co-Steel Raritan Corporation

Co-Steel Raritan Corporation owns and operates a mini steel mill, located at Perth Amboy, Middlesex County, that has the capability of producing 1,160,320 tpy of finished product. The facility includes an electric arc furnace with ladle metallurgy system (EAF/LMS) that melts and refines scrap steel in a batch mode of operation, and a billet reheat furnace (BRF) that reheats steel rods for producing finished product.

The facility's RACT analysis concluded, and New Jersey agreed, that there are no technologies available to control NO_x emissions from EAF's. The facility-specific NO_x emission limit for the EAF/LMS is 94 tpy as verified by annual stack tests and was State effective on March 6, 1998. Additionally, the State Conditions of Approval include: (1) The maximum steel scrap feed rate to the EAF shall not exceed 148 tons per hour based on 24-hour daily production; and (2) operation of the EAF steel making process limited to 7840 hours in a year period.

NO_x emissions from the BRF are produced from natural gas fired burners. The facility's RACT analysis concluded, and New Jersey agreed, that RACT is conversion of the existing three North American Manufacturing burner zones with low NO_x burners (LNB) and flue gas recirculation (FGR). The facility-specific NO_x emission limit for the BRF is 80 tpy or 0.145 lb/mmBTU, as verified by annual stack tests. Additionally, the State Conditions of Approval include: (1) The burners in all three zones of the furnace are to be replaced with LNB and FGR; (2) annual adjustment of the combustion process according to Subchapter 19.16; (3) implementation of the proposed NO_x plan by February 1, 2001; and (4) operation limited to using natural gas as fuel for the burners.

Note that this source-specific SIP revision addresses what the State approved RACT is for the EAF as of March 6, 1998 and for the BRF as of

February 1, 2001, since these are the effective dates for the NO_x RACT requirements for those sources in the State approved NO_x Control Plan. Final EPA approval will make them federally enforceable.

4. Homasote Company

Homasote owns and operates a fibre board manufacturing operation located at West Trenton, Mercer County. The facility includes a custom designed eight tier conveyor type natural gas dryer that replaced two oil or gas fired dryers that were dismantled.

Replacement of the two dryers with the natural gas dryer is expected to reduce NO_x emissions by nearly 67 tons annually. The facility's RACT analysis concluded, and New Jersey agreed, that the custom design of the natural gas dryer equipment makes the addition of the generally required control technologies infeasible. The facility-specific NO_x emission limit is 0.10 lb/mmBTU, as verified by compliance stack tests. Additionally, the State's Conditions of Approval include: (1) Annual adjustment of the combustion process pursuant to Subchapter 19; (2) limitation of the amount of wet boards passing through the dryer to not more than 17,000 lb/hr; (3) limitation of the amount of natural gas used in the dryer to not more than 284 million cubic feet per year; and (4) limitation of the amount of propane used as secondary fuel in the dryer to not more than 310,000 gallons per year. Compliance with these additional conditions of approval in the State's SIP revision are to be documented by record keeping.

B. Alternative NO_x Emission Limits

5. Milford Power Limited Partnership

Milford Power operates a combined cycle cogeneration plant at the Crown Vantage Milford Mill in Milford Township, Hunterdon County. Steam and dry low NO_x combustors are used to comply with Subchapter 19's NO_x RACT emission limit during periods of normal operation, however steam is not available or cannot otherwise be used during start-up, shutdown and fuel transfer. The facility's RACT analysis concluded, and New Jersey agreed, that dry low NO_x combustors without steam addition had been demonstrated to be RACT for the cogeneration plant during start-up, shutdown and fuel transfer periods. The alternative NO_x emission limits are 0.34 lb/mmBTU during periods of start-up and shutdown and 0.73 lb/mmBTU during fuel transfer periods. Additionally, the State's Conditions of Approval include: (1) Maximum number of start-ups and

shutdowns shall not exceed 75 events of each type per calendar year; (2) maximum number of fuel transfers shall not exceed 10 events per calendar year; and (3) the facility shall maintain records of all start-up, shutdown and fuel transfer events.

6. University of Medicine and Dentistry

NO_x emissions at the University of Medicine and Dentistry, located at Newark, Essex County, are from three cogeneration units and three non-utility boilers. The facility operates three identical cogeneration units that include Solar Centaur combustion turbines each with a supplementary fired duct burner to provide electricity and steam to its campus. The plant uses natural gas as the primary fuel and number 2 fuel oil as backup. The facility's RACT analysis determined, and New Jersey agreed, that increased water injection to the turbine has been determined to be RACT for the cogeneration units. The alternative NO_x emission limit is 0.167 lb/mmBTU, averaged over any calendar day using Continuous Emission Monitoring System (CEMs), when combusting natural gas. For combustion of number 2 fuel oil, New Jersey lowered the permitted NO_x emission limit from 0.40 lb/mmBTU to 0.35 lb/mmBTU which is the presumptive limit established in Subchapter 19.

The facility also operates three Cleaver Brooks non-utility boilers to provide steam to its Newark campus. The boilers only operate during periods of high demand (peaking units) or during periods of interruption of the three cogeneration units, which are the primary source of steam. The facility's RACT analysis concluded, and New Jersey agreed, that due to the low capacity factor and remaining useful life of only seven years, there are no technologies that are economically feasible to control NO_x emissions from the three boilers. The alternative NO_x emission limit is 0.55 lb/mmBTU when combusting either natural gas or number 6 fuel oil for each boiler. Additionally, the State's Conditions of Approval include: (1) Annually adjusting the combustion process pursuant to Subchapter 19; (2) stack testing in accordance with Subchapter 19 for determining compliance; (3) operating each boiler no more than 2920 hours in any calendar year; and (4) complying with Subchapter 19's NO_x emission limit of 0.28 lb/mmBTU by June 1, 2002 and thereafter, should the three non-utility boilers continue to operate beyond May 31, 2002.

C. Phased Compliance Through Repowering

7. Roche Vitamins, Inc.

Roche Vitamins, Inc. operates a powerhouse facility in Belvidere, Warren County, which includes the following: a packaged water tube steam boiler with a rated heat input of 84.4 mmBTU/hr (Boiler No. 1), and a cogeneration system consisting of one 21.5 Megawatt diesel reciprocating engine and a heat recovery steam generator (HRSG) equipped with a 179 mmBTU/hr duct burner (Boiler No. 6). Roche Vitamins, Inc. proposed a repowering plan in which it committed to replace Boiler No.1 and the cogeneration unit with a new cogeneration unit consisting of a new gas turbine and a new HRSG. New Jersey estimates that after repowering, NO_x emissions from the facility will be reduced by nearly 2023 tons annually. The repowering plan as approved by the State requires the following: (1) The new cogeneration unit to comply with state of the art requirements; (2) the new cogeneration unit be installed in accordance with the milestones specified in a federally enforceable agreement; (3) the repowering be completed by May 1, 1999; (4) fuel restrictions apply to Boiler Nos. 1 and 6 and to the diesel engine; (5) after May 1, 1999, Boiler No. 1 be used as an emergency unit, not to exceed 500 hours per calendar year; and (6) after May 1, 1999, the original cogeneration unit will no longer be operated.

The repowering plan further requires that, during the interim period of May 1, 1995 and May 1, 1999, the NO_x emission limits and other requirements for the boilers and cogeneration units are as follows: (1) For Boiler No. 1, 0.40 lb/mmBTU when firing natural gas, and 0.30 lb/mmBTU when firing a mixture of number 6 oil and lasalocid oil; (2) for the cogeneration facility (engine and HRSG), 582 lb/hr when firing number 6 oil in the engine and natural gas in the duct burner; (3) for the engine only, 8.0 grams NO_x per horsepower-hour; (4) for Boiler No. 6 (duct burner) only, 0.20 lb/mmBTU; and (5) annual adjustment of the combustion process on Boilers No. 1 and 6.

D. Revised Permit for Facility-Specific NO_x Emission Limits

8. Township of Wayne, Mountain View Water Pollution Control Facility

The Township of Wayne, Mountain View Water Pollution Control Facility owns and operates two multiple hearth type sewage sludge incinerators which burn sewage sludge from its wastewater

treatment plant located in Wayne, Passaic County. On October 20, 1998, EPA approved (63 FR 55949) a December 1996 SIP revision for this same facility that included a RACT limitation and a State requirement to perform compliance testing which would confirm or establish a new facility-specific NO_x emission limit. In a letter dated February 21, 2001, New Jersey informed EPA that, as a result of stack tests conducted in April 1998, the State, on December 21, 2000, revised the facility-specific NO_x emission limit requirements previously approved by EPA. The maximum allowable NO_x emission limit was revised from 12.0 lb/hr to 7.0 lb/hr per incinerator and the maximum allowable sludge feed rate was revised from 1.0 dry ton per hour to 0.8 dry ton per hour per incinerator. EPA is incorporating the revised permit condition into the SIP.

Once a permit limit is submitted and approved of by EPA as a SIP emission limit, in accordance with sections 110(l) and 116 of the CAA, it can not be made less stringent than the federally approved limit unless it is submitted and approved as a SIP revision with the exception of cases where the approved SIP establishes procedures which allow for making the limit more stringent. The CAA is silent on whether a more stringent adjustment of a previously approved SIP limit must be submitted to EPA as a SIP revision. In the case of Township of Wayne, the Agency has accepted notification of a new limit rather than submission as a SIP revision because the previously approved SIP revision stated that the limit could be made more stringent as a consequence of required compliance test results. This Federal Register notice is the agency publication of the new NO_x limit. The new limit will become the new federally enforceable NO_x SIP limit upon the effective date of this Federal Register notice. At that point, it can not be made less stringent without submission of, and approval by EPA as, a SIP revision.

III. What Are the Clean Air Act Requirements for NO_x RACT?

The CAA required certain states to develop RACT regulations for major stationary sources of NO_x and to provide for the implementation of the required measures as soon as practicable but no later than May 31, 1995. Under the CAA, the definition of major stationary source is based on the tons per year (tpy) air pollution a source emits and the quality of the air in the area of the source. In ozone transport regions, attainment/unclassified areas as well as marginal and moderate ozone nonattainment areas, a major stationary

source for NO_x is considered to be one which emits or has the potential to emit 100 tpy or more of NO_x and is subject to the requirements of a moderate nonattainment area. New Jersey is within the Northeast Ozone Transport Region, established by section 184(a) of the CAA, and has defined a major stationary source for NO_x as a source which has the potential to emit 25 tpy, the level set for severe ozone nonattainment areas. For detailed information on the CAA requirements for NO_x RACT see the Technical Support Document prepared for today's rulemaking action.

IV. What are New Jersey's Regulatory Requirements for NO_x RACT?

A. EPA Approval of New Jersey's NO_x RACT Regulation

On November 15, 1993, New Jersey submitted to EPA, as a revision to the SIP, Subchapter 19 of Chapter 27, Title 7 of the New Jersey Administrative Code. Subchapter 19 is entitled "Control and Prohibition of Air Pollution From Oxides of Nitrogen." This Subchapter provides the NO_x RACT requirements for New Jersey and was effective on December 20, 1993. New Jersey submitted Subchapter 19 to EPA, as a revision to the SIP, on November 15, 1993 and on January 27, 1997, the EPA final approval action on Subchapter 19 was published in the **Federal Register** (62 FR 3804).

On March 24, 1995, New Jersey adopted amendments to Subchapter 19 and submitted them to EPA for approval as a SIP revision on June 21, 1996. On March 29, 1999, the EPA final approval action on the revised Subchapter 19 was published in the **Federal Register** (64 FR 14832).

B. Section 19.13—Facility-Specific NO_x Emission Limits

Section 19.3 of New Jersey's regulation establishes a procedure for a case-by-case determination of what represents RACT for a particular facility item, equipment or source operation. This procedure is applicable in two situations: (1) Except for non-utility boilers, if the major NO_x facility contains any source operation or item of equipment of a category not listed in section 19.2 which has the potential to emit more than 10 tons of NO_x per year, or (2) if the owner or operator of a source operation or item of equipment of a category listed in section 19.2 seeks approval of an alternative maximum allowable emission rate.

New Jersey's procedure requires either submission of a NO_x control plan if specific emission limitations do not

apply to the specific source, or submission of a request for an alternative maximum allowable emission rate if specific emission limitations do apply to the specific source. In either case, the owners/operators must include a technical and economic feasibility analysis of the possible alternative control measures. RACT determinations for an alternative maximum allowable emission rate must consider control technologies (e.g., low NO_x burners) and alternative control strategies (e.g., emissions averaging, seasonal fuel switching to natural gas, and repowering). Also, in either case, Subchapter 19 requires that New Jersey establish emission limits which rely on a RACT determination specific to the facility. The resulting NO_x control plan or alternate maximum allowable emission rate must be submitted to EPA for approval as a SIP revision.

C. Section 19.21—Phased Compliance Through Repowering

Section 19.21 of New Jersey's regulation allows attainment of compliance through repowering. Under Subchapter 19, repowering is defined as the permanent cessation of steam generator operations replaced by either the installation of a new combustion source or the purchase of heat or power from a new combustion source located in New Jersey.

Section 19.21 requires that a source owner who requests compliance through repowering: (1) Enter into an enforceable commitment with the State to repower; (2) submit an analysis that defines RACT for the interim period between May 31, 1995 and the date the unit will be repowered; (3) specify a date, which can be no later than May 31, 1999, by which the unit will be repowered; (4) include appropriate milestones for the repowering project; (5) meet applicable SIP and Federal requirements upon the repower date; and (6) ensure that the repowering commitment is federally enforceable.

Section 19.21 also requires that a source establish emission limits using advanced control techniques and commit to meet these limits once the source is repowered. The maximum allowable NO_x emissions rate, expressed in pounds per million BTUs, for repowered utility boilers ranges from 0.1 to 0.2 depending upon the type of boiler and the type of fuel. Section 19.21 allows repowering of all combustion sources.

V. What Is EPA's Analysis of Each State Submittal?

After reviewing the submittals, EPA found them all administratively and

technically complete. For each source discussed in this rulemaking, EPA determined that the New Jersey letter of approval identifies NO_x requirements which represent RACT for the source. The conditions contained in the Conditions Of Approval Documents (COADs) or revised permits include, for example, emission limits, work practice standards, and testing, monitoring, and record keeping/reporting requirements. These conditions are consistent with the NO_x RACT requirements specified in Subchapter 19 and conform to EPA NO_x RACT guidance. Please note there may be other requirements, such as adequate monitoring, which States and sources will need to provide for, through the Title V permitting process. Therefore, EPA is approving New Jersey's three source-specific SIP revision submittals, which include seven source-specific RACT determinations, dated January 21, 1998, June 12, 1998 and April 26, 1999.

In addition, for an eighth source-specific RACT determination, New Jersey has revised a NO_x RACT permit emission limit that EPA previously approved and EPA is incorporating the revised stricter limit into the State's SIP. As explained previously in this rulemaking notice, in a February 21, 2001 letter, the State notified EPA that it lowered the limit in accordance with the approved SIP.

EPA's evaluation of each RACT submittal is detailed in a document entitled "Technical Support Document-NO_x RACT Source-Specific SIP Revisions-State of New Jersey." A copy of that document is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. EPA's summary of findings for each facility is found in Section II of this Notice.

VI. What Is the Procedural History of State Submittals?

Prior to adoption of the seven source-specific RACT revisions discussed in this rulemaking, New Jersey published proposed limitations for each source specific RACT determination in local newspapers and provided thirty (30) days for public comment and an opportunity to request a public hearing. New Jersey reviewed and responded to all comments. The State then determined that the proposed NO_x control plans, alternative maximum allowable emission rates and repowering plan conform with the provisions of sections 19.13 or 19.21 of New Jersey's regulation. These RACT determinations were made during 1996, 1997 and 1998.

After New Jersey made each determination it issued letters of

approval to each owner. These letters included and incorporated a COAD or a revised permit. Each COAD or revised permit contains conditions consistent with Subchapter 19. These conditions are considered approved permit conditions which are fully enforceable by the State. Each COAD and revised permit is identified in the "Incorporation by reference" section at the end of this Notice.

New Jersey submitted the seven source-specific SIP revisions to EPA on January 21, 1998, June 12, 1998 and April 26, 1999.

VII. What Is EPA's Conclusion?

The EPA is approving the source-specific SIP revisions described above as RACT for the control of NO_x emissions from the seven sources identified in the three source-specific SIP revisions and for an eighth source, is approving the stricter limit revised by the State in accordance with a SIP revision which EPA previously approved. Please note that if EPA receives an adverse comment on an amendment, paragraph, or a specific source addressed in this direct final rule and if the provision that relates to the adverse comment may be severed from the remainder of the rule, EPA may sever the provision and adopt as final those provisions of the rule that are not the subject of the adverse comment.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 these same seven source-specific SIP revisions should adverse comments be filed. This final rule will be effective October 10, 2003 without further notice unless the Agency receive relevant adverse comments by September 10, 2003.

If the EPA receives adverse comments, then EPA will publish a notice withdrawing the final rule or sever that portion of the final rule and informing the public that the rule did not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. Parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 10, 2003 and no further action will be taken on the proposed rule.

VIII. Statutory and Executive Order Reviews

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. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). 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 tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action 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 Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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 Clean Air 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 Clean Air 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. 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.*).

Submission to Congress and the Comptroller General

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. section 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 October 10, 2003. 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).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: July 1, 2003.

Jane M. Kenny,
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 FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(73) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(73) Revisions to the State Implementation Plan submitted by the New Jersey Department of Environmental Protection on January 21, 1998, June 12, 1998 and April 26, 1999; and a letter which notified EPA of a revised permit limit submitted by the New Jersey Department of Environmental Protection on February 21, 2001.

(i) Incorporation by reference.

(A) Conditions of Approval Documents (COAD) or modified prevention of significant deterioration (PSD) permit:

The following facilities have been issued COADs or modified PSD permit by New Jersey:

(1) American Ref-Fuel Company/Essex County Resource Recovery Facility, Newark, Essex County, NJ PSD permit modification dated July 29, 1997. Incorporation by reference includes only the NO_x emission limits in section A.6 of the July 29, 1997 PSD permit.

(2) Co-Steel Corporation's (formerly New Jersey Steel Corporation) electric arc furnace/melt shop and billet reheat furnace, Sayreville, Middlesex County, NJ COAD approval dated September 3, 1997.

(3) Co-Steel Raritan Corporation's electric arc furnace/ladle metallurgy system and billet reheat furnace, Perth Amboy, Middlesex County, NJ COAD approval dated June 22, 1998.

(4) Homasote Company's natural gas dryer (wet fibreboard mat dryer), West Trenton, Mercer County, NJ COAD approval dated October 19, 1998.

(5) Milford Power Limited Partnership's combined cycle cogeneration facility, Milford, Hunterdon County, NJ COAD approval dated August 21, 1997.

(6) University of Medicine and Dentistry of New Jersey cogeneration

units and Cleaver Brooks non-utility boilers, Newark, Essex County, NJ COAD dated June 26, 1997.

(7) Roche Vitamins Inc's cogeneration facility and Boiler No. 1, Belvidere, Warren County, NJ COAD dated June 10, 1998. The cogeneration facility consists of one reciprocal engine (21.5 MW) and one heat recovery steam generator (HRSG) equipped with a duct burner (Boiler No. 6).

(8) Township of Wayne, Mountain View Water Pollution Control Facility's sewage sludge incinerators, Passaic County, NJ permit revision dated December 21, 2000.

(ii) Additional information—Documentation and information to support NO_x RACT facility-specific emission limits, alternative emission limits, or repowering plan in three SIP revisions addressed to Regional Administrator Jeanne M. Fox from New Jersey Commissioner Robert C. Shinn, Jr. and one letter addressed to Acting Regional Administrator William J. Muszynski from Dr. Iclal Atay, Chief Bureau of Air Quality Engineering dated:

(A) January 21, 1998 SIP revision for two sources;

(B) June 12, 1998 SIP revision for one source;

(C) April 26, 1999 SIP revision for four sources; and

(D) February 21, 2001 for a revised permit limit for one source.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 172-0276a; FRL-7524-7]

Revisions to the California State Implementation Plan, Great Basin Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), we are approving local rules that concern permitting of sources that have the potential to emit above major source thresholds but do not actually emit pollutants at those levels.

DATES: These revisions are effective on October 10, 2003 without further notice, unless EPA receives adverse comments by September 10, 2003. If EPA receives