

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.*).

B. Submission to Congress and the Comptroller General

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 rule 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 August 30, 2004. 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 to approve a revision to the Pittsburgh-Beaver Valley area's maintenance plan for the 1-hour NAAQS 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, Volatile organic compounds.

Dated: June 10, 2004.

Richard J. Kampf,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 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 NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(226) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(226) Revisions to Pennsylvania's 1-hour ozone maintenance plan for the Pittsburgh-Beaver Valley area to revise the highway mobile emissions and, therefore, the motor vehicle emission budgets to reflect the use of MOBILE6. These revisions were submitted by the Commonwealth of Pennsylvania's Department of Environmental Protection on April 22, 2004.

(i) Incorporation by reference.

(A) Letter of April 22, 2004 from the Pennsylvania Department of Environmental Protection transmitting a revision to Pennsylvania's 1-hour ozone maintenance plan for the Pittsburgh-Beaver Valley area.

(B) Document entitled, "Revision to the State Implementation Plan for the Pittsburgh-Beaver Valley Area—Revised Highway Vehicle Emissions Budgets" dated April, 2004. The document revises the Pittsburgh-Beaver Valley 1-hour ozone maintenance plan, establishing revised motor vehicle emission budgets of 74.03 tons/day of volatile organic compounds (VOC) and 140.63 tons/day of nitrogen oxides (NO_x) for 2004, 60.42 tons/day of VOC and 110.37 tons/day of NO_x for 2007, and 45.68 tons/day of VOC and 77.09 tons/day of NO_x for 2011.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(226)(i) of this section.

[FR Doc. 04-14823 Filed 6-30-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ69-276, FRL-7776-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is conditionally approving a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the sodium nitrite manufacturing plant operated by Repauno Products, LLC. This action conditionally approves the source-specific RACT determination that was made by New Jersey in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this final rule is to conditionally approve source-specific emission limitations required by the Clean Air Act.

EFFECTIVE DATE: This rule is effective on August 2, 2004.

ADDRESSES: The official public rulemaking file is available for public viewing during normal business hours at the EPA, Region 2 Office, Air Programs Branch, 290 Broadway, New York, New York 10007-1866. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours at the 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. Copies of documents related to the docket are also available at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Air Programs Branch, Environmental Protection Agency Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4014, Ruvo.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:

Overview

EPA is conditionally approving the New Jersey State Department of Environmental Protection's (New Jersey's) source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO_x) from the sodium nitrite manufacturing plant operated by Repauno Products, LLC (Repauno).

The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

- I. What Action Is EPA Taking Today?
- II. What Comments Did EPA Receive on the Proposal?
- III. What Is EPA's Conclusion?
- IV. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is conditionally approving New Jersey's revision to the ozone State Implementation Plan (SIP) submitted to EPA on July 1, 1999 and supplemented on September 12, 2002, September 26, 2002, April 3, 2003 and May 8, 2003. This SIP revision relates to New Jersey's NO_x RACT determination for Repauno's sodium nitrite manufacturing plant located in Gibbstown, Gloucester County.

EPA published in the **Federal Register** on April 7, 2004 (69 FR 18323) a proposal to conditionally approve New Jersey's SIP revision. The April 7, 2004 proposed rule contains additional information regarding New Jersey's SIP revision, EPA's rationale for conditionally approving New Jersey's SIP revision, and describes in detail the deficiencies that New Jersey must address in order for EPA to fully approve this SIP revision. The two deficiencies are to:

1. Reassess as part of the RACT analysis, the technical and economic feasibility of installing selective catalytic reduction (SCR) technology and,

2. Provide recent continuous emissions monitoring (CEM) data in order to determine an appropriate NO_x RACT emission limitation.

In a letter dated May 14, 2004, New Jersey committed to correct the two deficiencies discussed in the April 7, 2004 proposed rule, and to submit a new SIP revision within one year of the effective date of this rule. Once New Jersey submits a new SIP revision to address these deficiencies, EPA can take action to fully approve the SIP revision. If New Jersey does not submit approvable revisions within one year of the effective date of this rule, this conditional approval will automatically revert to a disapproval of New Jersey's SIP revision. EPA will publish a document in the **Federal Register** indicating whether the conditional approval was satisfied or became a disapproval.

II. What Comments Did EPA Receive on the Proposal?

EPA's April 7, 2004 proposed rule provided a 30-day public comment period. During this period, EPA received one comment letter on the proposal to conditionally approve New Jersey's NO_x RACT determination. EPA's response immediately follows a summary of the public comment.

Comments: A concerned citizen commented in support of lower NO_x emissions in New Jersey and in support of clean air in general. The comments

were not directed at Repauno as a specific source or any specific NO_x emission limitation at Repauno. In addition, the comments did not include any supporting information or justification.

Response: EPA acknowledges the citizen's support for clean air, however no specific information or supporting justification relevant to the NO_x RACT determination for Repauno was provided for EPA to reconsider the proposed conditional approval. For the reasons in this section, and in the April 7, 2004 proposal, EPA is conditionally approving the NO_x emission limitation for Repauno, consistent with the RACT requirements of the Clean Air Act.

III. What Is EPA's Conclusion?

EPA is conditionally approving the New Jersey SIP revision for a source-specific RACT determination for Repauno's sodium nitrite manufacturing plant. This SIP revision contains source-specific NO_x emission limitations for Repauno. EPA is conditionally approving New Jersey's SIP revision, since New Jersey committed to correct the two deficiencies discussed in the April 7, 2004 proposal, and to submit them to EPA as a SIP revision within one year of the effective date of this final rule. EPA received one adverse comment letter on the April 7, 2004 proposal, however the comments did not provide specific information necessary for EPA to reconsider the proposed conditional approval. EPA has determined that until such time that New Jersey corrects the two deficiencies and submits them to EPA as a SIP revision, the NO_x emission limits identified in New Jersey's Conditions of Approval document represents RACT for Repauno's sodium nitrite manufacturing process.

IV. 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.*).

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 rule 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 August 30, 2004. 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: June 9, 2004.

Anthony Cancro,

Acting 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)(77) to read as follows:

§ 52.1570 Identification of plan.

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(c) * * *

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(77) Revisions to the State Implementation Plan submitted by the New Jersey Department of Environmental Protection on July 1, 1999 and supplemented on September 12, 2002, September 26, 2002, April 3, 2003 and May 8, 2003.

(i) Incorporation by reference:

Conditions of Approval Document: Conditions of Approval Document issued by New Jersey on July 1, 1999 to Repauno Products, LLC's sodium nitrite manufacturing plant, Gibbstown, Gloucester County.

(ii) Additional information—Documentation and information to support NO_x RACT facility-specific emission limits in SIP revision addressed to Regional Administrator Jeanne M. Fox from New Jersey Commissioner Robert C. Shinn, Jr.:

(A) July 1, 1999 SIP revision,

(B) September 12, 2002, September 26, 2002, April 3, 2003 and May 8, 2003 supplemental information to the SIP revision,

(C) May 14, 2004 commitment letter from New Jersey.

[FR Doc. 04-14821 Filed 6-30-04; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY68-277, FRL-7776-4]

Conditional Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is conditionally approving a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New York. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the sodium nitrite manufacturing plant operated by General Chemical Corporation. This action conditionally approves the source-specific RACT determination that was made by New York in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this final rule is to conditionally approve source-specific emission limitations required by the Clean Air Act.

DATES: Effective Date: This rule is effective on August 2, 2004.

ADDRESSES: The official public rulemaking file is available for public viewing during normal business hours at the EPA, Region 2 Office, Air

Programs Branch, 290 Broadway, New York, New York 10007-1866. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours at the New York Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233. Copies of documents related to the docket are also available at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Richard Ruvo, Air Programs Branch, Environmental Protection Agency Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4014, Ruvo.Richard@epa.gov.

SUPPLEMENTARY INFORMATION:

Overview

EPA is conditionally approving the New York State Department of Environmental Conservation's (New York's) source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO_x) from the sodium nitrite manufacturing plant operated by General Chemical Corporation (General Chemical).

The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

- I. What Action Is EPA Taking Today?
- II. What Comments Did EPA Receive on the Proposal?
- III. What Is EPA's Conclusion?
- IV. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is conditionally approving New York's revision to the ozone State Implementation Plan (SIP) submitted to EPA on April 12, 2000 and supplemented on May 12, 2000, May 16, 2000, October 10, 2002 and February 24, 2003. This SIP revision relates to New York's NO_x RACT determination for General Chemical's sodium nitrite manufacturing plant located in Solvay, Onondaga County.

EPA published in the **Federal Register** on April 7, 2004 (69 FR 18319) a proposal to conditionally approve New York's SIP revision. The April 7, 2004 proposed rule contains additional information regarding New York's SIP revision, EPA's rationale for conditionally approving New York's SIP revision, and describes in detail the deficiencies that New York must address in order for EPA to fully approve this SIP revision. The three deficiencies are to: