

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R02-OAR-2010-0161; FRL-9175-7]

**Approval and Promulgation of Implementation Plans; Implementation Plan Revision; State of New Jersey****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a request from the State of New Jersey to revise its State Implementation Plan (SIP) to incorporate amendments to Subchapter 4 "Control and Prohibition of Particles from Combustion of Fuel," Subchapter 10 "Sulfur in Solid Fuels," Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds," Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen," and related amendments to Subchapter 21 "Emission Statements." The amendments relate to the control of oxides of nitrogen (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>), particles and volatile organic compounds (VOCs) from stationary sources.

This SIP revision consists of control measures needed to meet the State's commitment to adopt additional reasonably available control technology (RACT) rules that address RACT requirements for the 1997 national ambient air quality standards for ozone. Additionally, the SIP revision includes control measures that will help the State meet the national ambient air quality standards for fine particles.

The intended effect of this action is to approve the State control strategy, which will result in emission reductions that will help achieve attainment of the national ambient air quality standards for ozone and fine particles required by the Clean Air Act (the Act).

**DATES:** *Effective Date:* This rule is effective on *September 2, 2010*.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R02-OAR-2010-0161. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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 <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is 212-637-4249.

**FOR FURTHER INFORMATION CONTACT:** Paul Truchan ([truchan.paul@epa.gov](mailto:truchan.paul@epa.gov)) concerning Subchapters 16 and 21, Anthony (Ted) Gardella ([gardella.anthony@epa.gov](mailto:gardella.anthony@epa.gov)) concerning Subchapter 19, and Kenneth Fradkin ([fradkin.kenneth@epa.gov](mailto:fradkin.kenneth@epa.gov)) concerning Subchapters 4 and 10, at the Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

**SUPPLEMENTARY INFORMATION:****Table of Contents**

- I. What action is EPA taking?
- II. What supplemental SIP information did New Jersey submit?
- III. What comments did EPA receive in response to its proposal?
- IV. What are EPA's conclusions?
- V. Statutory and Executive Order Reviews

**I. What action is EPA taking?**

On April 21, 2009, as supplemented on May 7, 2010, New Jersey submitted a proposed revision to the State Implementation Plan (SIP) that includes amendments to New Jersey Administrative Code, Title 7: Chapter 27 (NJAC 7:27) Subchapter 4 "Control and Prohibition of Particles from Combustion of Fuel;" Subchapter 8 "Permits and Certificates for Minor Facilities (and Major Facilities Without an Operating Permit);" Subchapter 10 "Sulfur in Solid Fuels;" Subchapter 16 "Control and Prohibition of Air Pollution by Volatile Organic Compounds;" Subchapter 19 "Control and Prohibition of Air Pollution from Oxides of Nitrogen;" and Subchapter 21 "Emission Statements."

EPA is approving the State amendments to Subchapter 4 and Subchapter 10 as revisions to the SIP. These amendments relate to the control of particle and sulfur dioxide emissions and will help the State make advances towards reducing regional haze and meeting the national ambient air quality standards (NAAQS) for fine particles.

EPA will review Subchapter 8 and will address the approvability of all Subchapter 8 amendments in a future action.

EPA is approving, as revisions to the New Jersey ozone SIP, the State-adopted amendments to Subchapter 16 and

Subchapter 19, and related amendments to Subchapter 21, each adopted by New Jersey on March 20, 2009, and submitted to EPA on April 21, 2009 and as supplemented on May 7, 2010. New Jersey amended Subchapter 16 and Subchapter 19 to meet the State's commitment to adopt additional RACT rules for 12 of 13 source categories (see 74 FR 2945, January 16, 2009), which will result in additional emission reductions of NO<sub>x</sub> and VOCs. New Jersey's State-adopted Subchapters 16 and 19, and the related amendments to Subchapter 21, are fully approvable as SIP-strengthening measures for New Jersey's ozone SIP. The amendments to Subchapters 16, 19 and 21 in New Jersey's submittal meet the State's commitment to adopt additional RACT control measures for 12 of 13 source categories to achieve additional emission reductions of NO<sub>x</sub> and VOCs to attain the 8-hour ozone standard. The one remaining source category, adhesives and sealants, will be addressed in a separate rulemaking.

For additional details on EPA's analysis and findings the reader is referred to the proposal published in the April 23, 2010 **Federal Register** (75 FR 21197) and a more detailed discussion as contained in the Technical Support Document which is available on line at <http://www.regulations.gov>, Docket number EPA-R02-OAR-2010-0161.

**II. What supplemental SIP information did New Jersey submit?**

On May 7, 2010, New Jersey submitted to EPA a supplement to the State's proposed SIP revision dated April 21, 2009. The supplement consists of two administrative changes to Subchapter 19 and includes a copy of the changes as published in the New Jersey Register (NJR) and the updated version of Subchapter 19. The specific administrative changes to Subchapter 19 are as follows: (1) At section 7:27-19.1, the definition of "interim period" is changed to correct an erroneous date and now correctly limits the end date of the "interim period" for phased compliance for reasons of practicability pursuant to section 19.22 to no later than May 19, 2010 (41 NJR 2648(c), dated July 6, 2009); and (2) at section 7:27-19.29(b)2, the deadline for owners/operators of High Electric Demand Day (HEDD) units to submit the 2009 HEDD Emission Reduction Compliance Demonstration Protocol ("2009 Protocol") is corrected and shortened to the rule operative date of May 19, 2009 (41 NJR 2470(a), dated June 15, 2009).

The first administrative change regarding the definition of "interim period" addresses EPA's comment in the

April 23, 2010 proposal (see section I.I.5) regarding an inconsistency between two provisions. The second administrative change clarifies when the 2009 Protocol is required to be submitted by owners/operators of HEDD units regulated under section 19.29 of Subchapter 19. EPA agrees with these changes.

This supplement to the SIP is included in the Docket and may be viewed by the reader at <http://www.regulations.gov>.

### III. What comments did EPA receive in response to its proposal?

No comments were received on EPA's April 23, 2010 proposal.

### IV. What are EPA's conclusions?

EPA has evaluated New Jersey's submittal for consistency with the Act, EPA regulations, and EPA policy. The new control measures will strengthen the SIP by providing additional NO<sub>x</sub>, SO<sub>2</sub>, fine particulate, and VOC emission reductions that the State committed to achieve. Accordingly, EPA is approving the revisions to Subchapters 4, 10, 16, 19, and related revisions to Subchapter 21, as adopted on March 20, 2009 and July 6, 2009, except that EPA is continuing to not act on the phased compliance plans by repowering and innovative control in sections 19.21 and 19.23, respectively. In addition, EPA has determined that New Jersey has met the requirement to adopt NO<sub>x</sub> RACT and EPA is removing 40 CFR 52.1576, relating to a prior finding that NO<sub>x</sub> RACT was not included in the New Jersey SIP. At a later date, EPA will act on Subchapter 8, as adopted by New Jersey on March 20, 2009.

With the adoption of Subchapters 16, 19 and 21, New Jersey has fulfilled its commitment to adopt additional RACT control measures for 12 of 13 source categories to achieve additional emission reductions of NO<sub>x</sub> and VOCs to attain the 8-hour ozone standard. The one remaining source category, adhesives and sealants, will be addressed in a separate rulemaking.

### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose

additional requirements beyond those imposed by state law. 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 the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 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 4, 2010. 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, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 2, 2010.

**Judith A. Enck,**

*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)(88) to read as follows:

#### § 52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(88) A revision submitted on April 21, 2009, as supplemented on May 7, 2010, by the New Jersey Department of Environmental Protection (NJDEP) that establishes revised control measures for achieving additional reductions of NO<sub>x</sub>, SO<sub>2</sub>, fine particulate, and VOC emissions from stationary sources that will help achieve attainment of the national ambient air quality standard for ozone and fine particles, as well as help to reduce regional haze.

(i) Incorporation by reference:

(A) New Jersey Administrative Code, Title 7, Chapter 27 (NJAC 7:27): Subchapter 4 "Control and Prohibition

of Particles from Combustion of Fuel” with an effective date of April 20, 2009; Subchapter 10 “Sulfur in Solid Fuels” with an effective date of April 20, 2009; Subchapter 16 “Control and Prohibition of Air Pollution by Volatile Organic Compounds” with an effective date of April 20, 2009; Subchapter 19 “Control and Prohibition of Air Pollution from Oxides of Nitrogen” with an effective date of July 6, 2009 (including two Administrative Corrections published in

the New Jersey Register on June 15, 2009 and July 6, 2009); and Subchapter 21 “Emission Statements” with an effective date of April 20, 2009.  
 (ii) Additional information:  
 (A) Letter dated April 21, 2009 from Acting Commissioner Mark N. Mauriello, NJDEP, to George Pavlou, Acting Regional Administrator, EPA Region 2, submitting the SIP revision for Subchapters 4, 8, 10, 16, 19 and 21.  
 (B) Letter dated May 7, 2010 from Director William O’Sullivan, NJDEP, to

Barbara Finazzo, Director, Division of Environmental Planning and Protection, EPA Region 2, submitting supplemental SIP information for Subchapter 19.

■ 3. Section 52.1605 is amended by revising the table entries, under Title 7, Chapter 27: for Subchapters 4, 10, 16, 19, and 21, to read as follows:

**§ 52.1605 EPA-approved New Jersey regulations.**

State regulation	State effective date	EPA approved date	Comments
*	*	*	*
Title 7, Chapter 27:			
*	*	*	*
Subchapter 4, “Control and Prohibition of Particles from Combustion of Fuel.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	
*	*	*	*
Subchapter 10, “Sulfur in Solid Fuels.”	April 20, 2009 .....	August 3, 2010, 2009 [Insert Federal Register page citation].	Notification of “large zone 3 coal conversions” must be provided to EPA (40 CFR 52.1601(b)).
*	*	*	*
Subchapter 16, “Control and Prohibition of Air Pollution by Volatile Organic Compounds.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	
*	*	*	*
Subchapter 19, “Control and Prohibition of Air Pollution from Oxides of Nitrogen.”	July 6, 2009, as corrected on June 15, 2009 and July 6, 2009.	August 3, 2010 [Insert Federal Register page citation].	Subchapter 19 is approved into the SIP except for the following provisions: (1) phased compliance plan through repowering in §§19.21 that allows for implementation beyond May 1, 1999; and (2) phased compliance plan through the use of innovative control technology in §§19.23 that allows for implementation beyond May 1, 1999.
*	*	*	*
Subchapter 21, “Emission Statements.”	April 20, 2009 .....	August 3, 2010 [Insert Federal Register page citation].	Section 7:27–21.3(b)(1) and 7:27–21.3(b)(2) of New Jersey’s Emission Statement rule requires facilities to report on the following pollutants to assist the State in air quality planning needs: hydrochloric acid, hydrazine, methylene chloride, tetrachlorethylene, 1, 1, 1 trichloroethane, carbon dioxide and methane. EPA will not take SIP-related enforcement action on these pollutants.
*	*	*	*

**§ 52.1576 [Reserved]**

■ 4. Section 52.1576 is removed and reserved.

[FR Doc. 2010–18887 Filed 8–2–10; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 81**

[EPA–R09–OAR–2010–0590; FRL–9184–6]

**Determination of Attainment for PM<sub>10</sub> for the Las Vegas Valley Nonattainment Area, NV**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that the Las Vegas Valley nonattainment area in Nevada attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten micrometers (PM<sub>10</sub>) by the applicable attainment date (December 31, 2006), and that the Las Vegas Valley nonattainment area is currently attaining the standard.

**DATES:** This action is effective on *October 4, 2010* without further notice,