

Date: July 4th.
Location: 1,000 feet offshore from the Sausalito waterfront, north of Spinnaker Rest.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, Lake Tahoe

Sponsor: Anchor Trust.
Event Description: Fireworks display.
Date: July 4th.
Location: 1,000 feet off of Incline Village, Nevada, in Crystal Bay.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Fourth of July Fireworks, South Lake Tahoe Gaming Alliance

Sponsor: Harrah's Lake Tahoe.
Event Description: Fireworks display.
Date: July 4th.
Location: Off of South Lake Tahoe, California, near the Nevada border.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Independence Day Fireworks

Sponsor: North Tahoe Fire Protection District.
Event Description: Fireworks display.
Date: July 4th.
Location: Offshore from Kings Beach State Beach.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

July 4th Fireworks Display

Sponsor: North Tahoe Fire Protection District.
Event Description: Fireworks display.
Date: July 4th.
Location: Offshore of Common Beach, Tahoe City, California
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

San Francisco Chronicle Fireworks Display

Sponsor: San Francisco Chronicle.
Event Description: Fireworks display.
Date: July 4th.
Location: San Francisco, 1,000 feet off Municipal Pier and Pier 39.
Regulated Area: Black Point: 37°48'30" N, 122°25'42" W thence to NW Corner: 37°48'52" N, 122°25'42" W thence to NE Corner: 37°49'10" N, 122°24'30" W thence to SE Corner: 37°48'42" N, 122°24'30" W.

Vallejo Fourth of July Fireworks

Sponsor: Vallejo Marina.
Event Description: Fireworks display.
Date: July 4th.
Location: Mare Island Strait.
Regulated Area: That area of navigable waters within a 1,000-foot radius of the launch platform.

Race the Straits

Sponsor: Pacific Offshore Powerboat Racing Association.
Event Description: Professional high-speed powerboat race.
Date: Sunday in July.

Location: Carquinez Strait and San Pablo Strait.

Regulated Area: 38°02'12" N, 122°08'31" W thence to 38°02'38" N, 122°10'00" W thence to 38°03'20" N, 122°10'20" W thence to 38°03'47" N, 122°13'32" W thence to 38°03'36" N, 122°17'37" W thence to 38°03'19" N, 122°17'34" W thence to 38°03'35" N, 122°13'32" W thence to 38°03'24" N, 122°12'01" W thence to 38°02'58" N, 122°10'58" W thence to 38°01'55" N, 122°09'47" W thence to 38°01'58" N, 122°08'31" W thence returning to the point of origin.

Delta Thunder

Sponsor: Pacific Offshore Powerboat Racing Association.
Event Description: Professional high-speed powerboat race.
Date: Sunday in September.
Location: Off Pittsburgh, California, in the waters around Winter Island and Brown Island.

Regulated Area: The entire water area of Suisun Bay east of a line drawn from Simmons Point on Chips Island to Stake Point to the southwest on the opposite side of Suisun Bay; thence easterly through Suisun Bay and continuing easterly through New York Slough to Buoy 13; thence north-northwesterly to the eastern edges of Fraser Shoal; thence continuing northwesterly along the entire southern shores of Chain Island; thence southwesterly through the entire waters of Suisun Bay and returning to the point of origin.

Festival of the Sea

Sponsor: San Francisco Maritime National Historical Park.
Event Description: Tugboat race.
Date: Sunday in September.
Location: From Crissy Field to Hyde Street Pier.

Regulated Area: San Francisco Bay immediately off of Golden Gate Yacht Club, Gashouse Cove, Aquatic Park and the Hyde Street Pier. All mariners may proceed with caution but must keep at least 500 feet from the competing tugboats.

Dated: 28 July 1998.

R.D. Sirois,

Captain, U.S. Coast Guard Commander, Eleventh Coast Guard District Acting.

[FR Doc. 98-23372 Filed 8-28-98; 8:45 am]

BILLING CODE 4910-15-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NJ31-1-182, FRL-6153-9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes approval of revisions to the New Jersey State Implementation Plan (SIP) for ozone. This portion of the implementation plan was submitted by the State as an amendment to New Jersey's rules for the application of reasonably available control technology (RACT) for oxides of nitrogen (NO_x) in the entire State. The Clean Air Act (the Act) requires implementation of NO_x RACT at major stationary sources of NO_x emissions in the State of New Jersey by May 31, 1995.

DATES: Comments must be received on or before September 30, 1998.

ADDRESSES: All comments should be addressed to: Ronald Borsellino, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007-1866.

Copies of the state submittal and other information are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 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 Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Ted Gardella, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION:

I. Background

The air quality planning requirements for the reduction of NO_x emissions through application of RACT are set out in section 182(f) of the Act. The EPA described § 182(f) requirements in a notice entitled "State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule," (NO_x Supplement) which was published on November 25, 1992 (57 FR 55620). For detailed information on the NO_x requirements, refer to the NO_x Supplement and to additional NO_x guidance memoranda released subsequent to the NO_x Supplement.

The EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering

technological and economic feasibility (44 FR 53762; September 17, 1979).

Section 182 of the Act provides requirements for marginal and above nonattainment areas. Within ozone nonattainment areas classified moderate or above and areas within an ozone transport region, § 182(f) requires that States apply the same requirements to major stationary sources of NO_x ("major" as defined in § 302 and § 182(c), (d), and (e)) as are applied to major stationary sources of volatile organic compounds (VOCs). For more information on what constitutes a major source, see section 2 of the NO_x Supplement to the General Preamble.

Section 182(b)(2) of the Act requires submissions, by November 15, 1992, of SIP revisions which provide for implementation of RACT as expeditiously as practicable but no later than May 31, 1995, where for a source category EPA has issued a control technique document (CTG) before November 15, 1990, or for all major stationary sources that the Agency has not issued a CTG. For sources covered by a CTG between November 15, 1990 and the date of attainment, § 182(b)(2) requires SIP revisions within the period set forth by the Administrator in issuing the CTG document.

EPA did not issue any CTGs for major stationary sources of NO_x either before or after November 15, 1990. Therefore, § 182(b)(2) of the Act requires submission, by November 15, 1992, of all SIP revisions which provide for implementation of RACT on major stationary sources of NO_x for all ozone nonattainment areas classified moderate or above and for all ozone transport regions. New Jersey, which is within the Northeast ozone transport region established by § 184(a) of the Act, should have submitted SIP revisions, by November 15, 1992, which provided for implementation of the NO_x RACT revisions as expeditiously as practicable but no later than May 31, 1995. Sections 182(f) and 184(b) of the Act require the application of NO_x RACT requirements Statewide.

II. State Submittal

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 is effective on December 20, 1993. New Jersey held public hearings on Subchapter 19 in March 1993 and adopted it on November 15, 1993. On January 27,

1997, EPA published final approval of Subchapter 19 in the **Federal Register** (62 FR 3804) and the rule became effective on February 26, 1997.

New Jersey held public hearings on the amendments to Subchapter 19 in September 1994 and the Commissioner signed and adopted these amendments on March 24, 1995. On June 21, 1996, New Jersey submitted, to EPA, as a revision to the SIP, the amendments to Subchapter 19. EPA reviewed the submittal to determine completeness in accordance with criteria set out at 40 CFR 51. In a letter to the Commissioner dated September 26, 1996, EPA indicated it had found the submittal administratively and technically complete.

The June 1996 submittal includes six new provisions and various amendments to Subchapter 19. For a more detailed discussion of New Jersey's submittal and EPA's proposed action on the submittal, refer to the Technical Support Document developed as part of this proposed action located at the previously mentioned addresses.

III. Analysis of New Jersey's SIP Submission

A. New Provisions

1. Fuel Switching

Section 19.20 of Subchapter 19 permits any combustion source to attain compliance through seasonal combustion of natural gas or any other fuel that is cleaner than the base year fuel. Section 19.20 replaces section 19.4(b) which allowed fuel switching only to certain utility boilers whereas this new provision applies to all combustion sources. The new fuel switching provision requires a combustion source to meet specified emission limits each day during the ozone season, a 30-day rolling average during the non-ozone season, and an annual NO_x emission limit. The fuel switching limits are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

2. Phased Compliance—Repowering

Section 19.21 of Subchapter 19 permits any combustion source to attain compliance through repowering. Repowering is the permanent ceasing of operations of the steam generator and either the installation of a new combustion source or the purchase of heat or power from the owner of a new combustion source that is located in New Jersey. Section 19.21 requires a combustion source to submit an analysis that defines RACT for the interim period

between May 31, 1995 and the date the source will be repowered which will be no later than May 1, 1999; and to submit the dates for completion of repowering milestones. The source also must commit to meeting emission limits, after the repowering is completed, which rely on advanced control techniques. The maximum allowable NO_x emission rate, expressed in pounds per million BTUs (lb/MM BTU), for repowered utility boilers ranges from 0.1 to 0.2 depending upon the type of boiler and type of fuel.

Section 19.21 replaces § 19.4(c) which allowed repowering only to utility boilers whereas this new provision applies to all combustion sources. New Jersey's repowering provision in § 19.21 is consistent with EPA's repowering guidance issued in March 1994. The phased compliance repowering requirements are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

3. Phased Compliance—Impracticability of Full Compliance by May 31, 1995

Section 19.22 permits a combustion source to implement RACT after May 31, 1995 if it is impracticable to attain full compliance by that date despite the best efforts of the owners/operators. Under this circumstance, New Jersey allows an owner/operator to meet RACT requirements by complying with a plan for phased compliance. In its application to New Jersey for approval of a phased compliance plan, the owner/operator must describe the efforts taken to bring the source into full compliance by May 31, 1995 and must explain the circumstances that make full compliance by that date impracticable. The compliance plan must include a compliance schedule and the proposed NO_x control measure that the source will employ during the interim period between May 31, 1995 and the date when the source will achieve full compliance. Section 19.22 requires the interim period be less than twelve months, i.e., by May 31, 1996.

Section 19.22 is consistent with EPA guidance for phased compliance as published in the **Federal Register** (57 FR 55620, November 23, 1992) and is enforceable through compliance schedules and the applicable averaging time, test methods, and reporting and recordkeeping requirements.

4. Phased Compliance—Use of Innovative Control Technology

Section 19.23 allows a combustion source to attain compliance through the use of innovative control technology. Section 19.23 applies to all combustion

sources. Innovative control technology is a control measure which has a substantial likelihood of achieving lower continuous levels of NO_x emissions as required under Subchapter 19, but which has not been adequately demonstrated and is not available to be implemented before May 31, 1995. In this situation, the combustion source is not expected to attain full compliance with Subchapter 19 by May 31, 1995 but instead, New Jersey requires the source to achieve a greater emission reduction at a later date. In its compliance plan application, the owner/operator must submit a RACT analysis for determining "interim RACT," a milestone schedule for implementing the innovative control technology, and a demonstration that the innovative technology to be implemented is technically sound and sufficiently developed to be implemented by May 1, 1999.

New Jersey's innovative control technology provision in § 19.23 is consistent with EPA's July 1994 guidance. The phased compliance requirements through the use of innovative control technology are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

5. Maximum Emergency Generation (MEG) Alerts

Section 19.24 provides that during a MEG alert which occurs on or before November 15, 2005, an emergency generating unit operating at emergency capacity is exempt from the NO_x emission limits applicable under Chapter 27 including Subchapter 19 and any limit set forth in the unit's permit. Subchapter 19 defines MEG alert as a period in which one or more electric generating units are operated at emergency capacity at the direction of the load dispatcher, in order to prevent or mitigate voltage reductions or interruptions in electrical service or both. When an electrical generating unit is operating beyond its normal maximum capacity during a MEG alert, its rate of NO_x emissions is likely to increase significantly. New Jersey requires that the generating unit obtain offsetting NO_x emission reductions, at a ratio of 1.3 to 1.0, to compensate for the excess NO_x emissions. The affected source is required to report the MEG alert to New Jersey along with the determination of excess NO_x emissions and compensation.

MEG alerts most typically occur during the summer ozone season when high demand for electricity occurs due to high usage of air conditioners and industrial cooling equipment. MEG alerts could also occur during bitterly

cold weather or as a result of a catastrophic event or some major failure at a generating unit. New Jersey has reported (26 *New Jersey Register* 3304, August 15, 1994) that one of the major utilities in the State responded to alerts for a total of sixteen hours during the ozone and non-ozone seasons of the three-year period of 1990 to 1992.

EPA considers MEG alerts to have minimal impact on air quality during these emergency situations when the security and safety of the public could be at risk if an exemption were not granted. In addition, New Jersey has limited the NO_x exemption period for MEG alerts until November 15, 2005 which is the primary standard attainment date for ozone established under § 181(a)1 of the Act for most of New Jersey. Beyond November 15, 2005, the MEG alert exemption no longer applies and affected sources must comply with the emission limits of Chapter 27 including Subchapter 19.

6. Exemption for Emergency Use of Fuel Oil

Section 19.25 permits an exemption to sources that combust natural gas or refinery gas as its primary year-round fuel and to sources that combust natural gas during the ozone season. The exemption allows the use of fuel oil or other liquid fuels during the periods when natural gas/refinery gas is unavailable. During this period the source is exempt from the applicable emission limits of Subchapter 19. Section 19.25 establishes requirements for a source to be eligible for an exemption including a 500 hour rolling annual limit on the use of fuel oil/liquid fuel, recordkeeping and reporting requirements, and the resumption to natural gas as soon as it becomes available in sufficient supply. Future revisions to Subchapter 19 should include language to § 19.25(c) that clearly establishes that the exemption eligibility criteria apply to sources that combust refinery gas as well as to those combusting natural gas. Currently, § 19.25 directly states that the exemption eligibility criteria apply to sources that combust natural gas but only infers that it applies to sources that combust refinery gas.

Section 19.25 is enforceable through appropriate averaging times, recordkeeping and reporting requirements. Furthermore, emergency sources that operate with fuel oil more than 500 hours per consecutive 12 month period are subject to emission controls and/or enforcement action in accordance with Subchapter 19. Finally, natural gas curtailments historically occur in the winter months when ozone

formation is minimal and therefore an ozone exceedance is highly improbable.

B. Amendments

1. Ozone Season

Sections 19.2 (Purpose, scope and applicability), 19.6 (Emissions averaging), 19.7 (non-utility boilers and other indirect heat exchangers), 19.15 (Procedures and deadlines for demonstrating compliance), 19.19 (Recordkeeping and reporting) are amended to revise the start of the ozone season from May 15 to May 1 whereas the September 15 end date remains unchanged. This revision to the start of the ozone season is in agreement with EPA's general requirement for ozone monitoring (40 CFR Part 58, Appendix D, section 2.5).

2. Non-utility Boilers and Other Indirect Heat Exchangers

Section 19.7 is amended to include the source category "other indirect heat exchangers" requiring the same RACT limitations as non-utility boilers. New Jersey provides a definition and examples of indirect heat exchangers to include boilers, duct burners and process heaters. Section 19.7 requires a new emission limit of 0.20 lb/MM BTU for tangential and face-fired affected units that combust refinery gas and which have a maximum gross heat input of at least 50 MM BTU/hr.

New Jersey's emission limits are consistent with EPA's guidance. The emission limits are enforceable through appropriate averaging times, test methods, compliance schedules, and reporting and recordkeeping requirements.

3. Exemption for Thermal Oxidizers

Section 19.13 is amended to include an exemption to owners/operators of thermal oxidizers from the requirements to submit a facility-specific NO_x Control Plan that would establish RACT for the source. New Jersey has reviewed NO_x Control Plans for these sources and has determined that there is no existing NO_x control technology that could appropriately be considered RACT. Although EPA has not provided NO_x RACT guidance for thermal oxidizers, New Jersey has demonstrated that there are no NO_x control measures which represent RACT for these sources. Therefore, EPA proposes approval of this amendment.

4. Other Amendments

The following include administrative and procedural provisions to Subchapter 19 which were amended by New Jersey and reviewed by EPA: definitions; purpose, scope and

applicability; general provisions; utility boilers; stationary gas turbines; emissions averaging; non-utility boilers and other indirect heat exchangers; stationary internal combustion turbines; asphalt plants; glass manufacturing furnaces; facility-specific NO_x emission limits; procedures for obtaining approvals under this subchapter; procedures and deadlines for demonstrating compliance; recordkeeping and reporting; and penalties. EPA has evaluated the amendments to these provisions in Subchapter 19 for consistency with EPA policy and has determined that they meet the requirements. Therefore, EPA proposes approval of these amendments.

IV. Summary

The EPA is proposing full approval of the new provisions and amendments to Subchapter 19, "Control and Prohibition of Air Pollution From Oxides of Nitrogen." The new provisions and amendments to Subchapter 19 were submitted by the State of New Jersey on June 21, 1996 for the marginal, moderate, and severe ozone nonattainment areas. New Jersey has applied Subchapter 19 to the entire State, regardless of the nonattainment status.

Administrative Requirements

Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small

entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

Executive Order 13045

The proposed rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to state, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a federal mandate that may result in estimated annual costs of \$100 million or more to either state, local, or tribal

governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional annual costs to state, local, or tribal governments, or to the private sector, result from this action.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. section 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. section 804(2).

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 30, 1998. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C 7401 *et seq.*

Dated: August 19, 1998.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 98-23323 Filed 8-28-98; 8:45 am]

BILLING CODE 6560-50-P