

other limitations on the group's use of M's net operating loss, the P group cannot use M's \$10 net operating loss pursuant to paragraph (g)(3)(iii)(D) of this section. Pursuant to paragraph (g)(3)(iv) of this section and § 1.1502-32(b)(3)(iii)(D), such loss is treated as a noncapital, nondeductible expense of M incurred during the taxable year that it would otherwise be absorbed, namely in Year 9. In addition, the P group is denied the use of \$10 of the loss recognized on the sale of Asset C. Finally, the P group is denied the use of \$10 of the loss recognized on the sale of Asset D. Pursuant to paragraph (g)(3)(iv) of this section and § 1.1502-32(b)(3)(iii)(D), each such disallowed loss is treated as a noncapital, nondeductible expense of M incurred during the taxable year that includes the date of the disposition of the asset with respect to which such loss was recognized.

**Example 3. Transfers to avoid recognition of gain—(i) Facts.** P owns all of the stock of S1 and S2. The S2 stock has a basis of \$400 and a value of \$500. S1 owns 50% of the stock of the S3 common stock with a basis of \$150. S2 owns the remaining 50% of the S3 common stock with a basis of \$100 and a value of \$200 and one share of S3 preferred stock with a basis of \$10 and a value of \$9. P intends to sell all of its S2 stock to an unrelated buyer. P, therefore, engages in the following steps to dispose of S2 without recognizing a substantial portion of the built-in gain in S2. First, P causes a

recapitalization of S3 in which S2's S3 common stock is exchanged for new S3 preferred shares. P then sells all of its S2 stock. Immediately after the sale of the S2 stock, S3 is a member of the P group.

(ii) **Analysis.** Pursuant to paragraph (b)(4) of this section, because S2 owns stock of S3 (another subsidiary of the same group) and, immediately after the sale of the S2 stock, S3 is a member of the group, then for purposes of applying paragraph (b) of this section, S2 is deemed to have transferred its S3 stock. Because S3 is a member of the group immediately after the transfer of the S2 stock and the S3 stock deemed transferred has a basis in excess of value, the group member's basis in the S3 stock is redetermined pursuant to paragraph (b)(1) of this section immediately prior to the sale of the S2 stock. Pursuant to paragraph (b)(1) of this section, the total basis of S3 stock held by members of the P group is allocated first to the S3 preferred shares, up to their value of \$209, and then to the remaining shares of S3 common held by S1. S2's aggregate basis in the S3 preferred stock is increased from \$110 to \$209. This increase tiers up and increases P's basis in the S2 stock from \$400 to \$499. Accordingly, P will recognize only \$1 of gain on the sale of its S2 stock. However, because the recapitalization of S3 was structured with a view to, and has the effect of, avoiding the recognition of gain on a disposition of stock by invoking the application of paragraph (b) of this section, paragraph (g)(4)(i) of this

section applies. Accordingly, paragraph (b) of this section does not apply upon P's disposition of the S2 stock and P recognizes \$100 of gain on the disposition of the S2 stock.

(h) **Application of other anti-abuse rules.** The rules of this section do not preclude the application of anti-abuse rules under other provisions of the Internal Revenue Code and regulations thereunder.

(i) [Reserved].

(j) **Effective date.** This section, except for paragraph (g)(3) of this section, applies with respect to stock transfers, deconsolidations of subsidiaries, determinations of worthlessness, and stock dispositions on or after March 10, 2006. For rules applicable before March 10, 2006, see § 1.1502-35T(j) as contained in 26 CFR part 1 in effect on January 1, 2006.

#### § 1.1502-35T [Removed]

■ **Par. 7.** Section 1.1502-35T is removed.

■ **Par. 8.** For each section listed in the table remove the language in the "Remove" column and add in its place the language in the "Add" column as set forth below:

Section	Remove	Add
§ 1.267(f)-1(k) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.597-4(g)(2)(v) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-11(b)(3)(ii)(c) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-12(r) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-15(b)(2)(iii) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-21(b)(1) .....	§ 1.1502-35T(f)(1) .....	§ 1.1502-35(f)
§ 1.1502-32(b)(3)(iii)(B) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-80(c) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-80T(c) .....	§ 1.1502-35T .....	§ 1.1502-35
§ 1.1502-91(h)(2) .....	§ 1.1502-35T .....	§ 1.1502-35

#### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 9.** The authority citation for part 602 continues to read as follows:

**Authority:** 26 U.S.C. 7805.

■ **Par. 10.** In § 602.101, paragraph (b) is amended by removing the entry for § 1.1502-35T and adding an entry to the table in numerical order to read as follows:

#### § 602.101 OMB Control numbers.

\* \* \* \* \*

(b) \* \* \*

CFR part or section where identified and described	Current OMB control No.
* * *	*
1.1502-35 .....	1545-1828
* * *	*

**Mark E. Matthews,**

*Deputy Commissioner for Services and Enforcement.*

Approved: March 7, 2006.

**Eric Solomon,**

*Acting Deputy Assistant Secretary of the Treasury.*

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#### DEPARTMENT OF THE TREASURY

##### Office of the Secretary

##### 31 CFR Part 10

##### Practice Before the Internal Revenue Service

##### CFR Correction

In Title 31 of the Code of Federal Regulations, parts 0 to 199, revised as of July 1, 2005, on page 178, part 10 is corrected by reinstating § 10.53 to read as follows:

#### § 10.53 Receipt of information concerning practitioner.

(a) *Officer or employee of the Internal Revenue Service.* If an officer or employee of the Internal Revenue Service has reason to believe that a practitioner has violated any provision

of this part, the officer or employee will promptly make a written report to the Director of Practice of the suspected violation. The report will explain the facts and reasons upon which the officer's or employee's belief rests.

(b) *Other persons.* Any person other than an officer or employee of the Internal Revenue Service having information of a violation of any provision of this part may make an oral or written report of the alleged violation to the Director of Practice or any officer or employee of the Internal Revenue Service. If the report is made to an officer or employee of the Internal Revenue Service, the officer or employee will make a written report of the suspected violation to the Director of Practice.

(c) *Destruction of report.* No report made under paragraph (a) or (b) of this section shall be maintained by the Director of Practice unless retention of such record is permissible under the applicable records control schedule as approved by the National Archives and Records Administration and designated in the Internal Revenue Manual. The Director of Practice must destroy such reports as soon as permissible under the applicable records control schedule.

(d) *Effect on proceedings under subpart D.* The destruction of any report will not bar any proceeding under subpart D of this part, but precludes the Director of Practice's use of a copy of such report in a proceeding under subpart D of this part.

[FR Doc. 06-55512 Filed 3-13-06; 8:45 am]

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52

[EPA-R08-OAR-2005-CO-0002; FRL-8044-4]

#### Clean Air Act Approval and Promulgation of Air Quality Implementation Plan Revision for Colorado; Long-Term Strategy of State Implementation Plan for Class I Visibility Protection; Withdrawal of Direct Final Rule

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** On January 24, 2006 (71 FR 3773), EPA published a direct final rule to approve a revision updating the Long-Term Strategy of the State Implementation Plan (SIP) for Class I Visibility Protection, which was

submitted by the Governor of Colorado with a letter dated March 24, 2005. The direct final action was published without prior proposal because EPA anticipated no adverse comments. EPA stated in the direct final rule that if we received adverse comments by February 23, 2006, the direct final rule would be withdrawn and would not take effect. EPA subsequently received timely adverse comments. Therefore, the direct final rule is being withdrawn and the comments will be addressed in a subsequent final rule based on the proposed rule also published on January 24, 2006 (71 FR 3796). EPA will not institute a second comment period on this action.

**DATES:** The direct final rule published on January 24, 2006 (71 FR 3773) is withdrawn as of March 14, 2006.

**FOR FURTHER INFORMATION CONTACT:** Amy Platt, Air and Radiation Program (8P-AR), Environmental Protection Agency, Region 8, 999 18th Street, Suite 200, Denver, Colorado 80202-2466, (303) 312-6449, [Platt.Amy@epa.gov](mailto:Platt.Amy@epa.gov).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: March 2, 2006.

**Kerrigan G. Clough,**

*Acting Regional Administrator, Region 8.*

### PART 52—[AMENDED]

#### § 52.320 [Amended]

■ Accordingly, the addition of 40 CFR 52.320(c)(108) (which published in the *Federal Register* on January 24, 2006 at 71 FR 3773) is withdrawn as of March 14, 2006.

[FR Doc. 06-2395 Filed 3-13-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket No. EPA-R02-OAR-2004-NJ-0001, FRL-8040-4]

#### 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 Environmental Protection Agency is 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 cogeneration facility operated by Schering Corporation. This action approves of 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 action is to approve source-specific emission limitations required by the Clean Air Act.

**DATES:** *Effective Date:* This rule will be effective April 13, 2006.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) Docket ID Number EPA-R02-OAR-2004-NJ-0001. All documents in the docket are listed in the Regional Material in EDocket (RME) index at <http://docket.epa.gov/rmepub/>, once in the system, select "quick search," then key in the appropriate RME Docket identification number. Publicly available docket materials are available either electronically in Regional Material in EDocket 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. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the Air and Radiation Docket and Information Center, Environmental Protection Agency, Room B-108, 1301 Constitution Avenue, NW., Washington, DC; and 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.

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

#### SUPPLEMENTARY INFORMATION:

##### I. What Action Is EPA Taking Today?

EPA is approving a revision to the New Jersey State Department of Environmental Protection's (New Jersey's) ozone State Implementation Plan (SIP) submitted on March 31, 2005. This SIP revision relates to New Jersey's source-specific reasonably available