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in the direct final rule that if we received adverse comments by February 23, 2006, the direct final rule would be withdrawn and would not take effect.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.*

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*).

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

control technology (RACT) determination for controlling oxides of nitrogen (NO_X) from the Schering Corporation's (Schering) heat recovery steam generator (HRSG) with duct burner for the cogeneration facility located in Union, New Jersey. The reader is referred to the proposed rulemaking on this action (July 1, 2005, 70 FR 38068) for additional details.

II. What Comments Were Received and What Is EPA's Response?

EPA's July 1, 2005 proposed rule provided a 30-day public comment period. During this period, EPA received two comment letters on the proposal to approve New Jersey's NO_X RACT determination. EPA's response immediately follows a summary of each public comment.

Comments: Schering submitted a comment letter which provided a chronology of events regarding the operation and regulatory status of the HRSG. Schering's letter requested approval to operate the HRSG in the same manner that EPA and New Jersey approved Schering to operate a similar HRSG at the same cogeneration facility in 1998.

Response: By submitting the source-specific RACT determination to New Jersey and EPA for review and approval, Schering in essence has already formally made the request to operate the HRSG in a way similar to another unit at the facility. Therefore, EPA is satisfying Schering's request by proceeding with this action on the source-specific SIP revision.

Comments: A concerned citizen commented EPA is doing nothing to make New Jersey's air cleaner. The comments were not directed at Schering as a specific source or at any specific NO_X emission limitation at Schering. In addition, the comments did not include any supporting information or justification on how EPA can make the air cleaner.

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 Schering was provided for EPA to reconsider the proposed approval. For the reasons in this section, and in the July 1, 2005 proposal, EPA is approving the NO_X emission limitation for Schering, consistent with the RACT requirements of the Clean Air Act. With respect to the citizen's comment that EPA is doing nothing to clean the air in New Jersey, EPA is championing a host of programs including the Clean Air Interstate Rule, the Clean Air Mercury Rule, and diesel retrofit programs for trucks and buses. These and other programs, in cooperation with the State of New Jersey, will help to clean the air and to meet the national ambient air quality standards in New Jersey and across the country.

III. What Are EPA's Conclusions?

EPA has determined New Jersey's SIP revision for New Jersey's NO_X RACT determination for Schering's HRSG with duct burner is consistent with New Jersey's NO_X RACT regulation and EPA's guidance. EPA has determined that the NO_X emission limits identified in New Jersey's Conditions of Approval document represents RACT for Schering's HRSG with duct burner. More specifically, EPA approves the current Conditions of Approval document which includes an alternative emission limit for the HRSG/duct burner when operating in the fresh air fired mode and when firing natural gas. The limit will be the lower of 0.17 lbs/MMBtu, or 115% of the average of three one-hour stack tests, each performed over a consecutive 60-minute period. Accordingly, EPA is approving the New Jersey SIP revision for an alternative RACT emission limit determination for Schering's HRSG with duct burner.

IV. Statutory and Executive Order Reviews

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 (Pub. L. 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), because it 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 May 15, 2006. 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, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 22, 2006.

Alan J. Steinberg,

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)(80) to read as follows:

§ 52.1570 Identification of plan.

* * * * *

(c) * * *

(80) Revision to the New Jersey State Implementation Plan (SIP) for ozone concerning the control of nitrogen oxides from the Schering Corporation's CoGEN II cogeneration facility located in Union County submitted by the New Jersey Department of Environmental Protection (NJDEP), dated March 31, 2005.

(i) Incorporation by reference:

(A) Conditions of Approval, Alternative Maximum Emission Rate For NO_X, Schering Corporation, Union, Union County, New Jersey facility identification number 40084 approved March 9, 2005.

[FR Doc. 06–2428 Filed 3–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R09–OAR–2006–0041; FRL–8045–1]

Approval and Promulgation of Implementation Plans; Designation of Areas for Air Quality Planning Purposes; State of Arizona; Particulate Matter of 10 Microns or Less; Finding of Attainment for Yuma Nonattainment Area; Determination Regarding Applicability of Certain Clean Air Act Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action under the Clean Air Act to determine that the Yuma nonattainment area in Arizona has attained the National Ambient Air Quality Standards (NAAQS) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). This determination is based upon monitored air quality data for the PM_{10} NAAQS during the years 1998–2000. EPA also finds that the Yuma area is currently in attainment of the PM_{10} NAAQS, and based on this finding, EPA is determining that certain Clean Air Act requirements are not applicable for so long as the Yuma area continues to attain the PM_{10} NAAQS.

DATES: This rule is effective on May 15, 2006, without further notice, unless EPA receives adverse comments by April 13, 2006. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR–2006–0041, by one of the following methods:

(1) Federal eRulemaking portal: *http://www.regulations.gov.* Follow the on-line instructions.

(2) E-mail: *rosen.rebecca@epa.gov.*

(3) Mail or deliver: Rebecca Rosen (AIR–2), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the *www.regulations.gov* or e-mail. *www.regulations.gov* is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Rebecca Rosen, EPA Region IX, (415) 947–4152, *rosen.rebecca@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''we,'' ''us,'' or ''our'' are used, we mean the Environmental Protection Agency (EPA).

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I. Background

A. What National Ambient Air Quality Standards (NAAQS) Are Considered in Today's Finding?

Particulate matter with an aerodynamic diameter of less than or equal to 10 micrometers (PM_{10}) is the subject of this action. The NAAQS are limits for certain ambient air pollutants set by EPA to protect public health and welfare. PM_{10} is among the ambient air