

consequence of this determination, the requirements of section 182(b)(1) concerning the submission of the 15 percent reasonable further progress plan and ozone attainment demonstration and the requirements of section 172(c)(9) concerning contingency measures are not applicable to the area so long as the area does not violate the ozone standard.

The EPA emphasizes that this determination is contingent upon the continued monitoring and continued attainment and maintenance of the ozone NAAQS in the affected area. When and if a violation of the ozone NAAQS is monitored in the Nashville, Tennessee, nonattainment area (consistent with the requirements contained in 40 CFR Part 58 and recorded in AIRS), the EPA will provide notice to the public in the **Federal Register**. Such a violation would mean that the area would thereafter have to address the requirements of section 182(b)(1) and section 172(c)(9) since the basis for the determination that they do not apply would no longer exist.

As a consequence of the determination that the Nashville area has attained the NAAQS and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and contingency measure requirement of section 172(c)(9) do not presently apply, these are no longer requirements within the meaning of 40 CFR 52.31(c)(1). Consequently, the sanctions clock started by EPA on April 1, 1994, for submittal of an incomplete 15 percent plan, is hereby stopped.

The EPA finds that there is good cause for this action to become effective immediately upon publication because a delayed effective date is unnecessary due to the nature of this action, which is a determination that certain Act requirements do not apply for so long as the areas continue to attain the standard. The immediate effective date for this action is authorized under both 5 U.S.C. Section 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and Section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."

Under section 307(b)(1) of the Act, petitions for judicial review of this final action determining that the Nashville, Tennessee, ozone nonattainment area has attained the NAAQS for ozone and that certain reasonable further progress and attainment demonstration

requirements of sections 182(b)(1) and 172(c)(9) no longer apply must be filed in the United States Court of Appeals for the appropriate circuit by October 10, 1995. 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)).

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify 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 government entities with jurisdiction over populations of less than 50,000. Today's determination does not create any new requirements, but suspends the indicated requirements. Therefore, because this notice does not impose any new requirements, I certify that it does not have a significant impact on small entities affected.

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

The EPA has determined that today's final action does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: July 31, 1995.

R.F. McGhee,

Acting Regional Administrator.

Part 52, chapter 1, 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. 7401-7671q.

Subpart RR—Tennessee

2. Section 52.2235 is added to read as follows:

§ 52.2235 Control strategy: Ozone.

(a) Determination—EPA is determining that, as of August 8, 1995, the Nashville ozone nonattainment area has attained the ozone standard and that the reasonable further progress and attainment demonstration requirements of section 182(b)(1) and related requirements of section 172(c)(9) of the Clean Air Act do not apply to the area for so long as the area does not monitor any violations of the ozone standard. If a violation of the ozone NAAQS is monitored in the Nashville ozone nonattainment area, these determinations shall no longer apply.

(b) [Reserved]

[FR Doc. 95-19503 Filed 8-7-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[PA 54-1-6941a; FRL-5256-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of Source-Specific VOC and NO_x RACT and Synthetic Minor Permit Conditions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires reasonably available control technology (RACT) on eight major sources and establishes permit conditions to limit one source's emissions to below major source levels. The intended effect of this action is to approve source-specific plan approvals and operating permits, which establish

the above-mentioned requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This action will become effective October 10, 1995 unless adverse comments are received on or before September 7, 1995. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Marcia L. Spink, Associate Director, Air Programs, Mailcode 3AT00, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Cynthia H. Stahl, EPA Region III, (215) 597-9337.

SUPPLEMENTARY INFORMATION: On January 6, 1995, the Commonwealth of Pennsylvania submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a group of plan approvals and operating permits for individual sources of volatile organic compounds and/or nitrogen oxides located in Pennsylvania. This rulemaking addresses those plan approvals and operating permits pertaining to the following sources: ESSROC Materials, Inc., Pennsylvania Power and Light—Brunner Island SES, PPG Industries, Inc., Stroehmann Bakeries, Inc., General Electric Transportation Systems—Erie, J.E. Baker/DBCA Refractory facility, Lafarge Corporation, West Penn Power Company—Armstrong Power Station, and Plain n' Fancy Kitchens, Inc. The other plan approvals and operating permits submitted with this group will be addressed in another rulemaking notice.

Pursuant to section 182(b)(2) and (182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_x sources by no later than May 31, 1995. The major source size is determined by its location, the classification of that

area and whether it is located in the ozone transport region (OTR), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in section 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The January 6, 1995 Pennsylvania submittal that is the subject of this notice, is meant to satisfy the RACT requirements for eight sources in Pennsylvania and to limit the potential VOC emissions at a source to below the major source size threshold in order to avoid RACT.

Summary of SIP Revision

The details of the RACT requirements for the source-specific plan approvals and operating permits can be found in the docket and accompanying technical support document and will not be reiterated in this notice. Briefly, EPA is approving seven plan approvals and four operating permits as RACT and one plan approval as a revision to the Pennsylvania SIP to limit a source's emissions to below the major source threshold. Several of the plan approvals and operating permits contain conditions irrelevant to the determination of VOC or NO_x RACT. Consequently, these provisions are not being included in this approval for VOC or NO_x RACT. In addition, several of the plan approvals and operating permits contain a provision that would allow compliance date extensions at the request of the source and approval by Pennsylvania without EPA approval. While EPA does not automatically rule out the possibility of compliance date extensions, EPA cannot pre-approve compliance date extensions through a general provision such as that which occurs in those plan approvals and operating permits.

RACT

EPA is approving the plan approval (PA 48-0004A) for ESSROC Materials, Inc., located in Northampton County. ESSROC Materials, Inc. is a portland cement manufacturing facility and is considered a major source of NO_x emissions. EPA is approving the plan approval (PA 67-2005) for Pennsylvania Power and Light—Brunner Island Steam

Electric Station, located in York County. PP&L—Brunner Island is a steam electric station and is considered a major source of VOC and NO_x emissions. EPA is approving the operating permit (OP 21-2002) for PPG Industries, Inc., located in Cumberland County. PPG Industries, Inc. is a flat glass manufacturing facility and is considered a major source of NO_x emissions. EPA is approving the plan approval (PA 22-2003) for Stroehmann Bakeries, Inc., located in Dauphin County. Stroehmann Bakeries, Inc. is a bread and roll bakery with some small miscellaneous printing operations and is considered a major source of VOC emissions. EPA is approving the operating permit (OP 25-025) for General Electric Transportation Systems, located in Erie County. GE Transportation Systems is a coal-fired power generating station and is considered a major source of VOC and NO_x emissions. EPA is approving the operating permit (OP 67-2001) for J.E. Baker/DBCA Refractory Facility located in York County. J.E. Baker/DBCA Refractory Facility is a dolomitic refractory facility, producing specialty refractory products, agricultural limestone, mineral fillers, etc. and is considered a major source of NO_x emissions. EPA is approving the plan approval (PA 39-0011A) and the operating permit (OP 39-0011) for Lafarge Corporation, located in Lehigh County. Lafarge Corporation is a cement manufacturing facility and is considered a major source of NO_x emissions. EPA is approving three plan approvals (PA 03-000-023, PA 03-306-004, PA 03-306-006) for West Penn Power Company—Armstrong Power Station, located in Armstrong County. West Penn Power Company is an electric generating station with two coal-fired boilers and is considered a major source of NO_x emissions and a minor source of VOC emissions. The specific emission limitations and other RACT requirements for these sources are summarized in the accompanying technical support document, which is available from the EPA Region III office. Several of the plan approvals/operating permits contain a provision that allows for future changes to the emission limitations based on CEM or other monitoring data. Since EPA cannot approve emission limitations that are not currently before it, any changes to the emission limitations as submitted on January 6, 1995 to EPA must be resubmitted to and approved by EPA in order for these changes to be incorporated into the Pennsylvania SIP. Consequently, the source-specific RACT

emission limitations that are being approved into the Pennsylvania SIP are those that were submitted on January 6, 1995. These emission limitations will remain unless and until they are replaced pursuant to 40 C.F.R. part 51 and approved by the U.S. EPA.

Synthetic Minor Source Permit

EPA is approving the plan approval (PA 38-318-019C) for Plain n' Fancy Kitchens, Inc., located in Lebanon County. Plain n' Fancy Kitchens, Inc. is a kitchen cabinet surface coating facility and had potential VOC emissions greater than 50 TPY. The approval of these conditions will limit the emissions at this facility to less than 50 TPY and would allow Plain n' Fancy Kitchens, Inc. to avoid being considered a major VOC source, subject to the major source RACT requirements of the Clean Air Act and the Pennsylvania regulation.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective October 10, 1995 unless, within 30 days of publication, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on October 10, 1995.

Final Action

EPA is approving the seven plan approvals and four operating permits as RACT and one plan approval to limit emissions at Plain n' Fancy Kitchens to below major source levels.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in

relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this state implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Section (insert) of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The sources affected by the rules being approved by this action are already subject to these regulations under State law; therefore, this rulemaking action does not impose any new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The OMB has exempted this regulatory action from E.O. 12866 review.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the RACT approval of eight sources and the synthetic minor permit conditions for Plain n' Fancy Kitchens, Inc., must be filed in the United States Court of Appeals for the appropriate circuit by

October 10, 1995. 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 23, 1995.

W. T. Wisniewski,

Acting Regional Administrator, Region III.

40 CFR part 52, subpart NN of chapter I, title 40 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(98) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(98) Revisions to the Pennsylvania Regulations Chapter 129.91 submitted on January 6, 1995 by the Pennsylvania Department of Environmental Resources:

(i) Incorporation by reference.

(A) Two letters both dated January 6, 1995 from the Pennsylvania Department of Environmental Resources transmitting source-specific VOC and/or NOx RACT determinations in the form of plan approvals and/or operating permits for the following sources: ESSROC Materials, Inc. (Northampton Co.)—cement manufacturer; Pennsylvania Power & Light—Brunner Island SES (York Co.)—utility, PPG Industries, Inc. (Cumberland Co.)—glass manufacturer; Stroehmann Bakeries, Inc. (Dauphin Co.)—bakery; GE Transportation Systems (Erie Co.)—utility; J.E. Baker/DBCA Refractory Facility (York Co.)—dolomitic refractory facility; Lafarge Corp. (Lehigh Co.)—cement manufacturer; West Penn Power Company—Armstrong Power Station (Armstrong Co.), utility. In addition, the plan approval for Plain n' Fancy

Kitchens, Inc. (Lebanon Co., kitchen cabinet surface coating) containing provisions limiting this source as a synthetic minor source (below RACT threshold level of 50 TPY potential VOC emissions) is being approved.

(B) Plan approvals (PA), Operating permits (OP):

(1) ESSROC Materials, Inc.—PA 48-0004A, effective December 20, 1994, except conditions (7)(a), (7)(b), (7)(d), (8)(a), (8)(b), (8)(d), (10), (16) through (19) pertaining to particulate matter or SO₂ requirements and condition (25)(d) and (e) pertaining to compliance date extensions, and the expiration date of the plan approval.

(2) Pennsylvania Power & Light—Brunner Island SES—PA 67-2005, effective December 22, 1994, except condition 2.d. and e. pertaining to compliance date extensions, and the expiration date of the plan approval.

(3) PPG Industries, Inc.—OP 21-2002, effective December 22, 1994, except the expiration date of the operating permit.

(4) Stroehmann Bakeries, Inc.—PA 22-2003, effective December 22, 1994, except condition 9.d. and e. pertaining to compliance date extensions and the expiration date of the plan approval.

(5) GE Transportation Systems—Erie—OP 25-025, effective December 21, 1994, except for condition 9 pertaining to pollutants other than VOC and NO_x.

(6) J.E. Baker/DBCA Refractory Facility—OP 67-2001, effective December 22, 1994, except the expiration date of the operating permit.

(7) Lafarge Corp.—PA 39-0011A, effective December 23, 1994, except for condition (4)(d) and (e) pertaining to compliance date extensions, condition (8) pertaining to sulfur in fuel requirements, those in condition (9) not pertaining to VOC or NO_x, and the expiration date of the plan approval, and OP 39-0011, effective December 23, 1994, except conditions (8), (9), and (13) through (15), pertaining to sulfur in fuel requirements, and the expiration date of the operating permit.

(8) West Penn Power Company—Armstrong Power Station—PA 03-000-023, effective December 29, 1994, except for the expiration date of the plan approval and condition 5. pertaining to VOC and condition 9. pertaining to a facility-wide NO_x cap, PA 03-306-004 (for unit 2), effective March 28, 1994, except for condition 12. (d) and (e), pertaining to compliance date extensions, and the expiration date of the plan approval, and PA 03-306-006 (for unit 1), effective November 22, 1994, except for condition 13. (d) and (e), pertaining to compliance date

extensions, and the expiration date of the plan approval.

(9) Plain n' Fancy Kitchens, Inc.—PA 38-318-019C, effective December 23, 1994, except for condition 2.d. and e., pertaining to compliance date extensions, and the expiration date of the plan approval.

[FR Doc. 95-19505 Filed 8-7-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 75

[FRL-5274-5]

Acid Rain Program: Continuous Emission Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of removal of provisions of direct final rule and extended public comment period.

SUMMARY: On May 17, 1995, EPA published direct final amendments to the Continuous Emission Monitoring (CEM) rule in the Acid Rain Program for the purpose of making implementation of the program simpler, streamlined, and more efficient. The amendments to the original January 11, 1993 rule became final and effective on July 17, 1995. During the public comment period on the direct final rule and its companion proposed rule, EPA received significant, adverse comments on those amended provisions that related to alternative monitoring systems and opacity monitoring for a bypass stack. EPA is removing those amended provisions in the direct final rule and republishing the corresponding provisions from the original January 11, 1993 rule. EPA will address the removed, amended provisions in a future final rule. EPA is also extending the public comment period on the removed, amended provisions for 15 days to allow the public to respond to the significant, adverse comments. All other provisions of the direct final rule remain final.

DATES: *Comment date:* Comments in response to the significant, adverse comments on the direct final rule must be received on or before August 23, 1995.

Effective date: The effective date of the republished provisions from the original January 11, 1993 rule is September 7, 1995.

ADDRESSES: Any written comments in response to the significant, adverse comments on the direct final rule must be identified as being in response to such comments in Docket No. A-94-16 and must be submitted in duplicate to:

EPA Air Docket (6102), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at the above address. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Margaret Sheppard, Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 233-9180.

SUPPLEMENTARY INFORMATION: EPA received significant, adverse comments on certain provisions of the direct final rule amending part 75 from Pavilion Technologies, Inc. The comments are found in Docket No. A-94-16, item V-D-03. Pavilion Technologies, Inc. made significant, adverse comments on the following amended provisions: 75.20(f); 75.41(a)(1), (b)(1)(i), (b)(2)(iv)(A) and (C), (c)(1)(i) and (ii), and (c)(2)(ii); 75.47; and 75.48(a) introductory text, (a)(1), (b), and (c). Therefore, those amended provisions in the direct final rule are being removed and the corresponding provisions in the original January 11, 1993 rule will be effective until EPA addresses the comments in a future final rule.

The Agency notes that, although the commenter requested withdrawal of all direct final amendments pertaining to alternative monitoring systems, the commenter also indicated that it supported the amendment of § 72.20(f)(2) providing for provisional certification of an alternative monitoring system after the system has been approved by the Administrator. However, the commenter objected to the public notice and comment procedure that the direct final rule requires prior to such approval. The direct final rule allows for provisional certification because the alternative monitoring system has already undergone public notice and comment and EPA review. See Docket No. A-94-16, item II-F-2. Consequently, EPA is removing all of the interrelated direct final provisions.

EPA also received one significant, adverse comment on the direct final rule provision, § 75.18(b)(3), from Monitor Labs, Inc. The comment is found in Docket No. A-94-16, item V-D-18 (comment 4). Monitor Labs, Inc. objected to the provision allowing the use of a noncontinuous monitoring method (i.e., Method 9 of appendix A of part 60), in lieu of a continuous opacity monitoring system, for bypass stacks. EPA is therefore removing the direct final provision at § 75.18(b)(3). The