

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[A-1-FRL-5801-9]

Approval and Promulgation of Air Quality Implementation Plans; Vermont; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides and Volatile Organic Compounds not Covered by Other Category-Specific Regulations**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Vermont. This revision establishes and requires Reasonably Available Control Technology (RACT) at major stationary sources of nitrogen oxide (NO_x) emissions and major stationary sources of volatile organic compound (VOC) emissions which are not subject to other category-specific VOC control regulations in Vermont. The intended effect of this action is to approve a number of regulatory amendments and source-specific RACT determinations in accordance with the Clean Air Act.

DATES: This action will become effective June 9, 1997, unless notice is received by May 9, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Air Pollution Control Division, Agency of Natural Resources, Building 3 South, 103 South Main Street, Waterbury, VT 05676.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, (617) 565-2773, or Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: On August 9, 1993, the Vermont Agency of Natural Resources ("Vermont" or "VT ANR") submitted to EPA a number of revisions to its State implementation plan (SIP). EPA is acting on several of those submittals. First, section 5-101 was

amended to add a definition of "Reasonably Available Control Technology." Second, subsection 5-251(2), "Reasonably available control technology for large stationary sources" was added which requires major stationary sources of NO_x to install, maintain, and use NO_x RACT. And third, Vermont also added subsection 5-253.20, "Other Sources That Emit Volatile Organic Compounds," which defines RACT requirements for major stationary sources of VOC which are not subject to any other VOC regulations under Section 5-253.

Regarding NO_x RACT, there are three major stationary sources of NO_x emissions in Vermont. Two of the NO_x facilities are covered by federally enforceable permits which define "most stringent emission rate" (MSER) NO_x limitations. MSER limitations are not always considered equivalent to RACT limits. However, on June 6, 1994, Vermont submitted to EPA copies of the permits for Ryegate Power Station and Burlington Electric Department and EPA determined that these MSER limits were equivalent to, or more stringent than, NO_x RACT limits and technology standards. For the third major stationary NO_x source, on March 20, 1995, Vermont submitted a source-specific consent order which defined NO_x RACT for Simpson Paper Company's Gilman facility to EPA as a SIP revision.

Regarding VOC RACT, section 5-253 contains a number of VOC control regulations which were developed in response to EPA's issuance of control technique guideline (CTG) documents. These regulations define RACT for various categories of VOC sources. However, subsection 5-253.20 applies to major stationary sources of VOCs which are not covered by the CTG-based rules. In other words, subsection 5-253.20 is a non-CTG VOC RACT regulation. This regulation only applies to U.S. Samaica Corporation in Rutland, Vermont. On March 20, 1995, Vermont submitted a source-specific SIP revision defining non-CTG VOC RACT for U.S. Samaica's Rutland facility.

By this action, EPA is approving section 5-101, subsection 5-251(2), subsection 5-253.20, the source-specific NO_x RACT determination for Simpson Paper Company, and the source-specific VOC RACT determination for U.S. Samaica, and incorporating them into the Vermont SIP. This action will have a beneficial effect on air quality. It is expected to reduce NO_x emissions at Simpson Paper by 30 to 50%, and VOC by at least 81% at U.S. Samaica from an uncontrolled baseline. This action is being taken under Section 110 of the Clean Air Act.

I. Summary of SIP Revision**A. Clean Air Act Requirements**

Sections 182(b)(2), 182(f), and 184(b) of the Clean Air Act (CAA) require States to develop Reasonably Available Control Technology (RACT) regulations for all major stationary sources of NO_x and VOC emissions in areas classified as "moderate," "serious," "severe," and "extreme" ozone nonattainment areas, as well as in all areas of the Ozone Transport Region. These sections of the CAA, taken together, establish the requirements for Vermont to submit RACT regulations which cover major sources of VOC and NO_x statewide.

Section 182(b)(2) requires States located in areas classified as moderate ozone nonattainment areas to require implementation of RACT with respect to all major sources of volatile organic compounds (VOC). Additionally, section 182(f) states that, "The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen." This RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications.

Unless already classified at a higher nonattainment level, section 184(b)(2) requires major stationary sources in the Ozone Transport Region to meet the requirements which would be applicable to major sources if the area were classified as a moderate nonattainment area. The State of Vermont is currently in attainment of the ozone National Ambient Air Quality Standard (NAAQS). However, section 184(a) of the CAA defines an Ozone Transport Region within the northeastern United States, which includes Vermont.

Section 302 of the CAA generally defines "major stationary source" as a facility or source of air pollution which has the potential to emit 100 tons per year or more of air pollution. This definition applies unless another provision of the CAA explicitly defines major source differently. Therefore, for NO_x, a major source is one with the potential to emit 100 tons per year or more in marginal and moderate areas, as well as in attainment areas in the OTR. For VOC emissions, section 184(b)(2) specifies that in the OTR a major stationary source is one with the potential to emit of 50 tons per year or more.

The amendments to section 5-101, section 5-251, and section 5-253, as well as the source-specific RACT

determinations for Simpson Paper and U.S. Samaica were submitted in response to the CAA requirements.

B. Regulatory Background

On January 23, 1991, EPA sent a letter notifying Vermont that the CAA mandated that within 2 years of enactment, States submit SIP revisions which require the implementation of RACT for all major stationary sources of VOC and NO_x. On January 26, 1993, the VT ANR submitted proposed amendments to sections 5-101, 5-251 and 5-253 of the Regulations to EPA for comment. Vermont held a public hearing on these rules on March 10, 1993. EPA submitted written comments on the proposed regulations on March 18, 1993. The regulations were adopted on July 9, 1993 and became effective on August 13, 1993.

Vermont submitted the adopted definition, non-CTG VOC RACT, and NO_x RACT regulations as a formal SIP submittal to EPA on August 9, 1993. On October 25, 1993, EPA sent Vermont a letter requesting that Vermont commit to submitting to EPA for approval source-specific RACT determinations for the RACT-subject sources as well. The SIP submittals for the RACT regulations were deemed technically and administratively complete by operation of law on February 10, 1994. Subsequently, on March 20, 1995, Vermont submitted 2 case-specific SIP revisions, defining NO_x RACT requirements at Simpson Paper Company's Gilman facility, and VOC RACT at U.S. Samaica's Rutland facility. On September 15, 1995, EPA sent a letter to Vermont deeming both case-specific submittals technically and administratively complete.

C. Description of Submittal

In this submittal, Vermont amended section 5-101 to include a definition for "Reasonably Available Control Technology." Vermont also added subsection 5-251(2), "Reasonably available control technology for large stationary sources," which establishes a requirement that RACT be installed and operated at all major stationary sources of NO_x by May 31, 1995. Additionally, Vermont added subsection 5-253.20, "Other Sources That Emit Volatile Organic Compounds," which defines RACT requirements for major stationary sources of VOCs which are not covered by other VOC regulations in Vermont.

Regarding NO_x RACT, subsection 5-251(2) is completely generic, meaning that the rule does not set emission limitations or technology standards for any sources. Instead, the regulation requires sources to submit compliance

plans to the State by November 15, 1993 and to install and operate RACT by May 31, 1995. Subsection 5-251(2)(d) allows equipment subject to a federally enforceable "most stringent emission rate" (MSER) NO_x limitation, which is similar to EPA's "Best Available Control Technology" (BACT) under 40 CFR 51.166, to be exempt from the RACT requirements. Since the regulation lacks specific NO_x emission limitations, technology standards, and compliance assurance requirements, all sources subject to subsection 5-251(2) must have RACT defined on a case-by-case basis by VT ANR. Such case-specific RACT determinations must then be approved by EPA as revisions to Vermont's SIP.

Although generic RACT rules would generally mean many source-specific SIP revisions, Vermont's NO_x RACT rules only apply to two wood fired boilers and one wood/gas fired boiler. Two of these sources are currently subject to federally enforceable MSER permit limits. First, a wood fired boiler using flue gas recirculation (FGR) in combination with selective non-catalytic reduction (SNCR) is required to meet an emission limit of 0.13 pound NO_x per million Btu (#NO_x/MBtu) heat input on an hourly basis, demonstrated with a continuous emission monitoring system (CEMS). And second, a wood/gas fired boiler using FGR and low-NO_x burners for gas firing and FGR and good combustion practices for wood firing is required to meet emission limitations of 0.25 #NO_x/MBtu for wood and 0.12 #NO_x/MBtu for gas on an hourly basis, demonstrated by CEMS.

The emission limits to which these sources are subject are consistent with EPA and the Northeast States for Coordinated Air Use Management (NESCAUM) recommendations for natural gas firing (i.e., 0.20 #/MBtu) at utility boilers. Although neither EPA or NESCAUM have developed recommended emission limits for wood firing, the current MSER limits (0.13 #NO_x/MBtu and 0.25 #NO_x/MBtu) are reasonable when compared to the EPA and NESCAUM recommendations for gas and oil firing, which range from 0.20 #NO_x/MBtu to 0.43 #NO_x/MBtu. These MSER limits can be considered to be at least as stringent as RACT for these sources. Therefore, the exemption under subsection 5-251(2)(d) is approvable.

The third major stationary source of NO_x in Vermont, Simpson Paper Company's Gilman facility, is subject to the NO_x RACT requirement of subsection 5-251(2). On January 4, 1995, VT ANR issued an administrative order defining NO_x RACT for this facility. This NO_x RACT determination

consists of emission limitations and control technology requirements for the Zurn wood-fired boiler and, no additional control requirements for the four Babcock and Wilcox residual oil fired auxiliary boilers.

For the Zurn boiler, RACT was determined to be an emission rate limitation of 0.30 #NO_x/MBtu and a mass discharge rate limitation of 54 #NO_x/hour. These emission limitations must be met on a 24 hour rolling average. Compliance with the limitations is determined by a NO_x CEMS. Records are required to be kept for five years and quarterly reports to the VT ANR are also required. For Simpson's four oil-fired boilers, since they have historically operated at less than 1% of their capacity, Vermont has determined that they are auxiliary boilers and additional NO_x controls would not be cost effective.

Although neither EPA or NESCAUM have developed recommended emission limits for wood firing, limit of 0.30 #NO_x/MBtu are reasonable when compared to the EPA and NESCAUM recommendations for gas and oil firing, which range from 0.20 #/MBtu to 0.43 #/MBtu. Also, although 0.30 #NO_x/MBtu is higher than the two NO_x MSER limits mentioned above, as described earlier in the notice, the lower MSER limits were determined as part of the construction permit process for new emission units. The higher NO_x limit for the Zurn boiler is reasonable considering the technical and economic feasibility of retrofitting an older existing boiler.

Regarding VOC RACT, subsection 5-253.20 of the Vermont Regulations applies to stationary sources with the potential to emit of at least 50 tons of VOC which are not subject to other VOC regulations in section 5-253, which have been developed subsequent to EPA's development of Control Technique Guideline (CTG) documents. This non-CTG regulation defines RACT as either an overall reduction in uncontrolled VOC emissions of at least 81% by weight, or, for coating units, a daily weighted average of VOC content in the coatings of 3.5 pounds of VOC per gallon of coating applied (excluding exempt solvents). The rule also sets out process by which a facility can apply for an alternative RACT limit. However, subsection 5-253.20 does not contain specific compliance assurance requirements, such as emissions testing, monitoring, recordkeeping, and reporting requirements, which are required as part of an approvable RACT regulation. Therefore, for all sources subject to this regulation, Vermont must define these specific compliance

assurance requirements as part of case-specific RACT determinations and submit such determinations to EPA as revisions for approval into the Vermont SIP.

On November 15, 1993, Vermont sent a letter to EPA committing the State to submitting a case-specific SIP revision for the one major non-CTG VOC source subject to subsection 5-253.20. Accordingly, on March 20, 1995, Vermont submitted to EPA an administrative order for U.S. Samaica Corporation which requires the company to use incineration control devices, which achieve an 81% overall VOC control, on two of their process lines and to shut down their third process line by May 31, 1995. The administrative order also contains enforceable emissions testing, monitoring, recordkeeping, and reporting requirements.

II. Final Action

EPA is approving the following regulatory amendments into the Vermont SIP at this time. First, EPA is approving the amendment to section 5-101, which adds a definition for RACT to the Vermont regulations. Second, EPA is approving the addition of subsection 5-251(2), as well as the source-specific RACT determination for Simpson Paper Company, which together define NO_x RACT for Vermont. And finally, EPA is approving the addition of subsection 5-253.20, as well as the source-specific RACT determination for U.S. Samaica Corporation, which together define non-CTG VOC RACT for the State.

EPA is publishing this action 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 June 9, 1997 unless adverse or critical comments are received by May 9, 1997.

If the EPA receives such comments, this action will be withdrawn before the effective date by simultaneously publishing a subsequent document 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. The 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 June 9, 1997.

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.

III. Administrative Requirements

A. Executive Order 12866

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 a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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.

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 impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a 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).

C. Unfunded Mandates

Under Sections 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 costs to State, local, or tribal governments in the aggregate; or to the 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 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 Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) of the Regulatory Flexibility Act, 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. 804(2).

E. Petitions for Judicial Review

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 June 9, 1997. 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).) EPA encourages interested parties to comment on the proposed rule rather than filing a petition for judicial review challenging the final rule.

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, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Vermont was approved by the Director of the Federal Register on July 1, 1982.

Dated: March 8, 1997.

John P. DeVillars,

Regional Administrator, Region I.

Part 52 of 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. 7401–7671q.

Subpart UU—Vermont

2. Section 52.2370 is amended by adding paragraph (c)(22) to read as follows:

§ 52.2370 Identification of plan.

* * * * *

(c) * * *

(22) Revisions to the State Implementation Plan submitted by the Vermont Air Pollution Control Division on August 9, 1993 and March 20, 1995.

(i) Incorporation by reference.

(A) Letters from the Vermont Air Pollution Control Division dated August 9, 1993 and March 20, 1995 submitting revisions to the Vermont State Implementation Plan.

(B) Regulations, including section 5–101, “Definitions,” subsection 5–251(2), “Reasonably available control technology for large stationary sources,” and, subsection 5–253.20, “Other

Sources That Emit Volatile Organic Compounds,” adopted on July 9, 1993 and effective on August 13, 1993.

(C) Administrative orders for Simpson Paper Company, in Gilman, Vermont, and, U.S. Samaica Corporation, in Rutland, Vermont, both adopted and effective on January 4, 1995.

3. In § 52.2381, Table 52.2381 is amended by adding a new entry to the end of existing state citation for section 5–101, “Definitions,”; adding two new entries to the end of the existing state citation for section 5–251, “Control of Nitrogen Oxides Emissions,” and by adding new state citation for section 5–253.20, “Other Sources That Emit Volatile Organic Compounds,” to read as follows:

§ 52.2381 EPA—approved Vermont State regulations.

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TABLE 52.2381.—EPA-APPROVED REGULATIONS
[Vermont SIP regulations 1972 to present]

| State citation, title and subject | Date adopted by State | Date approved by EPA | Federal Register citation | 52.2370 | Comments and unapproved sections |
|---|-----------------------|----------------------|---------------------------|--------------------|---|
| * Section 5–101 Definitions | * 7/9/93 | * 4/9/97 | * 62 FR 17087 | * (c)(22) | * Adds definition of reasonably available control technology (RACT). |
| * Section 5–251 Control of nitrogen oxides emissions. | * 7/9/93 | * 4/9/97 | * 62 FR 17087 | * (c)(22) | * Requires RACT for major stationary sources of NO _x . |
| | 1/4/95 | 4/9/97 | 62 FR 17087 | (c)(22) | NO _x RACT for Simpson Paper Company's Gilman facility |
| * Section 5–253 control of volatile organic compounds. | * 7/9/93 | * 4/9/97 | * 62 FR 17087 | * (c)(22) | * Requires RACT at non-CTG VOC sources. |
| | 1/4/95 | 4/9/97 | 62 FR 17087 | (c)(22) | Non-CTG VOC RACT for U.S. Samaica Corporation's Rutland facility. |
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–5801–1]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This revision establishes and requires Reasonably Available Control Technology (RACT) at stationary sources of nitrogen oxides (NO_x). The intended effect of this action is to approve regulatory provisions and source specific orders which require major stationary sources of NO_x to reduce their emissions statewide in accordance with requirements of the Clean Air Act.

DATES: This action is effective June 9, 1997, unless notice is received by May