

appropriate circuit by October 30, 2001. 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO<sub>x</sub> from 9 individual sources located in the Philadelphia ozone nonattainment area 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 21, 2001.

**Abraham Ferdas,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(184) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(184) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO<sub>x</sub> RACT, for sources located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations, in the form of plan approvals and operating permits on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(B) Plan approvals (PA), or Operating Permits (OP) issued to the following sources:

(1) Jefferson Smurfit Corporation and Container Corporation of America, PA-51-1566, for PLID 1566, effective April 10, 1995.

(2) Maritank Philadelphia, Inc., PA-51-5013, for PLID 5013, effective December 28, 1995.

(3) Moyer Packing Company, OP-46-0001, effective March 15, 1996, except for the expiration date.

(4) Tullytown Resource Recovery Facility (Waste Management of PA, Inc.), OP-09-0024, effective July 14, 1997, except for the expiration date.

(5) SPS Technologies, OP-46-0032, effective October 30, 1997, except for the expiration date.

(6) PECO Energy Company, OP-09-0077, effective December 19, 1997, except for the expiration date.

(7) Philadelphia Gas Works, Richmond Plant, PA-51-4922, effective July 27, 1999, except for condition 1.A. 10-17, inclusive, condition 2.E., 2.F., 2.G., and condition 8.

(8) Exelon Generation Company—Delaware Generating Station, PA-51-4901, effective July 11, 2001.

(9) Exelon Generation Company—Schuylkill Generating Station, PA-51-4904, effective July 11, 2001.

(i) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(184) (i)(B) of this section.

[FR Doc. 01-22006 Filed 8-30-01; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4140a; FRL-7046-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eight Individual Sources in the Philadelphia-Wilmington-Trenton Area

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for 8 major sources of volatile organic compounds (VOC) and/or nitrogen

oxides (NO<sub>x</sub>). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on October 15, 2001 without further notice, unless EPA receives adverse written comment by October 1, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Melik Spain at (215) 814-2299, the EPA Region III address above or by e-mail at [spain.melik@epa.gov](mailto:spain.melik@epa.gov). Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO<sub>x</sub> sources. 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). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control

technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO<sub>x</sub> and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO<sub>x</sub> RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO<sub>x</sub> is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO<sub>x</sub> comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO<sub>x</sub> sources. For other major NO<sub>x</sub> sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that

are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO<sub>x</sub> RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO<sub>x</sub> RACT regulations by submitting 485 case-by-case VOC/NO<sub>x</sub> RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO<sub>x</sub> RACT regulations on a statewide basis. The regulation currently retains its limited approval status in the Philadelphia area. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Bucks, Chester, Delaware, Montgomery and Philadelphia Counties; the limited approval of Pennsylvania's generic VOC and NO<sub>x</sub> RACT regulations shall convert to a full approval for the Philadelphia area.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO<sub>x</sub>

emissions in the form of a NO<sub>x</sub> cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO<sub>x</sub> SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO<sub>x</sub> SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO<sub>x</sub> SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO<sub>x</sub> in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

**II. Summary of the SIP Revisions**

On May 2, 1996, June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and March 23, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO<sub>x</sub>. This rulemaking pertains to 8 of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals and operating permits which impose VOC and/or NO<sub>x</sub> RACT requirements for each source. These 8 sources are all located in the Philadelphia area. The table below identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking. A summary of the VOC and NO<sub>x</sub> RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #), operating permit (OP #), plant identification number (PLID #)	Source type	"Major source" pollutant
1. Brown Printing Company .....	Montgomery .....	OP-46-0018A	Printing .....	VOC
2. Cardone Industries .....	Philadelphia .....	PA-51-3887	Degreasing .....	VOC
3. Cardone Industries .....	Philadelphia .....	PA-51-2237	Degreasing .....	VOC
4. Naval Surface Warfare Center—Carderock Division.	Philadelphia .....	PA-51-9724	Research and Development .....	NO <sub>x</sub> /VOC
5. SUN CHEMICALS—General Printing Ink Division.	Philadelphia .....	PA-51-2052	Ink Manufacturer .....	VOC
6. Sunoco Chemicals—Frankford Plant	Philadelphia .....	PA-51-1551	Synthetic Organic Chemicals .....	NO <sub>x</sub> /VOC
7. U.S. Steel Group/USX Corporation ....	Bucks .....	OP-09-0006	Steel Mill .....	NO <sub>x</sub> /VOC

PENNSYLVANIA—VOC AND NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES—Continued

Source	County	Plan approval (PA #), operating permit (OP #), plant identification number (PLID #)	Source type	"Major source" pollutant
8. Wheelabrator Falls, Incorporated .....	Bucks .....	OP-09-0013	Waste Recovery .....	NO <sub>x</sub>

*A. Brown Printing Company*

Brown Printing Company (Brown) is a printing facility that produces business and trade magazines and special interest consumer publications in Montgomery County, Pennsylvania. The VOC requirements for the 8 ink jet printers at this facility have been imposed by PADEP in OP-46-0018A. OP-46-0018A requires that all process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices. The facility's potential to emit has been restricted to an annual VOC emissions limit of 12.4 tpy. The annual limit must be met on a rolling monthly basis over every consecutive 12 month period. OP-46-0018A requires Brown to keep monthly records containing data and information necessary to demonstrate compliance with the annual VOC limit.

*B. Cardone Industries*

Cardone Industries (Cardone) is a automobile parts manufacturing facility located on Rising Sun Avenue in Philadelphia, Pennsylvania. Cardone's Rising Sun location employs combustion equipment, spray booths, and degreasers. Cardone is a major VOC emitting facility subject to the requirements of 25 Pa Code 129.91-129.95. The Philadelphia Air Management Services (AMS) issued PA-51-3887 to Cardone to impose RACT. The PADEP submitted PA-51-3887 to EPA as a SIP revision on behalf of AMS. PA-51-3887 specifies that the architectural coatings used at this facility will comply with Air Management Regulation V, Section VIII. The solvent used in Cardone's cold degreasing operations will be recovered and stored. Cardone will use a non-contact condenser on the solvent reprocessing and storage vents to control VOC emissions. PA-51-3887 also specifies that Cardone must keep records containing data sufficient for a compliance determination in accordance with the VOC RACT requirements of 25 Pa Code 129.91-129.94. All process equipment and associated air pollution control devices must be maintained and operated in

accordance with good engineering and air pollution control practices.

*C. Cardone Industries*

Cardone is a automobile parts manufacturing facility located on Chew Street in Philadelphia, Pennsylvania. Cardone's Chew Street location employs combustion equipment and degreasers. Various automobile parts are dipped, soaked, and agitated in the cold degreasing tanks. Cardone is a major VOC source and is subject to the requirements of 25 Pa Code 129.91-129.95. The Philadelphia AMS issued PA-51-2237 to Cardone to control VOCs. The PADEP submitted PA-51-2237 to EPA as a SIP revision on behalf of AMS. PA-51-2237 requires improved operations and work practice standards to control VOC emissions. PA-51-2237 requires that solvent laden rags be stored in closed top containers. Additionally, drip pans located under drain plugs must be removed promptly, and tank lids must be modified to promote ease of use. PA-51-2237 specifies that Cardone must keep records containing data sufficient for a compliance determination in accordance with the VOC RACT requirements of 25 Pa Code 129.91-129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

*D. Naval Surface Warfare Center—Caderock Division*

The Naval Surface Warfare Center (NSWC) is a Naval research and development facility located in Philadelphia, Pennsylvania. NSWC's test center houses a number of combustion sources including, boilers, generators, diesel engines, gas turbines, and a number of small VOC sources. The combustion sources at this facility are used to test and evaluate shipboard equipment. Hence, the operation of these sources is intermittent. PA-51-9724 was issued to NSWC to reduce VOC and NO<sub>x</sub> emissions. PA-51-9724 restricts the operating capacity for the 2 boilers rated at 317 and 384 MMBtu/hr, respectively, to no more than 30%. PA-51-9724 limits the 2 boilers rated at 244

MMBtu/hr to an annual fuel consumption limit of 5 million gallons per rolling 12 consecutive month period. The remaining boilers, emergency generators and diesel engines at this facility are subject to the Commonwealth's SIP-approved presumptive NO<sub>x</sub> RACT requirements. PA-51-9724 requires NSWC to keep records containing the details of all combustion sources fuel consumption, the operating hours of the emergency generators, details of maintenance programs, and details of periodic source testing or predictive monitoring used to determine NO<sub>x</sub> emissions from the boilers. These records will be collected and retained in compliance with the RACT requirements of 25 Pa Code 129.91-129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

*E. Sunoco Chemicals, Frankford Plant*

Sunoco Chemicals, Incorporated (Sunoco), formerly AlliedSignal, operates a synthetic organic manufacturing plant in the Frankford section of Philadelphia, Pennsylvania. The plant produces acetone, phenol, and alpha methyl styrene through the oxidation of cumene. Sunoco's operations are subject to New Source Performance Standards (NSPS), MACT standards, and Pennsylvania's SIP-approved VOC RACT regulations for synthetic organic chemical manufacturing. The PADEP's submittal of plan PA-51-1551 requests EPA to incorporate into the SIP those VOC and NO<sub>x</sub> RACT requirements of the PA that pertain only to the combustion sources, barge loading, storage tanks, rail car cleaning and wastewater facility operations at the plant. Sunoco's Frankford plant is a major source of VOC and NO<sub>x</sub>. PA-51-1551 requires the installation of internal floating roofs on the 2 storage tanks (VT-609 and VT-610) which are not subject to 40 CFR subpart K, NSPS standards or the Commonwealth's SIP-approved RACT standards found at 25 Pa Code 129.56-129.57. The VOC emissions from the

wastewater facility at this plant are controlled by air stripping and thermal oxidation. The thermal oxidizer has a required destruction efficiency of 95 percent or greater. The rail car cleaning activities must not exceed 2.7 tpy. This annual limit must be met on a rolling monthly basis over every consecutive 12 month period. The barge loading operations are limited to loading of phenol, which has a vapor pressure of 1.5 pounds per square inch at 20 degrees Celsius. This vapor pressure exempts Sunoco from having to install additional control technology to this process. Sunoco uses 4 boilers (Boilers 1–4) to produce heat and steam for the various process stages in their synthetic organic chemical manufacturing. The boilers burn No. 6 fuel oil, waste phenol residue, and natural gas. PA 51–1551 requires Sunoco to burn natural gas and waste phenol residue during the period of May 1st through September 30th in boilers No. 1 and No. 2 which are both rated at a maximum heat input of 260 MMBtu/hr. The NO<sub>x</sub> emissions rate for both of these boilers must never exceed 0.35 lbs of NO<sub>x</sub>/MMBtu. Boiler No. 3, rated at 381 MMBtu/hr, operates with low NO<sub>x</sub> burners (LNB). The emissions rate for boiler No. 3 must never exceed 0.3 lbs of NO<sub>x</sub>/MMBtu. Boilers No. 1–3 are also subject to annual combustion tuning in accordance with 25 Pa Code 129.93(b). PA 51–1551 specifies that Sunoco must keep records of data sufficient for a compliance determination in accordance with the VOC and NO<sub>x</sub> RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

#### *F. SUN Chemical—General Printing Ink Division*

SUN Chemical Corporation (SUN) manufactures and distributes solvent and water-based commercial inks from their general ink printing division in Philadelphia, Pennsylvania. This facility's potential emissions make it a major source of VOCs. The AMS issued PA 51–2052 to SUN and PADEP submitted it to EPA as a SIP revision. The VOC emitting processes are those which involve the blending and dispersion of solvents and pigments. There are no chemical reactions taking place at this facility. Storage tanks are used to store and transfer raw materials. The AMS has imposed improved operating standards to reduce VOC emissions from SUN's vessels and mixers. The specific work practice standards required under PA 51–2052

include: (1) The use of lids on all mixing tanks that use VOC-containing solvents; (2) Covers on all storage vessels containing VOCs when not in use; (3) Monthly inspections and record-keeping requirements; and (4) The use of vapor control lines when delivery tank trucks are equipped with a vapor return line connection. PA–51–2052 imposes recordkeeping and reporting requirements consistent with 25 Pa Code 129.91–129.94. These records must provide sufficient data to calculate compliance and must include solvent usage and fuel consumption files. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

#### *G. U.S. Steel Group/USX Corporation*

U.S. Steel Group/USX Corporation (USX), operates a steel finishing plant in Bucks County, Pennsylvania. USX's Fairless Works Plant uses batch and continuous annealing furnaces as well as galvanizing and electrolytic tinning line furnaces. The furnaces are used to heat and process steel coils into flat-rolled steel and corrosion resistant sheets. The furnaces fire natural gas and their emissions contribute to USX being a major source of NO<sub>x</sub> emissions. There are 2 cold rolling mills and a double cold reduction mill that use rolling oils which release VOC emissions in the lubricating and cooling of steel strips. The PADEP issued OP–09–0006 to USX. The OP limits the VOC content of the rolling oils and corrosion inhibitors to less than 5% by weight. The continuous annealing furnace and galvanizing line furnace must undergo annual adjustments or tune-ups on the combustion units in compliance with 25 Pa Code 129.93(b)(2). OP–09–0006 requires USX to operate these units using operating practices to minimize their NO<sub>x</sub> emissions. Likewise, the remainder of the furnaces at this facility must be maintained and operated in accordance with the manufacturer's specifications. OP 09–0006 specifies that USX must keep records containing sufficient data and calculations to demonstrate compliance with the NO<sub>x</sub> and VOC RACT requirements of 25 Pa Code 129.91–129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

#### *H. Wheelabrator Falls, Inc.*

Wheelabrator Falls, Incorporated (WFI) is a municipal waste resource recovery facility located in Bucks

County, Pennsylvania. WFI operates 2 waterwall, steam generator municipal waste combustors. Each combustor has a nominal rating of 750 tons per day of municipal waste. WFI was issued a plan approval on May 29, 1992 which established the best available control technology (BACT) available for the 2 combustors. The PADEP issued OP–09–0013 to WFI in accordance with 25 Pa Code 127.450. The Commonwealth's 25 Pa Code 129.93(c)(7) establishes presumptive RACT for sources subject to BACT for NO<sub>x</sub> as installation, operation and maintenance of the sources and their associated control devices in accordance with the manufacturers' specifications. WFI's NO<sub>x</sub> emissions are controlled using selective non-catalytic reduction. OP–09–0013 imposes a NO<sub>x</sub> limit (expressed as NO<sub>2</sub>) of 180 parts per million (by volume) and 102.6 pounds per hour, based on a 24 hour daily average, corrected to 7% oxygen for each combustor. The maximum input to each unit is limited to 325 MMBtu/hr and 800 tons per day of waste. Compliance with the emission limits for the combustors must be documented by a continuous emissions monitoring system. WFI must comply with 25 Pa Code 129.93(c) for the smaller NO<sub>x</sub> emitting sources present at the facility. OP–09–0013 imposes an annual VOC limit of 24.46 tpy, and a annual NO<sub>x</sub> limit of 899 tpy for the entire facility. The annual limits must be met on a rolling monthly basis over every consecutive 12 month period. OP–09–0013 requires WFI to keep records to document maintenance and calibration of the air pollution control equipment. OP–09–0013 also requires WFI to keep records of the quantities of all solid waste combusted at the facility. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good engineering and air pollution control practices.

### **III. EPA's Evaluation of Pennsylvania's SIP Revisions**

EPA is approving Pennsylvania's RACT SIP submittals because the AMS and PADEP established and imposed these requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. They have also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

### **IV. Final Action**

EPA is approving the SIP revisions to the Pennsylvania SIP submitted by

PADEP to establish and require VOC and NO<sub>x</sub> RACT for 8 major sources located in the Philadelphia area. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on October 15, 2001 without further notice unless EPA receives adverse comment by October 1, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

## V. Administrative Requirements

### A. General Requirements

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." See 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 (Public Law 104-4). This rule also does 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), nor will it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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.*).

### B. Submission to Congress and the Comptroller General

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 8 named sources.

### C. 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 October 30, 2001. 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 approving the Commonwealth's source-specific RACT requirements to control VOC and NO<sub>x</sub> from 8 individual sources located in the Philadelphia area of Pennsylvania 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: August 22, 2001.

**Abraham Ferdas,**

*Acting Regional Administrator, Region III.*

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(174) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(174) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and/or NO<sub>x</sub> RACT for sources

located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on May 2, 1996, June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and two submittals on March 23, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations, in the form of plan approvals and operating permits, on May 2, 1996, June 10, 1996, January 21, 1997, April 9, 1999, August 9, 2000, and two letters on March 23, 2001.

(B) Plan approvals (PA), Operating permits (OP) issued to the following sources:

(1) Cardone Industries, PA-51-3887, for PLID 3887, effective May 29, 1995.

(2) Cardone Industries, PA-51-2237, for PLID 2237, effective May 29, 1995.

(3) Naval Surface Warfare Center—Carderock Division, PA-51-9724, for PLID 9724, effective December 27, 1997.

(4) Wheelabrator Falls, Inc., OP-09-0013, effective January 11, 1996 (as amended May 17, 1996).

(5) U.S. Steel Group/USX Corporation, OP-09-0006, effective April 8, 1999, except for the expiration date.

(6) Brown Printing Company, OP-46-0018A, effective May 17, 2000, except for the expiration date and condition 12.

(7) SUN CHEMICAL—General Printing Ink Division, PA-51-2052, for PLID 2052, effective July 14, 2000.

(8) Sunoco Chemicals, Frankford Plant, PA-51-1551, for PLID 1551, effective July 27, 1999, except for conditions 1.A.(2)-(4), 1.A.(6), 1.A.(8); conditions 1.B.(1), 1.B.(3)-(6); the last sentence of condition 2.A.; conditions 2.B.-D.; 2.G., the last sentence of 2.H., 2.I.; and condition 7.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(174)(i)(B) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4148a; FRL-7046-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Three Individual Sources in the Philadelphia-Wilmington-Trenton Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for three major sources of volatile organic compounds (VOC) and/or nitrogen oxides (NO<sub>x</sub>). These sources are located in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on October 15, 2001 without further notice, unless EPA receives adverse written comment by October 1, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Melik Spain at (215) 814-2299, the EPA

Region III address above or by e-mail at [spain.melik@epa.gov](mailto:spain.melik@epa.gov). Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO<sub>x</sub> sources. 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). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) All sources covered by a CTG issued prior to November 15, 1990; (3) All other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTGs.

On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO<sub>x</sub> and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO<sub>x</sub> RACT requirements. In the Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO<sub>x</sub> is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 tpy or more of NO<sub>x</sub> comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO<sub>x</sub> sources. For other major NO<sub>x</sub> sources, and all major non-CTG VOC sources (not otherwise already subject to RACT