

policies, and activities on minority populations and low-income populations in the United States.

The EPA concluded that the Phase 2 Rule does not raise any environmental justice issues (See 70 FR at 71695, col. 2; (November 29, 2005)); for the same reasons, since this action concerns several aspects of the Phase 2 rule, this reconsideration action does not raise any environmental justice issues. This action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the 8-hour ozone national ambient air quality standard is designed to protect public health and is intended to apply equally to all portions of the population. In addition, this rule makes only minor changes to the previous Phase 2 implementation rule and these changes are intended to strengthen the rule, which should not disproportionately affect minority or low income populations. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS [62 FR 38856 (July 18, 1997)]. The level is designed to be protective with an adequate margin of safety. The Phase 2 Rule provides a framework for improving environmental quality and reducing health risks for areas that may be designated nonattainment.

#### K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this reconsideration action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the reconsideration action in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective July 9, 2007.

#### L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions for review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the

District of Columbia Circuit if (i) the agency action consists of "nationally applicable regulations promulgated, or final action taken, by the Administrator," or (ii) such action is locally or regionally applicable, if "such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination."

Final actions described in this Final Action on Reconsideration are "nationally applicable" within the meaning of section 307(b)(1). This action explains the final actions EPA is taking on the petitions for reconsideration of several aspects of the Phase 2 rule. EPA has determined that all of these actions are of nationwide scope and effect for purposes of section 307(d)(1) because these actions clarify the obligations of all states with respect to the nationwide implementation of the 8-hour ozone NAAQS and concern the basic program elements of nonattainment new source review SIPs. Thus, any petitions for review of the final action described in this Notice must be filed in the Court of Appeals for the district of Columbia Circuit within 60 days from the date this Notice is published in the **Federal Register**.

#### List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: May 31, 2007.

**Stephen L. Johnson**,  
*Administrator.*

■ For the reasons stated in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

#### PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 51 continues to read as follows:

**Authority:** 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

#### Subpart X—[Amended]

■ 2. Section 51.912 is amended by revising paragraph (a)(2) to read as follows:

**§ 51.912 What requirements apply for reasonably available control technology (RACT) and reasonably available control measures (RACM) under the 8-hour NAAQS?**

(a) \* \* \* \* \*

(2) The State shall submit the RACT SIP for each area no later than 27

months after designation for the 8-hour ozone NAAQS, except that for a State subject to the requirements of the Clean Air Interstate Rule, the State shall submit NO<sub>x</sub> RACT SIPs for electrical generating units (EGUs) no later than the date by which the area's attainment demonstration is due (prior to any reclassification under section 181(b)(3)) for the 8-hour ozone national ambient air quality standard, or July 9, 2007, whichever comes later.

\* \* \* \* \*

[FR Doc. E7–11113 Filed 6–7–07; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2006–0280; FRL–8322–9]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Five Individual Sources

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania 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 five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) pursuant to the Commonwealth of Pennsylvania's (Pennsylvania's or the Commonwealth's) SIP-approved generic RACT regulations. EPA is approving these revisions in accordance with the Clean Air Act (CAA).

**EFFECTIVE DATE:** This final rule is effective on July 9, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0280. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through

www.regulations.gov or in hard copy 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. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On May 4, 2006 (71 FR 26297), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of the SIP revisions submitted by PADEP on February 4, 2003 and November 21, 2005. These SIP revisions consisted of

seven source-specific operating permits issued by PADEP to establish and require RACT pursuant to the Commonwealth's SIP-approved generic RACT regulations. The following table identifies five of those sources and the individual operating permits (OPs) which are the subject of this rulemaking. We are taking final action on these five source-specific RACT rules in this final action. We will take final action on the other two source-specific operating permits in a separate action.

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

Source's name	County	Operating permit (OP #)	Source type	"Major source" pollutant
Armstrong World Industries, Inc .....	Lancaster .....	36-2002	Sheet and Flooring Products Manufacturer	VOC and NO <sub>x</sub> .
Peoples Natural Gas Company .....	Clarion .....	16-124	Natural Gas Compressor .....	VOC and NO <sub>x</sub> .
Dart Container Corporation .....	Lancaster .....	36-2015	Expanded Polystyrene Manufacturing Facility.	VOC and NO <sub>x</sub> .
AT&T Microelectronics .....	Lehigh .....	39-0001	Semiconductors Manufacturing .....	VOC and NO <sub>x</sub> .
West Penn Power Co .....	Greene .....	30-000-099	Power Plant .....	VOC and NO <sub>x</sub> .

An explanation of the CAA's RACT requirements as they apply to the Commonwealth and EPA's rationale for approving these SIP revisions were provided in the NPR and will not be restated here. Timely adverse comments were submitted on EPA's May 4, 2006 NPR. A summary of those comments and EPA's responses are provided in Section II of this document.

**II. Summary of Public Comments and EPA Responses**

On June 5, 2006, EPA received adverse comments on EPA's May 4, 2006 NPR proposing approval of PADEP's VOC and NO<sub>x</sub> RACT determinations for seven individual sources. The comments addressed only three of the seven individual sources; namely, The Frog, Switch & Manufacturing Company (The Frog); Merck & Co. Inc. (Merck); and Dart Container Corporation (Dart). EPA received no comments on the RACT determinations for the other four sources. We respond to the comments for Dart in this notice. We will respond to the comments regarding the Frog and Merck in a separate final action on the source-specific rules for those two sources.

*Comment:* With respect to Dart, the comment asserts that the RACT determination does not address an estimated 30 tons per year of VOC emissions from "cleaning solvents."

*Response:* The commenter is mistaken. Condition 6 of the RACT determination limits total annual pentane emissions from the foam cup

molding plants to 615 tons. As explained in the publicly available supporting material submitted with the SIP revision by PADEP, the 615 tons of VOCs (primarily pentane), includes the approximately 30 tons per year of "cleaning supply losses" (not, as the commenter mistakenly categorizes them, "cleaning solvents").

*Comment:* With respect to Dart, the commenter asserts that the current control of the pre-expanders should be included in the RACT determination as a RACT requirement.

*Response:* Current control of the pre-expanders is a requirement of the RACT determination. Condition 5 of the RACT determination states that "RACT for VOC emissions from all sources at this facility is determined to be current operations." "[A]ll sources" would include the pre-expanders.

*Comment:* With respect to Dart, the commenter proposes a control technology (use of a concentrator in series with an oxidation control device) to be evaluated for control of dilute VOC gas streams from the cup production plants.

*Response:* The comment implies that the RACT analysis with respect to the VOC controls for the cup production plants was not correctly performed. Although the commenter asserts that the RACT determination is incorrect because the RACT analysis did not consider the commenter's proposed control technology, the commenter does not provide information that this control technology meets the criteria for consideration as potential RACT as

specified by the Pennsylvania generic RACT regulation. The Pennsylvania generic RACT regulation specifies that the only control options that need to be considered are those that meet the threshold criterion of having "a reasonable potential for application to the source." 25 Pa. Code 129.92(b)(1). In the single conclusory sentence regarding this technology in the comment, the commenter does not provide any information from which EPA could evaluate the claim that such technology should have been considered as RACT. The commenter does not provide sufficient information from which EPA can discern whether—such a "concentrator in series with an oxidation control device" is even a currently extant technology (the RACT analysis concluded that "UV oxidizers/Photooxidation" were not among the technologies that have been successful at controlling the VOC—the pentane—emitted from this facility, but it is unclear if this type of "oxidation control device" intended by the commenter, as other processes, such as incineration, may also be properly referred to as "oxidation"). Furthermore, the commenter provides no supporting technical data or information to indicate that the "current operations" specified as RACT for all sources at the facility (which would include sources of dilute VOC gas streams from the cup production processes), is not RACT, or alternatively, that the proposed control technology may be RACT. Furthermore, the comment does not identify which

gas streams it considers to be sources of "dilute VOC" gas streams to which the commenter would apply the control technology.

Additionally, the supporting document submitted by PADEP with the SIP revision for the RACT determination extensively discusses the technical feasibility and cost effectiveness of various control technologies, including oxidation and concentration technologies for the capture and destruction of VOC from various sources at the facility, prior to concluding that current operations (which do not include oxidation and concentration) are RACT. Due to the lack of specificity of the comment, EPA believes it is possible that the technology proposed by the commenter may actually be among the options considered and rejected in the RACT analysis, which lists "concentration technologies in conjunction with incineration" as a "proven success" for controlling pentane emissions. However, the RACT analysis did not conclude that this technology would be cost effective.

In sum, the commenter merely asserts in a single sentence, without support, that there is a technology that ought to have been considered (and which may actually have been considered), but has not provided EPA with sufficient information for us to determine what that technology is and evaluate whether it meets even the relatively lax standard of 25 Pa. Code 129.92(b)(1), of having a "reasonable potential" to be applied to this source. The mere assertion that an agency may have gotten something wrong without the commenter providing a basis for evaluating that assertion, does not rise to level of a relevant comment warranting a substantive response. See *International Fabricare Inst. v. EPA*, at 391. See also *Whitman v. American Trucking Associations, Inc.*, n.2. at 471.

EPA therefore may approve the RACT determinations for the four sources in which we received no adverse comment, and for Dart in this rulemaking.

### III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on February 4, 2003 and November 21, 2005, to establish and require VOC and NO<sub>x</sub> RACT for five sources pursuant to the Commonwealth's SIP-approved generic RACT regulations.

## IV. Statutory and Executive Order Reviews

### 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" (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 tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement

for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### 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 five 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 August 7, 2007. 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 source-specific RACT requirements for five sources in the Commonwealth 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, Nitrogen dioxide,

Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 31, 2007.

William T. Wisniewski,

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. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Armstrong World Industries, Inc.;

Peoples Natural Gas Company; Dart Container Corporation; AT&T Microelectronics; and West Penn Power Co. at the end of the table to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*  
(1) \* \* \*

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Armstrong World Industries, Inc	Lancaster	OP 36–2002	10/31/96	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
Peoples Natural Gas Company	Clarion	OP 16–124	8/11/99	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
Dart Container Corporation	Lancaster	OP 36–2015	8/31/95	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
AT&T Microelectronics	Lehigh	OP 39–0001	5/19/95	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
West Penn Power Co.	Greene	OP 30–000–099	5/17/99	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).

\* \* \* \* \*  
[FR Doc. E7–11032 Filed 6–7–07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[EPA–HQ–SFUND–2007–0021; FRL–8323–6]

**National Oil and Hazardous Substances Pollution Contingency Plan; Responsibility and Organization for Response; General Organization Concepts**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** The Environmental Protection Agency issued a final rule in the *Federal Register* on September 15, 1994 that revised the National Contingency Plan to incorporate amendments to the

Clean Water Act that were enacted with the Oil Pollution Act of 1990. This document is being issued to update one of the figures, “U.S. Coast Guard Districts —Atlantic and Pacific Area Commands,” found in the National Contingency Plan. The United States Coast Guard revised their District boundaries in November 2006.

**DATES:** This final rule is effective on July 9, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2007–0021. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are

available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Superfund Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–0276.

**FOR FURTHER INFORMATION CONTACT:** Lynn Beasley, Regulation and Policy Development Division, Office of Emergency Management (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–1965; fax number: (202) 564–2625; e-mail address: [beasley.lynn@epa.gov](mailto:beasley.lynn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. General Information**

*A. Does This Action Apply to Me?*

Type of entity	Examples of affected entities
Federal Agencies	Agencies with responsibilities for planning and response under the CWA, CERCLA, and the OPA.
State and Local Governments	Governing bodies responsible for planning, preparedness and response activities; Area Committees responsible for developing, under On-Scene Coordinator direction, Area Contingency Plans.
Responsible Parties	Those entities responsible for the discharge of oil or release of a hazardous substance, pollutant or contaminant.