

Pollution Control Plant, PA-1534, effective July 21, 2000.

(10) Pearl Pressman Liberty, PA-7721, effective July 24, 2000.

(11) Arbill Industries, Inc., PA-51-3811, effective July 27, 1999, except for condition 5.

(12) McWhorter Technologies, PA-51-3542, effective July 27, 1999, except for condition 2.B. and condition 5.

(13) Northeast Water Pollution Control Plant, PA-51-9513, effective July 27, 1999, except for condition 1.A.(1), conditions 2.A. and 2.B., and condition 7.

(14) Newman and Company, PA-3489, effective June 11, 1997.

(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)(185)(l)(B) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA041-4180; FRL-7089-4]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Requirements for Volatile Organic Compounds and Nitrogen Oxides in the Philadelphia-Wilmington-Trenton Area

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

**ACTION:** Final rule.

**SUMMARY:** EPA is removing the limited status of its approval of the Commonwealth of Pennsylvania State Implementation Plan (SIP) revision that requires all major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) to implement reasonably available control technology (RACT) as it applies in the Philadelphia-Wilmington-Trenton ozone nonattainment area (the Philadelphia area). EPA is converting its limited approval of Pennsylvania's VOC and NO<sub>x</sub> RACT regulations to full approval because EPA has approved all of the case-by-case RACT determinations submitted by Pennsylvania for the affected sources located in the Philadelphia area. The intended effect of this action is to remove the limited nature of EPA's approval of Pennsylvania's VOC and NO<sub>x</sub> RACT regulations as they apply in the Philadelphia area.

**EFFECTIVE DATE:** This final rule is effective on November 29, 2001.

**ADDRESSES:** 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; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Marcia Spink, (215) 814-2104 or by e-mail at [spink.marcia@epa.gov](mailto:spink.marcia@epa.gov).

#### SUPPLEMENTARY INFORMATION

##### I. Background

On September 6, 2001 (66 FR 46571), EPA published a notice of proposed rulemaking (NPR) for the State of Pennsylvania. The NPR proposed to remove the limited status of EPA's approval of the Commonwealth of Pennsylvania SIP revision that requires all major sources of VOC and NO<sub>x</sub> to implement reasonably available control technology (RACT) as it applies in the Philadelphia area. The rationale for EPA's action is explained in the NPR and will not be restated here. No comments were received on the NPR.

##### II. Final Action

EPA is converting its limited approval of Pennsylvania's generic VOC and NO<sub>x</sub> RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the five-county Philadelphia-Wilmington-Trenton ozone nonattainment area. EPA has approved all of the case-by-case RACT determinations submitted by PADEP for affected major sources of NO<sub>x</sub> and/or VOC sources located in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area.

##### III. 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" (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 is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 **note**) do not apply. This rule does not impose an information collection burden under the provisions

of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### 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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### 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 December 31, 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 converting EPA's limited approval of Pennsylvania's generic VOC and NO<sub>x</sub> RACT regulations, 25 Pa Code Chapter 129.91 through 129.95, to full approval as they apply in the five-county Philadelphia-Wilmington-Trenton 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, Intergovernmental relations, Nitrogen dioxide, Ozone.

Dated: October 15, 2001.

**James W. Newsom,**

*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 52.2027 is amended by adding paragraph (b) to read as follows:

##### § 52.2027 Approval Status of Pennsylvania's Generic NO<sub>x</sub> and VOC RACT Rules.

\* \* \* \* \*

(b) Effective November 29, 2001, EPA removes the limited nature of its approval of 25 PA Code of Regulations, Chapter 129.91 through 129.95 [see § 52.2020 (c)(129)] as those regulations apply to the Philadelphia-Wilmington-Trenton area. Chapter 129.91 through 129.95 of Pennsylvania's regulations are fully approved as they apply in Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, the five counties that comprise the Pennsylvania portion of the Philadelphia area.

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[PA-4187; FRL-7090-2]

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

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking 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 seven 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 the SIP in accordance with the Clean Air Act (CAA or the Act).

**EFFECTIVE DATE:** This final rule is effective on November 14, 2001.

**ADDRESSES:** 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, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Marcia Spink (215) 814-2104 or by e-mail at [spink.marcia@epa.gov](mailto:spink.marcia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On August 1, 1995, February 2, 1999, July 27, 2001, and August 8, 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 seven of those sources. The remaining sources are or have been the subject of separate rulemakings. All seven sources are located in the Philadelphia area and include: G-Seven, Ltd.; Kimberly-Clark Corporation; Leonard Kunin Associates; PECO Energy Company—Cromby Generating Station; Sunoco, Inc. (R&M)—Marcus Hook Plant; Waste Management Disposal Services of Pennsylvania, Inc. (GROWS Landfill); Waste Resource Energy, Inc. (Operator) and Shawmut Bank, Conn. National Assoc. (Owner)—Delaware County Resource Recovery Facility.

On September 11, 2001 (66 FR 47078), EPA published a direct final rule and a companion notice of proposed rulemaking (66 FR 47129) to approve these SIP revisions. On October 9, 2001, we received adverse comments on our direct final rule from the Citizens for Pennsylvania's Future (PennFuture). On October 10, 2001, EPA signed a timely withdrawal for publication in the **Federal Register** informing the public that the direct final rule did not take effect. We indicated in our September 11, 2001 direct final rulemaking that if we received adverse comments, EPA would address all public comments in a subsequent final rule based on the proposed rule (66 FR 47129). This is that subsequent final rule. A description of the RACT determination(s) made for each source was provided in the September 11, 2001 direct final rule and will not be restated here. A summary of the comments submitted and EPA's responses are provided in Section II.

##### II. Public Comments and Responses

On October 9, 2001, the Citizens for Pennsylvania's Future (PennFuture) submitted adverse comments on the proposed rule published by EPA in the **Federal Register** on September 11, 2001