

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_x 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.

[FR Doc. 01-22004 Filed 8-30-01; 8:45 am]

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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_x 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_x). 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. 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_x 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_x 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_x 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_x 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_x comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_x sources. For other major NO_x 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_x 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 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_x RACT regulations by submitting 485 case-by-case VOC/NO_x 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_x 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_x 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_x emissions in the form of a NO_x 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 SIP revision on June 6, 2000 (65 FR

35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_x SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_x 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_x 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_x 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 April 20, 1999, June 28, 2000, and August 8, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_x. This rulemaking pertains to three of those sources. The Commonwealth's submittals consist of plan approvals and operating permits which impose VOC and/or NO_x RACT requirements for each source. These three sources are all located in the Philadelphia area. A summary of the VOC and/or NO_x RACT determinations for each source is provided below.

A. Exelon Generation Company—Richmond Generating Station

Exelon Generation Company (Exelon), formerly PECO Energy Company, is a power plant located in Philadelphia, Pennsylvania. Exelon is a major NO_x emitting facility. The Philadelphia Air Management Services (AMS) issued a plan approval, PA-51-4903, to impose NO_x RACT for the 2 General Electric Frame 7B turbines in operation at Exelon's Richmond Generating Station. The PADEP submitted PA-51-4903 to EPA, as a SIP revision, on behalf of AMS. These 2 turbines each burn No. 2 oil. Both turbines have nominal outputs of 66 megawatts (MW). PA-51-4903 imposes NO_x RACT on Exelon's 2 turbines as a restriction on the operating capacity of each combustion turbine to less than 15% capacity. The capacity factor limitation will be met on a monthly rolling basis over every 12 consecutive month period. PA-51-4903 requires Exelon to operate these turbines in accordance with the manufacturer's specifications. PA-51-4903 also limits each combustion turbine NO_x emissions to 0.7 pounds or less of NO_x per million British thermal units (lbs of NO_x/MMBtu). Exelon must

collect and keep records detailing the daily fuel usage, net power generation, and NO_x emissions data, to demonstrate compliance with the NO_x RACT requirements of 25 Pa Code sections 129.91—129.94. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices. Federal approval of this RACT determination for Exelon in no way relieves that source from applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

B. FPL Energy MH 50, L.P.

FPL Energy MH 50, L.P., (FPL) is a power plant located in Delaware County, Pennsylvania. FPL is a major NO_x emitting facility. PADEP issued PA-23-0084 to impose NO_x RACT for the Brown Boveri 51.77 MW combustion turbine in operation at FPL's Marcus Hook plant. This turbine was previously owned and operated by Sunoco, Incorporated (R&M). The Brown Boveri combustion turbine, Model No. GT8, burns natural gas and reformer gas. PA-23-0084 imposes NO_x emission limits on FPL's turbine of 45 parts per million (ppm) when firing natural gas, and a 67 ppm NO_x limit when firing reformer gas. The ppm limits will be met on an hourly basis, corrected to 15% oxygen on a dry basis. PA-23-0084 also establishes an annual NO_x emissions limit of 463 tpy. The annual limit must be met every month over any 12 consecutive month period. PA-23-0084 requires FPL to operate a continuous emissions monitoring system (CEMS) at the combustion turbine exhaust stack. Operation of CEMS must be in accordance with the requirements of 25 Pa Code Chapter 123 or Chapter 139. All process equipment and associated air pollution control devices must be maintained and operated in accordance with good air pollution engineering and air pollution control practices.

C. Waste Management Disposal Services of Pennsylvania, Inc. (Pottstown Landfill)

The Pottstown Landfill is a solid municipal waste landfill owned and operated by Waste Management Disposal Services of Pennsylvania, Incorporated. The landfill is located in Montgomery County, Pennsylvania. The landfill itself is a major VOC emitting source and the associated combustion equipment used as VOC control technology for the landfill gas are responsible for the Pottstown Landfill being a major source NO_x. PADEP issued Pottstown Landfill OP-46-0033

to establish VOC and NO_x RACT for the landfill, the flare, and 2 turbines in operation at the facility. OP-46-0033 imposes a minimum collection efficiency of 90% or greater for the landfill gas. The collection system must be designed to minimize off-site migration of the subsurface gas. An enclosed flare is to be used to burn landfill gas.

OP-46-0033 limits the flow rate of the landfill gas to the enclosed flare to 3475 square cubic feet per minute. In addition, OP-46-0033 specifies that the enclosed flare will be operated to minimize VOC emissions from the landfill gas taken in from the collection system such that it achieves a destruction efficiency of 98%, by weight. The OP also limits the enclosed flare outlet concentration to 20 ppm by volume (ppmv), NonMethane Organic Compound (NMOC), measured on a dry basis as hexane at 3% oxygen. OP-46-0033 limits the VOC emissions from the enclosed flare to 1.21 pounds per hour (lbs/hr) and 5.29 tpy. Emissions of NO_x from the enclosed flare will be limited to 18.48 lbs/hr and 80.85 tpy. The NMOC emissions rate and VOC emissions rate must be calculated using procedures specified in 40 CFR 60.754 (and as it may be subsequently amended). The flow rate of landfill gas to the enclosed flare will be recorded continuously. The 2 landfill gas fired turbines are each rated at 42 MMBtu per hour. OP-46-0033 specifies that these 2 turbines burn onsite landfill gas only and that they be operated to reduce VOC emissions from the landfill at a minimum efficiency of 99%, by weight. The emissions of NO_x, expressed as nitrogen dioxide, for each of the turbines as specified in OP-46-0033, must never exceed 42 ppmv at 15% oxygen, measured on a dry basis. OP-46-0033 limits the VOC emissions from each of the turbines to 0.48 lbs/hr and 2.09 tpy. Emissions of NO_x from each of the turbines is also limited to 42 ppmv at 15% oxygen on a dry basis, 4.75 lbs/hr, and 20.9 tpy. The annual limits established in OP-46-0033 must be met on a rolling monthly basis over every consecutive 12 month period. OP-46-0033 requires Pottstown Landfill to monitor the pressure of the enclosed flare and report events of unanticipated positive pressure. OP-46-0033 also imposes on the Pottstown Landfill, bi-monthly leak monitoring, detection and repair program. The landfill gas used as fuel for the turbines subject to OP-46-0033 must be monitored daily. All process equipment and associated air pollution control devices must be maintained and operated in accordance

with good air pollution engineering and air pollution control practices.

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

EPA is approving Pennsylvania's RACT SIP submittals because AMS and PADEP established and imposed these RACT 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 revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO_x RACT for 3 major of 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 3 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_x from 3 individual sources 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)(182) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(182) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO_x RACT, for three sources located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on April 20, 1999, June 28, 2000, 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_x RACT determinations, in the form of plan approvals and operating permits on April 20, 1999, June 28, 2000, and August 8, 2001.

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

(1) Waste Management Disposal Services of Pennsylvania, Inc. (Pottstown Landfill), OP-46-0033, effective April 20, 1999.

(2) FPL Energy MH 50, L.P., PA-23-0084, effective July 26, 1999, except for the expiration date.

(3) Exelon Generation Company—Richmond Generating Station, PA-51-4903, effective July 11, 2001.

(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)(182)(i)(B) of this section.

[FR Doc. 01-22002 Filed 8-30-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[NC-T5-2001-02; FRL-7047-2]

Clean Air Act Final Full Approval of Operating Permit Programs; North Carolina, Mecklenburg County, and Western North Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final full approval.

SUMMARY: EPA is promulgating full approval of the operating permit programs of the North Carolina Department of Environment and Natural Resources, the Mecklenburg County Department of Environmental Protection, and the Western North Carolina Regional Air Quality Agency. These programs were submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On November 15, 1995, EPA granted interim approval to the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs. These agencies revised their programs to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on June 12, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the North Carolina, Mecklenburg County, and Western North Carolina operating permit programs.

EFFECTIVE DATE: October 1, 2001.

ADDRESSES: Copies of the North Carolina, Mecklenburg County, and Western North Carolina submittals and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air & Radiation Technology Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Interested persons wanting to examine these documents, which are contained in EPA docket number NC-T5-2001-01, should make an appointment at least 48 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: Kim Pierce, EPA Region 4, at (404) 562-9124 or pierce.kim@epa.gov/.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following questions:

What is the operating permit program?