

representative, the Vessel Traffic Center (VTC).

(2) The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(3) Vessels are prohibited from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chase Launch Service's West Bank Dock. This prohibition is effective two hours prior to the arrival and departure of the C/S CONQUEST until it safely passes under the crossing.

(4) Moored vessels are permitted to remain within the safety zone.

(5) Vessels requiring entry into or passage through the zone during the enforcement periods must request permission from the Captain of the Port, New Orleans or designated representative, the VTC. They may be contacted via VHF Channel 67 or by telephone at (504) 589-2780.

(6) All persons and vessels shall comply with the instruction of the Captain of the Port, New Orleans and designated representatives including the VTC and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: December 13, 2002.

**R.W. Branch,**

*Captain, U.S. Coast Guard, Captain of the Port, New Orleans.*

[FR Doc. 03-1009 Filed 1-16-03; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA037/072/184-4190a; FRL-7421-1]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sulfur Dioxide Attainment Demonstration for the Warren County Nonattainment Area and Permit Emission Limitations for Two Individual Sources in Warren County

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP). This revision contains

enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and an air quality modeling demonstration that indicates that the allowable emission limits will provide for the attainment of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>) in the Conewango Township, Pleasant Township, Glade Township, and the City of Warren nonattainment area. The modeling demonstration assumes new SO<sub>2</sub> limits for the Reliant Warren Generating Station and the United Refining Company. This SIP revision replaces all previously submitted SIP revisions for the SO<sub>2</sub> nonattainment areas in Warren County, Pennsylvania. The implementation plan was submitted by Pennsylvania to satisfy the requirements of the Clean Air Act (CAA) pertaining to nonattainment areas.

**DATES:** This rule is effective on March 18, 2003 without further notice, unless EPA receives adverse written comment by February 18, 2003. 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 Walter Wilkie, Deputy Branch Chief, Air Quality Planning and Information Services Branch, 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

#### FOR FURTHER INFORMATION CONTACT:

Denis Lohman, (215) 814-2192, or Ellen Wentworth, (215) 814-2034 or by e-mail at [lohman.denny@epa.gov](mailto:lohman.denny@epa.gov), or [wentworth.ellen@epa.gov](mailto:wentworth.ellen@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

### A. Conewango Township

On March 3, 1978, (43 FR 8962) EPA designated Conewango Township, Warren County, Pennsylvania, as nonattainment for SO<sub>2</sub> as part of EPA Region III's initial SO<sub>2</sub> designations. EPA acted on the recommendation of the Commonwealth of Pennsylvania to designate this area as nonattainment for SO<sub>2</sub>. Upon designation, part D of the CAA was triggered for Conewango Township. Part D required Pennsylvania to submit to EPA for approval, a plan revision for achieving the SO<sub>2</sub> NAAQS as expeditiously as practicable. The basis of the recommendation was air quality dispersion modeling conducted in 1976. This modeling analysis was later found suspect because EPA determined that the study did not meet modeling guidelines and that meteorological data may have been suspect. On December 27, 1982, the Pennsylvania Department of Environmental Resources (PADER) submitted a request to have Conewango Township reclassified to "unclassifiable", but EPA rejected the request because the statutory attainment date (December 31, 1982) had passed by the time EPA received the request. A March 17, 1983, request to have the area redesignated to "attainment" was rejected by EPA because the request did not contain adequate modeling in support of the request.

After Penelec reported monitored exceedances of the SO<sub>2</sub> NAAQS, the EPA on February 24, 1984, notified PADER that it must submit a SIP revision for the area to address the NAAQS nonattainment. In accordance with EPA's request, PADER and Penelec entered into a Consent Order and Agreement (COA) on December 5, 1984. The COA required Penelec to conduct a new air quality and meteorological monitoring study to select a dispersion model to be used to set an allowable emission rate for the Warren plant. This COA was submitted to EPA as a SIP revision on December 28, 1984. EPA proposed approval of this revision on May 9, 1985 (50 FR 19548). Modeling activities and the air quality analyses conducted under the COA indicated that the data from the United Refining Company, located in adjacent Glade Township were necessary to complete the model evaluation study. United began to supply SO<sub>2</sub> emission data necessary to complete the model study. Because of the unforeseen contributions of the United Refining Company, this SIP revision, as proposed, was no longer adequate. In June 1992, EPA notified the Commonwealth that it had failed to

submit the required SIP revision for Conewango Township, Warren County, and that it had 18 months in which to submit a SIP revision or face one of the sanctions detailed under section 179(b). On December 9, 1993, the Commonwealth of Pennsylvania submitted a revision to its SIP for the Conewango Township SO<sub>2</sub> nonattainment area. This SIP revision consisted of a COA entered into by and between the Commonwealth of Pennsylvania and Penelec dated April 1, 1993. The COA established interim and final emission limits for the Warren Generating Station in Conewango Township which would protect the NAAQS for SO<sub>2</sub>. On February 15, 1995, EPA published a final rule approving the SIP revision (60 FR 8566).

EPA received adverse comments on this rulemaking and subsequently published a notice in the **Federal Register** on April 13, 1995 formally withdrawing the final rulemaking (60 FR 18750). On September 26, 1995, Pennsylvania submitted a SIP revision to amend the revision submitted on December 9, 1993, pertaining to SO<sub>2</sub> nonattainment in Conewango Township. This SIP revision also addressed the SO<sub>2</sub> nonattainment issues related to Glade Township, Pleasant Township, and the City of Warren, Warren County, Pennsylvania. The EPA reviewed this SIP revision and requested additional modeling. Because of the interaction between the Conewango Township nonattainment area, and the Glade Township, Pleasant Township, and the City of Warren nonattainment area, PADEP has prepared a combined SIP revision addressing both areas.

#### *B. Glade Township, Pleasant Township, City of Warren*

On December 21, 1993 (58 FR 67334), EPA designated the Glade and Pleasant Townships, and the City of Warren, Pennsylvania as nonattainment for SO<sub>2</sub>. The redesignation of these areas as nonattainment for SO<sub>2</sub> was based upon conservative modeling that showed modeled exceedances of the short-term SO<sub>2</sub> standards at the United Refining Company in Glade Township. This area is adjacent to the Conewango Township nonattainment area. PADEP granted permission to United Refining Company to model the area, which included certain high terrain "hotspots" in the immediate vicinity of the facility. The modeling was performed using the EPA

Guideline model CTCSCREEN and was completed in April 1993. The modeling showed that the high terrain "hotspots" were in attainment of the NAAQS for SO<sub>2</sub>.

On September 26, 1995, Pennsylvania submitted a SIP revision to amend the revision submitted on December 9, 1993 pertaining to SO<sub>2</sub> nonattainment in Conewango Township. This SIP revision also addressed the SO<sub>2</sub> nonattainment issues related to Glade Township, Pleasant Township, and the City of Warren, Warren County, Pennsylvania. EPA reviewed this SIP revision and requested additional modeling. Because of the interaction between the Conewango Township nonattainment area, and the Glade Township, Pleasant Township, and the City of Warren nonattainment area, PADEP has prepared a combined SIP revision addressing both areas.

## **II. Summary of SIP Revision**

On December 26, 2001, the Commonwealth of Pennsylvania submitted a formal comprehensive SIP revision for the SO<sub>2</sub> nonattainment area of Conewango Township, Pleasant Township, Glade Township, and the City of Warren, in Warren County, Pennsylvania, replacing all previously submitted SIP revisions for the SO<sub>2</sub> nonattainment areas in Warren County. This SIP revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and an air quality modeling demonstration indicating attainment of the NAAQS for SO<sub>2</sub> for Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, in the Commonwealth of Pennsylvania. The essential compliance provisions of these permits are presented below.

### **1. Reliant Energy Mid Atlantic Power Holdings, Warren Generating Station Title V Operating Permit #62-00012**

Reliant Energy Mid Atlantic Power Holdings LLC (Reliant), formerly GPU Generation Corporation, and formerly Penelec, owns and operates the Warren Generating Station in Warren County, Pennsylvania. The Station has been in operation since 1948 and consists of four boilers feeding two turbine generators, one gas/oil-fired combustion turbine unit, and one oil-fired emergency diesel. Sulfur dioxide emissions are controlled by fuel

specification. Reliant Energy's permit for this SIP revision consists of relevant portions of a Title V operating permit pertaining to SO<sub>2</sub> only. The SO<sub>2</sub> limitations specified for Boilers No. 1, 2, 3, and 4 are: 4,000 lbs per million Btu over a 3-hour period; 3,530 lbs per million Btu over a 24-hour period, and 3,530 lbs per million Btu annual average. Compliance with these limits is determined by using a continuous emission monitor (CEM) required to be installed and operated in the single stack serving all four boilers. The SO<sub>2</sub> limitations for the combustion turbine and emergency diesel generator are 500 parts per million by volume (ppmv). The effective date of the permit is November 21, 2001.

Monitoring requirements stated in the permit require the permittee to install, operate, and maintain a continuous SO<sub>2</sub> monitoring system to monitor SO<sub>2</sub> emissions from the four boilers where all four boilers exhaust into a common stack containing a single CEMS in compliance with 25 PA Code Chapter 139 subchapter C (relating to requirements of continuous in-stack monitoring for stationary sources). Results of emission monitoring shall be submitted to the Department on a regular basis in compliance with 25 PA Code Chapter 139, subchapter C. The Department may use the data from the SO<sub>2</sub> monitoring devices to enforce the emission limitations for SO<sub>2</sub> defined in this permit. The Department may use data from the SO<sub>2</sub> monitoring systems to determine compliance with the applicable emission limitations for SO<sub>2</sub> established in this permit. Reporting requirements require the permittee to submit to the Department the sulfur content (% by weight) of the fuel oil and CEM data reports on a quarterly basis.

### **2. United Refining Company, SO<sub>2</sub> Permit #1 62-017E**

United Refining Company owns and operates an oil refinery which processes fuels and asphalt from crude oil. This facility is located in the City of Warren, Warren County, that adjoins Conewango Township, Glade Township, Pleasant Township, and the City of Warren, PA were designated as nonattainment for SO<sub>2</sub> by EPA on December 21, 1993 (58 FR 67334). The United Refining Company operating permit is a Plan Approval permit and contains the SO<sub>2</sub> emission limitations specified in the following table:

## EMISSION RATES FOR UNITED REFINING COMPANY SOURCES

| Source                                                                   | Emissions<br>in pounds<br>per hour | Emissions<br>in tons per<br>year |
|--------------------------------------------------------------------------|------------------------------------|----------------------------------|
| Boiler house (boiler #1, 2, and 3) .....                                 | 195.10                             | 854.50                           |
| No. 4 Boiler .....                                                       | 24.30                              | 106.40                           |
| FCC Charge Heater .....                                                  | 1.10                               | 0.40                             |
| DHT1 Heater .....                                                        | 0.10                               | 0.40                             |
| Prefractionator Reboiler .....                                           | 18.00                              | 78.80                            |
| Old Reformer Heater (East Reformer Heater) .....                         | 91.30                              | 399.90                           |
| Crude Heater (Wheco) .....                                               | 207.70                             | 909.70                           |
| Vacuum Heater .....                                                      | 0.80                               | 3.50                             |
| Pretreater Heater .....                                                  | 28.00                              | 122.60                           |
| New Reformer Heater (West Reformer Heater) .....                         | 2.20                               | 9.60                             |
| Sat Gas Reboiler .....                                                   | 0.40                               | 1.80                             |
| Fluid Catalytic Cracking Unit (FCC Regenerator) .....                    | 285.00                             | 1248.30                          |
| Combo Flare .....                                                        | 0.40                               | 1.80                             |
| FCC Flare .....                                                          | 0.10                               | 0.40                             |
| No. 5 Boiler .....                                                       | 1.20                               | 5.30                             |
| Sat Gas KVG Compressor Engine .....                                      | 0.10                               | 0.40                             |
| T-241 Heater (Volcanic Heater) .....                                     | 0.30                               | 1.30                             |
| Distillate Hydrotreater Heater (DHT2) .....                              | 33.40                              | 146.30                           |
| Sulfur Recovery Unit 2 (SRU2) Incinerator .....                          | 12.00                              | 52.60                            |
| SRU2 Hot Oil Heater .....                                                | 0.10                               | 0.40                             |
| Old FCC Unit (Only to be used when new FCC Charge Heater is not in use). |                                    |                                  |
| West FCC KVG Compressor Engine (Standby basis only).                     |                                    |                                  |
| Middle FCC KVG Compressor Engine .....                                   | 0.14                               | 0.60                             |
| East FCC KVG Compressor .....                                            | 0.14                               | 0.60                             |
| VCU Unit .....                                                           | 0.81                               | 0.76                             |
| Total Allowable .....                                                    | 902.69                             | 3946.36                          |

Monitoring and reporting requirements require the sources listed in the table above (except the SRU2 incinerator, and the FCC Regenerator) to monitor the hydrogen sulfide (H<sub>2</sub>S) concentration in the refinery fuel for the source. The H<sub>2</sub>S monitors for these sources shall be installed, calibrated, maintained, and operated by the owner or operator of the facility in compliance with the requirements of the Department Continuous Emission Monitor (CEM) Manual.

The SRU2 Incinerator and the FCC Regenerator shall monitor SO<sub>2</sub> emissions from the Sulfur Recovery Unit (SRU2) and the Fluid Catalytic Cracking Unit respectively. The SO<sub>2</sub> emissions from the SRU2 shall not exceed 0.025% by volume of sulfur dioxide at 0% oxygen on a dry basis. A

CEM system shall be installed and concentrations of SO<sub>2</sub> in the gases discharged into the atmosphere from the tail gas treating unit shall be recorded. The span of the CEM shall be set at 500 ppm. The SO<sub>2</sub> monitors for these sources shall be installed, calibrated, maintained, and operated by the owner or operator of the facility in compliance with the requirements of the Department CEM Manual.

This permit applies to the emissions of SO<sub>2</sub> only. Emissions of other pollutants, including criteria pollutants, shall be governed by the existing Plan Approvals, Operating Permits, and applicable requirements and other rules and regulations of the Department. This permit does not require testing and monitoring beyond what is already required under the facility's Plan

Approvals, Operating Permits, and the rules and regulations of the Department.

### 3. Dispersion Modeling

A dispersion modeling analysis was performed to demonstrate compliance with the SO<sub>2</sub> NAAQS. A summary of the analysis is available in the technical support document (TSD) for this rulemaking. The final dispersion modeling, based upon the SO<sub>2</sub> emission limits of sources amended through operating permits in addition to a representative background, demonstrates that the maximum SO<sub>2</sub> impacts do not violate the SO<sub>2</sub> NAAQS. The modeled impacts, including background concentrations, are as follows:

#### PREDICTED SULFUR DIOXIDE IMPACTS [Micrograms per cubic meter]

| Period        | LAPPES | NAAQS | Percent of<br>NAAQS |
|---------------|--------|-------|---------------------|
| 3-Hour .....  | 1241.  | 1300  | 95.46               |
| 24-Hour ..... | 364.7  | 365   | 99.92               |
| Annual .....  | 75.6   | 80    | 94.50               |

### 4. Air Quality

The modeling demonstration shows that the extreme (highest second-high 3-

hour and 24-hour) concentrations approach but do not exceed the NAAQS. The maximum modeled annual concentration is about 95

percent of the NAAQS. All of these concentrations include an estimate of background SO<sub>2</sub>. The monitored values

are summarized in the TSD for this rulemaking.

### III. Evaluation of State Submittal

The CAA requires states to submit implementation plans that indicate how each state intends to attain and maintain the NAAQS. The 1977 Amendments established specific requirements for implementation plans in nonattainment areas in part D, section 171–178. With respect to SO<sub>2</sub>, the 1990 Amendments did not change these requirements in any significant way and existing guidance remains valid. On April 16, 1992 (57 FR 13498), EPA issued “General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,” describing EPA’s preliminary views on how it intends to interpret various provisions of Title I, primarily those concerning revisions required for nonattainment areas.

In order to approve the SIP revision, all of the part D requirements must be evaluated and they must ensure that: (1) The revised allowable emission limitation demonstrates attainment and maintenance of the NAAQS for SO<sub>2</sub> in the nonattainment area; (2) the emission limitation is clearly enforceable; and (3) that all applicable procedural and substantive requirements of 40 CFR part 51 are met. The following is an evaluation of the part D requirements as described in the “General Preamble.”

#### 1. Reasonably Available Control Measures (RACT)

Pennsylvania’s SIP revision provides for reasonably available control technology (RACT). The SIP revision complies with the requirements to implement RACT by providing for immediate attainment of the SO<sub>2</sub> NAAQS through the emission limits and operating restrictions imposed on the culpable sources by their permits.

#### 2. Reasonable Further Progress (RFP)

Reasonable further progress is achieved due to the immediate effect of the emission limits required by the plan.

#### 3. Inventory

The modeling demonstration submitted with the SIP revision contained a detailed emissions inventory of the allowable emissions for all of the sources of SO<sub>2</sub> in the receptor grid. That inventory of the SO<sub>2</sub> emissions in the Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, Pennsylvania nonattainment area was found to be acceptable.

#### 4. Identification and Quantification

There are no new sources identified as being constructed in this area.

#### 5. Permits for New and Modified Major Stationary Sources

Any new or modified sources constructed in the area must comply with a state submitted and federally approved New Source Review program. There are no new sources involved with this submittal. The existing Pennsylvania regulation 25 PA Code Chapter 127, “Construction, Modification, Reactivation and Operation of Sources,” adequately provides for review and permitting of new sources. This regulation applies statewide.

#### 6. Other Measures

The plan provides for immediate attainment of the SO<sub>2</sub> NAAQS through the emission limitations, operating requirements, and compliance schedules that are set forth within the permits.

#### 7. Compliance with section 110(a)(2)

This submission complies with section 110(a)(2). All of the applicable provisions of section 110(a)(2) are already required by the statutory provisions discussed in this plan, or have already been met by Pennsylvania’s original May 31, 1972 (37 FR 10842) SIP submission to EPA.

#### 8. Equivalent Techniques

A dispersion modeling analysis was performed to demonstrate compliance with the sulfur dioxide NAAQS. The models used in the compliance analysis included the LAPPES model, the RTDM, and the Multiple Point with Terrain (MPTEr) model. Regulatory approval to use the LAPPES model for the Warren Generating Station was obtained as the result of a model performance comparison study which showed that LAPPES is superior to RTDM for determining air quality impacts from the Warren Generating Station in terrain above stack top. At the time of the model performance study, RTDM was specified by EPA’s Guideline on Air Quality Models (GAQM) as the preferred model for complex terrain. The MPTEr model was, at the time, the screening model preferred by GAQM for simple terrain.

The final dispersion modeling consisted of a combination of modeling results with the model selected according to the source and the relative terrain. For the Warren Station, the LAPPES model was used for receptors in all terrain above stack top. The MPTEr model was used for all receptors

in terrain below stack top (simple terrain). For the sources at United Refining, the RTDM model was used for all receptors above the calculated plume height. The MPTEr model was used for all simple terrain. For receptors above stack top but below plume height estimates were made with both RTDM and MPTEr and the higher result, on a receptor-by-receptor basis, was selected as the estimate for that receptor.

#### 9. Contingency Measures

Section 172(c)(9) of the CAA defines contingency measures as measures in a SIP which are to be implemented if an area fails to make RFP or fails to attain the NAAQS by the applicable attainment date, and shall consist of other control measures that are not included in the control strategy. However, the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, (57 FR 13498), states that SO<sub>2</sub> measures present special considerations because they are based upon what is necessary to attain the NAAQS. Because SO<sub>2</sub> control measures are well established and understood, they are far less prone to uncertainty. It would be unlikely for an area to implement the necessary emissions control yet fail to attain the SO<sub>2</sub> NAAQS. Therefore, for SO<sub>2</sub> programs, contingency measures mean that the state agency has the ability to identify sources of violations of the SO<sub>2</sub> NAAQS and to undertake an aggressive followup for compliance and enforcement. This SIP revision requires the collection of continuous emission monitoring (CEM) data at the Reliant Energy and United Refining facilities. Therefore, PADEP has the necessary enforcement and compliance programs, as well as the means to identify violators, thus satisfying the contingency measures requirement.

### IV. Final Action

EPA is approving the Pennsylvania SIP revision for the Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, Pennsylvania nonattainment area submitted on December 26, 2001. This revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and is supported by a modeling analysis which demonstrates the adequacy of emission limits in providing for the attainment and maintenance of the NAAQS for SO<sub>2</sub> in and around this nonattainment area. This SIP revision satisfies the procedural and substantive requirements of 40 CFR part 51, and

replaces all previously submitted SIP revisions for the SO<sub>2</sub> nonattainment areas in Warren County.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment given the fact that the affected sources have all agreed to the SIP revision's provisions. 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 March 18, 2003 without further notice unless EPA receives adverse comment by February 18, 2003. 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 EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## 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" (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 (Pub. L. 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 March 18, 2003. 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 a revision to the Commonwealth of Pennsylvania SIP for SO<sub>2</sub> for nonattainment areas in Warren County 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, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 4, 2002.

**Thomas C. Voltaggio,**

*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)(190) to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(190) Revision to the Pennsylvania Regulations to attain and maintain National Ambient Air Quality Standards (NAAQS) for sulfur dioxide in Warren County, Pennsylvania, submitted on December 26, 2001, by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of December 26, 2001 from the Pennsylvania Department of Environmental Protection transmitting a revision to the State Implementation Plan (SIP) for attainment and maintenance of sulfur dioxide NAAQS for Warren County.

(B) Letter of August 20, 2002, transmitting a revised Reliant Energy Mid-Atlantic Power Holdings LLC Warren Generating Station Title V permit.

(C) The following Companies' Plan Approval and Operating Permits:

(1) Reliant Energy Mid-Atlantic Power Holdings LLC (Reliant) Warren Generating Station, Title V Operating Permit TV 62-00012, effective November 21, 2001.

(2) United Refining Company, PA 62-017E, effective June 11, 2001, except for the expiration date.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(190)(i) of this section.

3. Section 52.2033 is amended by adding paragraph (b) to read as follows:

**§ 52.2033 Control strategy: Sulfur oxides.**

\* \* \* \* \*

(b) EPA approves the attainment demonstration State Implementation Plan for the Conewango Township, Pleasant Township, Glade Township, and City of Warren area submitted by the Pennsylvania Department of Environmental Protection on December 26, 2001.

[FR Doc. 03-731 Filed 1-16-03; 8:45 am]

BILLING CODE 6560-50-P