The American Legion stated that the proposed regulation would be helpful to veterans and their representatives in submitting more completely developed claims. They also stated that it will help streamline VA claims procedures and help speed up the overall adjudication process. The Veterans of Foreign Wars stated that they concur with the proposed regulation.

Based on the rationale set forth in the proposed rule and this document, we are adopting the provisions of the proposed rule as a final rule without any changes.

Paperwork Reduction Act

The certification referenced in this final rule is not ''information'' in a collection of information as defined under 5 CFR 1320.3(h)(1). Therefore, this final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Executive Order 12866

This final rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. The reason for this certification is that these amendments would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), these amendments are exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

The Catalog of Federal Domestic Assistance program numbers are 64.100, 64.101, 64.104, 64.105, 64.106, 64.109, 64.110, and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Veterans, Vietnam.

Approved: February 15, 2001.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for Part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.203, at the end of paragraph (a)(1) remove ''custody; and'' and add the following:

§ 3.203 Service records as evidence of service and character of discharge.

(a) * * *

(1) * * * custody or, if the copy was submitted by an accredited agent, attorney or service organization representative who has successfully completed VA-prescribed training on military records, and who certifies that it is a true and exact copy of either an original document or of a copy issued by the service department or a public custodian of records; and''.

* * * * *

[FR Doc. 01–9642 Filed 4–17–01; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA160–4113a; FRL–6959–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of VOC and NO_X RACT Determinations for Merck and Company, Inc

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 Merck and Company, Inc.'s (Merck's) West Point facility located in Montgomery County, Pennsylvania. Merck's West Point facility is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_X). The intent of this action is to approve the Commonwealth's RACT determinations for VOC and NO_X at Merck's West Point facility located in Montgomery County. EPA is approving this SIP revision in accordance with the Clean Air Act.

DATES: This rule is effective on June 4, 2001 without further notice, unless EPA receives adverse written comment by May 18, 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 Makeba Morris, Chief, Permits and Technical Assessment Branch, Air Protection Division, Mailcode 3AP11, 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 A. Spain, 215.814.2299, at the EPA Region III address above, or by email at spain.melik@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 1997, the Commonwealth of Pennsylvania (the Commonwealth) submitted revisions to its SIP to establish RACT for several major sources of VOC and NO_X. In this rulemaking action, EPA is approving the Commonwealth's VOC and NO_X RACT determinations for Merck's West Point facility in Montgomery County. EPA will address the remainder of the Commonwealth's July 2, 1997 submittal in separate rulemaking actions. The Commonwealth's submittal for Merck consists of an operating permit (#46–0005) which imposes VOC and NO_X RACT requirements for this source. The operating permit was revised on June 23, 2000 to incorporate administrative amendments and was resubmitted to EPA on August 9, 2000. On February 1, 2001, the Commonwealth submitted a clarifying supplement to its August 9, 2000 submittal for Merck to indicate that its SIP revision request only pertains to the RACT-related provisions of Merck's operating permit. In accordance with Pennsylvania's SIP revision request, EPA is approving only the RACT-related requirements and

conditions contained in Merck's operating permit.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to 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), which is established by the CAA. Under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements, including RACT as specified in sections 182(b)(2) and 182(f), apply throughout the OTR. The entire Commonwealth of Pennsylvania is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

II. Summary of the SIP Revision

Merck's West Point plant is a biological and pharmaceutical, research and support facility located in Upper Gwynedd, Montgomery County, Pennsylvania. The facility generates its own power using a combination of oil or natural gas-fired boilers and a gas turbine. The facility's RACT-subject units also include a rotary kiln incinerator and a waste heat incinerator. These combustion sources account for the majority of the facility's NO_X emissions. Merck's operations include site engineering, graphic arts services, and pharmaceutical and biological manufacturing. Merck formulates aqueous and solvent-based pharmaceutical products, in addition to live and attenuated vaccines and sterile pharmaceutical products. These operations account for the majority of the facility's VOC emissions.

The Commonwealth has imposed requirements including the use of low NO_X burners on Merck's oil and natural gas fired boilers and a water injection system on its gas turbine to control NO_X emissions. As of December 31, 1996, Merck permanently shut down the rotary kiln incinerator, but the Commonwealth did establish NO_X RACT for the incinerator in its operating permit based upon the use of low NO_X burners and a target tray wet scrubber. The Commonwealth also imposed, among other conditions, the use of low NO_X burners as RACT for the waste heat incinerator.

The Commonwealth's RACT determinations for Merck's VOC emitting operations from pharmaceutical manufacturing include the use of tray area local ventilation systems and a catalytic oxidizer with a minimum 90% VOC destruction efficiency, as well as a condenser designed to control emissions from the drying process with a minimum 90% efficiency. The Commonwealth has imposed VOC RACT on Merck's biological manufacturing operations including the use of liquid nitrogen cooling coils and gasket-fitted access doors. The Commonwealth has imposed limitations on the VOC content of the inks, vanishes, coatings and adhesives of Merck's graphic arts operations as RACT.

The details of Merck's NO_X and VOC emitting operations and the Commonwealth's RACT determinations are found in Operating Permit No. OP–46–0005 issued by PADEP on January 13, 1997 and revised on June 23, 2000. That permit is included in the docket for this rulemaking and copies may be obtained from the EPA Regional Office listed in the **ADDRESSES** section of this document.

EPA has reviewed that RACT-related provisions of operating permit No. OP–46–0005 issued by the Commonwealth of Pennsylvania to Merck for its West Point facility and concurs with PADEP's RACT determinations to control NO_X and VOC from this facility.

III. Final Action

EPA is approving the Commonwealth's SIP revision submittal of July 2, 1997, as amended August 9, 2000 and the February 1, 2001 supplementary information clarifying the RACT-related provisions of operating permit, No. OP–46–0005. The operating permit (OP–46–0005) was issued to Merck and Company, Inc., by the Pennsylvania Department of Environmental Protection on January 13, 1997, and was revised on June 23, 2000. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate 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 direct final rule will be effective on June 4, 2001 without further notice unless we receive adverse comment by May 18, 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.

IV. 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. 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 one named source.

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 June 18, 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 Pennsylvania's source-specific RACT requirements to control VOCs and NO_X from Merck and Company Inc.'s West Point facility in Montgomery 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, Nitrogen dioxide, Ozone.

Dated: March 19, 2001.

William C. Early,

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)(154) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(154) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to VOC and NO_X RACT for Merck and Company Inc.'s West Point facility, submitted by the Pennsylvania Department of Environmental Protection on July 2, 1997, as amended August 9, 2000.

(i) Incorporation by reference.

(A) Letter submitted on July 2, 1997 by the Pennsylvania Department of Environmental Protection transmitting VOC and NO_X RACT determinations in the form of an operating permit (OP–46–0005) for Merck and Company Inc.'s West Point facility located in Montgomery County Pennsylvania.

(B) Letter submitted on August 9, 2000 by the Pennsylvania Department of Environmental Protection transmitting VOC and NO_X RACT determinations in the form of an operating permit (OP–46–0005) for Merck and Company Inc.'s West Point facility located in Montgomery County Pennsylvania.

(C) Letter submitted on February 1, 2001 by the Pennsylvania Department of Environmental Protection providing supplementary clarifying information regarding Merck's operating permit (OP–46–0005), in which Pennsylvania specified the portions of the permit, as listed in paragraph (c)(154)(i)(D) of this section, which it did not wish to have incorporated into the Pennsylvania State Implementation Plan.

(D) Operating Permit for Merck and Company, Incorporated (OP 46–0005) issued on January 13, 1997, as revised and effective on June 23, 2000, except for the expiration date and the requirements of Conditions 5. C., 5. D.1., 5.F.2., 5.F.3., 5.F.4., 5.F.5., 6.C., 6.D.3., 7.C., 7.D.2., 8.B., 8.D., 9.B., 10.B., 10.F., 11.A., 11.C., 12.B., 12.C., 13.A., 13.B., 13.C., the annual NO_X limits in 13.D., 14.A.1., 14.A.2., 14.A.3., 14.B., the words ''opacity and'' in 14.C., 14.D.1., 14.D.2., 15.A.1., 15.B., 15.C.1.i., 15.C.1.ii., 15.C.2., 15.D.1., 15.D.2., 15.D.3. 15.D.4., 15.E., 15.F., 16., 17.B., 17.D., 17.F.1., 17.F.2., the ''2.4 tons per year as a 12-month rolling sum calculated monthly'' portion of condition 17.F.4., 18.A.2., 18.B., 19., 20., 21.B., 21.C., 22., 23., 24., 25., 26., 27., and Appendix A.

(ii) Additional Material.

(A) Remainder of the July 2, 1997 submittal pertaining to Merck and Company, Inc.'s West Point facility located in Montgomery County.

(B) Remainder of the August 9, 2000 submittal pertaining to Merck and Company, Inc.'s West Point facility located in Montgomery County.

(C) Remainder of the February 1, 2001 submittal pertaining to Merck and Company, Inc.'s West Point facility located in Montgomery County.

[FR Doc. 01–9480 Filed 4–17–01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–301118; FRL–6778–6]

RIN 2070–AB78

Metolachlor; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends time-limited tolerances for combined residues of the herbicide metolachlor and its metabolites determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on tomatoes at 0.1 part per million (ppm), tomato puree at 0.3 ppm, and tomato paste at 0.6 ppm for an additional 15-month period. These tolerances will expire and are revoked on June 30, 2002. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act authorizing use of the pesticide on tomatoes. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide