

\* \* \* \* \*

■ 3. Amend § 52.2033 by adding paragraph (f) to read as follows:

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

\* \* \* \* \*

(f) EPA approves the attainment demonstration State Implementation Plan for the Indiana, PA Nonattainment Area submitted by the Pennsylvania Department of Environmental Protection on October 11, 2017, updated on February 5, 2020, and corrected permits and plan approvals submitted on May 13, 2020.

[FR Doc. 2020-23037 Filed 10-16-20; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R03-OAR-2020-0189; FRL-10014-98-Region 3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving multiple state implementation plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for individual major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this action, EPA is only approving source-specific (also referred to as "case-by-case") RACT determinations for four major sources. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA) and EPA's implementing regulations.

**DATES:** This final rule is effective on November 18, 2020.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0189. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Ms. Emily Bertram, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-5273. Ms. Bertram can also be reached via electronic mail at [bertram.emily@epa.gov](mailto:bertram.emily@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On May 5, 2020, EPA published a notice of proposed rulemaking (NPRM). 85 FR 26647. In the NPRM, EPA proposed approval of case-by-case RACT determinations for four sources in Pennsylvania for the 1997 and 2008 8-hour ozone NAAQS. The case-by-case RACT determinations for these four sources were included in SIP revisions submitted by PADEP on November 21, 2017, April 26, 2018, June 26, 2018, and October 29, 2018.

Under certain circumstances, states are required to submit SIP revisions to address RACT requirements for major sources of NO<sub>x</sub> and VOC or any source category for which EPA has promulgated control technique guidelines (CTG) for each ozone NAAQS. Which NO<sub>x</sub> and VOC sources in Pennsylvania are considered "major," and therefore to be addressed for RACT revisions, is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the "major source" definitions established under the CAA based on their classification. In the case of Pennsylvania, sources located in any areas outside of moderate or above nonattainment areas, as part of the Ozone Transport Region (OTR), are subject to source thresholds of 50 tons per year (tpy). CAA section 184(b).

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO<sub>x</sub> RACT requirements for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, Additional RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs (the "presumptive" RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO<sub>x</sub> and VOC control measures in 25 Pa. Code 129.92–95, Stationary Sources of NO<sub>x</sub> and VOCs, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO<sub>x</sub> sources. The requirements of the RACT I rule remain approved into Pennsylvania's SIP and continue to be implemented.<sup>1</sup> On September 26, 2017, PADEP submitted a supplemental SIP revision, dated September 22, 2017, which committed to address various deficiencies identified by EPA in their May 16, 2016 "presumptive" RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on the commitments PADEP made in its September 22, 2017 supplemental SIP revision. See 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval, specifically May 9, 2020. The SIP revisions addressed in this rule are part of PADEP's efforts to meet the conditions of its supplemental SIP revision and EPA's conditional approval of the RACT II Rule.

## II. Summary of SIP Revision and EPA Analysis

### A. Summary of SIP Revision

To satisfy a requirement from EPA's May 9, 2019 conditional approval, PADEP submitted to EPA SIP revisions addressing case-by-case RACT requirements for major sources in Pennsylvania subject to 25 Pa. Code

<sup>1</sup> The RACT I Rule was approved by EPA into the Pennsylvania SIP on March 23, 1998. 63 FR 13789. Through the current rule, certain source-specific RACT I requirements will be superseded by more stringent RACT II requirements. See Section II of this preamble.

129.99. In the Pennsylvania RACT SIP revisions, PADEP included a case-by-case RACT determination for the existing emissions units at each of these major sources of NO<sub>x</sub> and/or VOC that required a source-specific RACT determination. In PADEP's RACT determinations, an evaluation was completed to determine if previously SIP-approved, case-by-case RACT

emission limits or operational controls (herein referred to as RACT I and contained in RACT I permits) were more stringent than the new RACT II presumptive or case-by-case requirements. If more stringent, the RACT I requirements will continue to apply to the applicable source. If the new case-by-case RACT II requirements are more stringent than the RACT I

requirements, then the RACT II requirements will supersede the prior RACT I requirements.<sup>2</sup>

Here, EPA is taking action on SIP revisions pertaining to case-by-case RACT requirements for four major sources of NO<sub>x</sub> and/or VOC in Pennsylvania, as summarized in Table 1.

TABLE 1—FOUR MAJOR NO<sub>x</sub> AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II DETERMINATIONS UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO <sub>x</sub> and/or VOC)	RACT II permit (effective date)
Transco—Salladasburg Station 520 (Lycoming) .....	Yes .....	NO <sub>x</sub> and VOC ...	41-00001 (06/06/17).
Novipax (Berks) .....	Yes .....	VOC .....	06-05036 (12/19/2017).
Sunoco Partners Marketing & Terminals (Delaware) .....	Yes .....	NO <sub>x</sub> and VOC ...	23-00119 (01/20/17).
Global Advanced Metals USA, Inc. (Montgomery) .....	Yes .....	VOC .....	46-00037 (03/10/17).

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific emission limit or control measures, if any, satisfy RACT for that particular unit. The adoption of new, additional, or revised emission limits or control measures to existing SIP-approved RACT I requirements were specified as requirements in new or revised Federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. The RACT II permits, which revise or adopt additional source-specific limits and/or controls, have been submitted as part of the Pennsylvania RACT SIP revisions for EPA's approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 1 of this preamble, along with the permit effective date, and are part of the docket for this rule, which is available online at <https://www.regulations.gov>, Docket No. EPA-R03-OAR-2020-0189.<sup>3</sup> EPA is incorporating by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT emission limits and control measures under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO<sub>x</sub> and VOC emissions.

### B. EPA's Proposed Action

PADEP's SIP revisions incorporate its determinations of source-specific RACT II controls for individual emission units at major sources of NO<sub>x</sub> and/or VOC in Pennsylvania, where those units are not covered by or cannot meet Pennsylvania's presumptive RACT regulation. After thorough review and evaluation of the information provided by PADEP in its five SIP revision submittals for four major sources of NO<sub>x</sub> and/or VOC in Pennsylvania, EPA proposed to find that PADEP's case-by-case RACT determinations and conclusions establish limits and/or controls on individual sources that are reasonable and appropriately considered technically and economically feasible controls.

PADEP, in its RACT II determinations, considered the prior source-specific RACT I requirements and, where more stringent, retained those RACT I requirements as part of its new RACT determinations. In the NPRM, EPA proposed to find that all the proposed revisions to previously SIP approved RACT I requirements would result in equivalent or additional reductions of NO<sub>x</sub> and/or VOC emissions. The proposed revisions should not interfere with any applicable requirement concerning attainment or reasonable further progress with the NAAQS or interfere with other applicable CAA requirements in section 110(l) of the CAA.

Other specific requirements of Pennsylvania's 1997 and 2008 8-hour

ozone NAAQS case-by-case RACT determinations and the rationale for EPA's proposed action were explained in the NPRM and its associated technical support document (TSD) and will not be restated here.

### III. Public Comments and EPA Responses

EPA received comments from seven commenters on the May 5, 2020 NPRM. 85 FR 26647. A summary of the comments and EPA's response are discussed in this section of the preamble. A copy of the comments can be found in the docket for this rule.

*Comment 1:* The commenter states that water/steam injection is a control option for Transco Station 520's simple cycle turbines that was inappropriately determined to be technically infeasible and indicates that this control option is found on EPA's RACT/BACT/LAER Clearinghouse (RBLC) as technically feasible in at least 10 natural gas fired simple cycle turbines over the last 20 years. The commenter further states that EPA had made a similar comment for the public record on the technical feasibility of water/steam injection and had arbitrarily reversed its position in the NPRM. The commenter claims that the reasons given for technical infeasibility such as water/steam supply, storage tanks, the source of water, and water treatment and pretreatment are economic, and not technical, feasibility issues. For these reasons, the commenter states that EPA should disapprove PADEP's RACT

<sup>2</sup> While the prior SIP-approved RACT I permit will remain part of the SIP, this RACT II rule will incorporate by reference the RACT II requirements through the RACT II permit and clarify the ongoing

applicability of specific conditions in the RACT I permit.

<sup>3</sup> The RACT II permits are redacted versions of a facility's Federally enforceable permits and reflect

the specific RACT requirements being approved into the Pennsylvania SIP.

determination for Transco Station 520 and reevaluate the economic feasibility of water/steam injection.

*Response 1:* The commenter is correct in stating that EPA made prior comments suggesting that water/steam injection was a technically feasible control option for natural gas fired simple cycle turbines in gas transmission service that should be evaluated for economic feasibility. However, EPA disagrees that it has arbitrarily changed its position in proposing to approve the case-by-case RACT requirements for the two Transco Station 520 simple cycle turbines. Both the facility and PADEP responded to EPA's comment explaining why the water/steam injection control option was not technically feasible at this specific site.

PADEP conducted its case-by-case RACT analysis of potential controls for Transco's natural gas fired simple cycle turbines pursuant to the requirements of Pennsylvania's RACT regulations. The case-by-case RACT II analysis requirements are set forth in 25 PA Code 129.99(c), which then references the RACT proposal requirements identified in 25 Pa Code 129.92. As identified in Section 129.92(b)(1), "[a]vailable control options are air pollution control technologies with a reasonable potential for application at the source." Section 129.29(b)(2) further identifies that "[a] determination of technical infeasibility shall identify technical difficulties which would preclude the successful use of the control option on the source."

The water/steam injection control option requires a large volume of purified water. The Transco facility is located in a remote location without a viable on-site source of clean water. In order to have the needed purified water on-site for water/steam injection, Transco would need to drill an on-site well or transport water to an on-site water purification facility. A water study would be needed to determine whether and how an on-site well could be drilled. Transporting water to the site would require the installation of a water purification facility and large on-site storage tanks. The need to transport water to the site for the use of water/steam injection also introduces unreliability and the risk of insufficient water due to the unpredictable nature of weather and transportation. The uncertainties created by the need to transport water to the site increases the risk of system failure because the Transco turbines are peaking units. Given the nature of peak demand, these turbines are required to operate

immediately when necessary with little advanced notice.<sup>4</sup>

For these reasons, the RACT analysis determined that water/steam injection was technically infeasible for the Transco turbines. Lacking an on-site water source or a reliable off-site source of on-demand water, it was reasonable for PADEP to conclude that water/steam injection was not an available control option with a "reasonable potential application at the source." While the need to install a water purification system and large on-site storage tanks may be factors that can be evaluated through an economic feasibility analysis, the lack of an on-site water source and the risks and uncertainties of an insufficient water supply due to the potential need for the on-demand trucking of water are issues far more fundamental to determining initially whether using water/steam injection is truly an available control technology for these sources at this site. These circumstances present "technical difficulties which would preclude the successful use of the control option on the affected source." After reviewing the responses from the company and PADEP, EPA concluded that PADEP's RACT determination that water/steam injection is not technically feasible for the Transco Station 520 peaking turbines was a reasonable conclusion based on Pennsylvania's RACT requirements.

*Comment 2:* The commenter complains that the Transco Station 520 redacted permit consists of non-uniform pages, where one added page is in color and the remaining pages are in black and white. The commenter claims that EPA illegally altered the state's submittal to correct a mistake made by the state. The commenter refers to a prior proposed rulemaking, EPA-R03-OAR-2017-0290, where the redacted permit for Transco station 520, included in the docket for that proposed rulemaking, did not include the 79.3 lbs/hr and 95.6 tpy RACT emission limits. However, the commenter notes that the redacted permit in the current docket does contain such RACT limits. The commenter states that EPA must remit the SIP back to Pennsylvania to incorporate enforceable RACT limitations.

*Response 2:* The commenter's concern relates to the RACT emission limits for Source ID 106 in the Transco Station 520 Permit No. 41-00001, Section D, I., Condition #004. The commenter notes

<sup>4</sup> See email dated May 18, 2017 from Williams to PADEP and PADEP memorandum dated May 22, 2017, which are both part of the record for this docket.

that, in a proposed rule from 2017, EPA-R03-OAR-2017-0290 which was never finalized, this permit condition was not included in the redacted permit to be incorporated into the SIP.<sup>5</sup> This was an inadvertent error because the emission limits contained in the permit condition were always intended to be part of Pennsylvania's RACT determination for this source. See, for example, the PADEP technical review memo, dated February 22, 2017, the EPA TSD, and the full Transco Station 520 Permit No. 41-00001, all of which were in the docket for the 2017 proposed action. EPA, subsequently notified PADEP that the SIP submittal for Transco Station 520 contained an incorrectly redacted permit. On April 6, 2020, PADEP supplemented their SIP submittal with the correctly redacted permit.<sup>6</sup> The docket for the proposal for the current rulemaking included a correctly redacted permit, which included the 79.3 lbs/hr and 95.6 tpy RACT emission limits.<sup>7</sup>

*Comment 3:* The commenter agrees with EPA's proposed approval of PADEP's determination to avoid the use of the blowing agent 152a when considering RACT alternatives to the use of pentane. The commenter explains that coal is not the only substance that is bad for the environment and claims that blowing agent 152a is an extremely dangerous compound that is harmful to the environment because it is a potent greenhouse gas, a carcinogen and produces carbon dioxide.

*Response 3:* While the commenter does not identify a specific facility, we believe the commenter's comment applies to the Novipax facility, where the blowing agent 152a was discussed in the RACT analysis. EPA appreciates the support of the commenter for the Novipax RACT determination.

<sup>5</sup> EPA never took any final action under the EPA-R03-OAR-2017-0290 proposed rulemaking because of CBI issues with the docket. See discussion in Supplementary Information section of this preamble.

<sup>6</sup> PADEP supplemented its SIP revision submittal with a corrected version of the redacted permits for Transco via email on April 6, 2020. The revised redacted permit was appropriately added to the supporting materials for the current proposed rulemaking. The email from PADEP to EPA Region 3, dated April 6, 2020, is now being added to the final docket along with the Final Rule Notice.

<sup>7</sup> EPA notes that PADEP, in its RACT SIP revisions for Transco Station 520, Novipax, SPTM, and Global Advanced Metals, included some form of annual limits in the RACT II permits for those facilities. EPA wishes to clarify that it is not approving any such annual limits as RACT limits. Rather, because PADEP analyzed what should be RACT under operating conditions that included annual limits from the existing facility permit, and PADEP included those requirements in its SIP submittal to us, EPA is incorporating those annual limits into the SIP not as RACT control limits but for the purpose of SIP strengthening.

*Comment 4:* The commenter states that EPA should require more controls for Sunoco Partners Marketing and Terminals (SPMT), including controls that exceed Pennsylvania's cost thresholds of \$2,800/ton or other states' \$5,000/ton cost thresholds. The commenter claims that facilities such as SPMT, which causes millions of dollars in environmental damage and makes millions of dollars, can afford to do more and should be required to do more. The commenter explains that the area in which SPMT is located is historically poor, damaged by industrial pollution, and is a neighborhood of black and brown people. The commenter claims that EPA has a duty to consider environmental justice and should disapprove the RACT determination for SPMT and require PADEP to use a higher cost threshold and force RACT level controls to be installed.

*Response 4:* There are seven emission units that required case-by-case RACT determinations at the SPMT facility. The RACT determinations are governed by the requirements of 25 Pa. Code 129.99, which requires a technical and economic feasibility analysis of available control options. Three of these emission units are the auxiliary boilers. The SPMT auxiliary boilers are dual-fueled, burning both natural gas and refinery gas. They are currently controlled with low NO<sub>x</sub> burners and flue gas recirculation. PADEP's case-by-case RACT II determination require these boilers to achieve a 0.05 lb NO<sub>x</sub>/MMBtu emission limit, which will be incorporated into the SIP through the current rule. This new limit tightens the prior RACT I limit of 0.25 lb NO<sub>x</sub>/MMBtu emission limit. Although there are no presumptive RACT requirements that apply to SPMT's dual-fired boilers, the RACT II limit of 0.05 lb NO<sub>x</sub>/MMBtu is at least twice as stringent as the presumptive RACT requirements at 25 Pa. Code 129.97(g)(1) for combustion units equal to or greater than 50 MMBtu heat input. Because the SPMT boilers are already controlled and achieve relatively low NO<sub>x</sub> emissions, additional controls were found to be economically infeasible. The cost effectiveness evaluation of the technically feasible control options for these boilers determined a range of costs from \$12,126 to \$52,331/ton of NO<sub>x</sub> reduced, a cost level well above the higher \$5,000 cost threshold identified by the commenter.<sup>8</sup>

The fourth emission unit subject to case-by-case RACT is the marine vessel loading operation that is currently subject to the requirements of 25 Pa. Code § 129.81 and 40 CFR part 63, subpart Y, the National Emission Standards for Marine Tank Vessel Loading Operations, which contains additional requirements for vapor collection and leak detection. All marine vessel loading at the facility is currently controlled by a marine vapor recovery (MVR) system which captures gases and directs them to the fuel gas system to be combusted as a fuel in the auxiliary boilers. The RACT analysis of the marine vessel loading operations concluded that there is no feasible control with a greater control efficiency than the current MVR control technology. Because there were no technically feasible controls better than the current controls, a cost effectiveness analysis was not required.<sup>9</sup>

The fifth emission unit subject to case-by-case RACT is a single cooling tower, which has a potential to emit 4.6 tpy VOC. There were no technically or economically feasible control options for this source in addition to what is already required under prior RACT SIP approvals, which are equipment inspection and monitoring.<sup>10</sup> The sixth and seventh emission units subject to case-by-case RACT are fugitive leaks from valves and fugitive leaks across the facility. Again, the RACT analysis identified that there were no technically feasible controls for these sources. For both of these sources, PADEP is requiring as RACT compliance with 40 CFR part 60 subpart VV, Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (or VVa as appropriate), which minimizes leaks from valves, flanges, and tanks through the use of specified equipment, work practices and inspections.<sup>11</sup>

As practiced in this preamble, PADEP followed the RACT analysis requirements of 25 Pa. Code 129.99 and for only three sources was it able to identify additional technically feasible control options. For those sources, the three auxiliary boilers, the cost of added emission reduction well exceeded even the higher cost effectiveness threshold identified by the commenter. In its approval capacity, EPA shall approve a state's proposed RACT proposal if it meets the statutory and regulatory requirements of the program. CAA Section 110(k)(3). In this case, EPA determined that PADEP's proposed

RACT SIP was reasonable and met the statutory and regulatory requirements.

The commenter also urges EPA to consider environmental justice as part of the RACT determination for this facility. The Clean Air Act and the requirements to implement RACT are designed to protect public health and the environment. However, the only factors EPA is legally required to consider for determining RACT are those in the statute and regulations, and environmental justice is not a statutory or regulatory factor in the RACT analysis. As described in this preamble and in our proposal document we believe it is appropriate to fully approve PADEP's SIP submittal with respect to RACT for SPMT.

*Comment 5:* One commenter asserts that "other neighboring states such as New York and New Jersey both have cost effectiveness thresholds set at or above \$5,000 per ton, but here EPA arbitrarily allows a lower dollar per ton threshold!" The commenter goes on to question EPA's approval of a lower cost threshold in Pennsylvania. Further, the commenter states that "EPA must retract their proposed approval and set a uniform dollar per ton threshold based on, and consistent with, past EPA actions" and "that the cost per ton threshold should at least be consistent in the Ozone Transport Region (OTR)." Lastly, the commenter claims that "EPA is arbitrary and capricious when approving two different states RACT SIPs with inconsistent cost thresholds" and that "EPA needs to set the bar, not let the states waffle in the wind and never install controls."

*Response 5:* EPA is aware that Pennsylvania considered cost-effectiveness levels (\$/ton removed) that are lower than other states, such as New Jersey and New York as the commenter notes, when developing the RACT II rule. However, EPA has not set a single cost, emission reduction, or cost-effectiveness figure to fully define cost-effectiveness in meeting the NO<sub>x</sub> or VOC RACT requirement. Therefore, states have the discretion to determine what costs are considered reasonable when establishing RACT for their sources. Each state must make and defend its own determination on how to weigh these values in establishing RACT.

As PADEP explained in its RACT II rulemaking, it did not establish a bright-line cost effectiveness threshold in determining what is economically reasonable for purposes of defining RACT.<sup>12</sup> Instead, it developed as guidance a cost-effectiveness threshold

<sup>8</sup> See Sunoco Partners Marketing and Terminals, L.P., RACT II Proposal, Philadelphia, Pennsylvania, dated November 2016.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> 46 Pa. Bulletin 2036 (April 23, 2016).

of \$2,800 per ton of NO<sub>x</sub> controlled and \$5,500 per ton of VOC controlled for RACT. Pennsylvania also determined that even evaluating control technology options with an additional 25% margin, an upper bound cost-effectiveness threshold of \$3,500 per ton NO<sub>x</sub> controlled and \$7,000 per ton VOC controlled, would not affect the add-on control technology decisions required by RACT. Id. Pennsylvania determined that these higher cost-effectiveness thresholds did not impact the determination of what add on control technology was feasible. Pennsylvania also reviewed examples of benchmarks used by other states: Wisconsin, \$2,500 per ton NO<sub>x</sub>; Illinois, \$2,500–\$3,000 per ton NO<sub>x</sub>; Maryland, \$3,500–\$5,000 per ton NO<sub>x</sub>; Ohio, \$5,000 per ton NO<sub>x</sub>; and New York, \$5,000–\$5,500 per ton NO<sub>x</sub>.<sup>13</sup>

In a separate prior final agency action, EPA found that PADEP's cost effectiveness thresholds are reasonable and reflect control levels achieved by the application and consideration of available control technologies, after considering both the economic and technological circumstances of Pennsylvania's own sources. See 84 FR 20274, 20286 (May 9, 2019).

*Comment 6:* The commenter notes that good operating practices are determined to be RACT for several sources at Global Advanced Metals. However, the commenter claims that for Source IDs 102, 124, and 201, those good operating practices are not defined in the permit.

*Response 6:* The commenter is correct, in part, in stating that good operating practices have been determined as VOC RACT for Source IDs 102, 124, and 201. However, they are only one aspect of the overall RACT II requirements imposed on the sources. For all three sources, PADEP conducted a VOC RACT analysis per 25 Pa. Code 129.99, concluding that the additional control technologies evaluated were either technically and/or economically infeasible and that RACT would, among other requirements, be operation and maintenance of the source in accordance with manufacturers' specifications and good air pollution control practices.<sup>14</sup>

<sup>13</sup> PADEP Responses to Frequently Asked Questions, Final Rulemaking RACT Requirements for Major Sources of NO<sub>x</sub> and VOCs. October 20, 2016.

<sup>14</sup> This identical permit condition can be found in Global Advanced Metals' redacted Permit No. 46–00037, Section D, Source 102, VI. Condition #013; Source ID 124, VI. Condition #010; and Source ID 201, I. Condition #002, which is part of the record of this docket and will be incorporated into the SIP through this action.

As noted previously, PADEP imposed additional RACT requirements on these sources based on existing permit conditions, which were considered in the RACT analysis. For instance, Global Advanced Metals currently utilizes a recovery unit to control methyl isobutyl ketone (MIBK) emissions from Source ID 124, the extraction process in Building 74, and PADEP has imposed the requirement to operate this recovery unit as a RACT requirement. The RACT II permit also includes efficiency restrictions on the control device and extensive recordkeeping requirements on operational factors such as flow rates, pressure drops, MIBK content in influent and effluent, and maintenance downtime.<sup>15</sup>

The MIBK recovery system also helps to limit emissions from Source ID 102, the tantalum salts process in Building 19.<sup>16</sup> While the RACT II permit does not specifically include the operation of the MIBK recovery unit for Source 102, the recovery unit's operation is required in the RACT II permit under Source 124, as identified in this preamble. PADEP also imposed on Source 102 a throughput restriction on the number of batches.<sup>17</sup> Additionally, the RACT II for Source ID 201, the wastewater treatment plant, included a requirement to provide PADEP with relevant records found in the facility's National Pollutant Discharge Elimination System (NPDES) permit, upon request.<sup>18</sup>

EPA concluded that “good operating practices,” which was determined as VOC RACT for these three sources by PADEP, is adequately defined in the facility's permit as “operating and maintaining the source in accordance with manufacturers' specifications.” The requirement to operate the source in accordance with the manufacturer's specifications holds the facility accountable for operating and maintaining each of these three sources per the guidance established by the manufacturer specifically for that particular source. The good operating

<sup>15</sup> See Global Advanced Metals' redacted Permit No. 46–00037, Section D, Source ID 124, I. Condition #003 and IV. Conditions #006, #007 and #010; which is part of the record of this docket and will be incorporated into the SIP through this action.

<sup>16</sup> See Global Advanced Metals' Alternative RACT Compliance proposal, dated October 2016, which is part of the record for this docket.

<sup>17</sup> See Global Advanced Metals' redacted Permit No. 46–00037, Section D, Source 102, I. Conditions #004, which is part of the record for this docket and will be incorporated into the SIP through this action.

<sup>18</sup> See Global Advanced Metals' redacted Permit No. 46–00037, Section D, Source ID 201, I. Condition #001, which is part of the record for this docket and will be incorporated into the SIP through this action.

practices requirement is further clarified and strengthened by the additional RACT requirements for recovery unit operation, operational restrictions, and recordkeeping included in the redacted permit to be incorporated into the SIP.

*Comment 7:* The commenter notes that EPA is approving particulate matter (PM) limits for Global Advanced Metals as part of the facility's RACT determination. The commenter asks why and what relationship these PM limits have in setting NO<sub>x</sub> and/or VOC RACT emission limits for the source.

*Response 7:* While the commenter does not provide a specific reference to the PM limits in question, EPA assumes the commenter is referring to the PM limit of “not to exceed 0.02 grains per dry standard cubic foot” as a control device efficiency restriction for the RotoClone wet dust collector.<sup>19</sup> The RotoClone wet dust collector was not one of the control technologies examined by PADEP for the control of VOCs from Source 109. Rather, it is a control technology for PM. The PM limits were established under other regulatory programs and not the RACT program. It was identified as an ongoing facility requirement while reviewing the VOC RACT requirements for the fugitive emissions from ethanol transfer and storage operations. The commenter's concern about PM is warranted. The PM limits are not included in the source's permit to address RACT requirements and therefore should not be incorporated into the SIP through the current rule. PADEP has subsequently submitted a revised redacted permit that does not include the PM requirements for incorporation into the SIP.<sup>20</sup>

*Comment 8:* The commenter notes that for Source ID 201 at Global Advanced Metals, the RACT determination includes the submission of records required under the facility's NPDES permit. The commenter claims that neither EPA nor PADEP provide justification or explanation as to why submission of these records is necessary. The commenter claims that EPA has no authority under the CAA to require submission of records under the Clean Water Act (CWA), stating that the

<sup>19</sup> Global Advanced Metals' redacted Permit No. 46–00037, Section D., Source ID 109, Condition #003(b)(2).

<sup>20</sup> See August 21, 2020 email from PADEP to EPA identifying changes to redacted RACT II permit for Global Advanced Metals and attaching the revised redacted permit. Both documents have been added to the docket in this matter and the revised redacted permit will be incorporated into the SIP. At the same time, PADEP has also revised the original RACT II permit by deleting requirements for Source 102 related to hydrogen flouride and hydrogen chloride for similar reasons. Those facility requirements were not related to VOC control.

Information Collection Request (ICR) approved for these records makes no mention of allowing them to be used for purposes outside of the NPDES program. The commenter claims that in order for EPA to require submission of these records for CAA purposes, EPA would have to go through the ICR process and calculate the burden on these sources to do so.

*Response 8:* The commenter is correct that among the RACT requirements for Source ID 201, the wastewater treatment plant (WWTP), Condition #001 requires the facility to “provide to the DEP, upon request, copies of records required by the NPDES permit.”<sup>21</sup> This condition is determined to be part of the source’s VOC RACT determination per 25 Pa. Code 129.100(d).

EPA disagrees with the commenter that there is insufficient justification or explanation as to why these records are relevant to the VOC RACT determination for the WWTP. In its VOC RACT analysis, PADEP explained that the constituents of the wastewater at Global Advanced Metals include dissolved VOCs, which may be emitted to some extent to the atmosphere in the treatment process.<sup>22</sup> Knowledge of the wastewater constituents informs PADEP’s knowledge as to the effectiveness of the wastewater treatment process in removing VOC emissions at this source. Information on such constituents is contained in the regular testing of total suspended solids and total dissolved solids performed by Global Advanced Metals pursuant to its NPDES permit. Therefore, this information is directly related to the control of VOC air emissions from the WWTP.

EPA also disagrees with the commenter’s contentions about the use of NPDES records for RACT purposes and believes the commenter may have misinterpreted the nature of EPA’s proposed action. In this SIP action, EPA is not relying on any CWA information collection authorization and is not adding such into the SIP. Rather, it is approving a legitimate permit term established by PADEP, under its own independent authority (the Air Pollution Control Act) to collect air emissions data, into the Pennsylvania SIP. Data that is collected under the NPDES program related to dissolved VOC constituents in a facility’s wastewater is such data and referring to the NPDES permit merely helps the

facility identify the required data but is not the authority being used to collect it. The reference to the NPDES permit helps to identify that the information needed to be supplied for compliance with the Pennsylvania air permit is the same as the information being collected under the CWA. It is merely a convenient way of identifying the data needed to be reported under the air permit and is not the basis for the state’s authority to include it in the permit.

#### IV. Final Action

EPA is approving case-by-case RACT determinations for four sources in Pennsylvania, as required to meet obligations pursuant to the 1997 and 2008 8-hour ozone NAAQS, as revisions to the Pennsylvania SIP.

#### V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of source-specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of VOC and NO<sub>x</sub> in Pennsylvania. EPA has made, and will continue to make, these materials generally available through <https://www.regulations.gov> and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully Federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>23</sup>

#### VI. Statutory and Executive Order Reviews

##### A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is not a significant regulatory action under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

##### 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

<sup>21</sup> Global Advanced Metals’ redacted Permit No. 46–00037, Section D, Source ID 201, Condition #001.

<sup>22</sup> See PADEP’s technical review memo, dated March 6, 2017, which is included as part of the docket for this action.

<sup>23</sup> 62 FR 27968 (May 22, 1997).

Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and 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). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

#### C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 18, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 NO<sub>x</sub> and VOC RACT requirements for four case-by-

case facilities for the 1997 and 2008 8-hour ozone NAAQS 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, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 22, 2020.

**Cosmo Servidio,**

*Regional Administrator, Region III.*

40 CFR part 52 is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

#### Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by:

■ a. Revising the entries “W.R. Grace and Co.—FORMPAC Div”; “W. R. Grace and Co.—Reading Plant”; “Cabot Performance Materials—Boyertown”; “Sunoco, Inc. (R&M); Marcus Hook Plant”; and “Transcontinental Gas Pipeline Corporation” (Permit No. PA-41-0005A); and

■ b. Adding the following entries at the end of the table: “Transco—Salladasburg Station 520 (formerly referenced as Transcontinental Gas Pipeline Corporation)”; “Novipax (formerly referenced as W. R. Grace and Co.—FORMPAC Div and W. R. Grace and Co.—Reading Plant)”; “Sunoco Partners Marketing & Terminals (formerly referenced as Sunoco, Inc. (R&M); Marcus Hook Plant)”; and “Global Advanced Metals USA, Inc. (formerly referenced as Cabot Performance Materials—Boyertown)”.

The revisions and additions read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations <sup>1</sup>
W. R. Grace and Co.—FORMPAC Div .....	PA-06-1036 ..	Berks .....	5/12/95 .....	5/16/96, 61 FR 24706	See also 52.2064(b)(2).
W. R. Grace and Co.—Reading Plant .....	PA-06-315-001.	Berks .....	6/4/92 .....	5/16/96, 61 FR 24707	See also 52.2064(b)(2).
Cabot Performance Materials—Boyertown .....	OP-46-0037	Montgomery ...	4/13/99 .....	12/15/00, 65 FR 78418	See also 52.2064(b)(4).
Sunoco, Inc. (R&M); Marcus Hook Plant .....	CP-23-0001 ..	Delaware .....	6/8/95, 8/2/01	10/30/01, 66 FR 54699	See also 52.2064(b)(3).
Transcontinental Gas Pipeline Corporation .....	PA-41-0005A	Lycoming .....	8/9/95 .....	8/24/05, 70 FR 49496	See also 52.2064(b)(1).
Transco—Salladasburg Station 520 (formerly referenced as Transcontinental Gas Pipeline Corporation).	41-00001 .....	Lycoming .....	6/6/17 .....	October 19, 2020, [IN-SERT <b>FEDERAL REGISTER</b> CITATION].	52.2064(b)(1).
Novipax (formerly referenced as W. R. Grace and Co.—FORMPAC Div and W. R. Grace and Co.—Reading Plant).	06-05036 .....	Berks .....	12/19/17 .....	October 19, 2020, [IN-SERT <b>FEDERAL REGISTER</b> CITATION].	52.2064(b)(2).
Sunoco Partners Marketing & Terminals (formerly referenced as Sunoco, Inc. (R&M); Marcus Hook Plant).	23-00119 .....	Delaware .....	1/20/17 .....	October 19, 2020, [IN-SERT <b>FEDERAL REGISTER</b> CITATION].	52.2064(b)(3).



Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations <sup>1</sup>
Global Advanced Metals USA, Inc. (formerly reference as Cabot Performance Materials—Boyetown).	46–00037 .....	Montgomery ...	3/10/17 .....	October 19, 2020, [IN-SERT <b>FEDERAL REGISTER CITATION</b> ].	52.2064(b)(4).

<sup>1</sup> The cross-references that are not § 52.2064 are to material that pre-date the notebook format. For more information, see § 52.2063.

\* \* \* \* \*

■ 3. Amend § 52.2064 by adding paragraph (b) to read as follows:

**§ 52.2064 EPA-approved Source-Specific Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO<sub>x</sub>).**

\* \* \* \* \*

(b) Approval of source-specific RACT requirements for 1997 and 2008 8-hour ozone national ambient air quality standards for the facilities listed below are incorporated as specified below. (Rulemaking Docket No. EPA–OAR–2020–0189).

(1) Transco—Salladasburg Station 520—Incorporating by reference Permit No. 41–00001, issued June 6, 2017, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. 41–0005A, issued August 9, 1995, except for Conditions 3, 4, 6, 8, 14, and 18, which remain as RACT requirements applicable to the three 2050 hp Ingersoll Rand engines #1, 2, and 3 (Source IDs P101, P102, P103). See also § 52.2063(d)(1)(i) for prior RACT approval.

(2) Novipax—Incorporating by reference Permit No. 06–05036, issued December 19, 2017, as redacted by Pennsylvania, which supersedes the prior RACT Plan Approval No. 06–1036, issued May 12, 1995 to W. R. Grace and Co. FORMPAC Division, except for Conditions 3, 4 (applicable to two pentane storage tanks, Source IDs 101 and 101A), 5 (applicable to extruders, Source ID 102, and facility wide to Source IDs 103, 104, 105, 106, 106B, 106C, 107, and 108), 7 (applicable to Source IDs 101, 101A, and 102) and 8 (applicable to Source IDs 101, 101A, and 102), which remain as RACT requirements applicable to the indicated sources, and Plan Approval No. 06–315–001, issued June 4, 1992 to W. R. Grace and Co.—Reading Plant, except for Conditions 4 (applicable to Source ID 102), 5 (applicable to Source IDs 101 and 101A), and 6 (applicable to Source IDs 101, 101A, and 102), which remain as RACT requirements applicable to the indicated sources. See also § 52.2063(c)(108)(i)(B)(6) for prior RACT approvals.

(3) Sunoco Partners Marketing & Terminals—Incorporating by reference Permit No. 23–00119, issued January 20, 2017, as redacted by Pennsylvania, which supersedes the prior RACT Compliance Permit No. CP–23–0001, issued June 8, 1995 and amended on August 2, 2001, except for Conditions 5E (applicable to diesel engine and stormwater pumps, Source ID 113), 6A (applicable to marine vessel loading, Source ID 115), 6B (tank truck loading), 6C (applicable to cooling tower 15–2B, Source ID 139), and 6D (applicable to waste water treatment, Source 701), which remain as RACT requirements applicable to the indicated sources. See also § 52.2063(c)(179)(i)(B)(6) for prior RACT approval.

(4) Global Advanced Metals USA, Inc.—Incorporating by reference Permit No. 46–00037, issued March 10, 2017, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP–46–0037, issued April 13, 1999, except for condition 15, which remains as a RACT requirement applicable to the tantalum salts process (Source ID 102), the extraction process (Source ID 124), the wastewater treatment plant (Source ID 201), and fugitive emissions from ethanol transfer and storage (Source 109). See also § 52.2063(c)(143)(i)(B)(20) for prior RACT approval.

[FR Doc. 2020–21438 Filed 10–16–20; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R07–OAR–2020–0356; FRL–10015–03–Region 7]

### Air Plan Approval; Missouri; Removal of Control of Emissions From Polyethylene Bag Sealing Operations

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a revision to the State Implementation Plan (SIP) submitted by

the State of Missouri on January 15, 2019, and supplemented by letter on July 11, 2019. In the proposal, EPA proposed removal of a rule related to the control of emissions from polyethylene bag sealing operations in the St. Louis, Missouri area from its SIP. This removal does not have an adverse effect on air quality. The EPA’s approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This final rule is effective on November 18, 2020.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2020–0356. All documents in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

**FOR FURTHER INFORMATION CONTACT:** David Peter, Environmental Protection Agency, Region 7 Office, Air Permitting and Standards Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551–7397; email address: [peter.david@epa.gov](mailto:peter.david@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” refer to the EPA.

### Table of Contents

- I. What is being addressed in this document?
- II. Have the requirements for approval of a SIP revision been met?
- III. What action is the EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

### I. What is being addressed in this document?

The EPA is approving the removal of 10 Code of State Regulation (CSR) 10–