

Presorted rate mailing must be part of the same mailing job and must be reported on the same postage statement.

b. The pieces in the mailing job must be flat-size and meet any other size and mailpiece design requirements applicable to the rate category for which they are prepared.

c. Co-packaged pieces must be co-sacked under M910.

d. A separate minimum of 300 Presorted rate pieces qualifying for and claiming the barcoded discount and a separate minimum of 300 Presorted rate pieces are required. The combined total number of pieces qualifying for and claiming the barcoded discount and the Presorted rate must be used to meet the minimum volume requirements for packages and sacks.

e. Presorted rate pieces must contain a 5-digit barcode and be co-packaged with Presorted rate pieces qualifying for and claiming the barcoded discount for the same presort destination. If this optional preparation method is used, all barcoded discount pieces and Presorted rate pieces in the same mailing job and reported on the same postage statement must be co-packaged.

f. All pieces must meet the AFSM 100 requirements in C820.

g. Unless presented using an approved manifest mailing system under P910, Presorted rate pieces qualifying for and claiming the barcoded discount and Presorted rate pieces for each presort destination must be sorted so that only one physical package for each logical presort destination includes both Presorted rate pieces qualifying for the barcoded discount (containing a ZIP+4 or delivery point barcode) and Presorted rate pieces (containing a 5-digit barcode).

#### 4.2 Package Preparation

Preparation sequence, package size, and labeling:

a. 5-digit scheme (optional); minimum 10 addressed pieces or 10 pounds, maximum package weight 20 pounds; optional endorsement line (OEL) required.

b. 5-digit (required); minimum 10 addressed pieces or 10 pounds, maximum package weight 20 pounds; red Label D or optional endorsement line (OEL).

c. 3-digit (required); minimum 10 addressed pieces or 10 pounds, maximum package weight 20 pounds; green Label 3 or OEL.

d. ADC (required); minimum 10 addressed pieces or 10 pounds, maximum package weight 20 pounds; pink Label A or OEL.

e. Mixed ADC (required); no minimum, maximum package weight 20 pounds; tan Label MXD or OEL.

\* \* \* \* \*

An appropriate amendment to 39 CFR 111 to reflect these changes will be published.

**Neva R. Watson,**

*Attorney, Legislative.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA202-4400a; FRL-7474-2]

### Approval and Promulgation of Air Quality Implementation Plans; Philadelphia County, PA; Construction, Modification and Operation Permit Programs

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Philadelphia County portion of the Pennsylvania State Implementation Plan (SIP). The revision approves Philadelphia County's regulations governing the construction of new and modified sources and the operation of existing sources of air pollution in the County. EPA is approving this SIP revision in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on May 27, 2003 without further notice, unless EPA receives adverse written comment by April 28, 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 addressed to Makeba Morris, Chief, Permitting and Technical Assessment Branch, 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

**FOR FURTHER INFORMATION CONTACT:** Paul Arnold, (215) 814-2194, or by e-mail at [arnold.paul@epa.gov](mailto:arnold.paul@epa.gov).

## SUPPLEMENTARY INFORMATION:

### I. Background

On May 13, 1999, the Commonwealth of Pennsylvania submitted on behalf of Philadelphia County Air Management Services (AMS) a formal revision to its State Implementation Plan (SIP). The SIP revision consists of Philadelphia Air Management Regulation XIII—"Pertaining to the Construction, Modification, Reactivation, and Operation of Sources."

### II. Summary of SIP Revision

Regulation XIII enables Philadelphia County AMS to administer the permit program requirements contained in the Commonwealth of Pennsylvania's 25 Pa. Code Chapter 127, "Construction, Modification, Reactivation, and Operation of Sources." Substantively, Regulation XIII incorporates by reference 25 Pa. Code Chapter 127 in its entirety. Philadelphia County made minor administrative revisions to 25 Pa. Code Chapter 127 to reflect the appropriate officials and administrative procedures relevant to AMS.

Regulation XIII, through incorporation of the various subchapters of 25 Pa. Code Chapter 127, adopts provisions that pertain to a number of distinct permit programs that satisfy a variety of Clean Air Act requirements. Each of the permit program elements contained in 25 Pa. Code Chapter 127 have been previously submitted to EPA for review and approval as part of the SIP for the Commonwealth of Pennsylvania. Since Philadelphia County did not make any substantive changes to 25 Pa. Code Chapter 127 when it incorporated its provisions into its Regulation XIII, the review and analysis performed by EPA when it previously acted on 25 Pa. Code Chapter 127 remains relevant and appropriate. The following table indicates the relevant subchapters of 25 Pa. Code Chapter 127 that have been previously approved by EPA as part of the Pennsylvania SIP.

## PREVIOUS EPA SIP ACTION ON 25 PA. CODE CHAPTER 127

| 25 Pa. Code Chapter 127 Subchapter                                                                                       | Approval date                   |
|--------------------------------------------------------------------------------------------------------------------------|---------------------------------|
| A. General provisions pertaining to permit program purpose and operational flexibility .....                             | July 30, 1996.<br>61 FR 39597.  |
| B. Plan approval requirements related to construction or modification of minor sources .....                             | July 30, 1996.<br>61 FR 39597.  |
| F. Operating permit requirements related to the ongoing operation of minor and major sources .....                       | July 30, 1996.<br>61 FR 39597.  |
| H. General plan approval and operating permit provisions pertaining to permits for groups or categories of sources ..... | July 30, 1996.<br>61 FR 39594.  |
| I. Plan approval and operating permit fee provisions .....                                                               | July 30, 1996.<br>61 FR 39594.  |
| J. General conformity provisions of the Clean Air Act .....                                                              | Sept. 29, 1997.<br>62 FR 50870. |

EPA directs interested parties to review the rulemaking actions detailed above for further analysis in support of this action to approve Regulation XIII as part of Philadelphia County's portion of the Pennsylvania SIP.

Regulation XIII also contains provisions that enable Philadelphia County to implement and enforce the federal prevention of significant deterioration (PSD) of air quality permit program. The PSD program covers any new construction or any major modification of a major stationary air emission source in an area which has air quality better than the national ambient air quality standards. The program requires the issuance of permits prior to construction or modification of certain sources. Regulation XIII adopts the requirements of the Federal PSD program at 40 CFR 52.21 by reference in its entirety. Because Regulation XIII does not reference a specific edition of 40 CFR part 52, all future changes to part 52 with regard to the federal PSD program are automatically incorporated by reference into Regulation XIII.

The Federal PSD program promulgated at 40 CFR part 52 intrinsically meets the minimum requirements of 40 CFR part 51 pertaining to the adoption and implementation of PSD permit programs by state and local air pollution control agencies. Therefore, Regulation XIII, by incorporating the Federal PSD program, meets the minimum requirements of 40 CFR part 51 with regard to PSD programs.

Since 1983, Philadelphia County AMS has been delegated the authority to implement and enforce the provisions of 40 CFR 52.21 on behalf of EPA. (See 48 FR 31638, July 11, 1983.) Incorporation of the Federal PSD regulations into Regulation XIII and approval into the Philadelphia County portion of the Pennsylvania SIP effectively eliminates the need for the existing PSD delegation agreement. Upon the effective date of this action, the existing delegation of

authority agreement between EPA and Philadelphia County regarding implementation and enforcement of the Federal PSD program will be terminated.

In addition, while EPA is approving Philadelphia County's PSD SIP, EPA recognizes that it has a responsibility to insure that all States properly implement their preconstruction permitting programs. EPA's approval of Philadelphia County's PSD program does not divest the Agency of the duty to continue appropriate oversight to insure that PSD determinations made by Philadelphia County are consistent with the requirements of the Clean Air Act, EPA regulations, and the SIP. EPA's authority to oversee PSD program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds that a State "is not acting in compliance with" any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

It should be noted that EPA is not taking action at this time on certain discrete portions of Regulation XIII. Regulation XIII contains provisions that pertain to the County's new source review (NSR) permitting program for the construction or modification of major sources in nonattainment areas. Similarly, Regulation XIII contains provisions that reflect the requirements of the County's operating permit

program developed to satisfy title V of the Clean Air Act. The NSR and title V provisions of Regulation XIII may be considered separate and/or additional permitting requirements relative to the other permitting requirements contained in the Regulation XIII. The EPA's inaction on these provisions at this time does not adversely impact the implementation of the portions of Regulation XIII that are being approved as part of the Philadelphia County portion of the Pennsylvania SIP pursuant to this action. The EPA intends to take separate action on the NSR and title V operating permit program portions of Regulation XIII in the future.

### III. Final Action

EPA is approving Philadelphia Air Management Regulation XIII of the AMS regulations pertaining to a number of the County's construction and operating permit programs. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment because this rulemaking incorporates the requirements contained in Commonwealth of Pennsylvania's 25 Pa. Code Chapter 127, which was previously reviewed and approved by EPA. 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 May 27, 2003 without further notice unless EPA receives adverse comment by April 28, 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.

#### IV. Statutory and Executive Order Reviews

##### 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 May 27, 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 Philadelphia County’s Air Management Regulation XIII 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 20, 2003.

**Donald S. Welsh,**

*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)(203) to read as follows:

##### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(203) Revisions to Philadelphia Air Management Regulation XIII—“Pertaining to the Construction, Modification, Reactivation, and Operation of Sources” submitted on May 13, 1999 by the Pennsylvania Department of Environmental Protection on behalf of Philadelphia County Air Management Services:

(i) Incorporation by reference.

(A) Letter of May 13, 1999 from the Pennsylvania Department of Environmental Protection on behalf of Philadelphia County Air Management Services transmitting Regulation XIII governing the construction of new and modified sources and operation of existing sources of air pollution in the County.

(B) Philadelphia Air Management Regulation XIII—“Pertaining to the Construction, Modification, Reactivation, and Operation of Sources”, except as it pertains to the new source review permit program and the title V operating permit program, effective October 30, 1995.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(203)(i) of this section.

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 721

[OPPT–2002–0060; FRL–6758–7]

RIN 2070–AB27

#### Significant New Uses of Certain Chemical Substances

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