

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 August 30, 2004. 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 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.

Dated: June 9, 2004.

**Anthony Cancro,**

*Acting Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 FF—New Jersey

■ 2. Section 52.1570 is amended by adding new paragraph (c)(77) to read as follows:

##### § 52.1570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

\* \* \* \* \*

(77) Revisions to the State Implementation Plan submitted by the New Jersey Department of Environmental Protection on July 1, 1999 and supplemented on September 12, 2002, September 26, 2002, April 3, 2003 and May 8, 2003.

(i) Incorporation by reference:

Conditions of Approval Document: Conditions of Approval Document issued by New Jersey on July 1, 1999 to Repauno Products, LLC's sodium nitrite manufacturing plant, Gibbstown, Gloucester County.

(ii) Additional information— Documentation and information to support NO<sub>x</sub> RACT facility-specific emission limits in SIP revision addressed to Regional Administrator Jeanne M. Fox from New Jersey Commissioner Robert C. Shinn, Jr.:

(A) July 1, 1999 SIP revision,

(B) September 12, 2002, September 26, 2002, April 3, 2003 and May 8, 2003 supplemental information to the SIP revision,

(C) May 14, 2004 commitment letter from New Jersey.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[Region 2 Docket No. NY68-277, FRL-7776-4]

### Conditional Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New York

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is conditionally approving a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New York. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the sodium nitrite manufacturing plant operated by General Chemical Corporation. This action conditionally approves the source-specific RACT determination that was made by New York in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this final rule is to conditionally approve source-specific emission limitations required by the Clean Air Act.

**DATES:** Effective Date: This rule is effective on August 2, 2004.

**ADDRESSES:** The official public rulemaking file is available for public viewing during normal business hours at the EPA, Region 2 Office, Air

Programs Branch, 290 Broadway, New York, New York 10007-1866. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours at the New York Department of Environmental Conservation, Division of Air Resources, 625 Broadway, 2nd Floor, Albany, New York 12233. Copies of documents related to the docket are also available at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Richard Ruvo, Air Programs Branch, Environmental Protection Agency Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4014, [Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Overview

EPA is conditionally approving the New York State Department of Environmental Conservation's (New York's) source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO<sub>x</sub>) from the sodium nitrite manufacturing plant operated by General Chemical Corporation (General Chemical).

The following table of contents describes the format for this **SUPPLEMENTARY INFORMATION** section:

- I. What Action Is EPA Taking Today?
- II. What Comments Did EPA Receive on the Proposal?
- III. What Is EPA's Conclusion?
- IV. Statutory and Executive Order Reviews

#### I. What Action Is EPA Taking Today?

EPA is conditionally approving New York's revision to the ozone State Implementation Plan (SIP) submitted to EPA on April 12, 2000 and supplemented on May 12, 2000, May 16, 2000, October 10, 2002 and February 24, 2003. This SIP revision relates to New York's NO<sub>x</sub> RACT determination for General Chemical's sodium nitrite manufacturing plant located in Solway, Onondaga County.

EPA published in the **Federal Register** on April 7, 2004 (69 FR 18319) a proposal to conditionally approve New York's SIP revision. The April 7, 2004 proposed rule contains additional information regarding New York's SIP revision, EPA's rationale for conditionally approving New York's SIP revision, and describes in detail the deficiencies that New York must address in order for EPA to fully approve this SIP revision. The three deficiencies are to:

1. Reassess as part of the RACT analysis, the technical and economic feasibility of installing selective catalytic reduction (SCR) technology, switching from soda ash to sodium hydroxide for the entire manufacturing process, and correcting Director Discretion provisions in any permit conditions;

2. Demonstrate compliance with the NO<sub>2</sub> National Ambient Air Quality Standard, based on a cumulative air quality modeling analysis, consistent with EPA Guidance, as provided under section 110 of the Act; and,

3. Provide recent continuous emissions monitoring (CEM) data in order to determine an appropriate NO<sub>x</sub> RACT emission limitation.

In a letter dated May 7, 2004, New York committed to correct the three deficiencies discussed in the April 7, 2004 proposed rule, and to submit a new SIP revision within one year of the effective date of this rule. Once New York submits a new SIP revision to address these deficiencies, EPA can take action to fully approve the SIP revision. If New York does not submit approvable revisions within one year of the effective date of this rule, this conditional approval will automatically revert to a disapproval of New York's SIP revision. EPA will publish a document in the **Federal Register** indicating whether the conditional approval was satisfied or became a disapproval.

## II. What Comments Did EPA Receive on the Proposal?

EPA's April 7, 2004 proposed rule provided a 30-day public comment period. EPA did not receive any comments.

## III. What Is EPA's Conclusion?

EPA is conditionally approving the New York SIP revision for a source-specific RACT determination for General Chemical's sodium nitrite manufacturing plant. This SIP revision contains source-specific NO<sub>x</sub> emission limitations for General Chemical. EPA is conditionally approving New York's SIP revision, since New York committed to correct the three deficiencies discussed in the April 7, 2004 proposal, and to submit them to EPA as a SIP revision within one year of the effective date of this final rule. EPA received no comments on the April 7, 2004 proposal, therefore EPA is finalizing the conditional approval. EPA has determined that until such time that New York corrects the three deficiencies and submits them to EPA as a SIP revision, the NO<sub>x</sub> emission limits identified in New York's special permit

conditions represents RACT for General Chemical's sodium nitrite manufacturing process.

## IV. Statutory and Executive Order Reviews

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.*).

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 August 30, 2004. 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 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.

Dated: June 9, 2004.

**Anthony Cancro,**

*Acting Regional Administrator, Region 2.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 HH—New York**

■ 2. Section 52.1670 is amended by adding new paragraph (c)(104) to read as follows:

**§ 52.1670 Identification of plans.**

\* \* \* \* \*

(c) \* \* \*

(104) Revisions to the State Implementation Plan submitted by the New York State Department of Environmental Conservation on April 12, 2000, and supplemented on May 12, 2000, May 16, 2000, October 10, 2002, and February 24, 2003.

(i) Incorporation by reference: Special Permit Conditions: Special permit conditions issued by New York State on December 16, 1997, to General Chemical Corporation's sodium nitrite manufacturing plant, Solvay, Onondaga County, are incorporated for the purpose of establishing NO<sub>x</sub> emission limits consistent with part 212.

(ii) Additional information—Documentation and information to support NO<sub>x</sub> RACT facility-specific emission limits in SIP revision addressed to Regional Administrator Jeanne M. Fox from New York Deputy Commissioner Carl Johnson:

(A) April 12, 2000, SIP revision,  
(B) May 12, 2000, May 16, 2000, October 10, 2002, and February 24, 2003, supplemental information to the SIP revision,

(C) May 7, 2004, commitment letter from New York.

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[PA215-4229; FRL-7777-5]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Warren County SO<sub>2</sub> Nonattainment Areas and the Mead and Clarendon Unclassifiable Areas to Attainment and Approval of the Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a request by the Commonwealth of Pennsylvania to

redesignate the sulfur dioxide (SO<sub>2</sub>) nonattainment areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren in Warren County from nonattainment to attainment of the national ambient air quality standards (NAAQS) for SO<sub>2</sub>. In addition, EPA is approving the Commonwealth's request to change the status of Mead Township and Clarendon Borough in Warren County from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>. EPA is also approving the maintenance plan for these areas submitted by the Commonwealth as a revision to the Pennsylvania State Implementation Plan (SIP). This plan provides for the maintenance of the NAAQS for SO<sub>2</sub> for the next ten years. These actions are being taken in accordance with the Clean Air Act (CAA).

**DATES:** *Effective Date:* This final rule is effective on August 2, 2004.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. Background**

On April 9, 2004 (69 FR 18853), EPA proposed to approve the Commonwealth of Pennsylvania's (the Commonwealth's) request to redesignate the areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren in Warren County, Pennsylvania, from nonattainment to attainment of the NAAQS for SO<sub>2</sub>. EPA's April 9, 2004 notice of proposed rulemaking (NPR) also proposed approval of the Commonwealth's request to change the status of Mead Township and Clarendon Borough in Warren County from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>. Finally, EPA's NPR published on April 9, 2004 proposed to approve the maintenance plan for these areas submitted by the Pennsylvania Department of Environmental Protection (PADEP) as a SIP revision.

EPA proposed approval of these requests on April 9, 2004 under a procedure called parallel processing, whereby EPA proposes its rulemaking action on a SIP revision concurrently with a state's procedures for amending its SIP. The PADEP submitted its redesignation requests and proposed SIP revision to EPA on March 15, 2004 for parallel processing. No comments were submitted to EPA on the NPR it published on April 9, 2004 proposing to approve the Commonwealth's March 15, 2004 submittal. The Commonwealth concluded its SIP revision procedures, and the PADEP submitted the formal SIP revision along with the redesignation requests to EPA on May 7, 2004. That final version of the submittal had no substantive changes from the proposed version submitted to EPA on March 15, 2004. A detailed description of Pennsylvania's submittal and EPA's rationale for its proposed approval of the redesignation requests and maintenance plan were presented in the NPR published on April 9, 2004, and will not be restated here.

**II. Final Action**

EPA is redesignating the areas of Conewango Township, Pleasant Township, Glade Township, and the City of Warren, in Warren County, Pennsylvania from nonattainment to attainment of the NAAQS for SO<sub>2</sub>, and is changing the status of Mead Township and Clarendon Borough in Warren County, Pennsylvania, from unclassifiable to attainment of the NAAQS for SO<sub>2</sub>. EPA is also approving a maintenance plan for these areas submitted by the PADEP on May 7, 2004 as a revision to the Pennsylvania SIP.

**III. 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