



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R03-OAR-2017-0342; FRL- 9969-83-Region 3]**

**Approval and Promulgation of Air Quality Implementation Plans;  
Pennsylvania; Pennsylvania's Adoption of Control Techniques Guidelines for Automobile  
and Light-Duty Truck Assembly Coatings**

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

**ACTION:** Direct final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's state implementation plan (SIP). The revision includes the addition to the SIP of amendments to the Pennsylvania Department of Environmental Protection's (PADEP) regulations and addresses the requirement to adopt reasonably available control technology (RACT) for sources covered by EPA's control techniques guidelines (CTG) standards for automobile and light-duty assembly coatings. This action is being taken under the Clean Air Act (CAA).

**DATES:** This rule is effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice, unless EPA receives adverse written comment by **[insert date 30 days after date of publication in the Federal Register]**. 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:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2017-

0342 at <https://www.regulations.gov>, or via email to [stahl.cynthia@epa.gov](mailto:stahl.cynthia@epa.gov). For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the “For Further Information Contact” section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Joseph Schulingkamp, (215) 814-2021, or by e-mail at [schulingkamp.joseph@epa.gov](mailto:schulingkamp.joseph@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Ground level ozone is formed in the atmosphere by photochemical reactions between volatile organic compounds (VOCs), nitrogen oxides (NO<sub>x</sub>), and carbon monoxide (CO) in the presence of sunlight. In order to reduce ozone concentrations in the ambient air, the CAA requires all nonattainment areas to apply control on VOC and NO<sub>x</sub> emission sources to achieve emission

reductions. Among effective control measures, RACT controls significantly reduce VOC and NO<sub>x</sub> emissions from major stationary sources. NO<sub>x</sub> and VOC are referred to as ozone precursors and are emitted by many types of pollution sources, including motor vehicles, power plants, industrial facilities, and area wide sources, such as consumer products and lawn and garden equipment. Scientific evidence indicates that adverse public health effects occur following exposure to ozone. These effects are more pronounced in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and aggravate asthma or other lung diseases.

RACT is defined as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53761 at 53762, September 17, 1979). Section 182 of the CAA sets forth two separate RACT requirements for ozone nonattainment areas. The first requirement, contained in section 182(a)(2)(A) of the CAA, and referred to as RACT fix-up, requires the correction of RACT rules for which EPA identified deficiencies before the CAA was amended in 1990. Pennsylvania previously corrected its deficiencies under the 1-hour ozone standard and has no further deficiencies to correct under this section of the CAA. The second requirement, set forth in section 182(b)(2) of the CAA, applies to moderate (or worse) ozone nonattainment area as well as to marginal and attainment areas in ozone transport regions (OTRs) established pursuant to section 184 of the CAA, and requires these areas to implement RACT controls on all major VOC and NO<sub>x</sub> emission sources and on all sources and source categories covered by a CTG issued by EPA.<sup>1</sup> See CAA section 182(b)(2) and 184(b).

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<sup>1</sup> CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in determining RACT for VOC from various sources. The recommendations in the CTG

On November 18, 2016, the Pennsylvania Department of Environmental Protection (PADEP) submitted a formal revision to the Commonwealth of Pennsylvania's SIP. The SIP revision consists of the adoption of EPA's CTG for automobile and light duty assembly coatings. The new regulation reflecting this adoption can be found under *25 Pa. Code* Chapter 129—Standards for Sources. Specifically, this revision adds to the SIP *25 Pa. Code* § 129.52e which adopts the RACT requirements for automobile and light-duty assembly coatings and covers heavier vehicle coating operations as well. The revision also includes changes to *25 Pa. Code* § 129.51 to accommodate alternative compliance methods for the adopted CTG.

Section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including RACT, for sources of emissions. Section 182(b)(2)(A) provides that for certain nonattainment areas, states must revise their SIPs to include RACT for sources of VOC emissions covered by a CTG issued after November 15, 1990 and prior to the area's date of attainment. EPA defines RACT as “the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.” (44 FR 53761, Sept. 17, 1979). In subsequent Federal Register notices, EPA has addressed how states can meet the RACT requirements of the CAA. In June 1977, EPA published a CTG for automobile and light-duty truck assembly coatings (EPA-450/2-77-008). This CTG discusses the nature of VOC emissions from this industry, available control technologies for addressing such emissions, the

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are based upon available data and information and may not apply to a particular situation based upon the circumstances. States can follow the CTG and adopt state regulations to implement the recommendations contained therein, or they can adopt alternative approaches. In either case, states must submit their RACT rules to EPA for review and approval as part of the SIP process. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the OTR must implement RACT with respect to sources of VOCs in the state covered by a CTG issued before or after November 15, 1990.

costs of available control options, and other items. EPA also published a national emission standard for hazardous air pollutants (NESHAP) for surface coating of automobiles and light-duty trucks in 2004 (40 CFR part 63, subpart IIII).

In 2008, after conducting a review of currently existing state and local VOC emission reduction approaches for this industry, reviewing the 1977 CTG and the NESHAP for this industry, and considering the information that has become available since then, EPA developed a new CTG for automobile and light-duty truck assembly coatings, entitled Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings (Publication No. EPA 453/R-08-006). Pennsylvania's SIP revision submittal addresses the adoption of EPA's 2008 CTG for automobile and light-duty truck assembly coatings.

## **II. Summary of SIP Revision and EPA Analysis**

EPA's CTG for automobiles and light-duty truck assembly coatings includes recommendations to reduce VOC emissions. These recommendations include VOC emissions limits for coating operations; work practices for storage and handling of coatings, thinners, and coating waste materials; and work practices for the handling and use of cleaning materials. The emission limits for coating processes covered by this CTG are found in Table 1 of the technical support document (TSD) which EPA prepared supporting this rulemaking.<sup>2</sup> Table 1, includes emission limits expressed in kilograms of VOC per liter (kg VOC/liter) and pounds of VOC per gallon (lbs VOC/gal). The emission limits for the miscellaneous materials used at coating facilities are found in Table 2 of the TSD. Table 2 includes emission limits expressed in grams of VOC per liter (g VOC/liter). Additional information regarding this CTG can be found in the TSD found in

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<sup>2</sup> The TSD is available in the docket for this proposed rulemaking and available online at [www.regulations.gov](http://www.regulations.gov).

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PADEP's submittal presented the regulatory revisions undertaken to adopt EPA's CTG for automobile and light-duty truck coatings. PADEP revised 25 Pa. Code Chapter 129— Standards for Sources to adopt the aforementioned CTG. The revisions include the addition of § 129.52e which adopts the RACT requirements for automobile and light-duty truck assembly coatings as stated by EPA in the relevant CTG for this category of sources. The revision also includes updates to 25 Pa. Code § 129.51 to accommodate alternative compliance methods for the adopted CTG. Additional information regarding PADEP's submittal can be found within the TSD and state submittal which are both located in this docket and available online at [www.regulations.gov](http://www.regulations.gov).

EPA reviewed PADEP's submittal and found that the regulatory changes reflect EPA's CTG for automobile and light-duty trucks. The emission limits for the coating processes as well as the emission limits for the miscellaneous materials used during coating processes are consistent with those recommended in EPA's CTG. Additionally, the regulatory changes address EPA's recommended work practices.

EPA notes that under 25 Pa. Code § 129.52e(c), *Existing RACT permit*, PADEP is allowing the provisions of §129.52e to supersede the requirements of a RACT permit previously issued under 25 Pa. Code §§ 129.91-129.95 if the permit was issued prior to January 1, 2017 and to the extent that the RACT permit contains less stringent requirements than those in 25 Pa. Code § 129.52e. EPA further notes that the RACT permits issued under §§ 129.91-129.95 were issued for previous RACT determinations on a case-by-case basis; these permits would then have been submitted to EPA as source-specific SIP revisions and would likely have been approved by EPA

for inclusion into the Pennsylvania SIP. If EPA approved those source-specific RACT determinations as meeting the requirements of RACT under the CAA, then the permits associated with those determinations were approved into the SIP and would have been identified at 40 CFR 52.2020(d). To the extent that the provisions of § 129.52e are more stringent than those of a previous SIP-approved permit, PADEP may make a source-specific determination as to whether the requirements of the previous RACT permit apply, or those of § 129.52e. If PADEP chooses to make such a determination to remove prior case-by-case RACT limits from the SIP, such revision must be submitted to EPA as a SIP revision in order to remove the previously approved permit from the SIP and must meet requirements under CAA section 110(l). Otherwise, the previously approved RACT limits (even if less stringent) remain applicable requirements for sources subject now to the more stringent CTG also. Until such a SIP revision is made, the requirements of 25 *Pa. Code* 129.52e and the SIP-approved case by case RACT requirements both apply and EPA cannot remove the source-specific permits from the SIP. EPA is not taking any such action in this rulemaking to remove previously approved RACT permits and thus the requirements of a previously SIP-approved permit still apply until such permit is removed from the SIP even if the new limits, reflected in this CTG that Pennsylvania has adopted, are more stringent.

### **III. Final Action**

EPA is approving the revision to Pennsylvania's SIP which adopts EPA's CTG for automobile and light-duty truck coatings because Pennsylvania's regulation incorporates the requirements of the CTG and thus meets requirements in CAA sections 110 and 184(b). EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal**

**Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on **[insert date 60 days after date of publication in the Federal Register]** without further notice unless EPA receives adverse comment by **[insert date 30 days after date of publication in the Federal Register]**. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

#### **IV. Incorporation by Reference**

In this rule, 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 25 Pa. Code Chapter 129— Standards for Sources, Sections 129.51 and 129.52e. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or 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 rulemaking of EPA’s approval, and will be incorporated by

reference by the Director of the Federal Register in the next update of the SIP compilation.<sup>3</sup>

## **V. 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);
- 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 (Public Law 104-4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

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<sup>3</sup> 62 FR 27968 (May 22, 1997).

- 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 Congress and to the Comptroller General of the United States. EPA will submit a report containing this action 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).

### **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 **[Insert date 60 days after date of publication in the Federal Register]**. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action. This action, in which Pennsylvania adopts EPA’s CTG for automobile and light-duty truck assembly coatings, 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 oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 26, 2017.

Cecil Rodrigues,  
Acting 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 (c)(1) is amended by revising the entry for “Section 129.51” and adding an entry for “Section 129.52e” after “Section 129.52d” to read as follows:

**§ 52.2020 Identification of plan.**

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(c) \*\*\*

(1) \*\*\*

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
<b>Title 25-- Environmental Protection Article III--Air Resources</b>				
* * * * *				
Section 129.51	General	10/22/16	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	Amendments add alternative compliance methods for the requirements of Section 129.52e.  Previous approval dated 6/25/2015.

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * * *	* * *			
Section 129.52e	Control of VOC emissions from automobile and light-duty truck assembly coating operations and heavier vehicle coating operations	10/22/16	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	New section is added. This section does not remove or replace any permits approved under 52.2020(d).
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[FR Doc. 2017-22942 Filed: 10/23/2017 8:45 am; Publication Date: 10/24/2017]