

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

CENTER FOR BIOLOGICAL
DIVERSITY,

Petitioner,

vs.

U.S. ENVIRONMENTAL
PROTECTION AGENCY, and
MICHAEL REGAN in his official
capacity as Administrator of the U.S.
Environmental Protection Agency,

Respondents.

No.

PETITION FOR REVIEW

Pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure, Center for Biological Diversity petitions this Court for review of the final action entitled “Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 2008 8-Hour Ozone National Ambient Air Quality Standards.” Respondent U.S. Environmental Protection

Agency published the final action in the Federal Register on November 1, 2021 at 86 Fed. Reg. 60,170 (Nov. 1, 2021), also attached as Exhibit 1.

Respectfully submitted this 3d day of January 2022.

s/ Alexa Carreno

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Federal Rule of Appellate Procedure 26.1, Petitioner Center for Biological Diversity (“the Center”) states as follows: 1) the Center has no parent companies, and 2) there are no publicly held companies that have a 10% or greater ownership in the Center.

Respectfully submitted this 3d day of January 2022.

s/ Alexa Carreno

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PROOF OF SERVICE

I hereby certify that I served a copy of the foregoing PETITION FOR REVIEW and CORPORATE DISCLOSURE STATEMENT on the following *via* Certified Mail in the regular course of business on January 3, 2022:

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Exhibit 1

Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 2008 8-Hour Ozone National Ambient Air Quality Standards published the final action in the Federal Register November 1, 2021 at 86 Fed. Reg. 60,170 (Nov. 1, 2021).

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2020-0598; FRL-9062-02-R3]

Air Plan Approval; Pennsylvania; Reasonably Available Control Technology (RACT) Determinations for Case-by-Case Sources Under the 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_x) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this rule action, EPA is approving source-specific RACT determinations ("case-by-case" or alternative NO_x emissions limits) for sources at nine major NO_x and VOC emitting facilities located in Philadelphia County. These RACT evaluations were submitted to meet RACT requirements for the 2008 8-hour ozone national ambient air quality standard (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 December 1, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0598. 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: Mr. Riley Burger, Permits Branch (3AD10), Air and Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2217. Mr. Burger can also be reached via electronic mail at burger.riley@epa.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

On February 9, 2021, EPA published a notice of proposed rulemaking (NPRM). 86 FR 8743. In the NPRM, EPA proposed approval of case-by-case RACT determinations or alternative NO_x emissions limits for sources at nine facilities in Philadelphia County, as EPA found that the RACT controls for these sources met the CAA RACT requirements for the 2008 8-hour ozone NAAQS. PADEP, on behalf of Philadelphia Air Management Services (AMS), submitted the SIP revisions for sources at these facilities on May 7, 2020.

Under certain circumstances, states are required to submit SIP revisions to address RACT requirements for both major sources of NO_x and VOC and any source covered by control technique guidelines (CTG) for each ozone NAAQS. Which NO_x and VOC sources in Pennsylvania are considered "major," and are therefore subject to RACT, 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 the area's current classification(s). In Pennsylvania, sources located in any ozone nonattainment areas outside of moderate or above are subject to source thresholds of 50 tons per year (tpy) because of the Ozone Transport Region (OTR) requirements in CAA section 184(b)(2).

On May 16, 2016, PADEP submitted a SIP revision addressing RACT for 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 source VOC and NO_x 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_x and VOCs* (the "presumptive" RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_x and

VOC control measures in 25 Pa. Code 129.92-95, *Stationary Sources of NO_x and VOCs*, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_x sources. The requirements of the RACT I rule remain as previously approved in Pennsylvania's SIP and continue to be implemented as RACT.¹ On September 26, 2017, PADEP submitted a letter, dated September 22, 2017, which committed to address various deficiencies identified by EPA in PADEP's 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 letter.² 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 NO_x emissions 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 (i.e., by May 9, 2020). Through multiple submissions between 2017 and 2020, PADEP has submitted to EPA for approval various SIP submissions to implement its RACT II case-by-case determinations and NO_x averaging plan limits. This rule is based on EPA's review of one of these SIP submissions.

The SIP revisions in this action only establish 2008 8-hour ozone NAAQS RACT requirements. Applicable RACT requirements under the CAA for sources located in Philadelphia for the 1997 8-hour ozone NAAQS were previously satisfied. See 81 FR 69687 (October 7, 2016).

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 NO_x averaging plan limits and/or case-by-case RACT requirements for major sources in Pennsylvania

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

² On August 27, 2020, the Third Circuit Court of Appeals vacated three provisions of Pennsylvania's presumptive RACT II rule applicable to certain coal-fired power plants. *Sierra Club v. EPA*, No. 19-2562 (3rd Cir. August 27, 2020). None of the sources in this rule are subject to the presumptive RACT II provisions at issue in the *Sierra Club* decision.

subject to 25 Pa. Code 129.98 or 129.99. Among the Pennsylvania SIP revisions submitted by PADEP were case-by-case RACT determinations and alternative NO_x emissions limits for certain sources in Philadelphia County, which PADEP submitted on behalf of AMS. PADEP's submission included SIP revisions pertaining to source-specific RACT requirements for the existing emissions units at each of the major sources of NO_x and/or VOC that required a source-specific RACT determination or alternative NO_x emissions limits for major sources seeking such limits.

In the case-by-case RACT determinations submitted by PADEP on behalf of AMS, an evaluation was

completed to determine if previously SIP-approved, case-by-case RACT emissions limits or operational controls were more stringent than the new RACT II presumptive or case-by-case requirements. If more stringent, the previously approved RACT requirements will continue to apply to the applicable source and are included in the new RACT II permit. If the new case-by-case RACT II requirements are more stringent than the previously approved RACT requirements, then the RACT II requirements will supersede the prior RACT requirements.³

In AMS' RACT determinations involving NO_x averaging, an evaluation was completed to determine that the

aggregate NO_x emissions emitted by the air contamination sources included in the facility-wide or system-wide NO_x emissions averaging plan using a 30-day rolling average are not greater than the NO_x emissions that would be emitted by the group of included sources if each source complied with the applicable presumptive limitation in 25 Pa. Code 129.97 on a source-specific basis.

Here, EPA is approving SIP revisions pertaining to case-by-case RACT requirements and alternative NO_x emissions limits for sources at nine major NO_x and/or VOC emitting facilities in Philadelphia County, as summarized in Table 1 in this document.

TABLE 1—NINE MAJOR NO_x AND/OR VOC EMITTING FACILITIES IN PENNSYLVANIA SUBJECT TO SOURCE-SPECIFIC RACT II DETERMINATIONS UNDER THE 2008 8-HOUR OZONE NAAQS

Major source (county)	1997 8-hour ozone RACT source? (RACT I)	Major source pollutant (NO _x and/or VOC)	RACT II permit (effective date)
AdvanSix Resins & Chemicals LLC—Frankford Plant (formerly Honeywell International—Frankford Plant).	Yes	NO _x and VOC	IP16–000276 (3/5/2020).
Exelon Generation Company—Richmond Generating Station	Yes	NO _x	IP16–000246 (4/20/2020).
Grays Ferry Cogeneration Partnership—Schuylkill Station	Yes	NO _x	IP16–000250 (3/4/2020).
Vicinity Energy Philadelphia—Schuylkill Station (formerly Veolia Energy Philadelphia—Schuylkill Station).	Yes	NO _x	IP16–000249 (3/4/2020).
Kinder Morgan Liquids Terminals, LLC—Philadelphia Terminal	Yes	VOC	IP16–000233 (4/20/2020).
Naval Surface Warfare Center—Philadelphia Division formerly Naval Surface Warfare Center—Carderock Division, Ship Systems Engineering Station).	Yes	NO _x	IP16–000235 (3/20/2020).
Newman and Company, Inc (formerly Paperworks Industries, Inc)	Yes	NO _x	IP–000223 (3/31/2020).
Philadelphia Energy Solutions Refining and Marketing LLC	Yes	NO _x and VOC	IP16–000269 (4/24/2020).
Philadelphia Shipyard Inc	No	VOC	IP16–000300 (4/8/2020).

The case-by-case RACT determinations submitted by PADEP, on behalf of AMS, consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in an AMS determination of what specific emissions limit or control measures satisfy RACT for that particular unit. The adoption of new, additional, or revised emissions 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 AMS to the source. Similarly, AMS' determinations of alternative NO_x emissions limits are included in RACT II permits. These RACT II permits have been submitted as part of the Pennsylvania RACT SIP revisions for EPA's approval into 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–2019–0657.⁴ EPA is incorporating by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT emissions limits and control measures and alternative NO_x emissions limits under the 2008 8-hour ozone NAAQS for certain major sources of NO_x and VOC emissions.

B. EPA's Final Action

PADEP's SIP revisions incorporate AMS' determinations of source-specific RACT II controls for individual emission units at major sources of NO_x and/or VOC in Philadelphia, where those units are not covered by or cannot meet Pennsylvania's presumptive RACT

regulation or where included in a NO_x averaging plan. After thorough review and evaluation of the information provided by AMS in the SIP revision submittals for sources at nine major NO_x and/or VOC emitting facilities in Philadelphia, EPA found that: (1) AMS' 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, (2) AMS' determinations on alternative NO_x emissions limits demonstrate that emissions under the averaging plan are equivalent to emissions if the individual sources were operating in accordance with the applicable presumptive limit, and (3) AMS' determinations are consistent with the CAA, EPA regulations, and applicable EPA guidance.

³ While the prior SIP-approved RACT permit will remain part of the SIP, this RACT II rule will incorporate by reference the RACT II requirements through the RACT II permit, which will also

contain any more stringent requirements from the previously approved RACT permit.

⁴ The RACT II permits included in the docket for this rule are redacted versions of the facilities'

federally enforceable permits. They reflect the specific RACT requirements being approved into the Pennsylvania SIP via this final action.

AMS, in its RACT II determinations, considered the prior source-specific RACT requirements and, where more stringent, retained those prior RACT 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 requirements would result in equivalent or additional reductions of NO_x and/or VOC emissions. The proposed revisions should not interfere with any applicable requirements concerning attainment of the NAAQS, reasonable further progress, or other applicable requirements under section 110(l) of the CAA.

Other specific requirements of the 2008 8-hour ozone NAAQS case-by-case RACT determinations and alternative NO_x emissions limits and the rationale for EPA's proposed action are explained more thoroughly in the NPRM, and its associated technical support document (TSD), and will not be restated here.

III. EPA's Response to Comments Received

EPA received comments from three commenters on the February 9, 2021 NPRM. 86 FR 8743. A summary of the comments and EPA's response are discussed in this section. A copy of the comments can be found in the docket for this rule action.

Comment 1: The commenter claims that EPA cannot approve the proposed Pennsylvania RACT II case-by-case (CbC) determinations under the 2008 8-hour ozone NAAQS because the CAA section 110(l) analysis is inadequate. In particular, the commenter focuses on the proposed NO_x limitations and whether they will cause or contribute to violations of the 2010 1-hour NO_x NAAQS. (The 2010 1-hour NAAQS is for oxides of nitrogen, as measured by nitrogen dioxide (NO₂)). The commenter argues that under CAA section 110(k)(1)(a) and 40 CFR part 51, appendix V, 2.2(d), a state must demonstrate that the NAAQS are protected if a SIP is to be approved and that Pennsylvania has not made an adequate demonstration under section 110(l) related to the potential impact of these RACT determinations on the 2010 1-hour NO_x NAAQS. The commenter then suggests that EPA is unable to approve Pennsylvania's CbC RACT II determinations unless such a demonstration has been made, even though the rules reduce NO_x emissions. The commenter highlights their concern by including results from air dispersion modeling of NO_x emissions from the Bighorn well pad in Colorado that they claim shows the potential impact of NO_x emissions on 1-hour NO_x NAAQS

violations. The commenter states that EPA must undertake a modeling analysis to determine if the proposed CbC RACT II determinations will cause or contribute to 2010 1-hour NO_x NAAQS violations. The commenter indicates that EPA must repropose this action and allow for comment on any such modeling information or other information utilized in the demonstration that the NAAQS will be protected.⁵

Response 1: As described in the proposed rulemaking, Pennsylvania was required through implementation of the 1997 and 2008 8-hour ozone NAAQS to determine RACT II requirements for major NO_x and VOC emitting sources within the Commonwealth. PADEP had previously established CbC RACT requirements under the 1979 1-hour ozone NAAQS.⁶ PADEP finalized its overall RACT II program, which included presumptive RACT for certain sources, and it was conditionally approved by EPA.⁷ As part of the EPA's conditional approval, PADEP was required to complete source-specific RACT II determinations for subject NO_x or VOC sources that could not meet the presumptive requirements or for which a presumptive limit did not exist. For subject sources located in Philadelphia, the City of Philadelphia's AMS is the government agency responsible for making such determinations.

As required by Pennsylvania's RACT II regulations, AMS then conducted, for sources seeking a CbC determination, an analysis examining what air pollution controls were available for those individual sources to determine the lowest emissions limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technologically and economic feasibility.⁸ For sources seeking an alternative NO_x emissions limit, AMS reviewed the NO_x averaging plan to determine that the alternative NO_x emissions limits demonstrated that the emissions under the averaging plan were equivalent to emissions as if the individual sources were operating in accordance with the applicable presumptive limit.

⁵ This summary of the comment includes supplemental information provided by the commenter in a similar comment to EPA's proposed rulemaking in EPA-R03-OAR-2020-0597.

⁶ 40 CFR 52.2020(d)(1).

⁷ 84 FR 20274 (May 9, 2019).

⁸ See December 9, 1976 memorandum from Roger Strelow, Assistant Administrator for Air and Waste Management, to Regional Administrators, "Guidance for Determining Acceptability of SIP Regulations in Non-Attainment Areas," and 44 FR 53762 (September 17, 1979).

Through its source-specific RACT II determinations, AMS has established NO_x and VOC limits and requirements for various sources that either reaffirm existing emissions limits or makes the limits more stringent. PADEP, on behalf of AMS, submitted those determinations to EPA as bundled packages of individual SIP revisions. EPA is now approving the RACT II CbC SIP revisions for individual NO_x and VOC sources at nine facilities in Philadelphia County. For the reasons explained below, EPA concludes that the arguments presented by the commenter do not prohibit approval of these SIP revisions.

CAA section 110(l) prohibits EPA from approving a SIP revision if the revision would "interfere with any applicable requirement concerning attainment and reasonable further progress . . . or any other applicable requirement of this chapter." 42 U.S.C. 7410(l). While EPA interprets section 110(l) as applying to all NAAQS that are in effect, including those for which a relevant SIP submission may not have been made, the level of rigor needed for any CAA section 110(l) demonstration will vary depending on the nature and circumstances of the revision. For example, an in-depth section 110(l) analysis is more appropriate where there is a reasonable expectation that an existing SIP standard is being weakened or that there will be a net emissions increase because of approval of the SIP revision under consideration. However, here, the Pennsylvania CbC RACT II SIP revisions are either retaining an existing standard or establishing a more stringent one. For these reasons, EPA did not include a detailed section 110(l) analysis at the proposal stage. Since the commenter raised the issue, EPA is responding in this final action by explaining why its approval is consistent with section 110(l).

In circumstances where an existing SIP standard is being weakened or a net emissions increase is expected, there are two generally recognized paths for satisfying CAA section 110(l). First, a state may demonstrate through an air quality modeling analysis that the revision will not interfere with the attainment of the NAAQS, reasonable further progress, or any other applicable requirement. This is the approach the commenter claims is required for the Pennsylvania CbC RACT II SIP revisions. Second, a state may substitute equivalent or greater emissions reductions to compensate for any change to a plan to ensure actual emissions to the air are not increased and thus preserve status quo air quality. A showing that the substitute measures

preserve status quo air quality is generally sufficient to demonstrate noninterference through this alternative approach. Courts have upheld EPA's approval of a SIP revision based on a state's use of substitute measures. *Kentucky Resources Council, Inc. v. EPA*, 467 F.3d 986 (6th Cir. 2006); *Indiana v. EPA*, 796 F. 3d 803 (7th Cir. 2015).

Both the *Kentucky Resources* and *Indiana* cases involved circumstances where a state sought to revise provisions within its SIP related to its vehicle emissions testing program. In both situations, the petitioners were concerned with increased emissions that might occur due to the changes to the testing program. In both cases, the state justified its SIP revision, in part, by demonstrating that it had substitute emission reductions that would fully compensate for the expected emissions increase caused by the modifications to the testing program. In both *Kentucky Resources* and *Indiana*, the court upheld EPA's interpretation of section 110(l), which allows states to substitute equivalent emissions reductions to compensate for any change to a plan to ensure actual emissions to the air are not increased and thus preserve status quo air quality. However, again, these two cases are most relevant in circumstances where an existing SIP standard is being weakened or a net emissions increase is expected, which are not the circumstances presented by the SIP revisions that EPA is approving here.

In a more analogous case to the situation presented here, EPA's interpretation of section 110(l) was upheld in *WildEarth Guardians v. EPA*, 759 F.3d 1064 (9th Cir. 2014). There, the court rejected a challenge to an EPA action approving a regional haze plan and concluded that WildEarth Guardians had identified "nothing in [the] SIP that weakens or removes any pollution controls. And even if the SIP merely maintained the status quo, that would not interfere with the attainment or maintenance of the NAAQS."⁹ For that reason, the court concluded that WildEarth Guardians failed to show that EPA's approval of the SIP contravened section 110(l). The court's holding demonstrates that a SIP approval that does not weaken or remove pollution controls would not violate section 110(l). The *WildEarth Guardians* decision informs the approach to section 110(l) EPA is taking to approve the Pennsylvania CbC RACT SIP revisions. Here, contrary to the commenter's characterization, AMS is

not relaxing standards or eliminating a program; rather, AMS is only re-evaluating the technical and economic feasibility of air pollution controls for subject air pollution sources as required by implementation of the 2008 8-hour NAAQS. Based on that review, AMS, as explained in more detail below, has made determinations that either retain or make more stringent existing NO_x emissions limits. Emissions are not expected to increase, and will likely decrease, as a result of AMS' RACT II NO_x CbC determinations and EPA's approval hereof. Under these circumstances, AMS' demonstration to meet the requirements of section 110(l) for its source-specific RACT II determinations is not one of modeling or identifying equivalent emissions reductions to compensate for or offset an emissions increase because the revisions are not resulting in emissions increases, but rather to establish that its new source-specific NO_x RACT determinations are preserving the status quo air quality or achieving additional reductions beyond the status quo.

With this rule action, EPA is only approving revisions that add specific NO_x and VOC source-specific RACT II determinations to the Pennsylvania SIP. In the subject RACT II source-specific determinations, AMS has made an adequate showing that its source-specific determinations for individual sources at the nine facilities at issue not only preserve the status quo air quality, but likely reduce the cumulative NO_x emissions from the subject sources. As described in its technical review memoranda and related documents, which are included in the docket for this rule, AMS evaluated both the technical and economic feasibility of various control equipment for these sources and used that evaluation to determine the RACT II requirements. AMS also considered the prior RACT I requirements to determine whether the RACT II requirements were as stringent as the previously established standards. In circumstances where the RACT I requirements were more stringent, they were retained and remain effective. Contrary to the commenter's assertion, this demonstration included in the documents in the docket satisfies the requirements of 40 CFR part 51, appendix V. The record supporting EPA's approval of AMS' source-specific RACT II SIP revisions is sufficient, so there is no need to supplement the record. As such, commenter's reference to EPA's inability to supplement the record, and to *Ober v. U.S. EPA*, 84 F.3d 304,312 (9th Cir. 1996), is not applicable to EPA's current action.

The facilities in this rule identified as objectionable in the comment break down into the categories listed below. As explained in the proposed rulemaking document, EPA views each facility as a separable SIP revision, and that should it receive comment on one facility but not others, EPA may take separate, final action on the remaining facilities.

Facilities with only VOC sources—Kinder Morgan Liquid Terminals, LLC is a major source VOC emitting facility that is a minor source of NO_x. As such, individual VOC sources at this facility must comply with RACT II requirements. EPA's approval in this rule for this facility only relates to specific CbC VOC RACT II determinations. EPA's approval of the Pennsylvania CbC RACT II SIP revision for sources at for this facility does not involve NO_x emissions, maintains the status quo in VOC emissions, and does not result in an increase in VOC or NO_x emissions. Therefore, as explained previously, EPA has determined this SIP revision will not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of the CAA pursuant to section 110(l).

Facilities with CbC NO_x Sources—The following facilities are major NO_x emitting sources and contain individual sources subject to CbC NO_x requirements that EPA is taking final action on here. More specific information on those individual facilities follows:

Exelon Generation Company—Richmond Generating Station—EPA proposed to approve AMS' RACT II CbC NO_x determination for two combustion turbines at this facility. After determining that there were no new technically and economically feasible NO_x controls for these sources, AMS has determined that the RACT II NO_x is continuing to comply with the existing NO_x emissions limits and capacity factor.¹⁰ Through retention of the existing emissions limits and restrictions, AMS has demonstrated that the status quo in NO_x emissions has been maintained. As such, EPA's approval of the Pennsylvania SIP revision for the individual sources at this facility is adequately justified under section 110(l).

Grays Ferry Cogeneration Partnership—Schuylkill Station (GFCP) and Vicinity Energy Philadelphia—Schuylkill Station (Vicinity)—The two facilities hold separate operating permits, but they share a geographic

¹⁰ See AMS' InterOffice Memo, dated April 20, 2020, which is part of the docket for this rule.

⁹ 759 F.3d at 1074.

location and are considered a single source for title V and New Source Review purposes. EPA proposed to approve AMS' RACT II determination related to a facility-wide NO_x averaging plan for three sources at this facility pursuant to 25 Pa. Code 129.98(a). The averaging plan provision authorized in section 129.98 allows a facility to establish an alternative facility-wide or system-wide NO_x emissions limit as long as it demonstrates that the resulting NO_x emissions using a 30-day rolling average would not be greater than NO_x emissions from the group of included sources if they each complied with the applicable presumptive NO_x RACT emissions limit as individual sources. GFPC and Vicinity will be averaging the NO_x emissions for three sources to meet the RACT II requirements, an alternative emissions limit, that will be at least as stringent as the presumptive emissions limits, which were conditionally approved by EPA in a prior rule. Additionally, AMS has retained all of the individual emissions limits from the prior RACT approval.¹¹ AMS' approval of the alternative NO_x emissions limit ensures that total NO_x emissions from these sources will be no greater than the total individual emissions from each source if each were to comply with the existing presumptive emissions limit. The alternative NO_x emissions limit does not eliminate the prior individual emissions limits. Through these measures, AMS has demonstrated that the status quo for NO_x emissions has been maintained. As such, EPA's approval of the Pennsylvania SIP revision for the individual sources at these facilities is adequately justified under section 110(l).

Philadelphia Energy Solutions Refining and Marketing LLC (PES)—EPA proposed to approve AMS' RACT II CbC NO_x determinations for numerous sources at this facility and its alternative NO_x emissions limits for a number of heaters and boilers. At the time AMS issued the current RACT Plan Approval to PES in April 2020, which incorporated its RACT II NO_x determinations, refining operations at the PES facility had been shut down. The refinery has been closed since June 2019, and the facility has been sold to a new owner. AMS' proposed RACT II SIP revision does not authorize new operations at the facility, but rather incorporates RACT requirements for major NO_x and VOC sources in operation as of 2012 into the SIP.

For the CbC NO_x sources at the facility, AMS has determined that all proposed 2008 NO_x RACT requirements (such as emissions limits, control technologies like selective catalytic reduction (SCR) and low NO_x burners, continuous emissions monitoring systems (CEMS), combustion tuning, and good combustion practices), are at least as stringent as the prior 1997 8-hour NO_x RACT requirements and has included them in the new 2020 RACT permit, which will be incorporated into the Pennsylvania SIP through this action. At the same time, AMS also approved for a group of heaters and boilers alternative NO_x emissions limits through the use of three NO_x averaging plans pursuant to 25 Pa. Code 129.98(a). The averaging plan provision authorized in section 129.98 allows a facility to establish an alternative facility-wide or system-wide NO_x emissions limit as long as it demonstrates that the resulting NO_x emissions using a 30-day rolling average would not be greater than the NO_x emissions from the group of included sources if they each complied with the applicable presumptive NO_x RACT emissions limit as individual sources. The facility is required to average the NO_x emissions for three groups of sources to meet the RACT II requirements, an alternative emissions limit, that will be at least as stringent as the presumptive emissions limit, which was conditionally approved by EPA in a prior rule.¹²

Through retention of the existing emissions limits and the approval of the alternative NO_x emissions limits at the facility, AMS has demonstrated that the status quo in NO_x emissions has been maintained. As such, EPA's approval of the Pennsylvania SIP revision for the individual sources at this facility is adequately justified under section 110(l).

As described above, EPA determined that AMS adequately justified its RACT II CbC NO_x determinations and alternative NO_x emissions limits. EPA also concluded, under section 110(l), that the status quo in NO_x emissions had been maintained, if not improved, and that there is no need to conduct the modeling suggested by the commenter. As noted previously, the commenter included an air dispersion modeling analysis of NO_x emissions from a well pad at the Bighorn Pad Facility in Colorado to highlight an alleged potential of NO_x emissions to cause or contribute to violations of the 2010 1-

hour NO_x NAAQS. The NAAQS for nitrogen oxides is a 1-hour standard at a level of 100 ppb based on the 3-year average of 98th percentile of the yearly distribution of 1-hour daily maximum NO₂ concentrations. In 2012, EPA designated areas within Pennsylvania as attainment/unclassifiable for the 2010 standard.¹³ The modeling analysis provided by the commenter indicated that NO_x emissions from the well pad area in Colorado could have NO₂ impacts within 50 kilometers of the source.

This modeling data analysis from Colorado does not trigger a need for EPA, Pennsylvania, or AMS to conduct modeling on the impact of NO_x emissions from each individual source at issue in this rule in order for EPA to approve these SIP revisions. First, as discussed previously, modeling is not the sole method available to satisfy section 110(l) requirements. Second, the differences in the meteorology, terrain, and facility configurations between the Bighorn well pad and the Philadelphia RACT II sources are too significant to rely on the Bighorn facility modeling results to serve as surrogate modeling indicating that the Philadelphia RACT II sources have the potential to cause exceedances of the 2010 1-hour NO_x NAAQS in Pennsylvania. The commenter has not provided any comparison or information to show why the Bighorn Pad Facility modeling results should apply to these specific RACT II sources in Philadelphia. Further, the commenter has not presented any specific information suggesting the RACT II CbC NO_x determinations or alternative NO_x emissions limits for these specific sources could somehow lead to violations of the 2010 1-hour NO_x NAAQS. Without a more specific allegation from the commenter about the sources in question, the commenter's allegations are too speculative in nature to prevent EPA from approving AMS' RACT II CbC NO_x determinations or alternative NO_x emissions limits for sources at the five subject facilities.

Comment 2: The commenter states that minor errors are present in the technical and economic feasibility analysis of available controls throughout the proposed rulemaking. The commenter asserts that in several instances, the discussion of costs incorrectly led to the conclusion that certain controls were technically infeasible, rather than identifying those controls as technically feasible and then evaluating the cost issues in the economic analysis. The specific

¹¹ See 84 FR 20274 (May 9, 2019) as to EPA's conditional approval of the presumptive limit and AMS' Inter Office Memo, dated March 4, 2020, which is part of the docket for this rule.

¹² See 84 FR 20274 (May 9, 2019) as to EPA's conditional approval of the presumptive limit and AMS' Inter Office Memo, dated April 24, 2020, which is part of the docket for this rule.

¹³ 77 FR 9532 (February 17, 2012).

instances in which commenter claims there are minor errors are in the evaluation of a fuel switch to natural gas, water/steam injection, and SCR for boilers.

The commenter also raises concern with the use, in the economic feasibility analysis, of outdated interest rates that are not reflective of current economic conditions and the consumer price index (CPI) to adjust air pollution control costs to current dollar values.

Ultimately, the commenter acknowledges that if the RACT evaluations were redone in a manner to address the identified concerns, the control technologies determined to be RACT would not change.

Response 2: The commenter correctly asserts that an evaluation of the technical feasibility of available controls should be conducted before evaluating the economic feasibility of the remaining available controls. 25 Pa. Code 129.92(b) and 129.99(d)(1). The TSD, which is included in the docket file for this action, explains the basis for EPA's approval of the RACT determinations included in this rule. From its review of the specific RACT determinations made by AMS in this rule, EPA cannot locate a source where there was a determination where water/steam injection was identified as technically infeasible. Similarly, except for two heaters at the PES facility, there are no determinations where SCR on a boiler was identified as technically infeasible. For the two exceptions, Heaters 860-2H8 and 864-PH7, SCR was determined to be infeasible because of physical space constraints, not due to the use of ammonia or urea as identified by the commenter.

As to the commenter's remarks about fuel switching, it appears that they may apply to the Exelon Generating Company—Richmond Station where a fuel switch to natural gas was determined to be technically infeasible for Combustion Turbine #91 and #92. In this instance, Exelon identified the large-scale costs and related regulatory requirements as technical impediments to installing a natural gas line to the facility, and AMS agreed with this analysis and determined that it was not technically feasible. Whether or not AMS' conclusion on the technical feasibility analysis was sufficient does not change the final conclusion on the overall feasibility of the potential use of fuel switching for the sources at this facility. EPA agrees with the commenter that determining fuel switching as a technically feasible control would not change the determination that this control is ultimately infeasible as RACT

for the sources at hand and is finalizing AMS' proposed RACT requirements.

EPA also agrees with the commenter that choosing suitable interest rates and cost escalation factors is a requirement of RACT determinations. Per 25 Pa. Code 129.92(b)(4), the cost effectiveness evaluation must be consistent with the *OAQPS Control Cost Manual* (Fourth Edition) EPA 450/3-90-006 January 1990 (Control Cost Manual) and subsequent revisions.¹⁴ The Control Cost Manual addresses appropriate use of the CPI and lays out general principals to make accurate escalation calculations and choose appropriate interest rates. However, the Control Cost Manual in its current form does not specifically prohibit use of the CPI.

The commenter did not specify which economic feasibility determinations in this rule contain questionable interest rates or cost escalations but recognizes that updates to such factors in the economic analysis would not necessarily change the final RACT determinations. These factors are among many other values used in a complex, multi-factor cost analysis. EPA agrees it is not clear that revised interest rate or cost escalations in the economic analysis would change the final conclusions of the determinations contained in this rule. Without a more specific allegation from the commenter about the sources in question, the commenter's allegations are too general and speculative in nature to prevent EPA from approving AMS' RACT II CbC determinations for sources at the nine subject facilities.

Comment 3: The commenter raises concern with the Grays Ferry Cogeneration Partnership and Vicinity Energy NO_x averaging plan and the Philadelphia Energy Solutions Refining and Marketing LLC (PES) NO_x averaging plan. Specifically the commenter asserts: (1) In order to be protective of the 8-hour average of the 2008 ozone NAAQS, particularly during ozone season, these RACT determinations should include short term emissions limits on a calendar day basis (as is done in New Jersey and other states), rather than a 30 operating day rolling average; (2) Grays Ferry Cogeneration Partnership and Vicinity Energy should be required to evaluate control options of combusting only natural gas, replacing No. 6 oil with No. 2 oil, and additional NO_x controls; and (3) due to the recent events at PES, including shutting down operations, bankruptcy,

and sale, EPA should not approve the proposed SIP revision until a new owner begins operations at the facility.

More generally, the commenter asserts that EPA should establish term limits for RACT plan approvals and ensure that facilities re-evaluate RACT plans to incorporate any future advancements in technology as is required by New Jersey RACT rules.

Response 3: In its conditional approval of Pennsylvania's overall RACT II program at 25 Pa. Code 129.96-129.100 (84 FR 20274, May 9, 2019), EPA explained that under 25 Pa. Code 129.98, affected major sources unable to meet the applicable presumptive RACT emissions limitation may choose to comply with alternative NO_x requirements based on averaging NO_x emissions from multiple sources. Specifically, EPA explained that averaging plans pursuant to Pennsylvania's RACT II regulations are intended to demonstrate that the resulting NO_x emissions using a 30-day rolling average would not be greater than NO_x emissions from the group of included sources if they each complied with the applicable presumptive NO_x RACT emissions limit. Thus, the use of a 30-day rolling average for NO_x averaging plans under Pennsylvania's RACT II program was previously approved by EPA.

EPA guidance does highlight the need for emission controls that are reasonably consistent with protecting a short-term NAAQS such as ozone. However, in those cases where an emissions limit for a RACT control can be quantified, EPA guidance states that averaging periods for such limits should be as short as practicable and in no case longer than 30 days. See the January 20, 1984 EPA guidance memorandum titled "Averaging Times for Compliance with VOC Emissions Limits—SIP Revision Policy."

In the instance of Grays Ferry Cogeneration Partnership and Vicinity Energy, the facilities are using an averaging plan to limit NO_x emissions from the combustion turbine, Boiler #25, and Boiler #26 to no greater than the NO_x emissions that would have resulted had each individual source complied with the presumptive RACT limits of 25 Pa. Code 129.97(g)(2)(i)(A) and (B) and 129.97(g)(1)(i) and (ii). PES is using averaging plans to limit emissions from Heaters 137 F-1, 137 F-2, 137 F-3, 1332 H-400, and 1332 H-401 and #3 Boilerhouse Boilers #37, #39, and #40 to no greater than the NO_x emissions that would have resulted had each individual source complied with the presumptive RACT limits of 25 Pa. Code 129.97(g)(1)(iv). In each instance,

¹⁴ The *OAQPS Control Cost Manual* referenced in 25 Pa. Code 129.92(b)(4) is also known as the *EPA Air Pollution Control Cost Manual*. OAQPS is the acronym for EPA's Office of Air Quality Planning and Standards.

the 30-day rolling average used for demonstrating compliance is consistent with the requirements contained in Pennsylvania's previously approved RACT II program.

EPA disagrees with the commenter that Grays Ferry Cogeneration Partnership and Vicinity Energy should evaluate the technical and economic feasibility of certain alternative control options. The evaluation of alternative controls is only a requirement for sources opting for case-by-case RACT evaluation under 25 Pa. Code 129.99. Sources at the subject facilities are complying with RACT through the NO_x emission averaging plan provisions under 25 Pa. Code 129.98. Accordingly, they are not required to evaluate potential alternative control options as required by the case-by-case option.

EPA also disagrees with the commenter's recommendation to disapprove the NO_x averaging plan for the PES facility and wait for action by a new owner. EPA acknowledges the commenter's references to the shutdown of refining operations at the PES facility in June 2019, the subsequent bankruptcy filing by PES, and the prospective sale of the facility. Nevertheless, Pennsylvania's RACT II requirements apply to major NO_x and VOC emitting facilities that were in existence on or before July 20, 2012. 25 Pa. Code 129.96. Proposed NO_x averaging plans were required to be submitted to the government by October 24, 2016. 25 Pa. Code 129.98. As AMS' approval of the NO_x averaging plans for certain sources at PES was submitted to EPA as a SIP revision, meets the requirements of Pennsylvania's RACT II NO_x averaging provisions, and has not been withdrawn, EPA is finalizing the proposed RACT II requirements for those sources.

Finally, EPA declines to establish term limits for RACT plan approvals to ensure the periodic re-evaluation of technologies as required by New Jersey's RACT rules. 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 approving RACT are those in the statute, EPA's regulations, and the SIP-approved Pennsylvania implementing regulations. Term limits for RACT plan approvals for periodic re-evaluation of technologies is not a statutory or regulatory requirement for approval of these RACT determinations. Even without such term limits, RACT is periodically reevaluated in non-attainment areas after the promulgation of a new ozone NAAQS.

IV. Final Action

EPA is approving the case-by-case RACT determinations and/or alternative NO_x emissions limits for sources at nine major NO_x and VOC emitting facilities in Philadelphia, as required to meet obligations pursuant to the 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 and NO_x averaging plan limits under the 2008 8-hour ozone NAAQS for certain major sources of VOC and NO_x in Philadelphia County. 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.¹⁵

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 (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 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

¹⁵ 62 FR 27968 (May 22, 1997).

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 January 3, 2022. 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_x and VOC RACT requirements for nine facilities for 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: October 8, 2021.
Diana Esher,
Regional Administrator, Region III.

For the reasons set out in the preamble, 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 “Exelon Generation Company—Richmond Generating Station”; “Grays Ferry Cogeneration Partnership—Schuylkill Station”; “Honeywell International—Frankford Plant”; “Kinder Morgan Liquid Terminals, LLC”; “Naval Surface Warfare Center—Carderock Division, Ship Systems Engineering Station (NSWCCD—SSES)”; “Paperworks Industries, Inc”; “Philadelphia Energy Solutions—Refining and Marketing, LLC”; and “Veolia Energy Philadelphia—Schuylkill Station”;
- b. Adding entries at the end of the table for “AdvanSix Resins & Chemicals

LLC—Frankford Plant (formerly referenced as Honeywell International—Frankford Plant)”; “Vicinity Energy Philadelphia—Schuylkill Station (formerly referenced as Veolia Energy Philadelphia—Schuylkill Station)”; “Kinder Morgan Liquid Terminals, LLC—Philadelphia Terminal (formerly referenced as Kinder Morgan Liquid Terminals, LLC)”; “Naval Surface Warfare Center—Philadelphia Division (formerly referenced as Naval Surface Warfare Center—Carderock Division, Ship Systems Engineering Station) (NSWCCD—SSES)”; “Newman and Company, Inc (formerly referenced as Paperworks Industries, Inc)”; “Philadelphia Energy Solutions Refining and Marketing LLC (formerly referenced as Philadelphia Energy Solutions—Refining and Marketing, LLC)”; and “Philadelphia Shipyard Inc.”; and

■ c. Adding additional entries at the end of the table for “Exelon Generation Company—Richmond Generating Station” and “Grays Ferry Cogeneration Partnership—Schuylkill Station”.

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 ¹
Exelon Generation Company—Richmond Generating Station.	PA-51-4903 ...	Philadelphia ...	02/09/16	10/07/16, 81 FR 69691 ..	Supersedes previously approved RACT permit. See also 52.2064(f)(2).
Grays Ferry Cogeneration Partnership—Schuylkill Station.	PA-51-4944 ...	Philadelphia ...	1/09/15	10/7/16, 81 FR 69691	Source is aggregated with Veolia Energy Efficiency, LLC and Veolia Energy—Schuylkill Station. See also 52.2064(f)(3).
Honeywell International—Frankford Plant	PA-51-1151 ...	Philadelphia ...	02/09/16	10/07/16, 81 FR 69691 ..	Supersedes previously approved RACT permit. Source was formerly Sunoco Chemicals, Frankford Plant. See also 52.2064(f)(1).
Kinder Morgan Liquid Terminals, LLC	PA-51-5003 ...	Philadelphia ...	02/09/16	10/7/16, 81 FR 69691	Supersedes previously approved RACT permit. Source was formerly GATX Terminal Corporation. See also 52.2064(f)(5).
Naval Surface Warfare Center—Carderock Division, Ship Systems Engineering Station (NSWCCD—SSES).	PA-51-9724 ...	Philadelphia ...	02/09/16	10/7/16, 81 FR 69691	Supersedes previously approved RACT permits. Source was formerly U.S. Navy, Naval Surface Warfare Center, Carderock Division (NSWCCD). See also 52.2064(f)(6).
Paperworks Industries, Inc	PA-51-1566 ...	Philadelphia ...	1/09/15	10/7/16, 81 FR 69691	Supersedes previously approved RACT permit. Source was formerly Jefferson Smurfit, Corp./Container Corp. of America. See also 52.2064(f)(7).
Philadelphia Energy Solutions—Refining and Marketing, LLC.	PA-51-01501; PA-51-01517.	Philadelphia ...	02/09/16	10/7/2016, 81 FR 69691	Supersedes previously approved RACT permit. Source was formerly Sunoco Inc. (R&M)—Philadelphia. See also 52.2064(f)(8).
Veolia Energy Philadelphia—Schuylkill Station.	PA-51-4942 ...	Philadelphia ...	02/09/16	10/7/16, 81 FR 69691	Supersedes previously approved RACT permit. Source was formerly TRIGEN—Schuylkill Station. Source is aggregated with Grays Ferry Cogeneration Partnership and Veolia Energy Efficiency, LLC. See also 52.2064(f)(4).

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/§§ 52.2063 and 52.2064 citations ¹
AdvanSix Resins & Chemicals LLC—Frankford Plant (formerly referenced as Honeywell International—Frankford Plant).	IP16–000276 ...	Philadelphia ...	3/5/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(1).
Vicinity Energy Philadelphia—Schuylkill Station (formerly referenced as Veolia Energy Philadelphia—Schuylkill Station).	IP16–000249 ...	Philadelphia ...	3/4/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(4).
Kinder Morgan Liquid Terminals, LLC—Philadelphia Terminal (formerly referenced as Kinder Morgan Liquid Terminals, LLC).	IP16–000233 ...	Philadelphia ...	4/20/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(5).
Naval Surface Warfare Center—Philadelphia Division (formerly referenced as Naval Surface Warfare Center—Carderock Division, Ship Systems Engineering Station (NSWCCD–SSES)).	IP16–000235 ...	Philadelphia ...	3/20/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(6).
Newman and Company, Inc (formerly referenced as Paperworks Industries, Inc).	IP16–000223 ...	Philadelphia ...	3/31/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(7).
Philadelphia Energy Solutions Refining and Marketing LLC (formerly referenced as Philadelphia Energy Solutions—Refining and Marketing, LLC).	IP–16–00269 ...	Philadelphia ...	4/24/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(8).
Philadelphia Shipyard Inc	IP16–000300 ...	Philadelphia ...	4/8/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(9).
Exelon Generation Company—Richmond Generating Station.	IP16–000246 ...	Philadelphia ...	4/20/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(2).
Grays Ferry Cogeneration Partnership—Schuylkill Station.	IP–16–000250	Philadelphia ...	3/4/2020	11/1/2021, [insert Federal Register citation].	52.2064(f)(3).

¹ 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 (f) 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_x).

* * * * *

(f) Approval of source-specific RACT requirements for the 2008 8-hour ozone national ambient air quality standard for the facilities listed in this paragraph are incorporated as specified. (Rulemaking Docket No. EPA–OAR–2020–0598).

(1) AdvanSix Resins & Chemicals LLC—Frankford Plant—Incorporating by reference RACT Plan Approval No. IP16–000276, revised and effective March 5, 2020, which supersedes the prior RACT Plan Approval effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(2) Exelon Generation Company—Richmond Generating Station—Incorporating by reference RACT Plan Approval No. IP16–000246, effective April 20, 2020 which supersedes the prior RACT Plan Approval, effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(3) Grays Ferry Cogeneration Partnership—Incorporating by reference RACT Plan Approval No. IP–16–000250, effective March 4, 2020, which supersedes RACT Plan Approval, effective January 9, 2015. See also the

Federal Register of October 7, 2016, for prior RACT approval.

(4) Vicinity Energy Philadelphia—Schuylkill Station—Incorporating by reference RACT Plan Approval No. IP16–000249, effective March 4, 2020, which supersedes RACT Plan Approval, effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(5) Kinder Morgan Liquids Terminals, LLC—Philadelphia Terminal—Incorporating by reference RACT Plan Approval No. IP16–000233, effective April 20, 2020, which supersedes RACT Plan Approval, effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(6) Naval Surface Warfare Center—Philadelphia Division—Incorporating by reference RACT Plan Approval No. IP16–000235, effective March 20, 2020, which supersedes the prior RACT Plan Approval, effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(7) Newman and Company, Inc.—Incorporating by reference RACT Plan Approval No. IP16–000223, effective March 31, 2020, which supersedes RACT Plan Approval, effective January 9, 2015. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(8) Philadelphia Energy Solutions Refining and Marketing LLC.—Incorporating by reference RACT Plan

Approval No. IP–16–00269, effective April 24, 2020, which supersedes the RACT Plan Approval effective February 9, 2016. See also the **Federal Register** of October 7, 2016, for prior RACT approval.

(9) Philadelphia Shipyard Inc.—Incorporating by reference RACT Plan Approval No. IP16–000300, effective April 8, 2020.

[FR Doc. 2021–22571 Filed 10–29–21; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2020–0601; FRL–9111–01–OCSPP]

Fluensulfone; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes and removes tolerances for residues of fluensulfone in or on multiple crops that are identified later in this document. The Interregional Research Project Number 4 (IR–4) requested these tolerance actions under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 1, 2021. Objections and requests for hearings must be received