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[FR Doc. 2017-22243 Filed 10-13-17; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2017-0437; FRL-9969-32-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Adoption of Control Techniques Guidelines for Control of Volatile Organic Compound Emissions from Miscellaneous Metal Parts Surface Coating, Miscellaneous Plastic Parts Surface Coating, and Pleasure Craft Surface 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 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 the following categories: Miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings, as well as related cleaning activities. The SIP revision also amends regulations for graphic arts systems and mobile equipment repair and refinishing as well as making general administrative changes. This action is being taken under the Clean Air Act (CAA).

DATES: This rule is effective on December 15, 2017 without further notice, unless EPA receives adverse written comment by November 15, 2017. 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-2017-0437 at <https://www.regulations.gov>, or via email to 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:

Gregory A. Becoat, (215) 814-2036, or by email at becoat.gregory@epa.gov.

SUPPLEMENTARY INFORMATION: On November 18, 2016, PADEP submitted a revision to the Pennsylvania SIP concerning the adoption of EPA's CTG for miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes, and pleasure craft surface coatings. Specifically, PADEP has amended 25 Pennsylvania Code (Pa. Code) Chapter 129 (relating to standards for sources) to address RACT and further reduce volatile organic compounds (VOC) emissions in Pennsylvania. In accordance with sections 172(c)(1), 182(b)(2)(A) and 184(b)(1)(B) of the CAA, Pennsylvania's SIP revision submittal establishes VOC emission limitations and other requirements consistent with the recommendations of EPA's 2008 Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings (MMPP) (Publication No. EPA 453/R-08-003; September 2008) and Control Techniques Guidelines for Automobile and Light-Duty Truck Assembly Coatings for these sources in the Commonwealth of Pennsylvania (Publication No. EPA 453/R-08-006).

I. Background

Ground level ozone is formed in the atmosphere by photochemical reactions between VOCs, nitrogen oxides (NO_x), 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 controls on VOC and NO_x emission sources to achieve emission reductions. Among effective control measures, RACT controls significantly reduce VOC and NO_x emissions from major stationary sources. NO_x 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_x emission sources and on all sources and source categories covered by a CTG issued by EPA.¹ See CAA section 182(b)(2) and 184(b).

¹ 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 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

On July 18, 1997, EPA promulgated the health-based national ambient air quality standard (NAAQS) for ozone based on 8-hour average concentrations. 62 FR 38856. On April 30, 2004 (69 FR 23858), EPA designated 37 counties in the Commonwealth of Pennsylvania as 8-hour ozone nonattainment areas for the 1997 8-hour ozone NAAQS. On March 27, 2008, EPA revised the 8-hour ozone standard to a new 0.075 parts per million (ppm) level (73 FR 16436). On May 21, 2012, EPA finalized designations for the 2008 8-hour ozone NAAQS (77 FR 30087). EPA designated five areas in the Commonwealth of Pennsylvania as nonattainment. These areas include all or a portion of Allegheny, Armstrong, Berks, Beaver, Bucks, Butler, Carbon, Chester, Delaware, Fayette, Lancaster, Lehigh, Montgomery, Northampton, Philadelphia, Washington, and Westmoreland Counties. On October 26, 2015, EPA revised the 8-hour ozone standard to a new 0.070 ppm level (80 FR 65292). This rulemaking does not address SIP requirements under the 2015 8-hour ozone NAAQS. The entire Commonwealth of Pennsylvania is in the OTR established by Congress in CAA section 184 and is thus subject to implementing RACT for all sources of VOC in the state covered by a CTG issued before or after November 15, 2015 pursuant to CAA section 184(b)(1)(B).

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. Pursuant to section 184(b)(1)(B) of the CAA, regardless of an area's nonattainment status, all areas in the OTR must implement RACT with respect to sources of VOCs in the Commonwealth covered by a CTG issued before or after November 15, 1990. In addition, pursuant to CAA section 184(b)(2), unless more stringent nonattainment area requirements apply, stationary sources in states or portions of a state within the OTR that emit at least 50 tons per year of VOCs shall be considered major stationary sources subject to requirements applicable to major stationary sources as if the area were classified as a Moderate nonattainment area including requirements for CTGs and RACT.

Pennsylvania has implemented numerous RACT controls to meet the CAA RACT requirements under the 1-hour and 1997 8-hour ozone NAAQS.

OTR must implement RACT with respect to sources of VOCs in the state covered by a CTG issued before or after November 15, 1990.

These RACT controls were promulgated in title 25 of the Pennsylvania Code, chapter 129, Standards for Sources. In accordance with CAA section 184(b)(1)(B), to achieve and maintain the 1997 and 2008 8-hour ozone NAAQS, the Commonwealth of Pennsylvania must continue to adopt and implement VOC RACT emission control measures for source categories covered by all CTGs issued by EPA, as of 2014, including miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes, and pleasure craft surface coatings.

CTGs are documents issued by EPA intended to provide state and local air pollution control authorities information to assist them in assessing RACT for VOC from various sources. Section 183(e)(3)(c) provides that EPA may issue a CTG in lieu of a national regulation as RACT for a product category where EPA determines that the CTG will be substantially as effective as regulations in reducing emissions of VOC in ozone nonattainment areas. The recommendations in the CTG are based upon available data and information and may not apply to particular situations based on unique circumstances. To date, EPA has issued 44 CTGs, providing guidelines for the control of VOC emissions from these types of sources. 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.

EPA developed the CTG for MMPP in September 2008 (Publication No. EPA 453/R-08-003) that provides guidelines with regard to feasible emission limitations and operating practices for a number of different surface coatings used within this large and diverse source category. The 2008 MMPP CTG recommends separate sets of emission limits for metal parts coatings, plastic parts coatings, automotive/transportation and business machine plastic parts, and pleasure craft, depending on the type of coating used by a particular source. The miscellaneous metal product and plastic parts surface coatings categories under section 183(e) of the CAA include the coatings that are applied to the surfaces of a varied range of metal and plastic parts and products. Such parts or products are constructed either entirely or partially from metal or plastic. These miscellaneous metal products and plastic parts include, but are not limited to, metal and plastic components of the

following types of products as well as the products themselves: Fabricated metal products, molded plastic parts, small and large farm machinery, commercial and industrial machinery and equipment, automotive or transportation equipment, interior or exterior automotive parts, construction equipment, motor vehicle accessories, bicycles and sporting goods, toys, recreational vehicles, pleasure craft (recreational boats), extruded aluminum structural components, railroad cars, heavier vehicles, lawn and garden equipment, business machines, laboratory and medical equipment, electronic equipment, steel drums, metal pipes, and numerous other industrial and household products.

The pleasure craft coating category does not include coatings that are a part of other product categories listed under Section 183(e) of the CAA for which CTGs have been published or included in other CTGs. For pleasure craft surface coatings, EPA took into account California regulations when developing the 2008 MMPP CTG. California was the only state at that time with regulations governing VOC emissions from pleasure craft surface coatings. After EPA finalized the 2008 MMPP CTG, the pleasure craft coatings industry asserted to EPA that three of the VOC emission limits in the CTG were too low considering the performance requirements of the pleasure craft coatings and that the VOC emission limits recommended did not represent RACT for the National pleasure craft coatings industry. On September 14, 2009, EPA was contacted by the pleasure craft coatings industry to reconsider some of the VOC emission limits recommended in the final 2008 MMPP CTG. In response, EPA issued a memorandum on June 1, 2010, entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration," recommending that the pleasure craft industry work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated. EPA has stated that states can use the recommendations from the MMPP CTG to form their own determinations as to what constitutes RACT for pleasure craft coating operations. CTGs impose no legally binding requirements on any entity, including pleasure craft coating facilities. As stated in the memorandum, EPA will evaluate state-developed RACT rules and determine whether the submitted rules meet the RACT requirements of the CAA.

II. Summary of SIP Revision and EPA Analysis

On November, 18, 2016, PADEP submitted a SIP revision which adopted the recommendations contained in the 2008 MMPP CTG with respect to sources in the miscellaneous metal products coatings and plastic parts coatings product categories. For the pleasure craft coating industry, after evaluating what is reasonable for this source category, PADEP determined that three VOC content limits applicable to the source categories should be revised from the limits in the CTG to represent RACT for the industry. This is based on EPA's memorandum that the pleasure craft industry should work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated.

The SIP revision includes an amendment to 25 Pa. Code Chapter 129—(relating to standards for sources) as follows: (1) Amended section 129.51(a)—(relating to general) in order to extend applicability; (2) added section 129.52(d)—“Control of VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings,” in order to regulate VOC emissions from miscellaneous metal parts surface coating processes, miscellaneous plastic parts surface coating processes and pleasure craft surface coatings; (3) amended section 129.52(g)—(relating to surface coating processes) in order to clarify record keeping and reporting requirements; (4) added section 129.52(k) in order to clarify the applicability of the requirements of section 129.52, Table I, Category 10 in 25 Pa. Code Chapter 129; (5) amended section 129.67—(relating to graphic arts systems) in order to extend applicability; and (6) amended section 129.75—(relating to mobile equipment repair and refinishing) in order to specify exceptions for those who apply surface coating to mobile equipment already subject to requirements of sections 129.52 and 129.52(d). More detailed information on these provisions as well as a detailed summary of EPA's review and rationale for proposing to approve these SIP revisions can be found in the Technical Support Document (TSD) for this action which is available on line at www.regulations.gov, Docket number EPA-R03-OAR-2017-0437.

After evaluating this SIP revision submittal, EPA concludes that this SIP submittal which addresses the 2008 MMPP CTG and makes other related

administrative changes, meets CAA requirements under sections 110, 172(c)(1), 182(b)(2)(A), and 184(b)(1) by adopting EPA's CTG and continuing to address and minimize VOC emissions in the Commonwealth of Pennsylvania as discussed in more detail in EPA's TSD for this rulemaking action. PADEP is adopting the requirements as recommended by the MMPP CTG and adopting the pleasure craft industry recommendations for the following three coating categories: Antifouling Sealer/Tiecoat; Other Substrate Antifoulant; and Extreme High Gloss. For these three categories, the Commonwealth of Pennsylvania reviewed industry data and determined that for the purpose of functionality, cost, and VOC emissions, the alternative limits adopted for these three coating categories constitute RACT. EPA concludes that Pennsylvania's approach is consistent with the guidance memorandum entitled, “Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration,” and therefore, concludes that these regulations reflect RACT given costs and VOC emissions. The revised VOC content limits for the pleasure craft surface coatings proposed by PADEP are expected to have a de minimis impact on the amount of VOC emission reductions from the implementation of the revised VOC limits due to having no facilities with the potential to emit VOC emissions for pleasure craft surface coatings.

EPA notes that under 25 Pa. Code section 129.52d, PADEP is allowing the provisions of 25 Pa. Code section 129.52d to supersede the requirements of a RACT permit previously issued under 25 Pa. Code sections 129.91–129.95 if the permit was issued prior to January 1, 2017, to the owner or operator of a source subject to section 129.52d(a), except to the extent the RACT permit contains more stringent requirements. EPA further notes that the RACT permits issued under 25 Pa. Code sections 129.91–129.95 were issued for previous RACT determinations on a case-by-case basis; these permits were then submitted to EPA as source-specific SIP revisions and were previously acted on by EPA and would have been approved 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 as listed in 40 CFR 52.2020(d). The requirements of the source-specific

RACT determination which EPA approved into the Pennsylvania SIP remain applicable requirements for the specific source unless and until Pennsylvania seeks to remove the limits from the SIP in accordance with CAA section 110(l). To the extent that the provisions of 25 Pa. Code section 129.52d are more stringent than those of a previous SIP-approved permit, PADEP will need to make a source-specific determination as to whether the requirements of the previous RACT permit apply, or those of section 129.52d, and submit that determination to EPA as a SIP revision in order to remove the previously approved permit from the SIP. Until such a SIP revision is made, EPA cannot remove the source-specific permits from the SIP and EPA is not taking such action in this rulemaking. Thus, the requirements of a previously SIP-approved permit are not superseded under the SIP. In accordance with section 110 of the CAA including 110(a) and 110(l), EPA determines that approval of this PADEP SIP revision will not interfere with reasonable further progress, attainment of any NAAQS or any other applicable CAA requirements.

III. Final Action

EPA is approving the Commonwealth of Pennsylvania's November 2016 SIP revision submittal, which adopts RACT requirements for miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings and which makes other related administrative changes, as the revision meets requirements in CAA sections 110, 172(c)(1), 182(b)(2)(A), and 184(b)(2). 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 this **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 December 15, 2017 without further notice unless EPA receives adverse comment by November 15, 2017. 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 the Pennsylvania rule discussed in section II of this preamble. EPA has made, and will continue to make, these materials generally available through <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 to the SIP compilation.²

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. 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 *December 15, 2017*. 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 this **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, which approves Pennsylvania's SIP revision adopting CTGs for miscellaneous metal parts surface coating, miscellaneous plastic parts surface coating, and pleasure craft surface coatings, as well as general administrative changes related to cleaning activities, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 27, 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:
 - a. Revising the entries for Sections 129.51 and 129.52;
 - b. Adding an entry in numerical order for Section 129.52d; and
 - c. Revising the entries for Sections 129.67 and 129.75.

The revisions and addition read as follows:

§ 52.2020 Identification of plan.

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(c) * * *

² 62 FR 27968 (May 22, 1997).

(1) * * *

State citation	Title/ subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Title 25—Environmental Protection Article III—Air Resources				
* Section 129.51	* General	* 10/22/16	* 10/16/17, [Insert ister citation].	* Federal Reg- Revised Section 129.51(a).
* Section 129.52	* Surface coating processes	* 10/22/16	* 10/16/17, [Insert ister citation].	* Federal Reg- Revised 129.52(g) and added Subsection 129.52(k).
* Section 129.52d	* Control of VOCs from Miscella- neous Metal Parts Surface Coating Processes, Miscella- neous Plastic Parts Surface Coating Processes and Pleas- ure Craft Surface Coatings.	* 10/22/16	* 10/16/17, [Insert ister citation].	* Federal Reg- New section 129.52d is added. This section does not remove or replace any permits ap- proved under paragraph (d) of this section.
* Section 129.67	* Graphic arts systems	* 10/22/16	* 10/16/17, [Insert ister citation].	* Federal Reg- Revised Subsection 129.67(a)(1).
* Section 129.75	* Mobile equipment repair and re- finishing.	* 10/22/16	* 10/16/17, [Insert ister citation].	* Federal Reg- Revised Subsection 129.75(b)(1). Previous approval 8/14/00 (c)(148).
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0078; FRL-9969-42-Region 4]

Air Plan Approval: Georgia; New Source Review and Permitting Updates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of direct final rule.

SUMMARY: Due to the receipt of an adverse comment, the Environmental Protection Agency (EPA) is withdrawing the August 15, 2017, direct final rule that approves changes to Georgia’s state implementation plan (SIP) related to new source review (NSR) permitting for prevention of significant deterioration (PSD). EPA will address the comment in a separate final action based upon the proposed rulemaking action, also published on August 15, 2017. EPA will not institute a second comment period on this action.

DATES: The direct final rule published at 82 FR 38605, on August 15, 2017, is withdrawn effective October 16, 2017.

FOR FURTHER INFORMATION CONTACT: D. Brad Akers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Mr. Akers can be reached via telephone at (404) 562-9089 or via electronic mail at *akers.brad@epa.gov*.

SUPPLEMENTARY INFORMATION: On August 15, 2017 (82 FR 38605), EPA published a direct final rule approving portions of several SIP revisions submitted by the State of Georgia, through the Georgia Department of Natural Resources’ Environmental Protection Division (GA EPD), on December 15, 2011, July 25, 2014, and November 12, 2014. EPA took a direct final action to approve portions of the December 15, 2011, July 25, 2014, and November 12, 2014, submissions that made changes to the following GA EPD regulations: Rule 391-3-1-.02(7)—“Prevention of Significant Deterioration of Air Quality (PSD),” which applies to the construction and modification of any major stationary source in areas designated as attainment or unclassifiable as required by part C of title I of the CAA; and Rule 391-3-1-.03(8)—“Permit Requirements,” which applies generally to the permitting program, including permitting requirements that apply to the

construction and modification of any major stationary sources in nonattainment areas as required by part D of title I of the CAA, referred to as nonattainment new source review.

In the direct final rule, EPA explained that the Agency was publishing the rule without prior proposal because the Agency viewed the submittal as a non-controversial SIP amendment and anticipated no adverse comments. Further, EPA explained that the Agency was publishing a separate document in the proposed rules section of the **Federal Register** to serve as the proposal to approve the SIP revisions should an adverse comment be filed. EPA also noted that the rule would be effective generally 30 days after the close of the public comment period, without further notice unless the Agency received adverse comment by the close of the public comment period. EPA explained that if the Agency received such comments, then EPA would publish a document withdrawing the final rule and informing the public that the rule would not take effect. EPA specified, however, that if a comment were received 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. It was also explained that all