

PREVIOUS EPA SIP ACTION ON 25 PA. CODE CHAPTER 127

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

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

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

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

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

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

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

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

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

III. Final Action

EPA is approving Philadelphia Air Management Regulation XIII of the AMS regulations pertaining to a number of the County's construction and operating permit programs. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment because this rulemaking incorporates the requirements contained in Commonwealth of Pennsylvania's 25 Pa. Code Chapter 127, which was previously reviewed and approved by EPA. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on May 27, 2003 without further notice unless EPA receives adverse comment by April 28, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties