Mixed pallets of sacks, trays, or machinable parcels must be labeled to the BMC or ADC (as appropriate) serving the post office where mailings are entered into the mailstream. The processing and distribution manager
* * *

* * * * *

5.6 Sacked Mail

[Amend 5.6 by revising the first sentence to read as follows:]

Mail that is not palletized (e.g., the mailer chooses not to prepare BMC pallets, or the packages do not meet the machinability standards in M020) must be prepared under the standards for the rate claimed.

* * * * *

M045 Palletized Mailings

* * * * *

2.0 PACKAGES OF FLATS

2.1 Standards

[Amend 2.1 by revising the second sentence to read as follows:]

The palletized portion of a mailing may not include packages sorted to mixed ADC or to foreign destinations.

* * * * *

2.4 Size—Standard Mail (B)

* * * * *

[Amend 2.4c by revising the second sentence to read as follows:]

Packages at other rates must be sorted to 5-digit, 3-digit, optional SCF, and ADC destinations, as appropriate.

* * * * *

3.0 OPTIONAL BUNDLES—PERIODICALS AND STANDARD MAIL (A)

3.1 Standards

[Amend 3.1 by revising the second sentence to read as follows:]

The palletized portion of a mailing may not include bundles sorted to mixed ADC or to foreign destinations.

* * * * *

4.0 PALLET PRESORT AND LABELING

4.1 Packages, Bundles, Sacks, or Trays

* * * * *

e. As appropriate:

[Amend the beginning of (1) by adding ''(sacks and trays only)'' to read as follows:]

(1) Periodicals (sacks and trays only): mixed ADC: optional; * * *

[Amend the beginning of (2) by adding ''(sacks and trays only)'' to read as follows:]

(2) Standard Mail (sacks and trays only): mixed BMC: optional; * * *

* * * * *

5.0 PALLETS OF PACKAGES, BUNDLES, AND TRAYS

* * * * *

[Amend 5.3 to eliminate references to mixed BMC pallets to read as follows:]

5.3 BMC and Mixed BMC Pallets

Packages and bundles placed on BMC pallets must be machinable on BMC parcel sorting equipment. Line 2 on pallet labels must reflect the processing category of the pieces. A BMC or mixed BMC (trays only) pallet may include pieces that are eligible for the DBMC rate and others that are ineligible if the mailer provides documentation showing the pieces that qualify for the DBMC rate.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–3952 Filed 2–17–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MA–35–1–6659b; A–1-FRL–5968–4]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Reasonably Available Control Technology for Major Stationary Sources of Nitrogen Oxides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval/limited disapproval of a State Implementation Plan (SIP) revision and full approval of two other SIP revisions submitted by Massachusetts. This revision establishes and requires the implementation of reasonably available control technology (RACT) for major stationary sources of nitrogen oxides (NOx). The intended effect of this action is to propose a limited approval/limited disapproval of a regulation and the full approval of two source-specific NOx RACT determinations. This action is being taken under the Clean Air Act (CAA). Public comments on this document are requested and will be considered before taking final action on this SIP revision.

DATES: Comments must be received on or before March 20, 1998.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment, at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and the Division of Air Quality Control, Massachusetts Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, at (617) 565–2773, or by e-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: On July 15, 1994, October 4, 1996, and December 2, 1996, the Massachusetts Department of Environmental Protection (Massachusetts or MA DEP) submitted revisions to its SIP. The revisions added 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NOx),'' as well as source-specific NOx RACT determinations for Specialty Minerals, Incorporated in Adams and Monsanto Company's Indian Orchard facility in Springfield on the above dates, respectively.

I. Background

The CAA requires States to develop RACT regulations for all major stationary sources of NOx in areas which have been classified as ''moderate,'' ''serious,'' ''severe,'' and ''extreme'' ozone nonattainment areas, and in all areas of the Ozone Transport Region (OTR). EPA has defined RACT as the lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility (44 FR 53762; September 17, 1979). This requirement is established by sections 182(b)(2), 182(f), and 184(b) of the CAA. These sections, taken together, establish the requirements for Massachusetts to submit a NOx RACT regulation for all major stationary sources of NOx statewide.

These CAA NOx RACT requirements are further described by EPA in a document entitled, ''State Implementation Plans; Nitrogen Oxides Supplement to the General Preamble; Clean Air Act Amendments of 1990 Implementation of Title I; Proposed Rule,'' published November 25, 1992 (57 FR 55620). The November 25, 1992 document, also known as the NOx Supplement, should be referred to for

more detailed information on NOx requirements. Additional EPA guidance memoranda, such as those included in the ''NOx Policy Document for the Clean Air Act of 1990,'' (EPA–452/R–96–005, March 1996), should also be referred to for more information on NOx requirements.

Section 182(b)(2) requires States located in areas classified as moderate ozone nonattainment areas to require implementation of RACT with respect to all major sources of volatile organic compounds (VOC). Additionally, section 182(f) states that, ''The plan provisions required under this subpart for major stationary sources of volatile organic compounds shall also apply to major stationary sources (as defined in section 302 and subsections (c), (d), and (e) of the section) of oxides of nitrogen.'' This RACT requirement also applies to all major sources in ozone nonattainment areas with higher than moderate nonattainment classifications.

Section 302 of the CAA generally defines ''major stationary source'' as a facility or source of air pollution which has the potential to emit 100 tons per year or more of air pollution. This definition applies unless another provision of the CAA explicitly defines major source differently. Therefore, for NOx, a major source is one with the potential to emit 100 tons per year or more in marginal and moderate areas, as well as in attainment areas in the OTR. However, for serious nonattainment areas, a major source is defined by section 182(c) as a source that has the potential to emit 50 tons per year or more. The entire Commonwealth of Massachusetts is classified as a serious nonattainment area for ozone. Thus, in Massachusetts, NOx RACT is required from all sources with the potential to emit 50 tons per year or more of NOx.

A. Regulatory Background

Massachusetts was notified in a January 23, 1991 letter from Region I that ''The CAAAs mandate that within 2 years of enactment, states submit a SIP revision which requires the implementation of RACT and NSR requirements with respect to oxides of nitrogen (NOx) for all major stationary sources * * * ''

On August 10, 1992, Massachusetts submitted a draft of 310 CMR 7.19 to EPA for comment. Region I met with MA DEP on August 26, 1992 and provided informal oral comments on the draft. On January 5, 1993, EPA Region I received proposed revisions to the Massachusetts SIP, including 310 CMR 7.19. On February 8, 9, 10, and 12, 1993, Massachusetts held public hearings on these proposed SIP changes. Region I provided formal comments to Massachusetts on February 19, 1993.

In April 1994, Massachusetts proposed a number of minor changes to 310 CMR 7.19 and held a public hearing on those changes on May 6, 1994. EPA submitted written comments on these changes on May 19, 1994. The regulations were signed by the Secretary of State on July 1, 1994, and became effective on that date. MA DEP submitted its adopted regulation as a formal SIP submittal to EPA on July 15, 1994. After reviewing the regulation for completeness, EPA sent a letter on July 15, 1995 stating that Massachusetts' rule had been found to be administratively and technically complete.

Additionally, in April 1994, Massachusetts proposed a number of amendments to 310 CMR 7.19 and 310 CMR 7.00 Appendix B(4) concerning emissions averaging. Public hearings were held on May 6 and 10, 1994. EPA provided written comments to Massachusetts on May 19, 1994. These changes were signed by the Secretary of State on January 11, 1995 and became effective on January 27, 1995. These adopted changes were received by EPA on April 14, 1995. On September 11, 1995, EPA sent a letter to Massachusetts deeming the submittal of these changes administratively and technically complete. On August 8, 1996, EPA approved these changes as part of the emissions averaging, banking, and trading program (see 61 FR 41371).

On February 7, 1995, MA DEP proposed approval of the NOx RACT emission control plan which defined NOx RACT for two lime kilns at Specialty Minerals, Inc., in Adams, Massachusetts. The two kilns are subject to the miscellaneous RACT provisions of 310 CMR 7.19(12). On March 9, 1995, a public hearing was held on the proposed approval. EPA submitted written comments to the public record on March 3, 1995 concerning this proposal. On June 16, 1995, MA DEP issued a final approval of the NOx RACT emission control plan (transmittal ι65843). On October 4, 1996, the final approval of the plan was submitted to EPA for approval into the Massachusetts SIP. On February 6, 1997, EPA deemed the submittal administratively and technically complete.

Similarly, on May 19, 1995, MA DEP proposed approval of the NOx RACT emission control plan for Monsanto Company's Indian Orchard facility in Springfield, Massachusetts. On June 16, 1995, a public hearing was held concerning the proposed approval. The proposed plan approval defined NOx RACT for the stoker fired coal burning boiler at Monsanto which is subject to the miscellaneous NOx RACT provisions of 310 CMR 7.19(12). EPA submitted written comments to the public record on June 9, 1995. MA DEP proposed a final approval on September 12, 1996, and held a second hearing on the proposal on October 4, 1996. MA DEP issued a final NOx RACT plan approval on October 28, 1996 and submitted the final plan approval to EPA on December 2, 1996 for approval into the Massachusetts SIP. On February 6, 1997, EPA deemed the submittal administratively and technically complete.

B. Description of Submittal

Massachusetts' Regulation 310 CMR 7.19, ''Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NOx),'' is divided into fifteen sections. Section (1) defines the applicability of the overall rule to a NOx emitting facility, although the applicability of the rule to an individual emission unit is further determined in each section, based on a unit's type and size. Basically, an emissions unit is subject to the rule if it exceeds a minimum capacity rating and is located at a major source.

Section (2) describes the general provisions of the regulation, including the general criteria for source specific alternative RACT limits, as well as general requirements for seasonal fuel-switching.

Section (3) describes the general applicability, notification, elements, prohibitions, and approval of emission control plans for certain types of RACT subject sources.

Section (4) describes the NOx RACT requirements for large boilers. Large boilers are defined as having an energy input capacity of 100 million British thermal units (Btu) per hour or greater. This section further defines NOx RACT emission limitations for the following types of large boilers: dry bottom boilers burning coal, both tangentially and face-fired; stoker fired boilers burning other solid fuels; boilers burning either oil or oil and gas; and boilers burning only gas. Section (4) also sets out the requirements for any large boiler owners choosing to repower, as well as the emission rate limitations that the repowered units must meet. Additionally, section (4) includes the requirements for large boilers seeking alternative NOx RACT determinations, procedures for determining the NOx standard when multiple fuels are burned, and testing, monitoring, record keeping, reporting, and emission control plan requirements. Also, section (4) sets a carbon monoxide emission limitation for large boilers.

Section (5) describes the requirements for medium boilers. Medium boilers are defined as boilers with energy input capacities of greater than 50 million Btu per hour but less than 100 million Btu per hour. This section sets NOx standards for the following types of boilers: tangential, face fired, or stoker fired boilers burning solid fuels; tangential or face fired boilers burning gas only, distillate oil or distillate oil and gas, and residual oil or residual oil and gas; and boilers which cofire multiple fuels. Additionally, section (5) sets a carbon monoxide emission limitation for medium boilers.

Section (6) describes the NOx RACT requirements for boilers with energy input capacities of less than 50 million Btu per hour and greater than or equal to 20 million Btu per hour, i.e., small boilers. Basically, this section describes the tune-up procedures which must be followed for these boilers, as well as the applicable emissions record keeping and reporting requirements.

Section (7) of the rule deals with stationary combustion turbines having energy input capacities of 25 million Btu per hour or greater. This section sets NOx emission standards for simple and combined cycle stationary combustion turbines burning gas, oil, or gas and oil.

Section (8) of the rule describes the requirements for stationary reciprocating internal combustion (IC) engines with energy input capacities greater than or equal to 3 million Btu per hour. This section exempts engines which do not operate for more than 300 hours per year and are not operated as load-shaving units, peak power units, or standby engines in an energy assistance program. This section sets emission standards for reciprocating internal combustion engines which have operated for 1000 hours or more during a 12 month period since 1990. The specific standards apply to the following engine types: rich burn, gas-fired; lean burn, gas-fired; and lean burn, oil-fired or dual fueled. Section (8) requires ignition timing retard to be performed on engines which have not operated more than 1000 hours per year since 1990.

Section (9) is reserved for NOx RACT requirements for incinerators. Section (10) is also reserved.

Section (11) describes the requirements for glass melting furnaces that have maximum production rates of 14 tons or greater of glass removed per day.

Section (12) describes NOx RACT requirements for miscellaneous emission units, i.e., emissions units with potential emissions of NOx greater than or equal to 25 tons per year, before the application of control equipment, at facilities having potential emissions greater than or equal to 50 tons per year of NOx, for which 310 CMR 7.19 does not set specific NOx emission standards. This section exempts emissions units already subject to BACT or LAER. Section (12) requires that the emission control plans for these miscellaneous NOx RACT sources be approved by EPA as well as the State.

Section (13) establishes testing, monitoring, record keeping, and reporting requirements for sources subject to sections 7.19(2)(b), (4), (5), (7), (8), (9), (10), (11), (12), or (14). This section requires certain sources to demonstrate compliance with NOx emission standards by using continuous emission monitoring systems (CEMS). These sources include: boilers with energy input capacities greater than 250 million Btu per hour, units involved in emissions averaging, combined cycle combustion turbines with energy input capacities of greater than or equal to 100 million Btu per hour, sources currently using CEMS, and sources determined to need a CEMS as part of a miscellaneous or alternative RACT plan. Section (13) also describes the specific CEMS requirements. For other types of sources, section (13) describes the stack-testing and record keeping requirements which must be met.

Section (14) deals with the averaging of emissions from multiple units to achieve compliance. Massachusetts previously submitted this section as part of the regulations concerning emissions averaging as specified in 310 CMR 7.00 Appendix B(4). These regulations were approved in a separate rulemaking action.

Section (15) specifies the proration formula for determining the applicable emission limitation when different fuels are burned either simultaneously or during the same hour or same day if a 24 hour averaging time is used (i.e., cofiring).

Additionally, Massachusetts submitted two case specific RACT determinations for facilities with NOx emitting units that are subject to the miscellaneous RACT provisions of 310 CMR 7.19(12). First, the NOx RACT emission control plan for Specialty Minerals, Inc. specifically defines NOx RACT for two lime kilns at the facility located in Adams, Massachusetts. Similarly, the NOx RACT emission control plan for Monsanto Company's Indian Orchard facility in Springfield, Massachusetts specifically defines NOx RACT for the facility's stoker fired coal burning boiler.

EPA's evaluation of the submitted regulations and source specific RACT determinations is detailed in a memorandum, dated May 13, 1997, entitled ''Technical Support Document for Massachusetts' Regulation 310 CMR 7.19, Reasonably Available Control Technology (RACT) for Oxides of Nitrogen (NOx), and Case-Specific NOx RACT for Monsanto Company's Indian Orchard Plant in Springfield, and Specialty Minerals, Inc. in Adams.'' Copies of the document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this document. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional Office listed in the ADDRESSES section of this document.

II. Issues

There are two issues associated with this rulemaking action. The first issue is related to the miscellaneous RACT provisions of 310 CMR 7.19(12). Massachusetts proposed NOx RACT emission control plans for four sources with processes subject to the miscellaneous NOx RACT provisions of the rule: Lee Lime Corporation in Lee; Specialty Minerals, Inc., in Adams; Indeck Energy Services of Turners Falls, Inc. in Turners Falls; and, Monsanto Company, in Springfield. To date, however, EPA has only received SIP submittals for Specialty Minerals, Inc. and Monsanto Company. Therefore, Massachusetts must still submit final NOx RACT emission control plans for the units subject to miscellaneous NOx RACT provisions at Lee Lime and Indeck Energy.

Second, the July 15, 1994 SIP submittal for 310 CMR 7.19 did not contain any emission limitations for incinerators with the potential to emit greater than 50 tons of NOx per year, including municipal waste combustors. According to the Massachusetts emissions inventory and EPA's database in the Aerometric Information Retrieval System (AIRS), however, there are a number of incinerators of this size currently operating in Massachusetts. Therefore, Massachusetts must either revise section 7.19(9) to include a NOx emission limit for these categories of units, or consider these units as subject to the miscellaneous RACT section (i.e., 310 CMR 7.19(12)) of the rule and define source-specific NOx limits for them. As miscellaneous RACT units, 310 CMR 7.19(12) requires sources to submit emission control plans to MA DEP; subsequently, the plan approvals must be submitted to and approved by EPA as source-specific SIP revisions.

III. EPA Proposed Action

EPA's review of this material indicates that Massachusetts has defined NOx RACT emission limitations or technology standards for a number of source categories and individual sources. However, not all major stationary sources of NOx have been covered by the regulations and case specific determinations. Thus, by incorporating 310 CMR 7.19 and the submitted RACT determinations into the Massachusetts SIP, the SIP is strengthened but does not meet the requirements of sections 182(b)(2) and 182(f) of the CAA.

Therefore, EPA is proposing a limited approval/limited disapproval of the Massachusetts SIP revision for 310 CMR 7.19, which was submitted on July 15, 1994. In light of the deficiencies discussed in the issues section above, EPA cannot grant full approval of this rule under section 110(k)(3) and part D of the CAA. However, EPA may grant a limited approval of the submitted rule under section 110(k)(3) and EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also includes a limited disapproval. EPA is also proposing full approval of the source specific RACT determinations for Monsanto Company in Springfield, and Specialty Minerals, Inc. in Adams, Massachusetts.

To receive full approval of 310 CMR 7.19, Massachusetts must submit final emission control plans for Lee Lime Corporation in Lee and Indeck Energy Services in Turners Falls, Massachusetts. Additionally, Massachusetts must either revise section 7.19(9) to include NOx emission limits for incinerators, or consider these units as subject to the miscellaneous RACT section (i.e., 310 CMR 7.19(12)) of the rule and define source-specific NOx limits for them. For full approval of 310 CMR 7.19, all of these limits must be approved by EPA.

As stated, EPA is also proposing a limited disapproval of this rule under sections 110(k)(3) and 301(a) of the CAA because the rule does not meet the requirements of sections 182(b) and 182(f) of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency is corrected within 18 months of the disapproval. Section 179(b) makes two sanctions available to the Administrator: highway funding and offsets. The 18-month period referred to in section 179(a) will begin at the effective date established in this limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c).

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et. seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

Limited SIP approvals and disapprovals under sections 110 and 301, and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP limited approval/limited disapproval does not impose any new requirements, it does not have a significant impact on any affected small entities. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed limited approval/limited disapproval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: February 4, 1998.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–4004 Filed 2–17–98; 8:45 am]

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