

paragraph (a) of this section for the special tax year (July 1 through June 30) commencing during that calendar year.

(26 U.S.C. 5143, 5276)

Signed: March 16, 1993.

Stephen E. Higgins,
Director.

Approved: March 22, 1993.

John P. Simpson,
Deputy Assistant Secretary (Regulatory, Tariff
and Trade Enforcement).
[FR Doc. 93-8421 Filed 4-9-93; 8:45 am]
BILLING CODE 4810-31-U

27 CFR Part 24

[T.D. ATF-338; Re: Notice No. 746]

Change in the Frequency of Filing Reports of Bonded Wine Premises Operations and Wine Excise Tax Returns (92F030P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule amends the wine regulations to allow certain bonded wine premises proprietors to file reports annually instead of monthly and allow certain bonded wine premises proprietors who pay less than \$1000 annually in wine excise tax to file tax returns and pay such tax annually instead of semimonthly.

EFFECTIVE DATE: May 12, 1993.

FOR FURTHER INFORMATION CONTACT: James A. Hunt and Marjorie Ruhf, Wine and Beer Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8230.

SUPPLEMENTARY INFORMATION:

Background

On July 29, 1992, as part of a regulatory review, ATF published Notice No. 746 (57 FR 33467), proposing changes to the wine regulations to: (1) Allow certain wine premises proprietors whose inventory, receipts and production activities do not total more than 20,000 gallons per month to file their reports of bonded wine premises operations annually instead of monthly and (2) allow certain bonded wine premises proprietors who pay less than \$1000 annually in wine excise tax to pay such tax annually instead of semimonthly.

ATF received only one comment on this proposal. The comment, which supported the proposal, was from Duncan Peak Vineyards, Hopland, California. Additionally, a commentary supporting the proposal appeared in the

"Wise and Otherwise" column of the September, 1992, issue of *Wines & Vines*.

The final rule adopts the regulation as proposed, with a few clarifying changes. The final rule makes clear that the "annual" filing of reports means filing on a calendar year basis, gives more detail on the bond coverage changes, and clarifies the criteria for filing the report on an annual basis. ATF also inserted effective dates where appropriate.

Report of Bonded Wine Premises Operations, ATF F 5120.17

Currently, the Monthly Report of Wine Cellar Operations must be filed on a monthly basis by all bonded wine premises proprietors. The only exception is that proprietors of bonded wine premises who do not expect to have any inventory change or reportable operation in a subsequent month or months can file a statement to that effect and be exempt from filing a monthly report of bonded wine premises operations until the next change in inventory or reportable operation.

Under the new regulations, a bonded wine premises proprietor may submit the report of operations on a calendar year basis rather than monthly if the proprietor is exempt from filing semimonthly tax returns under § 24.273 and the sum of the proprietor's monthly report columns representing the opening inventories of bulk and bottled wines in all tax classes, and all operations increasing the amounts to be accounted for during the month, such as production, receipt in bond, and bottling did not exceed 20,000 gallons in any month during the previous calendar year. Also, a proprietor who expects to meet these criteria during the current calendar year may file the reports on a calendar year basis, rather than monthly. For purposes of computation, these operations are represented by the sum of all columns in section A line 12 and section B line 7 in part I of the current report form. While the proposed regulation included only the gallonage criterion, ATF has included a tax payment criterion in the final regulation that also must be met in order for the proprietor to be eligible to file the report on an annual basis. The tax payment criterion is necessary to protect the revenue. Even though a proprietor may have a small quantity of reportable activities the proprietor (such as a sparkling wine producer) may still make substantial tax payments. The filing of the report on a monthly basis by such proprietor is necessary in order for ATF to audit timely the

semimonthly returns filed by the proprietor.

To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and who expects to meet these criteria may use a letter notice to the regional director (compliance), and file ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the 20,000 gallon quantity will be exceeded in any month, or that the wine excise tax liability (including any amounts paid or owed) equals \$1,000 or more for the current calendar year, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. However, if there is a jeopardy to the revenue, the regional director (compliance) may require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly.

ATF also revised the inventory requirements in the final rule to show that proprietors filing calendar year reports should take inventory at the close of the calendar year, so that the physical and "book" inventories may be reconciled.

This final rule also contains conforming changes to the regulations which refer to the report form title and to the monthly reporting requirement.

ATF reminds proprietors that all requirements for retaining and summarizing source records contained in 27 CFR part 24, subpart O, Records and Reports, remain the same. Failure to keep the required records could result in assessment of tax on unexplained losses, administrative actions for recordkeeping violations, or invalidation of a proprietor's label claims. Vintage date, varietal designation or other claims must be supported by adequate source records; if the records are not available, the proprietor may be required to relabel products to remove unsubstantiated claims from the label.

Increasing the Wine Excise Tax Amount To Qualify for Filing Annual Tax Returns to \$1,000

Currently, bonded wine premises proprietors are required to file tax returns and pay wine excise tax semimonthly, except that certain winery proprietors may file tax returns and pay such tax on a calendar year basis instead of semimonthly. In order to qualify for this exception, the proprietor must have paid less than \$500 in wine excise tax for the previous calendar year, and the

anticipated wine excise tax liability must be less than \$500 for the current year.

As proposed, ATF is amending the regulations to authorize the filing of annual tax returns, with payment, by a proprietor whose excise tax liability does not exceed \$1,000 for the calendar year. This will allow approximately 100 more wine premises proprietors to start filing annual tax returns and about another 100 small winery proprietors will not have to be concerned about reaching their \$500 (but not more than \$1,000) per year wine excise tax limit and being required to file semimonthly tax returns.

Under the current regulations, up to \$500 in excise tax which has been determined but not paid is already covered by the wine operations bond. This amount was increased from \$100 when the wine regulations were recodified in 1990. As proposed, ATF is amending the regulations to allow up to \$1,000 of the wine bond to be designated as coverage for wine on which tax has been determined but not paid in order to allow this new filing option. The wine bond will be revised to reflect this change. Proprietors should be aware that this amendment of the regulations to increase the dollar amount of the wine bond available for wine removed from bonded wine premises on which the tax was determined but not paid does not automatically raise this limit on existing bonds. In order to obtain this additional coverage, the proprietor must procure a new bond or a consent of surety expressly providing for the \$1,000 amount. For example, some proprietors still have wine bonds showing a \$100 amount, while other proprietors' bonds show \$500. For either of these proprietors to use the new option of making a single annual tax payment of up to \$1,000, such proprietor must obtain a new bond or consent of surety providing for the \$1,000 coverage. Otherwise the proprietor must pay the tax when its liability reaches the limit of its coverage for wine removed but not taxpaid. That amount will be \$100 or \$500, depending on the existing bond terms. The wording of the bond regulations is revised in this final rule to show that a proprietor may only designate \$1,000 of the operations coverage for this purpose if the total penal sum of the bond is \$2,000 or more.

Modification of Forms

The Monthly Report of Wine Cellar Operations (ATF F 5120.17) will be revised. These revisions will include a new title, Report of Wine Cellar

Operations, new instructions for filing either monthly or annually, and updated references to the regulations. Titles will be added to blank rows and columns for activities which must currently be written in each month by the proprietor. Finally, Part II, Summary of Domestic Wines in Taxpaid Rooms, will be eliminated. When the revised form is printed, copies will be distributed to each wine premises proprietor, and the existing form will become obsolete. Proprietors should continue using the existing form until the new supply is received.

The Wine Bond (ATF F 5120.36) will be revised to allow proprietors to elect additional coverage of removals under the operations portion of the bond, so that they may take advantage of annual filing of returns. Bonds written on the current version of the form will remain in effect until terminated by action of the surety or principal. If a proprietor wishes to increase coverage of removals before the new form is available, or without superseding an existing bond, ATF F 1533 (5000.18), Consent of Surety, may be used.

Executive Order 12291

In compliance with Executive Order 12291 issued February 17, 1981, ATF has determined that this document does not constitute a "major rule" since it will not result in:

- (a) An annual effect on the economy of \$100 million or more;
- (b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,
- (c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this rule because it will not have a significant economic impact on a substantial number of small entities. As discussed elsewhere in this preamble, this final rule will reduce the reporting burden on certain small proprietors and will not: (1) impose, or otherwise cause, any increase in recordkeeping or other compliance burdens on small entities, or (2) have significant secondary or incidental effects on a substantial number of small entities. Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility

Act (5 U.S.C. 605(b)) that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Public Law No. 96-511, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this final rule because it does not impose any new reporting requirements. This rule will eliminate some of the reporting and filing requirements applicable to certain bonded wine premises proprietors.

Drafting Information

The principal authors of this document are James A. Hunt and Marjorie Ruhf, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic Fund Transfers, Excise Taxes, Exports, Food Additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling houses, Transportation, Vinegar, Warehouses, Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, Part 24—Wine, is amended as follows:

PART 24—WINE

Paragraph 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.65(b) introductory text is amended by revising the third sentence to read as follows:

§ 24.65 Claims for wine or spirits lost or destroyed in bond.

- * * * * *
- (b) * * * Any other claim for allowance of loss will be attached to and submitted with the ATF F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period in which the inventory required by § 24.313 is taken or, in the case of discontinuance of the premises or

change in proprietorship, to the final report filed. * * *

Par. 3. Sections 24.75(f) and 24.136(d) and the undesignated paragraph following § 24.140(b)(3) are amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

Par. 4. Section 24.146, is amended by revising the last sentence of paragraph

(a) and by adding a sentence between the first and second sentences of paragraph (b) to read as follows:

§ 24.146 Bonds.

(a) *Wine bond.* * * * This bond has a tax obligation limit of \$500 for wine removed from bonded wine premises on which the tax has been determined, but not paid, unless the total penal sum of the operations bond is \$2,000 or more and the proprietor and the surety designate \$1,000 of this amount as the

obligation limit for wine on which the tax has been determined, but not paid.

(b) *Tax deferral bond.* * * * Under the conditions provided in paragraph (a) of this section, this amount may be changed to \$1,000 by the terms of the bond or through a consent of surety between the proprietor and the surety. * * *

Par. 5. Section 24.148 is amended by revising the chart to read as follows:

§ 24.148 Penal sums of bonds

Bond	Basis	Penal sum	
		Minimum	Maximum
(a) Wine Bond, AFT F 5120.36.	(1) Not less than the tax on all wine or spirits in transit or unaccounted for at any one time. Where such liability exceeds \$250,000	\$1,000	\$50,000
	(2) Where the unpaid tax amounts to more than \$500, not less than the amount of tax which, at any one time, has been determined but not paid. Except: \$1,000 of the wine operations coverage may be allocated to cover the amount of tax which, at any one time, has been determined but not paid, if the total operations coverage is \$2,000 or more.	500	100,000 250,000
(b) Wine Vinegar Plant Bond* ATF F 5510.2.	Not less than the tax on all wine on hand, in transit, or unaccounted for at any one time.	1,000	100,000

*The proprietor of a bonded wine premises who operates an adjacent or contiguous wine vinegar plant with a Wine Bond which does not cover the operation may file a consent of surety to extend the terms of the Wine Bond in lieu of filing a wine vinegar plant bond.

Par. 6. Section 24.176 is amended by revising paragraph (b) to read as follows:

§ 24.176 Crushing and fermentation.

(b) *Determination of wine produced.* Upon completion of fermentation or removal from the fermenter, the volume of wine will be accurately determined, recorded and reported on ATF F 5120.17, Report of Bonded Wine Premises Operations, as wine produced. Any wine or juice remaining in fermentation tanks at the end of the reporting period will be recorded and reported on ATF F 5120.17.

Par. 7. Section 24.197 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.197 Production by fermentation.

* * * The quantity of liquid in fermenters at the close of each reporting period will be reported on the ATF F 5120.17, Report of Bonded Wine Premises Operations. * * *

§ 24.237 [Amended]

Par. 8. Section 24.237 is amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

§ 24.268 [Amended]

Par. 9. Section 24.268 is amended by removing the word "month" and adding, in its place, the words "reporting period".

Par. 10. Section 24.273 is amended by revising paragraph (a) to read as follows:

§ 24.273 Exception to filing semimonthly tax returns.

(a) Any proprietor who has not given a bond for deferred payment of wine excise tax and who:

(1) Paid wine excise taxes in an amount less than \$1000 (\$500 prior to May 12, 1993, during the previous calendar year, or

(2) Is the proprietor of a newly established bonded wine premises and expects to pay less than \$1000 (\$500 prior to May 12, 1993, in wine excise taxes before the end of the calendar year, may file the Excise Tax Return, ATF F 5000.24, and remittance, within 30 days after the end of the calendar year instead of semimonthly as required by § 24.271. However, if before the close of the current calendar year the wine excise tax owed will exceed the amount of the coverage under the proprietor's operations bond for wine removed from bonded wine premises on which tax has been determined but not paid, the proprietor will file an Excise Tax Return with the total remittance on the date the

wine excise tax owed will exceed such amount and file an aggregate Excise Tax Return within 30 days after the close of the calendar year showing the total wine tax liability for such calendar year. If before the close of the current calendar year the wine excise tax liability (including any amounts paid or owed) equals \$1000 or more, the proprietor will commence semimonthly filing of the wine Excise Tax Returns and making of payments as required by § 24.271.

Par. 11. Section 24.275 is amended by revising paragraph (a)(2) and the first sentence of paragraph (a)(3) to read as follows:

§ 24.275 Prepayment of tax.

(a) * * *

(2) The tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than the amount of such tax covered by the wine operations coverage of the wine bond; or,

(3) There is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds the amount of the wine operations coverage of the wine bond designated for wine removed from bonded wine premises on which

tax has been determined but not paid.

* * *

§§ 24.292 and 24.293 [Amended]

Par. 12. Sections 24.292(b) and 24.293(b) are amended by removing the words "Monthly Report of Wine Cellar Operations, for the month" and adding, in their place, the words "Report of Bonded Wine Premises Operations for the reporting period".

§ 24.294 [Amended]

Par. 13. Section 24.294(b) is amended by removing the words "Monthly Report of Wine Cellar Operations" and adding, in their place, the words "Report of Bonded Wine Premises Operations".

§ 24.295 [Amended]

Par. 14. Section 24.295(b) is amended by removing the words "Monthly Report of Wine Cellar Operations, for the month" and adding, in their place, the words "Report of Bonded Wine Premises Operations for the reporting period".

Par. 15. Section 24.300 is amended by revising the last sentence of paragraph (b) and by revising paragraph (g) to read as follows:

§ 24.300 General.

* * *

(b) * * * Source records and supplemental or auxiliary records may be used as a record of an operation or transaction and to prepare the ATF F 5120.17, Report of Bonded Wine Premises Operations, provided the record will readily allow for verification of an operation or transaction by ATF officers.

* * *

(g) ATF F 5120.17, Report of Bonded Wine Premises Operations. A proprietor who conducts bonded wine premises operations will summarize transaction entries and submit an ATF F 5120.17 to the regional director (compliance) on a monthly basis, except that:

(1) A proprietor who files a monthly ATF F 5120.17 and does not expect an inventory change or any reportable operations to be conducted in a subsequent month or months, may attach a statement to the ATF F 5120.17 filed that, until a change in the inventory or a reportable operation occurs, an ATF F 5120.17 will not be filed.

(2) A proprietor may file ATF F 5120.17 reports on a calendar year basis if (i) The proprietor expects to be exempt from filing semimonthly returns under § 24.273 for the calendar year and (ii) The sum of the bulk and bottled wine to be accounted for in all tax

classes is not expected to exceed 20,000 gallons for any one month during the calendar year when adding up the bulk and bottled wine on hand at the beginning of the month, bulk wine produced by fermentation, sweetening, blending, amelioration or addition of wine spirits, bulk wine bottled, bulk and bottled wine received in bond, taxpaid wine returned to bond, bottled wine dumped to bulk, inventory gains, and any activity written in the untitled lines of the report form which increases the amount of wine to be accounted for. To begin the annual filing of a report of bonded wine premises operations, a proprietor will state such intent in the "Remarks" section when filing the prior month's ATF F 5120.17. A proprietor who is commencing operations during a calendar year and expects to meet these criteria may use a letter notice to the regional director (compliance), and file an annual ATF F 5120.17 for the remaining portion of the calendar year. If a proprietor determines that the wine excise tax liability for the current year will exceed \$1,000 or that the 20,000 gallon activity level will be exceeded in any month, an ATF F 5120.17 will be filed for that month and for all subsequent months of the calendar year. If there is a jeopardy to the revenue, the regional director (compliance) may at any time require any proprietor otherwise eligible for annual filing of a report of bonded wine premises operations to file such report monthly. The information reported on the ATF F 5120.17 will be maintained in accordance with the requirements of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5555))

* * *

Par. 16. Section 24.303 is amended by revising paragraph (d) to read as follows:

§ 24.303 Formula wine record.

* * *

(d) The volume produced and the gain or loss resulting from the production of each lot as determined by comparing the volume finished with the volume used (report the total loss or gain on the ATF F 5120.17 for the period in question);

* * *

Par. 17. Section 24.313 is amended by revising the first four sentences of the introductory text to read as follows:

§ 24.313 Inventory record.

A proprietor who files monthly reports shall prepare a record of the physical inventory of all wine and spirits in storage at the close of business for each tax year, or where a different

cycle has been established, the inventory will be taken at the end of that annual period. Such proprietors may use an annual inventory period different from the period beginning July 1 and ending June 30 by submitting a notice to the regional director (compliance). Proprietors who file reports on a calendar year basis under the provisions of § 24.300(g) of this part shall take the physical inventory at the close of the calendar year. The inventory record will be retained on file with the proprietor's ATF F 5120.17, Report of Bonded Wine Premises Operations, for the reporting period when the inventory was taken. If a proprietor who files monthly reports takes a complete inventory at other times during the year, losses disclosed will be reported on the ATF F 5120.17 and the inventory record will be maintained on file with the report for each month when an inventory was taken. * * *

* * *

Par. 18. Section 24.316 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.316 Spirits record.

* * * The proof gallons of spirits received, used, removed from bonded wine premises, and on hand will be summarized and the account balanced at the end of each reporting period and reported on the ATF F 5120.17. * * *

* * *

Par. 19. Section 24.317 is amended by revising the last sentence preceding the parenthetical to read as follows:

§ 24.317 Sugar record.

* * * At the close of each reporting period, the account will be balanced and the quantity of each kind of sugar remaining on hand will be shown. * * *

* * *

* * *

Signed: March 12, 1993.

Stephen E. Higgins,
Director.

Approved: March 19, 1993.

John P. Simpson,
Acting Assistant Secretary (Enforcement).
[FR Doc. 93-8420 Filed 4-9-93; 8:45 am]
BILLING CODE 4810-31-U

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA-4-1-5305; FRL-4562-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania Group III CTG; RACT for VOC Emissions From Petroleum Solvent Dry Cleaning Facilities in Philadelphia, PA**AGENCY:** Environmental Protection Agency.**ACTION:** Final rulemaking.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Resources (PADER), at the request of the Philadelphia Air Management Service (AMS) to revise the Southeastern Pennsylvania (Philadelphia) portion of its Ozone SIP. This revision establishes reasonably available control technology (RACT) measures to reduce volatile organic compound (VOC) emissions from petroleum solvent dry cleaning facilities. The intended effect of this action is to approve a VOC RACT regulation adopted by Philadelphia AMS to fulfill commitments made in the Pennsylvania SIP in accordance with section 110 and Part D of the Clean Air Act Amendments (CAAA) of 1990.

EFFECTIVE DATE: This rule will become effective on May 12, 1993.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation & Toxics Division, U. S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107; Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Commonwealth of Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, P.O. Box 2357, Executive House—2nd & Chestnut Streets, Harrisburg, PA 17105; and the City of Philadelphia, Department of Public Health, Air Management Services, 321 University Avenue, Spelman Building, Philadelphia, PA 19104.

FOR FURTHER INFORMATION CONTACT: Ms. Jacqueline Lewis, 3AT13, at the above listed EPA Region III address. Phone (215) 597-6863.

SUPPLEMENTARY INFORMATION: On February 23, 1987, at the request of Philadelphia AMS, the PADER submitted revisions which would

amend the Philadelphia portion of the Pennsylvania Ozone SIP. This notice addresses amendments to Philadelphia's Air Management Regulation V by adding new definitions to Section I, pertaining to petroleum solvent dry cleaning, and by adding a new section XI, and compliance guidelines both entitled, "Petroleum Solvent Dry Cleaning."

In addition, the PADER's February 23, 1987 submittal included regulations for Pharmaceutical Tablet Coating Facilities as well as compliance guidelines for VOC and a revised definition of VOC. Only the portion of the February 23, 1987 SIP revision submittal pertaining to petroleum solvent dry cleaning is the subject of this final rulemaking action.

On August 3, 1988 (53 FR 29242), EPA published a Notice of Proposed Rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed to approve a new regulation based on EPA's Group III Control Technique Guideline (CTG) document, "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners" (EPA-450/3-82-009). The NPR indicated that specific recordkeeping and reporting requirements were necessary for final EPA approval. These revisions were discussed in detail in the NPR and will not be restated here. The Philadelphia AMS incorporated the recordkeeping and reporting requirements into the compliance guidelines on February 29, 1988, and submitted them to EPA as an addendum to the SIP submittal. EPA has reviewed this SIP revision submittal and has determined that the amendments constitute RACT for this source category. Therefore, EPA is approving Pennsylvania's request to amend the Philadelphia portion of its ozone SIP in accordance with section 110 and part D of the CAAA of 1990.

Although this submittal preceded the date of enactment of the CAAA of 1990, it serves to fulfill part of the "RACT fix-up" requirements of amended section 182(a)(2)(A). Under section 182(a)(2)(A), States were required by May 15, 1991 to correct RACT as mandated under pre-amended section 172(b) as that provision was interpreted in pre-amendment guidance.¹ The SIP call letters interpreted that guidance and indicated corrections necessary for

specific nonattainment areas. The Southeastern Pennsylvania (Philadelphia) area is classified as severe.² Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991 deadline.

Final Action

EPA is approving a revision to the Philadelphia portion of the Pennsylvania ozone SIP, submitted on February 23, 1987 by the PADER. This revision consists of amendments to Regulation V, Section I, "Definitions," and Section XI, "Petroleum Solvent Dry Cleaning," and Compliance Guidelines to accompany Regulation V, Section XI.

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

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). On January 6, 1989, the Office of Management and Budget waived Table 2 and 3 SIP revisions (54 FR 2222) from the requirements of Section 3 of Executive Order 12291 for a period of two years. EPA has submitted a request for a permanent waiver for Table 2 and 3 SIP revisions. The Office of Management and Budget has agreed to continue the temporary waiver until such time as it rules on EPA's request.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, approving Philadelphia's portion of the Pennsylvania SIP, consist of amendments to Sections I, and XI of Regulation V, "Control Of Emissions Of Organic Substances From Stationary Sources," and compliance guidelines as a SIP revision, must be filed in the United States Court of Appeals for the appropriate circuit June 11, 1993. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 may not be challenged later in proceedings to

¹ Among other things, the pre-amendment guidance consists of the Post-87 policy (52 FR 45044, Nov. 24, 1987); the Bluebook, "Issues Relating to VOC Regulation Cutpoints, Deficiencies and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (of which notice of availability was published in the *Federal Register* on May 25, 1988); and the existing CTG's.

² Southeastern Pennsylvania (Philadelphia) retained its designation of nonattainment and was classified by operation of law pursuant to section 107(d) and 181(a) upon enactment of the Amendments (56 FR 56694).

enforce its requirements (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 12, 1993.

William T. Wisniewski,

Acting Regional Administrator, Region III.

Part 52, chapter I, title 40 of the Code of Federal Regulations is to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(77) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(77) Revision to the State Implementation Plan submitted by the Pennsylvania Department of Environmental Resources on February 23, 1987, at the request of Philadelphia Air Management Services.

(i) Incorporation by reference.

(A) Letter from the Pennsylvania Department of Environmental Resources dated February 23, 1987, submitting a

revision to the Philadelphia portion of the Pennsylvania Ozone State Implementation Plan.

(B) Regulation V, Section I, "Definitions" for the terms Petroleum Solvents and Petroleum Solvent Dry Cleaning; and Section XI, "Petroleum Solvent Dry Cleaning" effective November 28, 1986.

(C) Compliance Guidelines, for Air Management Regulation V, "Control of Emission of Organic Substances from Stationary Sources," Section XI: Petroleum Solvent Dry Cleaning" effective November 28, 1986 (containing amendments and revisions through February 29, 1988).

[FR Doc. 93-8419 Filed 4-9-93; 8:45 am]

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