must not board any passenger subject to a ''not-cleared'' instruction, or any other passenger, or their baggage, unless cleared by CBP. Upon completion of the additional security analysis, CBP will contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional security analysis or respond to the carrier prior to departure of the aircraft, the carrier is bound by the ''not-cleared'' instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight.

(iii) *Individual passenger information option.* A carrier operating under this paragraph (b)(1)(iii) must transmit the manifest data specified in paragraph (b)(3) of this section for each individual passenger as passengers check in for the flight. With each transmission of manifest information by the carrier, CBP will electronically send a ''cleared'' or ''not-cleared'' instruction, as appropriate, depending on the results of security vetting. A ''not-cleared'' instruction will be issued for passengers identified during the initial security vetting as requiring additional security analysis. The carrier must acknowledge receipt of a ''not-cleared'' instruction by electronic return message and must not issue a boarding pass to—or load the baggage of—any passenger subject to a ''not-cleared'' instruction or to any passenger not cleared by CBP. The carrier, at its discretion, may seek resolution of a ''not-cleared'' instruction by providing additional information about the passenger, if available. Upon completion of the additional security analysis, CBP will electronically contact the carrier to clear a passenger for boarding should clearance be warranted by the results of that analysis. Where CBP is unable to complete the additional analysis or respond to the carrier before departure of the aircraft, the carrier will be bound by the ''not-cleared'' instruction. No later than 30 minutes after departure, the carrier must transmit to CBP a unique identifier for each passenger who checked in but did not board the flight. Before operating under this paragraph, a carrier must receive a system certification from CBP indicating that its electronic system is capable of interactively communicating with CBP's system for effective transmission of manifest data and receipt of appropriate messages.

(2) *Place and time for submission*—(i) *Complete manifests.* The appropriate official specified in paragraph (b)(1)(i) of this section (carrier) must transmit the complete electronic passenger departure manifest as required under paragraph (b)(1)(ii) of this section to the CBP Data Center, CBP Headquarters, no later than 60 minutes prior to departure of the aircraft from the United States, except that for an air ambulance in service of a medical emergency, the manifest must be transmitted to CBP no later than 30 minutes after departure.

(ii) *Individual passenger information.* The carrier must transmit electronic passenger departure manifest information as required under paragraph (b)(1)(iii) of this section as each passenger checks in for the flight, up to but no later than 15 minutes prior to departure of the aircraft.

* * * * *

Deborah J. Spero,

Acting Commissioner, Customs and Border Protection.

Approved: July 11, 2006.

Michael Chertoff,

Secretary.

[FR Doc. 06–6237 Filed 7–11–06; 3:00 pm]

BILLING CODE 9111–14–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2005–0549; FRL–8196–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Additional NO_X Emission Reductions To Support the Philadelphia-Trenton-Wilmington One-Hour Ozone Nonattainment Area, and Remaining NO_X SIP Call Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions pertain to additional nitrogen oxides (NO_X) reductions that are required for the Commonwealth to support its approved attainment demonstration for the Philadelphia-Trenton-Wilmington one-hour ozone nonattainment area (the Philadelphia Area); NO_X reductions from stationary internal combustion (IC) engines required to meet the NO_X SIP Call Phase II (Phase II); and NO_X reductions from cement kilns to meet the NO_X SIP Call. The revisions also include provisions for emission credits for sources that generate zero-emission renewable energy. This action is being taken under the Clean Air Act (CAA or the Act).

DATES: Written comments must be received on or before August 14, 2006.

FOR FURTHER INFORMATION CONTACT: Marilyn Powers (215) 814–2308, or by e-mail at *powers.marilyn@epa.gov.*

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R037–OAR–2005–0549 by one of the following methods:

A. *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

B. *E-mail: morris.makeba@epa.gov*

C. *Mail:* EPA–R03–OAR–2005–0549, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2005–0549. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although

listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

SUPPLEMENTARY INFORMATION: On March 29, 2005, the Pennsylvania Department of Environmental Protection (PADEP) submitted SIP revisions that amended Chapters 121, 129, and 145 of PADEP's air quality regulations under 25 Pa. Code Article III (Air Resources). Chapter 121 is amended to include new definitions associated with the revisions to Chapters 129 and 145. Chapter 129 is amended to include new Sections 129.201 through 129.204, which establishes ozone season NO_X emission limits for certain boilers, turbines, and stationary internal combustion engines that are small sources of NO_X in Bucks, Chester, Delaware, Montgomery, and Philadelphia counties (the five-county Southeast Pennsylvania Area). Chapter 129 also includes new § 129.205, which allows sources subject to § 129.201 through 129.203 to get emission credits for generating zero-emission renewable energy. Chapter 145 is amended to establish ozone season NO_X emission limits for large stationary IC engines and large cement kilns to satisfy the Commonwealth's remaining statewide obligations under the NO_X SIP Call (63 FR 57356, October 27, 1998). On February 6, 2006, PADEP submitted a supplementary letter clarifying certain provisions of the March 29, 2005 submission.

I. Background

A. Pennsylvania's Additional NO_X Emission Reduction Requirements for the Philadelphia Area

Pennsylvania's approved attainment demonstration for the Philadelphia Area included commitments for additional NO_X reductions, see 64 FR 70428, December 16, 1999 and 66 FR 54143, October 26, 2001. Revisions to Chapter 129 establish additional NO_X requirements for small sources of NO_X in the five-county Southeast Pennsylvania area. These requirements are based, in part, on a model rule developed by the Ozone Transport Commission (OTC) to address ozone problems in the Ozone Transport Region (OTR).

B. Pennsylvania's NO_X SIP Call Requirements

EPA issued the NO_X SIP Call (63 FR 57356, October 27, 1998) to require 22 Eastern states and the District of Columbia to reduce specified amounts of one of the main precursors of ground-level ozone, NO_X, in order to reduce interstate ozone transport. EPA found that the sources in these states emit NO_X in amounts that contribute significantly to nonattainment of the 1-hour ozone national ambient air quality standard (NAAQS) in downwind states. In the NO_X SIP Call, the amount of reductions required by states was calculated based on application of available, highly cost-effective controls on specific source categories of NO_X.

The NO_X SIP Call, including the Technical Amendments which addressed the 2007 electric generating units (EGU) budgets (64 FR 26298, May 14, 1999 and 65 FR 11222, March 2, 2000), was challenged by a number of state, industry, and labor groups. A summary of the NO_X SIP Call requirements, including details of the court decisions that were made in response to challenges to the rule and impacts of the court decisions on certain aspects of the rule may be found in EPA's rulemaking dated April 21, 2004 (69 FR 21604) entitled, ''Interstate Ozone Transport: Response to Court Decisions on the NO_X SIP Call, NO_X SIP Call Technical Amendments, and Section 126 Rules.'' This rulemaking established States' requirements under Phase II of the NO_X SIP Call. The relevant portions of the April 21, 2004 rulemaking that affect Pennsylvania's obligations under the NO_X SIP Call, and that pertain to the State's requirements for Phase II, are discussed in this document to provide background on the March 29, 2005 SIP revision submitted by the PADEP.

On March 3, 2000, the United States Court of Appeals for the District of Columbia Circuit (DC Circuit) issued its decision on the NO_X SIP Call. *Michigan* v. *EPA*, 213 F.3rd 663 (DC Dir. 2000). While the DC Circuit ruled largely in favor of EPA in support of its requirements under the 1-hour ozone NAAQS, it also ruled, in part, against EPA on certain issues. The rulings against EPA included two areas of the NO_X SIP Call that were remanded and vacated and two areas in which EPA was found to have failed to provide adequate notice of changes in the rule. In the latter case, the rulings included a failure to provide adequate notice of the change in the definition of EGU as applied to cogeneration (cogen) units that supply electricity to a utility power distribution system for sale in certain specified amounts, and a failure to provide adequate notice of the change in the control level EPA assumed for large stationary internal combustion (IC) engines. The portions of the NO_X SIP Call that were upheld by the Court, including emission reductions associated with cement manufacturing, were termed ''Phase I'' of the rule. With the exception of the remand of the EGU growth factors used in the NO_X SIP Call and the requirements for the 8-hour ozone NAAQS (which EPA stayed due to uncertainty created by the court rulings), those portions of the NO_X SIP Call that had been remanded back to EPA were finalized in the April 21, 2004 rulemaking (69 FR 21604) and termed ''Phase II'' of the rule.

The Phase II rulemaking of April 21, 2004 finalized specific changes to the definition of EGUs as applied to cogen units, finalized the control levels assumed for large stationary IC engines in the NO_X SIP Call, adjusted states' total budgets downward to reflect emission reductions based upon the application of cost effective controls on stationary IC engines that emitted more than 153 tons of NO_X during the 1995 ozone season, (see 65 FR 1222, March 2, 2000), established a SIP submittal date of April 1, 2005 for states to address the Phase II portion of the budget, and set a compliance date of May 1, 2007 for affected sources to meet Phase II. This rulemaking established an incremental amount of additional NO_X reductions for each state based upon control levels of 82 percent for lean burn engines and 90 percent for rich burn, diesel and dual fuel engines.

The change to the definition of cogen units did not have an impact on the Phase I budget previously established for Pennsylvania. Therefore, in order to meet its NO_X SIP Call Phase II obligations, the State was required only to achieve the incremental reductions that EPA calculated based on controlling large, stationary IC engines to the prescribed levels.

In addition, as part of Phase I, cement manufacturing was determined to be one of the source categories having large contributions to transported emissions, with available, highly cost effective controls that can achieve NO_X reductions of 30 percent. Each State's overall NO_X budget reflected this level of control on cement kilns that emitted

more than 153 tons of NO_X during the 1995 ozone season, although a State has flexibility regarding which sources to control to meet the reductions.

C. Pennsylvania's Remaining Obligations Under the NO_X SIP Call

Pennsylvania's NO_X SIP Call Phase I trading program was approved as part of the Pennsylvania SIP on August 21, 2001 (66 FR 43795). The NO_X SIP Call reductions associated with cement manufacturing facilities and stationary internal combustion engines were not addressed in that rulemaking, therefore the Commonwealth was required to submit SIP revisions to address any additional emission reductions required to meet its overall emissions budget.

On March 29, 2005, the Commonwealth submitted a revision to its SIP to satisfy its remaining obligations under the NO_X SIP Call. The SIP revision requires NO_X emission reductions from large internal combustion engines and large cement kilns statewide.

II. Summary of SIP Revisions

A. Pennsylvania's Additional NO_X Emission Reductions in the Philadelphia Area

Amendments to Chapter 121 add definitions of megawatt-hour (MWH), parts per million dry volume (ppmvd), stationary internal combustion engine, tradable renewable certificate, and tradable renewable certificate issuing body.

Amendments to Chapter 129 are additional NO_X requirements submitted to satisfy the Commonwealth's commitments under the EPA-approved SIP revision for the Philadelphia area. These NO_X requirements establish additional emission reductions to support the attainment demonstration for the Philadelphia Area (64 FR 70428, December 16, 1999 and 66 FR 54143, October 26, 2001). The requirements of Chapter 129 are based, in part, on the model rule for additional NO_X control measures developed by the Ozone Transport Commission (OTC), of which Pennsylvania is a member. The OTC was created to address ozone problems in the Ozone Transport Region (OTR).

Chapter 129 establishes ozone season (May 1 through September 30) emission limits for NO_X from boilers with a rated capacity of greater than 100 million Btu/hour but less than or equal to 250 million Btu/hour; turbines with rated capacity of greater than 100 million Btu/hour; and stationary internal combustion engines rated at greater than 1,000 horsepower located at industrial, utility and commercial sites in the five-county Southeast Pennsylvania area. The emission limits are required to be implemented by May 1, 2005 and shall comply with Section 129.204 (relating to emission accountability).

Chapter 129 does not affect the large sources that are regulated under Chapter 145, Subchapter B (relating to emissions of NO_X from stationary internal combustion engines) and does not apply to the naval marine combustion units operated by the United States Navy for the purposes of testing and operational training, or to units permitted as resource recovery facilities. In addition, Chapter 129 establishes methods for determining NO_X allowable emissions for certain boilers, stationary combustion turbines and stationary internal combustion engines (relating to Sections 129.201–129.203). The owner or operator of a unit covered by these sections under Chapter 129 must calculate the difference between NO_X allowable emissions and NO_X actual emissions under § 129.204. Some boilers and turbines may demonstrate compliance though the opt-in process provisions of §§ 145.80–145.88.

The regulation states that an owner or operator may apply unused allowable emissions to its other facilities in the state, but if actual emissions exceed allowable emissions, NO_X allowances must be surrendered to the State by November 1 of each year starting in 2005. Failure to surrender the required allowances by this date triggers a requirement to surrender three allowances for every ton of excess NO_X emitted. These small NO_X sources are not part of the State's NO_X Budget Trading Program, do not receive allowances from the State's NO_X budget, and must therefore secure NO_X allowances on the open market.

Section 129.205 establishes provisions for zero-emission renewable energy production credits. It applies in the five-county Southeast Pennylvania area to an owner or operator of small sources of NO_X who generate zero-emission renewable energy. An owner or operator may deduct, from its actual emissions, an equivalent amount of NO_X emissions that would otherwise be emitted from thermal energy generated by conventional means, subject to conditions stipulated in this section, which the owner or operator must certify have been met.

For each ton of NO_X deducted under Section 129.205 (i.e., the credit for zero-emissions renewable energy produced), the Commonwealth will retire one NO_X allowance from its new source set-aside pool (under its NO_X Budget Trading Program) for the subsequent ozone season.

B. Pennsylvania's Emission Reductions Under Phase II of the NO_X SIP Call

Chapter 145, Interstate Pollution Transport Reduction Requirements (Pennsylvania's approved cap and trade program under the NO_X SIP Call), is revised by adding new Subchapter B, which establishes statewide ozone season NO_X emission limits for large stationary IC engines. Subchapter B, entitled Emissions of NO_X From Stationary Internal Combustion Engines, applies to the following types of engines that emitted 153 tons or more of NO_X from May 1 through September 30 in any year from 1995 through 2004. As of May 1, 2005, these sources must comply with the following emission limits from May 1 through September 30 of each year:

(1) For rich-burn stationary internal combustion engines having an engine rating equal to or greater than 2,400 brake horsepower, 1.5 grams NO_X per brake horsepower-hour,

(2) For lean burn stationary internal combustion engines having an engine rating equal to or greater than 2,400 brake horsepower, 3.0 grams per brake horsepower-hour, and

(3) For diesel stationary internal combustion engines with an engine rating equal to or greater than 3,000 brake horsepower and for dual-fuel stationary internal combustion engines with an engine rating equal to or greater than 4,400 brake horsepower, 2.3 grams NO_X per brake horsepower-hour. These emission limits are consistent with the control levels established in Phase II, and achieve the incremental reductions required from this source category.

Subchapter B also includes definitions, monitoring requirements, methods for calculating actual and allowable NO_X emissions, and includes requirements for surrender of NO_X allowances to the State when a unit has excess emissions.

C. Emission Reductions From Cement Manufacturing

To meet NO_X SIP Call reductions associated with cement manufacturing, Chapter 145 is revised by adding new Subchapter C, which establishes NO_X emission limits for cement kilns from May 1 through September 30 of each year, starting in 2005. The requirements apply statewide, and establish an emission limit of 6 pounds of NO_X per ton of clinker produced. As of October 31, 2005, it applies to any kiln that emitted 153 tons or more of NO_X from May 1 through September 30 in any year from 1995 through 2004. EPA's analysis of Pennsylvania's rule showed that this emission level, considered together with

the shut down of one kiln (Kosmos) and the emission reductions previously required on certain other kilns, meets the requirements of the NO_X SIP Call (see Technical Support Document for a detailed discussion and analysis of emission reductions from affected cement kilns in the Commonwealth). Subchapter C also includes applicability, new definitions, standard requirements for compliance monitoring, requirements for determining allowable and actual emissions, and includes requirements for surrender of NO_X allowances to the State when a unit has excess emissions.

III. Proposed Action

EPA is proposing to approve the SIP revisions submitted by the Commonwealth of Pennsylvania on March 29, 2005, and supplemented on February 6, 2006. EPA's review of the submittal indicates that the revisions to Chapter 121, addition of new Sections 129.201 though 129.205 (Additional NO_X Requirements), revision of Section 145.42 (pertaining to accountability of NO_X credit under Section 129.205), and addition of Subchapters B and C to Chapter 145 (pertaining to the State's remaining NO_X SIP Call obligations for IC engines and cement kilns, respectively), are approvable. These revisions strengthen the Pennsylvania SIP. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order.

This proposed rule to approve Pennsylvania's additional NO_X emission reductions for the Philadelphia Area and its remaining NO_X SIP Call requirements does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: July 6, 2006

William T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. E6–11109 Filed 7–13–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–2006–0056; FRL–8075–4]

Bentazon, Carboxin, Dipropyl Isocinchomeronate, and Oil of Lemongrass (Oil of Lemon) and Oil of Orange; Proposed Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke certain tolerances for the fungicide carboxin, the insecticide dipropyl isocinchomeronate, and the fungicide/animal repellent oil of lemon (oil of lemongrass) and oil of orange. Also, EPA is proposing to modify certain tolerances for the herbicide bentazon and the fungicide carboxin. In addition, EPA is proposing to establish new tolerances for the herbicide bentazon. The regulatory actions proposed in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. By law, EPA is required by August 2006 to reassess the tolerances that were in existence on August 2, 1996. No tolerance reassessments will be counted at the time of a final rule because tolerances in existence on August 2, 1996 that are associated with actions proposed herein were previously counted as reassessed at the time of the completed Reregistration Eligibility Decision (RED), Report of Food Quality Protection Act (FQPA) Tolerance Reassessment Progress and Risk Management Decision (TRED), or **Federal Register**.

DATES: Comments must be received on or before September 12, 2006.