

Dated: March 27, 2003.

Robert W. Varney,

Regional Administrator, EPA—New England.

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

**PART 52—[AMENDED]**

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

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

**Subpart OO—Rhode Island**

■ 2. Section 52.2076 is amended by revising the table to read as follows:

**§ 52.2076 Attainment of dates for national standards.**

\* \* \* \* \*

Air quality control region	Pollutant					
	SO		PM <sub>10</sub>	NO <sub>2</sub>	CO	O <sub>3</sub>
	Primary	Secondary				
Rhode Island portion of AQCR 120 (Entire State of Rhode Island) .....	(a)	(b)	(a)	(a)	(a)	(c)

<sup>a</sup> Air quality levels presently better than primary standards or area is unclassifiable.  
<sup>b</sup> Air quality levels presently better than secondary standards or area is unclassifiable.  
<sup>c</sup> November 15, 2007.

■ 3. Section 52.2088 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

**§ 52.2088 Control strategy: Ozone.**

\* \* \* \* \*

(b) Approval—Revisions to the state implementation plan submitted by the Rhode Island Department of Environmental Management on March 24, 2003. The revisions are for the purpose of satisfying the one-hour ozone attainment demonstration requirements of section 182(c)(2)(A) of the Clean Air Act, for the Rhode Island serious ozone nonattainment area. The revision establishes a one-hour attainment date of November 15, 2007 for the Rhode Island serious ozone nonattainment area, and approves the contingency measures for purposes of attainment. This revision establishes motor vehicle emissions budgets for 2007 of 30.68 tons per day of volatile organic compounds and 33.97 tons per day of nitrogen oxides to be used in transportation conformity in the Rhode Island serious ozone nonattainment area. Rhode Island also commits to conduct a mid-course review to assess modeling and monitoring progress achieved towards the goal of attainment by 2007, and to submit the results to EPA by December 31, 2004.

[FR Doc. 03–8254 Filed 4–4–03; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[PA 201–4202a; FRL–7472–9]

**Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO<sub>x</sub> RACT Determinations for General Electric Transportation Systems**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania’s State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for General Electric Transportation Systems (GETS). GETS is a major source of nitrogen oxides (NO<sub>x</sub>) located in Erie County, Pennsylvania. EPA is approving these revisions to establish NO<sub>x</sub> RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on June 6, 2003 without further notice, unless EPA receives adverse written comment by May 7, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to Makeba Morris, Acting Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public

inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814–2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major volatile organic compound (VOC) and NO<sub>x</sub> sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

**II. Summary of SIP Revision**

On December 9, 2002, PADEP submitted a formal revision to its SIP to establish and impose RACT for a major source of NO<sub>x</sub>. The RACT determinations and requirements are included in the operating permit issued by PADEP. GETS is a coal-fired power generating station located in Erie County, Pennsylvania and is considered a major source of NO<sub>x</sub>. In this instance, RACT has been established and

imposed by PADEP in an operating permit. On December 9, 2002, PADEP submitted operating permit No. OP 25-025A to EPA as a SIP revision. This operating permit includes three coal fired boilers: Boiler Nos. 1, 5 and 9. The facility shall perform annual tune-ups, and operate and maintain the three boilers in accordance with the manufacturer's recommendations. Based on a 30-day rolling average, this operating permit contains NO<sub>x</sub> emission limit rates for each of the three boilers of 0.59 lb/MMBtu. This operating permit also contains NO<sub>x</sub> emission limits for the three boilers based on a 12-month consecutive period. The permit specifies the following limits: 400 tons per year (tpy) for Boiler No. 1, 324 tpy for Boiler No. 5, and 520 tpy for Boiler No. 9. NO<sub>x</sub> emission reports for each boiler shall be submitted to PADEP within 30 days of the end of each calendar quarter. Coal consumption for each boiler shall be submitted on a quarterly basis. The coal consumption report shall be submitted to PADEP within 30 days of the end of each calendar quarter. A NO<sub>x</sub> continuous emission monitoring system (CEMS) is required for the combined stack from the three boilers which shall be operated and maintained in accordance with 25 Pa. Code Chapter 139 and PADEP's latest "Continuous Source Monitoring Manual." The CEM system shall be approved by PADEP. CEMS reports shall be submitted to PADEP within 30 days after each calendar quarter, but no later than the time frame established in PADEP's latest "Continuous Source Monitoring Manual." The operating permit requires GETS to maintain records as follows: (a) the facility shall maintain records to demonstrate compliance with 25 Pa. Code Sections 129.91-129.94; (b) the records shall provide sufficient data and calculations to clearly demonstrate that the requirements of 25 Pa. Code Sections 129.91-129.94 are met; and (c) records shall be retained for at least two years and shall be made available to PADEP upon request.

### III. EPA's Evaluation of the SIP Revisions

EPA is approving this SIP submittal because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

### IV. Final Action

EPA is approving a revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for GETS (OP 25-025A) located in Erie County, Pennsylvania. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. 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 June 6, 2003 without further notice unless EPA receives adverse comment by May 7, 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 interested in commenting must do so at this time.

### V. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 approves 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 rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report

regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for General Electric Transportation Systems.

### C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2003. 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 approving the Pennsylvania's source-specific RACT requirements to control NO<sub>x</sub> emissions from General Electric Transportation Systems in Erie County, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

### List of Subjects in 40 CFR Part 52

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

Dated: March 19, 2003.

**Thomas C. Voltaggio,**  
Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

### PART 52—[AMENDED]

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

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

### Subpart NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(198) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(198) Revisions pertaining to NO<sub>x</sub> RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on December 9, 2002.

(i) Incorporation by reference.

(A) Letter of December 9, 2002 from the Pennsylvania Department of Environmental Protection transmitting source-specific NO<sub>x</sub> RACT determinations.

(B) Operating permit (OP) for General Electric Transportation Systems, Erie

County, OP 25–025A, effective August 26, 2002.

(ii) Additional Material—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(198)(i)(B) of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 61

[SIP NO. SD–001–0013, SD–001–0014, SD–001–0015; FRL–7475–1]

### Approval and Promulgation of Air Quality Implementation Plans; South Dakota

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is partially approving and partially disapproving State Implementation Plan (SIP) revisions submitted by the State of South Dakota on May 6, 1999 and June 30, 2000. The revisions modify the State's air quality rules so they are consistent with federal rules and clarify existing provisions. EPA is also removing from the SIP or not approving into the SIP, certain provisions of the State's air quality rules because they are not related to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) and are not appropriate for inclusion in the SIP. This action is being taken under section 110 of the Clean Air Act.

**EFFECTIVE DATE:** This final rule is effective May 7, 2003.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air and Radiation Program, Environmental Protection Agency, Region 8, 999 18th Street, Suite 300, Denver, Colorado, 80202 and copies of the Incorporation by Reference material at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–108 (Mail Code 6102T), 1301 Constitution Ave., NW., Washington, DC 20460. Copies of the State documents relevant to this action are available for public inspection at the South Dakota Department of Environmental and Natural Resources, Air Quality Program, Joe Foss Building, 523 East Capitol, Pierre, South Dakota 57501.

**FOR FURTHER INFORMATION CONTACT:** Laurel Dygowski, EPA, Region 8, (303) 312–6144.

**SUPPLEMENTARY INFORMATION:** On January 27, 2003 (68 FR 3848), EPA published a notice of proposed rulemaking (NPR) for the State of South Dakota. The NPR proposed partial approval and partial disapproval of State Implementation Plan (SIP) revisions submitted by the State of South Dakota on May 6, 1999 and June 30, 2000. The May 6, 1999 and June 30, 2000 submittals revise the State's air quality rules so they are consistent with federal rules and clarify existing provisions. EPA is also removing from the SIP or not approving into the SIP, certain provisions of the State's air quality rules because they are not related to attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) and are not appropriate for inclusion in the SIP.

### I. Final Action

Since we received no comments on the January 27, 2003 notice of proposed rulemaking, we are partially approving and partially disapproving State Implementation Plan revisions submitted by the State of South Dakota submitted on May 6, 1999 and June 30, 2000, except for provisions that we are not acting on, or have acted on previously. The sections of the rules that we are proposing to approve will replace the same numbered sections that have been previously approved into the SIP and are as follows: Sections 74:36:01:01(1) through (79), effective 4/4/1999; 74:36:01:03, effective 4/4/1999; 74:36:01:05, effective 4/4/1999; 74:36:01:07, effective 4/4/1999; 74:36:01:08, effective 4/4/1999; 74:36:01:10, effective 4/4/1999; 74:36:01:17, effective 4/4/1999; 74:36:01:20, effective 4/4/1999; 74:36:02:02, effective 6/27/2000; 74:36:02:03, effective 6/27/2000; 74:36:02:04, effective 6/27/2000; 74:36:02:05, effective 6/27/2000; 74:36:04:03, effective 4/4/1999; 74:36:04:09, effective 4/4/1999; 74:36:04:11, effective 4/4/1999; 74:36:04:12, effective 4/4/1999; 74:36:04:12.01, 4/4/1999; 74:36:04:13, effective 4/4/1999; 74:36:04:18, effective 4/4/1999; 74:36:04:19, effective 4/4/1999; 74:36:04:20, effective 4/4/1999; 74:36:04:20.01, effective 4/4/1999; 74:36:04:20.04, effective 4/4/1999; 74:36:04:22, effective 4/4/1999; 74:36:06:02, effective 4/4/1999; 74:36:06:03, effective 4/4/1999; 74:36:06:07, effective 4/4/1999; 74:36:11:01, effective 6/27/2000;