

#### IV. 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 three named sources.

##### 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 December 15, 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 Pennsylvania’s VOC and NO<sub>x</sub> RACT determinations for three individual sources, 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, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 29, 2003.

James W. Newsom,

Acting 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)(214) to read as follows:

##### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(214) Revisions to the Pennsylvania Regulations pertaining to VOC and NO<sub>x</sub> RACT for major sources submitted on July 2, 2003 by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) Letter of July 2, 2003 from the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations in the form of plan approvals or operating permits.

(B) Plan Approval (PA); Operating Permit (OP):

(1) Andritz, Inc., Lycoming County, 41–00010C, effective April 30, 2003.

(2) Brodart Company, Clinton County, 18–0007A, effective April 8, 2003.

(3) Erie Sewer Authority, Erie County, OP–25–179, effective June 5, 2003.

(ii) Additional Material.—Remainder of the State submittals pertaining to the revisions listed in paragraph (c)(214)(i) of this section.

[FR Doc. 03–25929 Filed 10–14–03; 8:45 am]

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#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[PA208–4214a; FRL–7570–9]

##### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Six Individual Sources

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 six major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on December 15, 2003 without further notice, unless EPA receives adverse written comment by November 14, 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:** Comments may be submitted either by mail or electronically. Written comments should be mailed to Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650

Arch Street, Philadelphia, Pennsylvania 19103. Electronic comments should be sent either to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) or to <http://www.regulations.gov>, which is an alternative method for submitting electronic comments to EPA. To submit comments, please follow the detailed instructions described in Part III of the Supplementary Information section. 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 the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth at (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@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 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 812(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 the SIP Revision**

On July 2, 2003, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for several major sources of VOC and NO<sub>x</sub>. This rulemaking pertains to six of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements in this SIP revision are included in operating permits (OP) issued by PADEP.

The following table identifies the individual operating permits that EPA is approving for each source located in Pennsylvania.

**VOC AND NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES**

Source	County	OP number	Source type	Major source pollutant
GPU Generation Corporation—Homer City Station.	Indiana .....	32-000-055	Boilers; Low NO <sub>x</sub> Burners .....	NO <sub>x</sub> /VOC
GPU Generation Corporation—Seward Station	Indiana .....	32-000-040	Steam-Fired Boilers, Diesels, Space Heaters ..	NO <sub>x</sub> /VOC
Ebensburg Power Company .....	Cambria .....	11-000-318	CFB Boiler; Gas-Fired Boiler, Diesel Genera-	NO <sub>x</sub> /VOC
			tors.	
Sithe Pennsylvania Holdings, L.L.C.—Warren Station.	Warren .....	OP-62-012B	Boilers; Combustion Turbines; Diesel Genera-	NO <sub>x</sub> /VOC
			tors.	
Pennsylvania Power & Light Company—Sunbury SES.	Snyder .....	OP-55-0001A	Boilers; Combustion Turbines; Diesel Genera-	NO <sub>x</sub> /VOC
			tors.	
Lakeview Landfill .....	Erie .....	OP-25-920	Enclosed Flare .....	VOC

##### **A. GPU Generation Corporation-Homer City Station**

GPU Generation Corporation's Homer City Power Station is located in Center Township, Indiana County, Pennsylvania. GPU Generation's Homer City Power Station is a major NO<sub>x</sub> and VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, PADEP submitted permit No. 32-000-055 to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> and VOCs for the following sources at the Homer City facility: Three (3) Main Boilers, Units 1, 2, and 3; two (2) auxiliary boilers, Units A and B; and

several miscellaneous sources, consisting of two (2) small diesels, one (1) diesel fire pump, and twenty-five (25) space heaters.

NO<sub>x</sub> RACT for the three main boilers, Units, 1, 2, and Unit 3 shall consist of an emission limit of .5 lb/MMBtu based on a 30-day rolling average. Annual NO<sub>x</sub> emission limits shall be 13,076 tons per year (tpy) for Unit 1, 12,825 tpy for Unit 2, and 13,753 tpy for Unit 3. All annual limits must be met on a rolling monthly basis over every consecutive 12-month period. Compliance with these NO<sub>x</sub> emission limits shall be established based on emission data obtained from continuous emissions monitoring (CEM) approved by PADEP. The CEM system shall be installed,

approved, maintained, and operated in accordance with 25 PA Code Chapters 123 and 139. VOC RACT for Units 1, 2, and 3 shall be the operation and maintenance of the sources according to the manufacturer's specifications, and good air pollution control practices. NO<sub>x</sub> and VOC RACT for auxiliary Units A and B shall be the operation and maintenance of the sources according to the manufacturer's specifications, and good air pollution control practices. These units shall use only No. 2 fuel oil, and shall be limited to an annual capacity factor of 10 percent. RACT for the two emergency diesels and the diesel fire pump shall be the installation, maintenance, and operation

of the sources in accordance with the manufacturer's specifications under the presumptive RACT emission limitations found in 25 PA Code, Chapter 129, section 129.93(c)(5). These units shall be operated less than 500 hours in a consecutive 12-month period. GPU's Homer City facility shall maintain an open log to verify compliance for the auxiliary Units A and B, emergency diesels, and fire pump. This log shall include: hours of operation, fuel characteristics (specifications) and the amount and type of fuel (fuel consumption). The space heaters are combustion sources with individual rated gross heat inputs of less than 20 MMBtu per hour qualifying them for the presumptive RACT emission limitation found in 25 PA Code, Chapter 129.93(c)(1). RACT for these sources shall be the installation, maintenance and operation of these sources in accordance with the manufacturer's specifications.

GPU Generation Corporation's Homer City Station is also subject to the requirements of 25 PA Code, Chapter 129, sections 129.91–129.95.

#### *B. GPU Generation Corporation-Seward Station*

GPU Generation Corporation's Seward Power Station is located in East Wheatfield Township, Indiana County, Pennsylvania. GPU Generation Corporation's Seward Power Station is a major NO<sub>x</sub> and VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, the PADEP submitted permit No. 32–000–040 to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> and VOCs for the following sources: Three (3) coal-fired boilers, Boilers 12, 14, and 15; two (2) emergency diesels; and thirteen (13) space heaters.

NO<sub>x</sub> RACT for Boiler 12 shall be the implementation of bias firing operating procedures, with an annual NO<sub>x</sub> emissions limit of 808.11 tpy. All annual limits must be met on a rolling monthly basis over every consecutive 12-month period. NO<sub>x</sub> emissions from Boiler 12 shall not exceed 0.82 lb/MMBtu based on a 30-day rolling average. NO<sub>x</sub> RACT for Boiler 14 shall be the emissions limit of 0.50 lb/MMBtu based on a 30-day rolling average. NO<sub>x</sub> emissions from Boiler 15 shall not exceed 0.51 lb/MMBtu based on a 30-day rolling average. VOC RACT for the three boilers shall be the operation and maintenance in accordance with the manufacturer's recommendations.

RACT for the two emergency power diesel engines shall be the operation

and maintenance of the sources according to the manufacturer's specifications in accordance with the presumptive RACT emission limitations found in 25 PA Code, Chapter 129, section 129.93(c)(5). These emergency diesels shall each be limited to operating less than 500 hours in any consecutive 12-month period. The space and portable heaters are combustion sources with individual rated gross heat inputs of less than 20 MMBtu per hour of operation, qualifying them for presumptive RACT under 25 PA Code, Chapter 129, section 129.93(c)(1). The total amount and type of fuel burned in the two emergency diesels and 13 space heaters shall be recorded and used as the basis for annual reporting of the emissions to verify compliance with the limits noted above. GPU's Seward Station shall maintain an operating log for the emergency diesels to verify compliance with the restriction on hours of operation and the presumptive RACT limitations. All sources and air cleaning devices shall be operated and maintained in accordance with good air pollution control practices.

In accordance with 25 PA Code, Chapter 129, section 129.95, GPU's Seward Station is required to keep sufficient records to demonstrate compliance with the limitations, restrictions, and requirements of this RACT permit. These records shall provide sufficient data and calculations to clearly demonstrate compliance consistent with all averaging times and periods. These records shall be maintained for at least two years and be made available to the Department upon request.

#### *C. Ebensburg Power Company*

Ebensburg Power Company is a cogeneration facility located in Cambria Township, Cambria County, Pennsylvania. The Ebensburg Power Company is a major NO<sub>x</sub> and VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, the PADEP submitted permit No. 11–000–318 to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> and VOC for the following sources: One (1) circulating fluidized bed boiler (CFB); one (1) auxiliary boiler; two (2) diesel generators; and one (1) diesel driven fire pump.

NO<sub>x</sub> RACT for the CFB boiler shall consist of an emission limit of .18 lbs/MMBtu based on a 30-day rolling basis, and a limit of 555.83 tpy. All annual limits must be met on a rolling monthly basis over every consecutive 12-month period. VOC emissions from the CFB

boiler shall not exceed 15 lbs/hr. The Ebensburg Power Company shall operate and maintain a continuous emission monitoring system for as-fired coal analysis for the CFB boiler in accordance with the requirements of 25 PA Code Chapter 139. A NO<sub>x</sub> analysis shall be determined on a daily basis and used to calculate the CFB boiler's NO<sub>x</sub> control efficiency. Emissions of NO<sub>x</sub> from the auxiliary boiler shall not exceed 8.04 tpy. All annual limits must be met on a rolling monthly basis over every 12-month period.

NO<sub>x</sub> RACT for the 1592 BHP diesel generator shall consist of an operational limit of no more than 800 hours in any consecutive 12-month period. The presumptive NO<sub>x</sub> RACT requirements outlined in 25 PA Code, Chapter 129.93(c)(5) apply to the 600 BHP diesel generator, and the 244 BHP Diesel Fire Pump. The presumptive RACT emission limitations for these sources are the maintenance, and operation of these sources in accordance with the manufacturer's specifications. These sources are limited to operating no more than 500 hours in a consecutive 12-month period. All sources and air cleaning devices shall be operated and maintained in accordance with good air pollution control and engineering practices and also with the manufacturer's specifications.

In accordance with 25 PA Code, Chapter 129, section 129.95, the owner/operator of the Ebensburg Power Company shall keep sufficient records to demonstrate compliance with the limitations, restrictions, and requirements of this RACT permit. These records shall provide sufficient data and calculations to clearly demonstrate compliance consistent with all averaging times and periods. These records shall be retained for at least two years and be made available to the Department upon request.

#### *D. Sithe Pennsylvania Holdings, LLC-Warren Generating Station*

Sithe Pennsylvania Holdings, LLC owns and operates the Warren Generating Station in Warren County, Pennsylvania. Sithe Pennsylvania Holdings, LLC's Warren Generation Station is a major NO<sub>x</sub> and VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, the PADEP submitted OP–62–012B to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> and VOCs for the following sources at the Warren Station facility: Four (4) boilers, Boilers 1, 2, 3, and 4; one (1) gas/oil-fired

combustion turbine unit; and one (1) oil-fired emergency diesel generator.

NO<sub>x</sub> RACT for each boiler (boiler 1, 2, 3, and 4) will be bias firing with an annual capacity factor not to exceed 65.1 percent. Based upon a nominal heat input of 286.5 MMBtu/hr, each boiler shall be limited to an annual heat input of 1.634 million MMBtu/year on a 12-month rolling basis. Each boiler shall be operated and maintained in accordance with the manufacturer's specifications and good air pollution control practices. Combined emissions from Boilers 1, 2, 3, and 4 shall not exceed 2025.9 tpy. All annual limits must be met on a rolling monthly basis over every consecutive 12-month period. NO<sub>x</sub> emissions from Boilers 1, 2, 3, and 4 combined, shall not exceed 0.62 lb/MMBtu based on a 30-day rolling average. A CEMS shall be operated and maintained to monitor NO<sub>x</sub> emissions from the four boilers. All four boilers shall exhaust into a common stack containing a single CEMS. The CEMS shall comply with 25 PA Code, Chapter 139, and the requirements of the Continuous Source Monitoring Manual.

NO<sub>x</sub> RACT for the combustion turbine shall be the operation and maintenance in accordance with the manufacturer's specifications with an annual limit on NO<sub>x</sub> emissions of 400 tons on a 12-month rolling basis. When burning natural gas in the combustion turbine, the emissions rate shall not exceed 0.499 lb/MMBtu. The heat input shall not exceed  $2.005 \times 10^{12}$  BTU/yr or  $1.944 \times 10^9$  CF/yr., and the annual capacity factor shall not exceed 18.3 percent on a heat input basis. When burning No. 2 oil in the combustion turbine, the emissions rate shall not exceed 0.9 lb/MMBtu. The heat input shall not exceed  $1.091 \times 10^{12}$  BTU/yr or 7,905,000 gal/yr., and the annual capacity factor shall not exceed 9.98 percent on a heat input basis. For each gallon of No. 2 fuel oil used, the natural gas limit in the above statement shall decrease by 246 cubic feet. The turbine shall also be operated and maintained in accordance with the manufacturer's specifications and good air pollution control practices. Compliance with the short-term NO<sub>x</sub> emission limit for the combustion turbine shall be established based on the average of three (3) one-hour stack tests. Prior to testing, the procedure shall be approved by the Department, with at least two weeks notice given of the date and time of the test. By September 30, 2002, stack tests shall have been performed in accordance with the provisions of 25 PA Code, Chapter 139 to show compliance with the short-term NO<sub>x</sub> emission limit. Within 60 days after the test, two copies

of the completed test report, including all operating conditions, shall be submitted to the Department for approval.

Within 30 days after the end of each calendar quarter, quarterly reports shall be submitted to the Department to show compliance with the RACT requirements for Boilers 1, 2, 3, and 4 and the combustion turbine.

NO<sub>x</sub> RACT for the emergency diesel generator shall be the installation, maintenance and operation of the source in accordance with the manufacturer's specifications and good air pollution control practices, in accordance with the presumptive RACT emission limitations as specified under 25 PA Code, Chapter 129, section 129.93(c)(5). The generator shall not exceed an operating schedule of 500 hours in a consecutive 12-month period. Within 30 days of the end of the calendar year, the owner or operator shall submit annual operating reports to show compliance with the RACT requirements for the emergency diesel generator.

VOC RACT for all sources shall be the operation and maintenance in accordance with the manufacturer's specifications and good air pollution control practices. Fugitive evaporative sources of VOCs shall comply with the requirements of 25 PA Code, sections 129.51, 129.54–129.72, 129.81, and 129.82, as applicable.

#### *E. Pennsylvania Power & Light Company-Sunbury SES*

Pennsylvania Power & Light Company's (PP&L) Sunbury Steam Electric Station (SES) is located in the Borough of Shamokin, Snyder County, Pennsylvania. PP&L's Sunbury Power Station is a major NO<sub>x</sub> and VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, PADEP submitted OP–55–0001A to EPA as a SIP revision. This operating permit incorporates RACT determinations for NO<sub>x</sub> and VOC for the following sources at the Sunbury facility: Four (4) arch fired boilers 1A, 1B, 2A, and 2B; two (2) front wall-fired steam generators, Boilers 3 and 4; two (2) combustion turbine generators; and two (2) diesel generators.

Pursuant to the RACT provisions of 25 PA Code, Chapter 129, sections 129.91–95, Units 1A, 1B, 2A, and 2B shall be operated and maintained in accordance with the manufacturer's specifications and good air pollution control practice. The NO<sub>x</sub> emissions from Units 1A, 1B, 2A, and 2B shall not exceed the following limits: NO<sub>x</sub> emissions from Stack #1 (Boilers 1A and

1B) shall not exceed 1.10 lb/MMBtu, based on a 30-day rolling average; NO<sub>x</sub> emissions from Stack #2 (Boilers 2A and 2B) shall not exceed 1.16 lb/MMBtu, based on a 30-day rolling average; NO<sub>x</sub> emissions from Unit #3 shall not exceed .50 lb/MMBtu based on a 30-day rolling average and NO<sub>x</sub> emissions from Unit #4 shall not exceed .50 lb/MMBtu based on a 30-day rolling average. VOC RACT for Units 1A, 1B, 2A, 2B, 3, and 4 shall be in accordance with the manufacturers' specifications and good air pollution control practices.

NO<sub>x</sub> and VOC RACT for the two combustion turbines shall be the operation and maintenance in accordance with the manufacturer's specifications and good air pollution control practices. Additionally, the capacity factor of each of these turbines shall be less than 50 percent for any consecutive 12-month period.

NO<sub>x</sub> and VOC RACT for the two diesel generators at the facility shall be the operation and maintenance in accordance with the manufacturer's specifications and good air pollution control practices. These generators shall be operated less than 500 hours in a consecutive 12-month period. PP&L's Sunbury Station shall maintain records in accordance with the recordkeeping requirements of 25 PA Code, Chapter 129, section 129.95, and shall include, at a minimum, the following: (a) Data which clearly demonstrates the capacity factor of the combustion turbines (which shall include, but not necessarily be limited to, the number of hours each turbine operates in each month), (b) the number of hours per month that each diesel generator is operated, and (c) all NO<sub>x</sub> emissions data generated for Units 1A, 1B, 2A, 2B, 3, and 4, using continuous NO<sub>x</sub> emission monitoring systems as specified in 25 PA Code, Chapter 139. These records shall be retained for at least 2 years and shall be made available to the Department upon request except for the NO<sub>x</sub> emission data generated by the continuous NO<sub>x</sub> emission monitoring systems which shall be submitted in accordance with the applicable requirements specified in 25 PA Code, Chapter 139, "Sampling and Testing", and the Department's "Continuous Source Monitoring Manual."

PP&L's Sunbury Station shall operate and maintain continuous NO<sub>x</sub> emissions monitoring systems on Units 1A, 1B, 2A, 2B, 3, and 4, in accordance with all applicable requirements of 25 PA Code, Chapter 139, "Sampling and Testing," and the Department's "Continuous Source Monitoring Manual."

#### F. Lakeview Landfill

Lakeview Landfill is located in Summit Township, Erie County, Pennsylvania. The Lakeview Landfill is a major VOC emitting facility. In this instance, RACT has been established and imposed by the PADEP in an OP. On July 2, 2003, PADEP submitted OP-25-920 to EPA as a SIP revision. This operating permit incorporates RACT determinations for VOCs for the following source at the Sunbury facility: One (1) enclosed flare.

RACT for the enclosed flare at the Lakeview Landfill facility shall be the installation, maintenance, and operation in accordance with the manufacturer's specifications and with good air pollution control practices. The enclosed flare shall also comply with the destruction/removal efficiency (DRE) of at least 98 percent (by weight) for non-methane organic compounds (NMOC). An inspection and cleaning of the enclosed flare shall be conducted annually. This inspection shall include the fuel nozzles or the flame pattern or characteristics. Adjustments in the combustion process shall be conducted if necessary to minimize the formation of NO<sub>x</sub>. A log shall be kept to record the annual inspection, cleaning (if necessary) and adjustments performed. This log shall contain at a minimum: the date of the maintenance procedure, the name of the technician(s) performing the service, and the operating rate after the procedure has been completed.

Lakeview Landfill shall comply with the recordkeeping requirements of 25 PA Code, section 129.95. Records of fuel quantity and consumption shall be maintained by the facility and forwarded to the Department upon request.

### III. Final Action

EPA is approving these RACT SIP submittals because the Commonwealth established and imposed these RACT requirements in accordance with the criteria set forth in the 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.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. 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 December 15, 2003 without further notice unless EPA receives adverse comment by November 14, 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

You may submit comments either electronically or by mail. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number PA208-4214 in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov) attention: PA208-4214. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically

captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of [Regulations.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to <http://www.regulations.gov>, then select "Environmental Protection Agency" at the top of the page and use the "go" button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in the **ADDRESSES** section of this document. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Written comments should be addressed to the EPA Regional office listed in the **ADDRESSES** section of this document.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### Submittal of CBI Comments

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### Considerations When Preparing Comments to EPA

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### IV. 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 six named sources.

##### 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 December 15, 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 Pennsylvania's source-specific RACT requirements to control VOC and NO<sub>x</sub> from six individual sources may be not 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, Volatile organic compounds.

Dated: September 29, 2003.

**James W. Newsom,**  
*Acting 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)(212) to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(212) Revisions to the Pennsylvania Regulations pertaining to VOC and NO<sub>x</sub> RACT for major sources submitted on July 2, 2003 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of July 2, 2003 by the Pennsylvania Department of Environmental Protection transmitting source-specific NO<sub>x</sub> and VOC RACT determinations.

(B) The following operating permits (OP):

(1) GPU Generation Corp., Homer City Station, Indiana County, 32-000-055, effective October 29, 1998.

(2) GPU Generation Corp., Seward Station, Indiana County, 32-000-040, effective April 30, 1998.

(3) Ebensburg Power Company, Ebensburg Cogeneration Plant, Cambria County, 11-000-318, effective March 28, 2001.

(4) Sithe Pennsylvania Holdings LLC, Warren Station, Warren County, OP-62-012B, effective January 20, 2000.

(5) Pennsylvania Power & Light Company, Sunbury SES, Snyder County, OP-55-0001A, effective July 7, 1997.

(6) Lakeview Landfill, Erie County, OP-25-920, effective May 29, 1997.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(212)(i) of this section.

[FR Doc. 03-25931 Filed 10-14-03; 8:45 am]

BILLING CODE 6560-52-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[SIP No. UT-001-0048, UT-001-0049, FRL-7573-8]

**Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections**

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

**ACTION:** Final rule; technical correction.

**SUMMARY:** When EPA approved Utah State Implementation Plan (SIP) revisions regarding the numbering and format of the SIP on June 25, 2003, we

inadvertently submitted incorrect material for incorporation by reference and incorrectly referenced a SIP section. EPA is correcting these errors with this document.

**EFFECTIVE DATE:** This final rule is effective November 14, 2003.

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

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever “we” or “our” is used it means the EPA.

Section 553 of the Administrative Procedures Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today’s rule final without prior proposal and opportunity for comment because we are merely correcting incorrect text in a previous rulemaking. Thus notice and public procedures are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

**I. Correction**

*Correction to Federal Register Document Published on June 25, 2003 (68 FR 37744)*

On June 25, 2003, we published a final rule approving Utah SIP revisions pertaining to the numbering and format of the SIP (68 FR 37744). When we published this rule, we incorporated by reference changes to Section IX.D.2.h. In the incorporation by reference material for Section IX.D.2.h, we inadvertently incorporated by reference changes to Section IX.D.2.h(2) that should not have been incorporated by reference. The incorporation by reference material submitted with the June 25, 2003 final rule had changes to Section IX.D.2.h(2) that are part of a February 22, 1999 SIP submittal that we have not approved. Therefore, we are correcting this error by resubmitting the incorporation by reference material for 40 CFR 52.2320(c)(56)(i)(C) to the Air and Radiation Docket and Information Center and the Office of the Federal Register. In addition, we are correcting the regulatory text in 40 CFR 52.2320(c)(56)(i)(C) to change the reference to Section IX, Part “IX.D.2.h” to read “IX.D.2.h (except IX.D.2.h(2))”.

**II. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is

not a “significant regulatory action” and is therefore not subject to review by the Office of Management and Budget. This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the agency has made a “good cause” finding that this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104-4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This 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). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental