

effect on the supply, distribution, or use of energy.

Today's rule improves the ability of sources to maintain the reliability of production facilities, and effectively utilize and improve existing capacity.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. No. 104-113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical.

Voluntary consensus standards are technical standards (for example, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

#### *J. Congressional Review Act*

The Congressional Review Act (CRA), 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 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of June 10, 2005. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

#### **V. Statutory Authority**

The statutory authority for this action is provided by sections 101, 111, 114, 116, 301, and 307 of the CAA as amended (42 U.S.C. 7401, 7407, 7411, 7414, 7416, and 7601).

#### **VI. Judicial Review**

Under section 307(b)(1) of the Act, the opportunity to file a petition for judicial review of the October 27, 2003 final rule or the December 24, 2003 final rule has passed. Judicial review of today's final action is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by August 9, 2005. Any such judicial review is limited to only those objections that are raised with reasonable specificity in timely comments. Under section 307(b)(2) of the Act, the requirements that are the subject of the October 27, 2003 and December 24, 2003 final rules and today's final action may not be challenged later in civil or criminal proceedings brought by us to enforce these requirements.

#### **List of Subjects in 40 CFR Parts 51 and 52**

Environmental protection, Administrative practices and procedures, Air pollution control, Intergovernmental Relations, New source review, Prevention of significant deterioration, Routine maintenance, repair and replacement, Equipment replacement.

Dated: June 6, 2005.

**Stephen L. Johnson,**  
*Administrator.*

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**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

**[R03-OAR-2005-PA-0013; FRL-7923-4]**

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

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve revisions to the Commonwealth of Pennsylvania 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 seven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) pursuant to the Commonwealth of Pennsylvania's (Pennsylvania or the Commonwealth) SIP-approved generic RACT regulations. EPA is proposing to approve these revisions in accordance with the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before July 11, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-PA-0013 by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://www.docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

E-mail: [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

Mail: R03-OAR-2005-PA-0013, David Campbell, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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 RME ID No. R03-OAR-2005-PA-0013. 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.docket.epa.gov/rmepub/>, 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 RME, [www.regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [www.regulations.gov](http://www.regulations.gov) Web sites are 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 RME or [www.regulations.gov](http://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 RME index at <http://www.docket.epa.gov/rmepub/>. 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 RME 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 Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Amy Caprio, (215) 814-2156, or by e-mail at [caprio.amy@epa.gov](mailto:caprio.amy@epa.gov).

**SUPPLEMENTARY INFORMATION:** On January 27, 2005, PADEP submitted revisions to the Pennsylvania SIP. These SIP revisions consist of source-specific operating permits and/or plan approvals issued by PADEP to establish and require RACT for 18 sources pursuant to Pennsylvania's SIP-approved generic

RACT regulations. This proposed rulemaking covers the Commonwealth's source-specific RACT determinations for seven of those sources. The remaining RACT determinations submitted by PADEP on January 27, 2005 are or will be the subject of separate rulemakings.

**I. Background**

Pursuant to sections 182(b)(2) and 182(f) of the CAA, 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 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.

State implementation plan revisions imposing RACT for three classes of VOC sources are required under section 182(b)(2). The categories are:

- (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;
- (2) All sources covered by a CTG issued prior to November 15, 1990; and
- (3) All major non-CTG sources.

The Pennsylvania SIP already has approved RACT regulations and requirements for all sources and source categories covered by the CTGs. The Pennsylvania SIP also has approved regulations to require major sources of NO<sub>x</sub> and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. These regulations are commonly termed the "generic RACT regulations". A generic RACT regulation is one that does not, itself, specifically define RACT for a source or

source categories but instead establishes procedures for imposing case-by-case RACT determinations. The Commonwealth's SIP-approved generic RACT regulations consist of the procedures PADEP uses to establish and impose RACT for subject sources of VOC and NO<sub>x</sub>. Pursuant to the SIP-approved generic RACT rules, PADEP imposes RACT on each subject source in an enforceable document, usually a Plan Approval (PA) or Operating Permit (OP). The Commonwealth then submits these PAs and OPs to EPA for approval as source-specific SIP revisions. EPA reviews these SIP revisions to ensure that the Pennsylvania DEP has determined and imposed RACT in accordance with the provisions of the SIP-approved generic RACT rules.

It must be noted that the Commonwealth has adopted and is implementing additional "post RACT requirements" to reduce seasonal NO<sub>x</sub> emissions in the form of a NO<sub>x</sub> cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted 25 Pa Code Chapter 145 to satisfy Phase I of the NO<sub>x</sub> SIP call. That regulation was approved as a SIP revision on August 21, 2001 (66 FR 43795). Federal approval of a source-specific RACT determination for a major source of NO<sub>x</sub> in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

**II. Summary of the SIP Revisions**

The following table identifies the sources and the individual plan approvals (PAs) and operating permits (OPs) which are the subject of this rulemaking.

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

| Source's name                          | County    | Plan approval (PA #) operating permit (OP #) | Source type  | "Major source" pollutant |
|--|-----------|--|--|--------------------------|
| Molded Fiber Glass, Union City         | Erie      | OP 25-035                                    | Spray Booths; Molding Machines                                 | VOC.                     |
| SKF, USA, Incorporated                 | York      | 67-02010A                                    | Dip Tanks; Spray Tanks   | VOC.                     |
| Erie Forge and Steel Incorporated      | Erie      | OP 25-924                                    | Furnaces; Boilers, Preheaters                                  | NO <sub>x</sub> .        |
| OSRAM SYLVANIA Products, Inc           | Tioga     | OP-59-0007                                   | Gas Furnaces; Dryers; Boilers; Hot Water Heaters; Forehearths. | NO <sub>x</sub> .        |
| Owens-Brockway Glass Container         | Jefferson | OP 33-002                                    | Refiners; Boilers; Furnaces; Forehearths                       | NO <sub>x</sub> .        |
| Texas Eastern Transmission Corporation | Indiana   | 32-000-230                                   | Turbines; Generators   | NO <sub>x</sub> .        |
| Johnstown America Corporation          | Cambria   | 11-000-288                                   | Solvent Cleaning; Natural Gas Combustion Sources.              | VOC.                     |

Interested parties are advised that copies of Pennsylvania's SIP submittals for these sources, including the actual

PAs and OPs imposing RACT, PADEP's evaluation memoranda and the sources' RACT proposals (referenced in PADEP's

evaluation memoranda) are included and may be viewed in their entirety in both the electronic and hard copy

versions of the docket for this final rule. As previously stated, all documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Publicly available docket materials are available either electronically in RME 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 Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

EPA is approving these RACT SIP submittals because PADEP established and imposed these RACT requirements in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. In accordance with its SIP-approved generic RACT rule, the Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

### III. Proposed Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on January 27, 2005 to establish and require VOC and NO<sub>x</sub> RACT for seven sources pursuant to the Commonwealth's SIP-approved generic RACT regulations. EPA is soliciting public comments on this proposed rule to approve these source-specific RACT determinations established and imposed by PADEP in accordance with the criteria set forth in its SIP-approved generic RACT regulations applicable to these sources. 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 standard, 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 source-specific RACT determinations established and imposed by the Commonwealth of Pennsylvania pursuant to its SIP-approved generic RACT regulations 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, Volatile organic compounds.

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

Dated: June 3, 2005.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

[FRL-7922-8]

### Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

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

**ACTION:** Immediate final rule.

**SUMMARY:** Louisiana has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Louisiana's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal**