

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Filing of Constructive Removal Complaints by Administrative Law Judges; Reopening of the Comment Period

AGENCY: Merit Systems Protection Board.

ACTION: Proposed rule; reopening of the comment period.

SUMMARY: The Merit Systems Protection Board (MSPB or "the Board") is reopening the comment period for a proposed rule published in the **Federal Register** on August 16, 2005 (70 FR 48081). The proposed rule revised 5 CFR 1201.142 and concerned the filing of constructive removal complaints by administrative law judges. The Board is reopening the comment period because of the widespread disruption caused by hurricanes Rita and Katrina.

DATES: Written comments should be submitted on or before November 25, 2005.

ADDRESSES: Send or deliver comments to the Office of Clerk of the Board, U.S. Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653-7200; fax: (202) 653-7130; or e-mail: mspb@mspb.gov.

FOR FURTHER INFORMATION CONTACT: Bentley Roberts, Clerk of the Board, Merit Systems Protection Board, 1615 M Street, NW., Washington, DC 20419; (202) 653-7200; fax: (202) 653-7130; or e-mail: mspb@mspb.gov.

SUPPLEMENTARY INFORMATION: The Board's original notice of the proposed rule (70 FR 48081) contains the relevant supplementary information.

List of Subjects in Part 1201

Administrative personnel, Actions against administrative law judges,

Actions filed by administrative law judges.

Bentley M. Roberts,
Clerk of the Board.

[FR Doc. 05-21389 Filed 10-25-05; 8:45 am]

BILLING CODE 7400-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R03-OAR-2005-PA-0015; FRL-7988-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Two 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 two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) 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 November 25, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID Number R03-OAR-2005-PA-0015 by one of the following methods:

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

B. Agency Web site: <http://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.

C. E-mail: morris.makeba@epa.gov.

D. Mail: R03-OAR-2005-PA-0015, Makeba Morris, Chief, Air Quality

Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. 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-0015. 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://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, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) websites 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 [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://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, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Pauline De Vose, (215) 814-2186, or by e-mail at *devose.pauline@epa.gov*.

SUPPLEMENTARY INFORMATION: On August 15, 2003, 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 two sources included in Pennsylvania's submittal letter pursuant to Pennsylvania's SIP-approved generic RACT regulations. This proposed rulemaking covers the Commonwealth's source-specific RACT determinations for two of those sources. The remaining RACT determinations submitted by PADEP on August 15, 2003, 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_x 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_x 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_x. 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_x emissions in the form of a NO_x 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_x 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_x 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_x RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source's name	County	Plan approval (PA #) Operating permit (OP #)	Source type	"Major source" pollutant
The International Metals Reclamation Co Petrowax PA Inc.	Lawrence Venango	Op 37-243 PA 61-020	Metals Recovery Facility ... Refinery	VOC. VOC and NO _x .

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://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 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: October 18, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05-21372 Filed 10-25-05; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 00-258; FCC 05-172]

Advanced Wireless Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seek comment on the specific relocation procedures applicable to Broadband Radio Service (BRS) operations in the 2150-2160/62 MHz band, which the Commission recently decided will be relocated to the newly restructured 2495-2690 MHz band. We also seek comment on the specific relocation procedures applicable to Fixed Microwave Service (FS) operations in the 2160-2175 MHz band. We propose to generally follow our relocation policies delineated in our *Emerging Technologies* proceeding and as modified by subsequent decisions.

DATES: Comments must be filed on or before November 25, 2005, and reply comments must be filed on or before December 12, 2005.

ADDRESSES: You may submit comments, identified by [ET Docket No. 00-258], by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Federal Communications Commission's Web site: <http://www.fcc.gov/cgb/ecfs/>. Follow the instructions for submitting comments.
- E-mail: [Optional: Include the E-mail address only if you plan to accept comments from the general public]. Include the docket number(s) in the subject line of the message.
- Mail: [Optional: Include the mailing address for paper, disk or CD-ROM submissions needed/requested by your Bureau or Office. Do not include the Office of the Secretary's mailing address here.]

- People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: FCC504@fcc.gov or phone: 202-418-0530 or TTY: 202-418-0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Priya Shrinivasan, Office of Engineering and Technology, (202) 418-7005.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *NPRM of*

Proposed Rule Making, ET Docket No. 00-258, FCC 05-172, adopted September 23, 2005, and released September 29, 2005. The full text of this document is available on the Commission's Internet site at <http://www.fcc.gov>. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW., Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail FCC@BCPIWEB.COM.

Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://www.fcc.gov/cgb/ecfs/> or the Federal eRulemaking Portal: <http://www.regulations.gov>. Filers should follow the instructions provided on the Web site for submitting comments.

- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to ecfs@fcc.gov, and include the following words in the body of the message, "get form." A sample form and directions will be sent in response.

- Paper Filers: Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or