

(b)(1) Exclusive, co-exclusive or partially exclusive foreign licenses may be granted on a Government owned invention provided that;

(i) Notice of the prospective license, identifying the invention and prospective licensee, has been published in the **Federal Register**, providing opportunity for filing written objections within at least a 15-day period and following consideration of such objections received during the period;

(ii) The agency has considered whether the interests of the Federal Government or United States industry in foreign commerce will be enhanced; and

(iii) The Federal agency has not determined that the grant of such a license will tend substantially to lessen competition or create or maintain a violation of the Federal antitrust laws.

(2) In addition to the provisions of § 404.5, the following terms and conditions apply to foreign exclusive, co-exclusive and partially exclusive licenses:

(i) The license shall be subject to the irrevocable, royalty-free right of the Government of the United States to practice and have practiced the invention on behalf of the United States and on behalf of any foreign government or international organization pursuant to any existing or future treaty or agreement with the United States.

(ii) The license shall be subject to any licenses in force at the time of the grant of the exclusive, co-exclusive or partially exclusive license.

(iii) The license may grant the licensee the right to take any suitable and necessary actions to protect the licensed property, on behalf of the Federal Government.

(c) Federal agencies shall maintain a record of determinations to grant exclusive, co-exclusive or partially exclusive licenses.

#### **§ 404.9 [Removed and reserved]**

■ 8. Section 404.9 is removed and reserved.

■ 9. Section 404.10 is revised to read as follows:

#### **§ 404.10 Modification and termination of licenses.**

Before modifying or terminating a license, other than by mutual agreement, the Federal agency shall furnish the licensee and any sublicensee of record a written notice of intention to modify or terminate the license, and the licensee shall be allowed 30 days after such notice to remedy any breach of the license or show cause why the license shall not be modified or terminated.

■ 10. Section 404.11 is revised to read as follows:

#### **§ 404.11 Appeals.**

(a) In accordance with procedures prescribed by the Federal agency, the following parties may appeal to the agency head or designee any decision or determination concerning the grant, denial, modification, or termination of a license:

(1) A person whose application for a license has been denied;

(2) A licensee whose license has been modified or terminated, in whole or in part; or

(3) A person who timely filed a written objection in response to the notice required by § 404.7(a)(1)(i) or § 404.7(b)(1)(i) and who can demonstrate to the satisfaction of the Federal agency that such person may be damaged by the agency action.

(b) An appeal by a licensee under paragraph (a)(2) of this section may include a hearing, upon the request of the licensee, to address a dispute over any relevant fact. The parties may agree to Alternate Dispute Resolution in lieu of an appeal.

■ 11. Section 404.12 is revised to read as follows:

#### **§ 404.12 Protection and administration of inventions.**

A Federal agency may take any suitable and necessary steps to protect and administer rights to Government owned inventions, either directly or through contract.

■ 12. Section 404.14 is revised to read as follows:

#### **§ 404.14 Confidentiality of information.**

Title 35, United States Code, section 209, requires that any plan submitted pursuant to § 404.8(h) and any report required by § 404.5(b)(6) shall be treated as commercial or financial information obtained from a person and privileged and confidential and not subject to disclosure under section 552 of Title 5 of the United States Code.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[EPA-R03-OAR-2006-0123; FRL-8042-3]

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; RACT Determinations for Thirteen Individual Sources**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania (Pennsylvania). The revisions impose reasonably available control technology (RACT) on thirteen major sources of volatile organic compounds (VOC) or nitrogen oxides (NO<sub>x</sub>) located in the Commonwealth of Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA or the Act).

**DATES:** This final rule is effective on April 7, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0123. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (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 through [www.regulations.gov](http://www.regulations.gov) or in hard copy 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. 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:** Marcia Spink (215) 814-2104 or by e-mail at [spink.marcia@epa.gov](mailto:spink.marcia@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

On April 18, 2000 (65 FR 20788), EPA published a direct final rule approving RACT determinations submitted by the

Pennsylvania Department of Environmental Protection (DEP) for twenty-six major sources of NO<sub>x</sub> and/or volatile organic compounds (VOC) and a companion notice of proposed rulemaking. We received adverse comments on the direct final rule and a request for an extension of the comment period. We had indicated in our April 18, 2000 direct final rulemaking that if we received adverse comments, we would withdraw the direct final rule and address all public comments in a subsequent final rule based on the proposed rule (65 FR 20788). On June 19, 2000 (65 FR 38168), EPA published a withdrawal notice in the **Federal Register** informing the public that the direct final rule did not take effect. On

June 19, 2000 (65 FR 38169), we also published a notice providing an extension of the comment period and making corrections to our original proposed rule.

This rule takes final action approving RACT for thirteen of the twenty-six sources that were included in the April 18, 2000 proposed rulemaking (65 FR 20788). Approvals of RACT for ten of the twenty-six sources have already been the subjects of separate final rulemakings. Elsewhere in today's **Federal Register**, EPA is withdrawing its April 18, 2000 proposed rule with regard to the three remaining sources, namely, Doverspike Brothers Coal Co., Hedstrom Corporation, and the thermal coal dryers at EME Homer City, LP.

These formerly RACT-subject sources have been permanently shut down, and the Pennsylvania DEP has indicated to EPA that no RACT need be approved for them.

## II. Summary of the SIP Revisions

The Pennsylvania DEP submitted NO<sub>x</sub> and/or VOC RACT determinations for thirteen sources located in the Commonwealth of Pennsylvania. The names of those sources, the DEP Plan Approval (PA) or Operating Permit (OP) number for each source, the name of the County in which each source is located, and the pollutant for which RACT has been imposed are provided in the following table.

Name of source	PA or OP No.	County	Pollutant
Cogentrix of Pennsylvania Inc. (Now Village Farms LP)* .....	33-0137, 33-302-014, 33-399-004.	Jefferson .....	NO <sub>x</sub>
Scrubgrass Generating Company, LP* .....	61-0181 .....	Venango .....	NO <sub>x</sub>
Wheelabrator Frackville Energy Co.* .....	54-005 .....	Schuylkill .....	NO <sub>x</sub>
Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility* .....	32-000-200 .....	Indiana .....	NO <sub>x</sub>
Fleetwood Motor Homes .....	49-0011 .....	Northcumberland .....	VOC
Piney Creek, LP* .....	16-0127 .....	Clarion .....	NO <sub>x</sub>
Statoil Energy Power Paxton, LP (Now NRG Energy CTR Paxton LLC) .....	22-02015 .....	Dauphin .....	NO <sub>x</sub>
Harrisburg Steamworks (Now owned by NRG Energy CTR Paxton LLC) .....	22-02005 .....	Dauphin .....	NO <sub>x</sub>
Cove Shoe Company (Now H.H. Brown Shoe Company) .....	07-02028 .....	Blair .....	VOC
PP&L—Fichbach C.T. Facility .....	54-0011 .....	Schuylkill .....	NO <sub>x</sub>
PP&L—Allentown C.T. Facility .....	39-0009 .....	Lehigh .....	NO <sub>x</sub>
PP&L—Harwood C.T. Facility .....	40-0016 .....	Luzerne .....	NO <sub>x</sub>
PP&L—Jenkins C.T. Facility .....	40-0017 .....	Luzerne .....	NO <sub>x</sub>

\* For these large NO<sub>x</sub> sources, the Commonwealth has adopted and implemented 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 Ozone Transport Region. That regulation was approved as a SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted 25 Pa Code Chapter 145 to satisfy 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 these major sources of NO<sub>x</sub> in no way relieves those sources from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On April 18, 2000 (65 FR 20788), EPA proposed to approve RACT SIP revisions for these thirteen sources. Detailed descriptions of the RACT determination for these thirteen sources were provided in EPA's Technical Support Documents (TSDs) prepared in support of its April 18, 2000 rulemaking as well as in the SIP submissions made by DEP, and shall not be restated here. In short, EPA proposed that the DEP had established and imposed RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The DEP has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

## III. Summary of Public Comments Received and EPA's Responses

EPA received comments on its April 18, 2000 proposal to approve Pennsylvania's RACT SIP submittals from Citizens for Pennsylvania's Future (PennFuture) and from a concerned citizen. Those comments and EPA's responses are as follows:

**PennFuture's Comments:** PennFuture comments that EPA should require that each RACT submittal include "effective and enforceable numerical emission limits" as a condition for approval. Additionally, PennFuture requests that EPA only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations. PennFuture contends that such an approach will ensure maximum environmental benefits and minimize the opportunity for sources to

generate spurious emission reduction credits (ERCs) against limits that exceed emission levels actually achieved following the application of RACT. Lastly PennFuture comments that EPA should describe the RACT determinations in its rulemaking notices published in the **Federal Register** rather than simply citing to technical support documents and other materials available in docket of the rulemaking.

**EPA's Responses:** While RACT, as defined for an individual source or source category, often does specify an emission rate, such is not always the case. EPA has issued Control Technique Guidelines (CTGs) which states are to use as guidance in development of their RACT determinations/rules for certain sources or source categories. Not every CTG issued by EPA includes an emission rate. There are several examples of CTGs issued by EPA wherein equipment standards and/or

work practice standards alone are provided as RACT guidance for all or part of the processes covered. Such examples include the CTGs issued for Bulk gasoline plants, Gasoline service stations—Stage I, Petroleum Storage in Fixed-roof tanks, Petroleum refinery processes, Solvent metal cleaning, Pharmaceutical products, External Floating roof tanks and Synthetic Organic Chemical Manufacturing (SOCMI)/polymer manufacturing. (See <http://www.epa.gov/ttn/catc/dir1/ctg.txt>.)

In EPA's proposed conditional limited approval of the Commonwealth's RACT regulations (62 FR 43134, August 12, 1997) and in EPA's final conditional limited approval of those regulations (63 FR 13789, March 23, 1998), EPA addressed the issue of what types of RACT provisions would be acceptable. In the proposed rule EPA noted that while it defines RACT as "the lowest emission limitation that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility," the definition of emission limitation did not necessarily require the establishment of a numerical emission limitation. EPA further noted that "[s]ection 302 of the Act in turn defines 'emission limitation' as a 'requirement \* \* \* which limits the quantity, rate or concentration of air pollutants on a continuous basis, \* \* \*, and any design, equipment, work practice or operational standard promulgated under this chapter.'" Furthermore, in the March 23, 1998 final rule EPA stated that, "it is possible that RACT for certain sources and source categories could consist of requirements that do not specifically include emission limitations, but instead have other limitations."

With regard to the criteria EPA uses to determine whether to approve or disapprove RACT SIP revisions submitted by DEP pursuant to 25 Pa Code Chapter 129.91–129.95, we look to the provisions of those SIP-approved regulations and to the requirements of the Clean Air Act and relevant EPA guidance. As previously stated, on March 23, 1998 (63 FR 13789), EPA granted conditional limited approval of Pennsylvania's generic RACT regulations, 25 PA Code Chapters 121 and 129, thereby approving the definitions, provisions and procedures contained within those regulations under which the Commonwealth would require and impose RACT. Subsection 129.91, *Control of major sources of NO<sub>x</sub> and VOCs*, requires subject facilities to submit a RACT plan proposal to both the Pennsylvania DEP and to EPA

Region III by July 15, 1994 in accordance with subsection 129.92, entitled, *RACT proposal requirements*. Under subsection 129.92, that proposal is to include among other information (1) A list of each subject source at the facility; (2) The size or capacity of each affected source, and the types of fuel combusted, and the types and amounts of materials processed or produced at each source; (3) A physical description of each source and its operating characteristics; (4) Estimates of potential and actual emissions from each affected source with supporting documentation; (5) A RACT analysis which meets the requirements of subsection 129.92(b), including technical and economic support documentation for each affected source; (6) A schedule for implementation as expeditiously as practicable but not later than May 15, 1995; (7) The testing, monitoring, recordkeeping and reporting procedures proposed to demonstrate compliance with RACT; and (8) any additional information requested by the DEP necessary to evaluate the RACT proposal. Under subsection 129.91, the DEP will approve, deny or modify each RACT proposal, and submit each RACT determination to EPA for approval as a SIP revision. The conditional nature of EPA's March 23, 1998 conditional limited approval did not impose any conditions pertaining to the regulation's procedures for the submittal of RACT plans and analyses by subject sources and approval of case-by case RACT determinations by the DEP. Rather, EPA stated that " \* \* \* RACT rules *may not merely be procedural rules* (emphasis added) that require the source and the State to later agree to the appropriate level of control; rather the rules must identify the appropriate level of control for source categories or individual sources."

EPA reviews the case-by-case RACT plan approvals and/or permits submitted as individual SIP revisions by the Commonwealth to verify and determine if they are consistent with the RACT requirements of the Act and any relevant EPA guidance. EPA first reviews a SIP submission to ensure that the source and the Commonwealth followed the SIP-approved generic rule when applying for and imposing RACT, respectively. Then EPA performs a thorough review of the technical and economic analyses conducted by the source and the state. If EPA believes additional information may further support or would undercut the RACT analyses submitted by the state, then we may add additional EPA-generated analyses to the record. Thus, EPA does

not believe it would be appropriate to only approve limits that are no higher than the best emission rate actually achieved after the application of RACT, adjusted only to reflect legally and technically valid averaging times and deviations.

EPA does note that an approved RACT emission limitation alone does not constitute the baseline against which ERCs may be generated. There are many other factors that must be considered in the calculation of eligible ERCs under Pennsylvania's approved SIP regulations governing the creation of ERCs. Moreover, the scenario posed in PennFuture's comment would not create eligible ERC's under the Commonwealth approved SIP regulations. Under the Commonwealth's regulations pertaining to ERCs, found at 25 Pa. Code Chapter 127, sections 127.206 through 127.210 [approved by the EPA at 62 FR 64722 on December 9, 1997], sources cannot obtain ERCs if they find that their RACT controls result in lower emissions than allowed by their specified RACT limits.

EPA believes that Federal rulemaking procedures allow for the format used in April 18, 2000 rulemaking (65 FR 20788). EPA believes that anyone interested in the specific requirements of the individual RACT determinations did have the opportunity to obtain that information, as in the preamble of the April 18, 2000 **Federal Register** notice, EPA offered to send anyone, upon request, a copy of the our TSDs prepared in support of the action. Copies of those TSDs are included in the docket established for this final rule under Docket ID Number at EPA–R03–OAR–2006–0123.

**Additional Comments:** A private citizen submitted comments on the NO<sub>x</sub> RACT determinations made for the PP&L facilities and for Harrisburg Steamworks. With regard to the PP&L facilities, the commenter suggests if the capacity factors upon which the RACT determinations are based are ever exceeded, the RACT determinations should be re-reviewed, and that such a condition should be placed in the RACT permits with appropriate record-keeping and reporting. With regard to Harrisburg Steam, the commenter cites to the fact that EPA's Technical Support Document (TSD) states that the boilers typically operate at a 15% capacity factor, and asserts that if this capacity factor was used to determine RACT, then the permit should either limit the capacity factor of the boilers or require RACT to be re-evaluated when the capacity factor reaches 30% or some other reasonable capacity factor.

**EPA's Responses:** EPA concurs with these comments. Pennsylvania's SIP-

approved generic RACT rules require that sources operate in accordance with the parameters specified in their RACT applications and/or RACT permits including capacity factors. The DEP has imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable parameters of their applications and RACT determinations. Sources seeking variances from the operating parameters specified in their applications and/or RACT permits that could result in emissions increases are subject to re-evaluation to determine whether those emission increases trigger a more stringent RACT determination or the more stringent Pennsylvania SIP requirements for new source review.

#### IV. Final Action

EPA is approving thirteen revisions to the Pennsylvania SIP submitted by DEP to establish and require VOC and/or NO<sub>x</sub> RACT at the thirteen sources indicated herein. EPA is approving these RACT SIP submittals because DEP established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources and EPA has determined they meet the RACT requirements of section 182 of the CAA. The DEP has also imposed recordkeeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

#### 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 requirement, 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 thirteen 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 May 8, 2006. 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 revisions to the Pennsylvania SIP submitted by DEP to establish and require VOC and/or NO<sub>x</sub> RACT for thirteen sources located in the Commonwealth of Pennsylvania 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, Nitrogen dioxide, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 28, 2006.

**William Early,**

*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. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Cogentrix of Pennsylvania Inc.; Scrubgrass Generating Company, LP; Wheelabrator Frackville Energy Co.; Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility; Fleetwood Motor Homes; Piney Creek, LP; Statoil Energy Power Paxton, LP; Harrisburg Steamworks; Cove Shoe Company; PP&L—Fichbach C.T.

Facility; PP&L—Allentown C.T. Facility; PP&L—Jenkins C.T. Facility at the end  
 PP&L—Harwood C.T. Facility; and of the table to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**(1) EPA-APPROVED SOURCE—SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO<sub>x</sub>)**

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * * * *					
Cogentrix of Pennsylvania Inc.	OP-33-0137 .....	Jefferson .....	1/27/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I)
	PA-33-302-014 .....	.....	11/15/90	.....	Except for all ton per year limits and expiration dates in these permits, for Conditions 4, 5, and 6.
	OP-33-302-014 .....	.....	5/31/93	.....	Except for Condition 2.
	PA-33-399-004 .....	.....	10/31/98	.....	Except for Conditions 1, 2, 3, 4b, 4c, 4d, 4e, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, and 16.
	OP-33-399-004 .....	.....	5/31/93	.....	Except for Condition 2.
Scrubgrass Generating Company, LP.	OP-61-0181 .....	Venango .....	4/30/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for Conditions 4, 6, 7, and 9.
Wheelabrator Frackville Energy Co.	OP-54-005 .....	Schuylkill .....	9/18/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the particulate and SO <sub>2</sub> emission limits found in Condition 4, Condition 5, 6, 7, 9, 10, 11, 12 and 13 and the expiration date.
Indiana University of Pennsylvania—S.W. Jack Cogeneration Facility.	OP-32-000-200 .....	Indiana .....	9/24/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date and Conditions 5, 7, 10, 12, 20, 21, and 22.
Fleetwood Motor Homes.	OP-49-0011 .....	Northumberland .....	10/30/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for Conditions 3, 5, 23–31 and the expiration date.
Piney Creek, LP .....	OP-16-0127 .....	Clarion .....	12/18/98	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the ton per year and #/hr limits in Condition 4, Conditions 5 and 9.
Statoil Energy Power Paxton, LP.	OP-22-02015 .....	Dauphin .....	6/30/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date and Conditions 6, 16, 19 and 20.
Harrisburg Steamworks	OP-22-02006 .....	Dauphin .....	3/23/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for Conditions 5, 8, 11, 9, 10, 18, 19, 22, 23, 24 and the expiration date.
Cove Shoe Company ..	OP-07-02028 .....	Blair .....	4/7/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) except for Conditions 5, 10 and the expiration date.
PP&L—Fichbach C.T. Facility.	OP-54-0011 .....	Schuylkill .....	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date.
PP&L—Allentown C.T. Facility.	OP-39-0009 .....	Lehigh .....	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date.
PP&L—Harwood C.T. Facility.	OP-40-0016 .....	Luzerne .....	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date.

(1) EPA-APPROVED SOURCE—SPECIFIC REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT) REQUIREMENTS FOR VOLATILE ORGANIC COMPOUNDS (VOC) AND OXIDES OF NITROGEN (NO<sub>x</sub>)—Continued

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
PP&L—Jenkins C.T. Facility.	OP-40-0017 .....	Luzerne .....	6/1/99	3/8/06 [Insert page number where the document begins].	52.2020(d)(1)(I) Except for the expiration date.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180**

[EPA-HQ-OPP-2005-0510; FRL-7758-2]

**Spinosad; Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of Spinosad in/on the following commodities: Alfalfa seed; alfalfa seed screenings; banana; food commodities; animal feed, nongrass, group 18, forage; animal feed, nongrass, group 18, hay; peanut, hay; vegetable, bulb, group 3, except green onion; onion, green; grass, forage, fodder and hay, group 17, forage; grass, forage, fodder and hay, group 17, hay; grain, cereal, group 16, stover, except rice; grain, cereal, group 16, forage, except rice; grain, cereal, group 16, hay, except rice; grain, cereal, group 16, straw, except rice; peppermint, tops; and spearment tops. The Interregional Research Project Number 4 (IR-4) on behalf of the registrant, Dow AgroScience, LLC requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). In addition, EPA is deleting certain spinosad tolerances that are no longer needed as a result of this action. Also, the term "Food commodities" replaces the commodity name "all commodities in connection with the quarantine eradication programs against exotic, non-indigenous, fruit fly species, where a separate higher tolerance in not already established" as previously listed under §180.495(b).

**DATES:** This regulation is effective March 8, 2006. Objections and requests for hearings must be received on or before May 8, 2006.

**ADDRESSES:** To submit a written objection or hearing request follow the

detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION.** EPA has established a docket for this action under Docket identification (ID) number EPA-HQ-OPP-2005-0510. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. 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 EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 S. Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Sidney Jackson, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-7610, e-mail address: [jackson.sidney@epa.gov](mailto:jackson.sidney@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers;

commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

*B. How Can I Access Electronic Copies of this Document and Other Related Information?*

In addition to using EDOCKET (<http://www.epa.gov/edocket/>), you may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at <http://www.epa.gov/opptsfrs/home/guidelin.htm/>

**II. Background and Statutory Findings**

In the **Federal Register** of July 20, 2005 (70 FR 41730)(FRL-7721-6), EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of several pesticide petitions (PP 3E6699, 3E6780, 3E6782, 3E6802, 3E6804, and 4E6811) by the Interregional Research Project Number 4 (IR-4), 681 U. S. Highway #1 South, North Brunswick, NJ 08902-3390. The petitions requested that 40 CFR 180.495 be amended by establishing a tolerance for residues of the insecticide spinosad, in or on the following raw agricultural commodities (RACs):

PP 3E6699 proposes to establish tolerances for banana and plantain at 0.25 parts per million (ppm).