

control included in the general rule. An EPA approval of this generic provision does not exempt the remaining sources from complying with RACT, but does provide an opportunity for EPA to make a determination that the state has met a non-CTG requirement prior to taking action on all of the individual case-by-case RACT determinations. Parts 214 and 216 both include generic RACT provisions requiring the application of RACT on a case-by-case basis for any item of equipment, process or source where the degree of control has not been specified in the general rule.

#### *B. How Has New York Addressed the Case-by-Case RACT Determinations?*

In a letter dated March 1, 2006, New York provided sufficient data for EPA to evaluate the de-minimis level of NO<sub>x</sub> emissions from generic sources in the State that are subject to Parts 214 and 216. New York also determined that there are no sources located in New York State which are subject to the VOC RACT requirements of Parts 214 and 216 which would need to submit individual case-by-case RACT determinations as single source SIP revisions. Therefore, New York provided de-minimis data for NO<sub>x</sub> sources only.

Given the State's data, EPA determined that 0.50 percent of the NO<sub>x</sub> emissions subject to RACT controls have either not yet been submitted to EPA as single source SIP revisions or, if submitted, have not yet been approved by EPA. This 0.50 percent level includes NO<sub>x</sub> emissions from four facilities for which New York is required to submit single source SIP revisions addressing NO<sub>x</sub> RACT requirements for these facilities. EPA policy indicates that 0.50 percent is below the de-minimis level.<sup>1</sup> EPA has determined that New York's NO<sub>x</sub> RACT regulation conforms to EPA's policy regarding the approval of generic RACT provisions or rules. Therefore, EPA proposes full approval of the generic RACT provisions of Part 214 and 216. Subparts 214.9(b)(5) and 216.5(c)(4) require New York to submit any remaining case-by-case RACT determinations for the NO<sub>x</sub> sources to EPA for approval as single source SIP revisions.

<sup>1</sup> EPA guidance ("Approval Options for Generic RACT Rules Submitted to Meet the non-CTG VOC RACT Requirement and Certain NO<sub>x</sub> RACT Requirements," November 7, 1996) provides that where the non-approved RACT requirements concern sources whose emissions represent less than 5 percent of the 1990 stationary source NO<sub>x</sub> inventory, excluding utility boilers, it may be appropriate to issue a full approval of the generic RACT regulation.

#### **V. Conclusion**

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA is proposing to approve the revisions to Part 214, "By-Product Coke Oven Batteries" and Part 216, "Iron and/or Steel Processes" of New York's regulations as meeting the VOC and NO<sub>x</sub> RACT "catch-up" requirements under sections 182(b)(2) and 182(f) of the Act for non-CTG major sources.

#### **VI. 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 proposed 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 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 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 Act. This proposed 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 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 proposed 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.*).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 24, 2006.

**Alan J. Steinberg,**

*Regional Administrator, Region 2.*

[FR Doc. E6-6618 Filed 5-1-06; 8:45 am]

**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

##### **40 CFR Part 63**

**[EPA-R06-OAR-2005-TX-0034; FRL-8164-5]**

#### **National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to Texas**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Texas Commission on Environmental Quality (TCEQ) has submitted a request for receiving delegation of EPA authority for implementation and enforcement of National Emission Standards for Hazardous Air Pollutants (NESHAPs) for all sources (both part 70 and non-part 70 sources). The requests apply to

certain NESHAPs promulgated by EPA, as adopted by TCEQ on May 25, 2005. The delegation of authority under this action does not apply to sources located in Indian Country. EPA is providing notice that proposes to approve the delegation of certain NESHAPs to TDEQ.

**DATES:** Written comments must be received on or before June 1, 2006.

**ADDRESSES:** Comments may be mailed to Mr. Jeff Robinson, Air Permits Section (6PD-R), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the Addresses section of the direct final rule located in the final rules section of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mr. Jeff Robinson, Air Permits Section, Multimedia Planning and Permitting Division (6PD-R), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, at (214) 665-6435, or at [robinson.jeffrey@epa.gov](mailto:robinson.jeffrey@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, EPA is approving TCEQ's request for delegation of authority to implement and enforce certain NESHAPs for all sources (both part 70 and non-part 70 sources). TCEQ has adopted certain NESHAPs into Texas' state regulations. In addition, EPA is waiving its notification requirements so sources will only need to send notifications and reports to TCEQ.

The EPA is taking direct final action without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the preamble to the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn, and all public comments received will be addressed in a subsequent final rule based on this 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. For additional information, see the direct final rule which is

published in the Rules section of this **Federal Register**.

**Authority:** 42 U.S.C. 7412.

Dated: April 24, 2006.

**Richard E. Greene,**

*Regional Administrator, Region 6.*

[FR Doc. 06-4113 Filed 5-1-06; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 541

[Docket No. NHTSA 2006-24236]

#### Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Publication of preliminary theft data; request for comments.

**SUMMARY:** This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 2004 including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 2004. The preliminary theft data indicate that the vehicle theft rate for CY/MY 2004 vehicles (1.83 thefts per thousand vehicles) decreased by 0.54 percent from the theft rate for CY/MY 2003 vehicles (1.84 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

**DATES:** Comments must be submitted on or before July 3, 2006.

**ADDRESSES:** You may submit comments (identified by DOT Docket No. NHTSA-2006-24236) by any of the following methods:

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, S.W., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov> including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah Mazyck, Office of International Vehicle, Fuel Economy and Consumer Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Mazyck's telephone number is (202) 366-4139. Her fax number is (202) 493-2290.

**SUPPLEMENTARY INFORMATION:** NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 2004 the most recent calendar year for which data are available.

In calculating the 2004 theft rates, NHTSA followed the same procedures it used in calculating the MY 2003 theft rates. (For 2003 theft data calculations, see 69 FR 53354, September 1, 2004). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that