

### D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it 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. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023–01 and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting only 4 hours that will prohibit entry within certain navigable waters during a swim event. It is categorically excluded from further review under paragraph L60(a) in Table 3–1 of U.S. Coast Guard Environmental Planning Implementing Procedures

5090.1. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

### G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

- 1. The authority citation for part 165 continues to read as follows:

**Authority:** 46 U.S.C. 70034, 70051; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

- 2. Add § 165.T05–0719 to read as follows:

#### § 165.T05–0719 Safety Zone; New Jersey Intracoastal Waterway, Atlantic City, NJ.

(a) *Location.* The following area is a safety zone: All navigable waters of the New Jersey Intracoastal Waterway in Atlantic City, NJ, within the polygon bounded by the following: Originating at the southeast portion of the Albany Avenue Bridge where the bridge crosses the shoreline at approximate position latitude 39°21'12" N, longitude 074°27'23" W; thence northeasterly along the shoreline to latitude 39°21'43" N, longitude 074°26'41" W; thence west across the New Jersey Intracoastal Waterway to the shoreline at latitude 39°21'42" N, longitude 074°26'51" W; thence west along the shoreline to latitude 39°21'41" N, longitude 074°26'55" W; thence southwest across the mouth of Beach Thorofare to the shoreline at latitude 39°21'35" N, longitude 074°27'06" W; thence southwest along the shoreline to the northeast portion of the Albany Avenue Bridge where the bridge crosses the shoreline at approximate position latitude 39°21'16" N, longitude 074°27'26" W; thence south along the eastern, outermost edge of the bridge to the point of origin.

(b) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer on board a Coast Guard vessel or on board a federal, state, or local law enforcement vessel assisting the Captain of the Port (COTP), Delaware Bay in the enforcement of the safety zone.

(c) *Regulations.* (1) Under the general safety zone regulations in subpart C of this part, you may not enter the safety zone described in paragraph (a) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To seek permission to enter or remain in the zone, contact the COTP or the COTP's representative via VHF–FM channel 16 or 215–271–4807. Those in the safety zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(3) This section applies to all vessels except those engaged in law enforcement, aids to navigation servicing, and emergency response operations.

(d) *Enforcement.* The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(e) *Enforcement period.* This zone will be enforced from approximately (but no earlier than) 5:30 a.m. to approximately (but not later than) 10:30 a.m. on September 15, 2019.

Dated: September 6, 2019.

**Jonathan D. Theel,**

*Captain, U.S. Coast Guard, Acting Captain of the Port Delaware Bay.*

[FR Doc. 2019–19737 Filed 9–11–19; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R01–OAR–2019–0179; FRL–9999–13–Region 1]

### Air Plan Approval; New Hampshire; Reasonably Available Control Technology Orders

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of New Hampshire. These revisions consist of single source Orders that New Hampshire adopted to meet reasonably

available control technology (RACT) requirements, and requests made by New Hampshire to withdraw from its SIP a number of previously issued RACT Orders. This action is being taken under the Clean Air Act.

**DATES:** This rule is effective on October 15, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2019-0179. All documents in the docket are listed on the <https://www.regulations.gov> website. 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 at <https://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA Region 1 Regional Office, Air and Radiation Division, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Bob McConnell, Environmental Engineer, Air and Radiation Division (Mail Code 05-2), U.S. Environmental Protection Agency, Region 1, 5 Post Office Square, Suite 100, Boston, Massachusetts 02109-3912; (617) 918-1046.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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### I. Background and Purpose

On July 12, 2019 (84 FR 33198), EPA published a Notice of Proposed Rulemaking (NPRM) for the State of New Hampshire. The NPRM proposed approval of the following items into the New Hampshire SIP: A single source NO<sub>x</sub> RACT Order for Schiller Station; a revised single source NO<sub>x</sub> RACT Order for Anheuser Busch; a revised single source VOC RACT Order for Metal Works Incorporated; a revised single source VOC RACT Order for Polyonics, Inc., and; a single source VOC RACT

Order for Complete Coverage Woodpriming, LLC. EPA also proposed to withdraw from the New Hampshire SIP previously approved RACT Orders for the L.W. Packard Company, the Groveton Paperboard Company, the Hampshire Chemical Company, the Waterville Valley Ski Resort, and the Concord Litho Group, Incorporated. We note that although our NPRM mentioned that New Hampshire's September 5, 2018 submittal request included a request to withdraw from the SIP two RACT orders previously issued to the Public Service Company of New Hampshire (PSNH), our NPRM did not propose action on that request. We will take action on the State's request regarding withdrawal of the RACT orders for PSNH in a future rulemaking. Other specific requirements of the State's submittals and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. We received one set of comments on the NPRM, which we have summarized and responded to in section II below.

### II. Response to Comments

We received one comment letter containing three comments on the NPRM. A summary of the comments, and our responses, follows.

*Comment 1: The RACT Order for the Metal Works facility should not be approved because, by definition, RACT is the lowest achievable emission limit capable of being met by application of technological and economical control technology. Purchasing of emission reduction credits is not an emission limit and thus cannot be approved as RACT. EPA has no precedent that allows this and directly goes against settled case law. RACT must be an emission limit, and that limit must be met with technologically and economically feasible control equipment.*

*Response:* Contrary to the commenter's assertion, EPA has long held that compliance with RACT can be achieved via the purchase of emission reduction credits (ERCs), and so does not need to be met exclusively by the establishment of emission limits applicable to all RACT-subject sources. In 1986, EPA issued its Emission Trading Policy Statement (ETPS). *See* 51 FR 43814; December 4, 1986. Subsequently, on April 7, 1994, pursuant to Section 182(g)(4)(B) of the Clean Air Act, EPA promulgated its Economic Incentive Program (EIP) Rules (*see* 59 FR 16690; April 7, 1994), and updated the EIP in 2001.<sup>1</sup> The ETPS and

the EIP rules contain guidelines for the generation and use of ERCs. In New Hampshire's case, although the state has adopted an emission credit trading rule, Env-A 3100, Discrete Emission Reduction Trading Program, we have not approved that rule into the New Hampshire SIP. Therefore, we evaluate the generation and use of ERCs for RACT compliance in New Hampshire on a case by case basis. *See, for example,* our final rule for New Hampshire from November 5, 2012 (77 FR 66391). In this particular case, we agree with New Hampshire's determination that the ERCs to be used by the Metal Works facility meet the key aspects of the ETPS and EIP rules, namely that they are surplus, enforceable, permanent, and quantifiable, and therefore are appropriate for use in trading to meet RACT requirements.

*Comment 2: For Polyonics, EPA is proposing to establish the sale of emission reduction credits as representing RACT, but the sale of emission credits cannot possibly represent the application of technological and economically feasible control technology. The same emission limit that applied before the order was amended should “continue to represent RACT”*

*Response:* The commenter misinterprets our proposed action with regard to the Polyonics facility. The same emission limits within the pre-existing RACT order do continue to apply to the facility. The amendment to the Order just added the capability for the source to generate ERCs.

*Comment 3: For L.W. Packard, Groveton Paperboard, Hampshire Chemical Corp, and Concord Litho Group, EPA states that these facilities “ceased operations” as of various dates in the past. EPA must only allow removal of these orders if the state has fully rescinded their operating permits and the facilities are unable to be reactivated under their current Title V operating permit.*

*Response:* The Hampshire Chemical Corporation closed and surrendered its operating permit in 2004; the L.W. Packard Company and Groveton Paperboard both closed and surrendered their operating permits in 2008. On October 29, 2018, the Concord Litho Group requested that New Hampshire terminate its operating permit because it had ceased printing operations, which had been the subject of its operating permit requirements, and New Hampshire complied with that request. We note that our NPRM incorrectly indicated the facility had closed; other operations at the facility remain in

<sup>1</sup> Improving Air Quality with Economic Incentive Programs; EPA-452/R-01-001; January, 2001.

existence, but due to their minimal emissions do not require issuance of a state operating permit or RACT order from the State.

### III. Final Action

EPA is approving the following RACT orders and RACT order withdrawals as revisions to the New Hampshire SIP: A single source NO<sub>x</sub> RACT Order for Schiller Station; a revised single source NO<sub>x</sub> RACT Order for Anheuser Busch; a revised single source VOC RACT Order for Metal Works Incorporated; a revised single source VOC RACT Order for Polyonics, Inc., and a single source VOC RACT Order for Complete Coverage Woodpriming, LLC. We are also withdrawing from the New Hampshire SIP previously approved RACT Orders for the L.W. Packard Company, the Groveton Paperboard Company, the Hampshire Chemical Company, the Waterville Valley Ski Resort, and the Concord Litho Group, Incorporated.

### IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the following RACT Orders issued by New Hampshire: NO<sub>x</sub> RACT Order RO-003 for Schiller Station; NO<sub>x</sub> RACT Order ARD-05-001 for Anheuser Busch; VOC RACT Order ARD-05-001 for Metal Works Incorporated; VOC RACT Order ARD 07-004 for Polyonics, Inc., and; VOC RACT Order RO-0004 for Complete Coverage Wood Priming, LLC. The EPA has made, and will continue to make, these documents generally available through <https://www.regulations.gov> and at the EPA Region 1 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>2</sup>

### V. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the

provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- 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);

- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and 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). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

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 November 12, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 28, 2019.

**Deborah Szaro,**

*Acting Regional Administrator, EPA Region 1.*

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

### Subpart EE—New Hampshire

■ 2. Section 52.1520(d) is amended by:

<sup>2</sup> 62 FR 27968 (May 22, 1997).

■ a. Removing the entries for “Source specific NO<sub>x</sub> RACT order for Groveton Paperboard Corp., Groveton, NH”; “Source specific NO<sub>x</sub> RACT order for Waterville Valley Ski Area Ltd., Waterville Valley, NH”; “VOC RACT for L.W. Packard and Company, Inc. Ashland, NH”; “Source specific NO<sub>x</sub> RACT order for Hampshire Chemical Corporation, Nashua, NH”; “Concord Litho Group—Permit No. ARD-07-003”; “Metal Works”; “Polyonics”; “Anheuser Busch”; “PSNH, Schiller Station”; and “Concord Litho Group—Permit No. ARD-07-003A”; and b. Adding entries for “Schiller Station”; “Anheuser Busch”; “Metal Works”; “Polyonics”; and “Complete Coverage Woodpriming” in numerical order. The additions read as follows:

**§ 52.1520 Identification of plan.**  
\* \* \* \* \*  
(d) \* \* \*

EPA-APPROVED NEW HAMPSHIRE SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date <sup>2</sup>	Additional explanations/ § 52.1535 citation
Schiller Station .....	NO <sub>x</sub> RACT Order RO-003 .....	9/6/2018	9/12/2019 [Insert <b>Federal Register</b> citation].	Order contains NO <sub>x</sub> emission limits for emission units SR4 and SR6.
Anheuser Busch .....	NO <sub>x</sub> RACT Order ARD-05-001.	1/17/2018	9/12/2019 [Insert <b>Federal Register</b> citation].	Revisions made to testing requirements for two boilers.
Metal Works .....	VOC RACT Order ARD-05-001.	8/16/2018	9/12/2019 [Insert <b>Federal Register</b> citation].	Order allows for compliance via purchase of emission reduction credits.
Polyonics .....	VOC RACT Order ARD07-004.	8/28/2018	9/12/2019 [Insert <b>Federal Register</b> citation].	Order allows facility to generate emission reduction credits.
Complete Coverage Woodpriming.	VOC RACT Order RO-0004	3/14/2019	9/12/2019 [Insert <b>Federal Register</b> citation].	Order provides a VOC content limit for stain blocker used by the facility.

<sup>2</sup>In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

\* \* \* \* \*

**§ 52.1525 [Amended]**

■ 3. In § 52.1525, amend the table by removing the entries with the following State citation chapter: “Order ARD-94-001”; “Order ARD-95-001”; “Order ARD-95-003”; “Order ARD-95-011”; and “Order ARD-00-001”.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 180**

[EPA-HQ-OPP-2018-0514; FRL-9998-98]

**Pyraflufen-ethyl; Pesticide Tolerances**

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for residues of pyraflufen-ethyl in or on multiple commodities which are identified and discussed later in this document. In addition, certain existing tolerances are removed as they are superseded by this action. Interregional Research Project Number 4 (IR-4) requested these tolerances under

the Federal Food, Drug, and Cosmetic Act (FFDCA).

**DATES:** This regulation is effective September 12, 2019. Objections and requests for hearings must be received on or before November 12, 2019 and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2018-0514, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Michael Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: [RDFRNotices@epa.gov](mailto:RDFRNotices@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. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

*B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of EPA’s tolerance regulations at 40 CFR part 180 through the Government Publishing Office’s e-CFR site at <http://www.ecfr.gov/cgi-bin/>