

in the service of the Armed Forces of the United States pursuant to the military order of the President dated July 26, 1941, including organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, if such person at the time of death—

(1) Was a citizen of the United States or an alien lawfully admitted for permanent residence in the United States; and

(2) Resided in the United States.

(Authority: 38 U.S.C. 501, 2402)

[FR Doc. 03-7697 Filed 3-31-03; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA183-4198a; FRL-7465-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_x RACT Determinations for Five Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's 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 five major sources of nitrogen oxides (NO_x) located in Pennsylvania. EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on June 2, 2003, without further notice, unless EPA receives adverse written comment by May 1, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Walter K. Wilkie, Deputy Branch Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available 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; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Betty Harris at (215) 814-2168 or Rose Quinto at (215) 814-2182 or via e-mail at *harris.betty@epa.gov* or *quinto.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major volatile organic compound (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.

II. Summary of the SIP Revision

On December 21, 2001, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for several major sources of VOC and NO_x. This rulemaking pertains to five of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements are included in plan approvals (PA) or operating permits (OP) issued by PADEP.

The following table identifies the individual plan approval or operating permit that EPA is approving for each source.

PENNSYLVANIA—NO_x RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	OP or PA #	Source type	Major source pollutant
Lafarge Corporation	Lehigh	OP-39-0011B	Cement Facility	NO _x .
The Peoples Natural Gas Company	Cambria	OP-11-000-356	Natural Gas Reciprocating Engines	NO _x .
Horsehead Resource Development Company, Inc.	Carbon	OP-13-0001	Recycling Operation	NO _x .
Williams Generation Company	Luzerne	OP-40-0031A	Natural Gas Turbine	NO _x .
Pennsylvania Power and Light Company, Holtwood.	Lancaster	PA-36-2016	Steam Generating Station	NO _x .

A. Lafarge Corporation

Lafarge Corporation owns and operates a cement producing company. This facility is located in Lehigh County, Pennsylvania and is considered a major NO_x emitting facility. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted operating permit No. OP-39-

0011B to EPA as a SIP revision. This permit requires Lafarge Corporation and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. This permit contains firing rate limitations for the boiler of 37.5 gallons per hour of No. 2 oil, and 35.5 gallons per hour of No. 5 oil. The facility shall record the amount

of the oil fired in the boiler in an hourly and yearly basis and submit to PADEP by March 31 of the following year. Based on a 30-day rolling average, the permit contains NO_x emission limits for the operation of the cement kilns without burning tires of 297.7 pounds per hour for Kiln No. 2, and 202.3 pounds per hour for Kiln No. 3. Also based on a 30-day rolling average, the

permit contains NO_x emission limits for the operation of the cement kilns, while burning tires, of 260.5 pounds per hour for Kiln No. 2 and 166.0 pounds per hour for Kiln No. 3. For both Kilns No. 2 and No. 3, the facility shall operate and maintain NO_x continuous emission monitors in conformance with 40 CFR Part 60, 25 Pa. Code Chapter 139 and PADEP's Continuous Source Monitoring Manual (CEM Manual). Monitoring and recording of exhaust gas flow shall be conducted. The facility shall maintain records in accordance with the recordkeeping requirements of 25 Pa. Code Chapter 129.95 and maintain a file containing all records and other data that are required to be collected pursuant to the various provisions of this permit. This file shall include, but is not limited to the following: all air pollution control system performance evaluations and records of calibration checks, adjustments and maintenance performed on all equipment which is subject to this permit. All measurements, records, and other data required to be maintained, shall be retained for at least two years following the date on which such measurements, records or other data are recorded. All continuous emission monitoring (CEM) reports shall be submitted to PADEP within 30 days after each quarter but no later than the time frame established in the PADEP's latest CEM Manual. The facility shall keep a record of fuel usage and operating hours for each generator and maintained for at least two years, and made available to PADEP upon request. The generators shall be maintained and operated in accordance with the manufacturers' specifications.

B. The Peoples Natural Gas Company

The Peoples Natural Gas Company (PNG) is a natural gas utility and is considered a major NO_x emitting facility. PNG owns and operates the Rager Mountain/Laurel Ridge Compressor Station Complex located in Jackson Township, Cambria County, Pennsylvania. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted operating permit No. OP-11-000-356 to EPA as a SIP revision. This permit requires PNG and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. The permit contains NO_x emission limits in pounds per hour per unit for three compressor engines of the facility: (1) Dresser-Clark—49.8, (2) Cooper-Superior—4.2, and (3) Ingersoll-Rand—3.0. The permit also contains operational limits for the three

compressor engines: (1) Dresser-Clark—3 units with combined total hours of 7625, (2) Cooper-Superior—2 units with combined total hours of 7625, and (3) Ingersoll-Rand—2 units with combined total hours of 8784. The permit requires PNG to perform stack testing in accordance with 25 Pa. Code Chapter 139 regulations and PADEP's Source Testing Manual. Two copies of the stack test results shall be supplied to PADEP for review within 60 days of completion of testing.

C. Horsehead Resource Development Company, Inc.

Horsehead Resource Development Company, Inc. (HRD) is a recycling operation located in Palmerton, Carbon County, Pennsylvania and is considered a major NO_x emitting facility. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted operating permit No. OP-13-0001 to EPA as a SIP revision. This permit requires HRD and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. Stack tests shall be performed in accordance with Chapter 139 of the Rules and Regulations of PADEP to show compliance with the NO_x and VOC emission rates of each kiln listed in the permit. The stack tests shall be performed while operating at the maximum rated capacity. Two copies of the complete stack test reports, including all operating conditions, shall be submitted to PADEP.

D. Williams Generation Company, Hazleton

Williams Generation Company—Hazleton is a cogeneration facility located in Luzerne, Pennsylvania and is considered a major NO_x emitting facility. The facility has a natural gas fired turbine with a water injection control. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted operating permit No. OP-40-0031A to EPA as a SIP revision. This permit requires Williams Generation Company and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and maintenance practices. This permit contains NO_x emission limits for the facility's combustion unit (turbine) of 252.4 allowable pounds per hour at any time, established pursuant to the best available control technology provision of 25 Pa. Code 127.83 (40 CFR, 52.1(j)(2)). The permit limits the facility to 252.4 tons per year of NO_x based on

a 12 month rolling average. The facility must cease operation or obtain prior approval under applicable regulations if the facility exceeds this total annual emissions limit. The facility shall not operate more than 2,000 hours per year. This annual limit must be met on a rolling monthly basis over every consecutive 12-month period. The facility shall maintain the following records: (1) Data which clearly demonstrates that the heat input for the turbine never exceeds its rated capacity; (2) data which clearly demonstrates that the turbine never exceeds the operational limit of 2,000 hours per year on a 12-month rolling sum; (3) the records shall provide sufficient data to clearly demonstrate that the requirements of this operating permit are met; and (4) all records shall be maintained for at least two years and shall be made available to PADEP upon request. The permit requires the facility to install and operate a continuous monitoring system to monitor and record the fuel consumption and the water injection rate in the turbine. The permit also requires the facility to maintain a file containing all records and other data that are required to be collected pursuant to the various provisions of this permit and 25 Pa. Code Section 129.95, such that records provide sufficient data and calculations to clearly demonstrate that the requirements of 25 Pa. Code Sections 129.91-4 are met. The file shall include, but is not limited to all air pollution control system performance evaluations and records of calibration checks, adjustments and maintenance performed on all equipment which is subject to this permit. All measurements, records and other data required to be maintained by the facility shall be retained for at least two years following the date on which such measurements, records or data are recorded.

E. Pennsylvania Power & Light Company, Holtwood

Pennsylvania Power & Light Company (PPL), Holtwood is a steam electric station located in Lancaster County, Pennsylvania and is considered a major NO_x emitting facility. In this instance, RACT has been established and imposed by PADEP in a plan approval. On December 21, 2001, PADEP submitted plan approval No. PA-36-2016 to EPA as a SIP revision. PPL is subject to an interim NO_x emission limit of 1.4 lb/Mbtu for Boiler 17 imposed in the plan approval. This interim limit shall be based on hourly continuous emission monitoring data averaged on a 30-day rolling basis. A

final NO_x emission limit will be determined upon evaluation of one year's worth of emissions monitoring data. The final NO_x emission limit will be incorporated into an operating permit. Should the final limit in the operating permit differ from the interim limit established in the plan approval, the interim limit shall remain the applicable Federally enforceable requirement until such time as PADEP submits a SIP revision for this facility. The plan approval contains a limit of 131,000 gallons on the usage of No. 2 fuel oil in Auxiliary Boiler 3 during any consecutive 12-month period. The plan approval also contains a limit of 435 hours on the usage of No. 2 Coal Dryer during any consecutive 12-month period. The facility shall maintain records in accordance with 25 Pa. Code Section 129.95 requirements.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these SIP submittals because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

IV. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania's SIP which establish and require RACT for the five major sources of NO_x listed in this document. EPA is publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This direct final rule will be effective on June 2, 2003, without further notice unless we receive adverse comment by May 1, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the 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.

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 standard, 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 five 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 June 2, 2003. 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 the Commonwealth's source-specific RACT requirements to control NO_x from five individual sources 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.

Dated: March 5, 2003.

Thomas C. Voltaggio,

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. Section 52.2020 is amended by adding paragraph (c)(196) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(196) Revisions pertaining to NO_x RACT for major sources submitted on December 21, 2001.

(i) Incorporation by reference.

(A) Letter submitted on December 21, 2001 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_x RACT determinations, in the form of plan approvals or operating permits.

(B) Plan approval (PA); Operating permit (OP):

(1) Lafarge Corporation, Lehigh County, OP-39-0011B, effective May 19, 1997.

(2) The Peoples Natural Gas Company, Cambria County, OP-11-000-356, effective November 23, 1994.

(3) Horsehead Resource Development Company, Inc., Carbon County, OP-13-0001, effective May 16, 1995.

(4) Williams Generation Company, Hazleton, Luzerne County, OP-40-0031A, effective March 10, 2000.

(5) Pennsylvania Power and Light Company, Holtwood Steam Electric Station, Lancaster County, PA-36-2016, effective May 25, 1995.

(ii) Additional Material.

(A) Letter of October 15, 2002 from the Pennsylvania Department of Environmental Protection to EPA transmitting materials related to the RACT permits listed in paragraph (c)(196)(i) of this section.

(B) Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT

determinations for the sources listed in paragraph (c)(196)(i) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IN214-1a; FRL-7470-7]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On August 8, 2001, the Indiana Department of Environmental Management (IDEM) submitted a request that EPA approve a revision to its shipbuilding and ship repair volatile organic compound (VOC) rules into the Indiana State Implementation Plan. The State submitted additional information on October 1, 2002. This revision changes exemption levels and compliance, recordkeeping and reporting requirements. EPA is approving these revisions because they are enforceable and, in some cases, more stringent than the existing rules.

DATES: This rule is effective on June 2, 2003, unless EPA receives relevant adverse written comments by May 1, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should send written comments to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

You may inspect copies of the State submittal and EPA's analysis of it at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Steven Rosenthal, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052.

SUPPLEMENTARY INFORMATION: Throughout this document wherever "we", "us", or "our" are used we mean EPA. "You" means the reader of this document.

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I. Background

Shipbuilding and ship repair companies in Clark, Floyd, Lake, and Porter counties are required to comply with the VOC requirements in 326 Indiana Administrative Code (IAC) 8-12 and the national emission standards for hazardous air pollutants (NESHAPS) in title 40, part 63, subpart II.

IDEM states, in an October 1, 2002, letter from IDEM to EPA that it has identified one source in Clark County, Jeffboat, that is subject to both the NESHAPS and the VOC rule for shipbuilding and ship repair. In an effort to streamline some of the overlapping requirements between the NESHAPS and the VOC rule, IDEM revised its VOC rule to eliminate certain inconsistent requirements. This letter includes IDEM's interpretation of certain points in its rule as well as a table for use in determining the allowable thinning ratio (that is, the amount of generally 100% VOC solvent that can be added to a coating without it exceeding the allowable VOC content).

II. What Changes Did the State Include in This SIP Revision Request and What Is EPA's Analysis of These Revisions?

Indiana revised several sections in 326 IAC 8-12, its VOC rule for Shipbuilding and Ship Repair coating operations. A description of these revisions and EPA's evaluation of these revisions follows:

A. 326 IAC 8-12-2(1) Exemptions

Indiana increased the exemption level of any coating from 20 to 25 gallons per year, and reduced the total volume of all exempt coatings from 400 to 264 gallons per year. This revision is approvable because the total allowable annual volume of exempt coatings is reduced and the cutoffs are less than those in the NESHAPS.

B. 326 IAC 8-12-4(2) VOC Emission Limiting Requirements

This section has been revised to require that the general use coating emission limit be in effect for the entire year, instead of only May 1 through September 30. This revision is approvable because it extends the applicability of the general use coating limitation, and will limit VOC emissions from October through April.