

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

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 September 11, 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 to approve NSR in the Virginia portion of the Ozone Transport Region 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 6, 2006.

William T. Wisniewski,
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 VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by revising the entries for Chapter 80, Article 9, Sections 5–80–2000 and 5–80–2010 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
* * *				
Chapter 80 Permits for Stationary Sources [Part VIII]				
* * *				
Article 9 Permits for Major Stationary Sources and Modifications—Nonattainment Areas				
5–80–2000	Applicability	9/29/04	7/13/06 [Insert page number where the document begins]	
5–80–2010	Definitions	9/29/04	7/13/06 [Insert page number where the document begins]	
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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[R03–OAR–2005–PA–0007; FRL–8192–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO_x RACT Determination for Koppers Industry, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Koppers Industry, Inc. located in Lycoming County. EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on August 14, 2006.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID Number R03–OAR–2005–PA–0007. All

documents in the docket are listed in the <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 <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:

LaKeshia N. Robertson, (215) 814-2113, or by e-mail at robertson.lakeshia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 30, 2004, the PADEP submitted formal SIP revisions to establish RACT for 15 sources located in Pennsylvania. On March 31, 2005 (70 FR 16423), EPA published a direct final rule (DFR) approving revisions to PADEP issued operating permits (OP) and plan approvals (PA) for these 15 sources. A description of these revisions and EPA's rationale for approving them were provided in the March 31, 2005 rulemaking and will not be restated herein. In accordance with direct final rulemaking procedures, on March 31, 2005 (70 FR 16471), EPA also published a companion notice of proposed rulemaking for these SIP revisions, inviting interested parties to comment on the DFR. On April 29, 2005, EPA received an adverse comment on its approval of the nitrogen oxides (NO_x) RACT determination for Koppers Industry, Inc (OP-41-0008). Due to the receipt of the adverse comment on the Koppers Industry, Inc. RACT determination, EPA published a partial withdrawal of the direct final rule on May 26, 2005 (70 FR 30377). This withdrawal applied to the Koppers facility only.

EPA received no adverse comments on its approval of RACT determination for the remaining 14 sources, and, therefore, EPA's March 31, 2005 DFR approving PADEP's RACT determination for the other 14 sources became effective on May 31, 2005.

II. Final Action

On May 18, 2006, Koppers, Inc. sent an e-mail requesting the withdrawal of the adverse comment submitted on April 29, 2005. EPA is now approving PADEP's RACT determination for Koppers Inc., located in Lycoming County.

III. 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 one named source.

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 September 11, 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, pertaining to RACT for Koppers Industry, Lycoming County may not be challenged later in proceedings to enforce its requirement. (See section 307 (b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: June 26, 2006.

William T. Wisniewski,
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 entry for Koppers Industries, Inc. at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
Koppers Industry, Inc.	OP-41-0008	Lycoming	3/30/99	7/13/06	52.2020(d)(1)(s).

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[Docket # R10-OAR-2005-ID-0001; FRL-8191-6]

Approval and Promulgation of Air Quality Implementation Plan; Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA or Agency) is taking final action to approve the nonattainment and maintenance plan for particulate matter with an aerodynamic diameter less than or equal to ten micrometers (PM-10) for the Portneuf Valley, PM-10 nonattainment area in Idaho. EPA is also granting Idaho's request to redesignate the Portneuf Valley PM-10 nonattainment area to attainment for the National Ambient Air Quality Standards (NAAQS) for PM-10.

DATES: This final rule is effective on August 14, 2006.

ADDRESSES: EPA has established a docket for this action under Docket #, R10-OAR-2005-ID-0001. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information may not be publicly available, e.g. confidential business information 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 <http://www.regulations.gov> or in hard copy at EPA Region 10, Office of Air Waste and Toxics (AWT-107), 1200

Sixth Avenue, Seattle, WA. EPA requests that if possible you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section, to schedule an appointment. Region 10 official business hours are 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Steve Body, Office of Air, Waste and Toxics (AWT-107), EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101; telephone number: (206) 553-0782; fax number: (206) 553-0110; e-mail address: body.steve@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we", "us", or "our" is used, we mean the EPA. Information is organized as follows:

- I. Background Information
 - A. What are we approving in this action?
 - B. What comments did we receive on the proposal to approve the Plan and what are our responses?
 - C. What action are we taking on redesignation?
- II. Summary of Final Action To Approve the State Submittal and Grant the State's Redesignation Request
- III. Statutory and Executive Orders Review

I. Background Information**A. What are we approving in this action?**

Under the authority of the Federal Clean Air Act (Clean Air Act or Act), EPA is taking final action to approve the State's moderate area nonattainment plan and the maintenance plan for the Portneuf Valley PM-10 nonattainment area for the 24 hour and annual PM-10 NAAQS. We are also granting the State's request to redesignate the area from nonattainment to attainment for PM-10.

On June 30, 2004, the Director of the Idaho Department of Environmental Quality (IDEQ) submitted plans to bring the Portneuf Valley PM-10 nonattainment area into attainment, and maintain attainment with the National Ambient Air Quality Standard (NAAQS) for PM-10 for an additional 10 years.

The State also requested redesignation of the area to attainment for PM-10. The attainment plan, the maintenance plan, and the redesignation request are collectively referred to as the "State Submittal."

On May 20, 2005, EPA proposed to approve the nonattainment area plan and the maintenance plan and to grant the redesignation request. See Notice of Proposed Rulemaking 70 FR 29243. As explained in the proposal, the State Submittal satisfies the Clean Air Act nonattainment and maintenance planning requirements, as well as the redesignation requirements. See the proposed action for a full description of the State submission and our evaluation of the Clean Air Act requirements.

B. What comments did we receive on our proposal to approve the "State Submittal"?

We received one comment letter on our proposed action to approve the State Submittal. The commenter, J.R. Simplot Company, requested that the State Submittal be revised to correct and clarify technical data and information related to the J.R. Simplot fertilizer facility (the Don Plant) located near Pocatello, Idaho and the shutdown of the Astaris (FMC) facility, located immediately adjacent to the J.R. Simplot, Don plant. In general the commenter requests that EPA revise the State Submittal before approving it. As explained below, EPA has the authority to review and take appropriate action on a State Implementation Plan (SIP) submitted to it. Revisions, if any, to a SIP submitted to EPA are made by the State, rather than EPA. After revision the State may resubmit the SIP to EPA for approval. Each specific comment and our response is summarized below:

Comment: The commenter requests that the emission inventory in the State Submittal be revised prior to EPA approval so that the plan accurately reflects the emission reductions that have occurred at the Don Plant and at the Astaris (formerly FMC) facility. J.R.