

### *H. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

### *I. Congressional Review Act*

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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective April 23, 2003.

### *J. 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 23, 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 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, Intergovernmental relations, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 19, 2003.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

Part 52, chapter I, title 40 of the Code of Federal Regulations 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 D—Arizona**

2. Section 52.120 is amended by adding paragraph (c)(110) to read as follows:

#### **§ 52.120 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(110) New and amended regulations were submitted on July 15, 1998, by the Governor's designee.

(i) Incorporation by reference.

(A) Arizona Department of Environmental Quality.

(1) Rules R18-2-701, R18-2-710, R18-2-725, R18-2-727, R18-2-801, R18-2-802, R18-2-803, R18-2-804, and R18-2-805, amended on November 15, 1993.

\* \* \* \* \*

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### **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[PA188-4204a; FRL-7465-3]**

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; NO<sub>x</sub> RACT Determinations for PPG Industries, Inc.**

**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 PPG Industries, Inc. (PPG). PPG is a major source of nitrogen oxides (NO<sub>x</sub>) located in Greenwood Township, Crawford County, Pennsylvania. EPA is approving these revisions to establish NO<sub>x</sub> RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on May 23, 2003, without further notice, unless EPA receives adverse written comment by April 23, 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 Makeba Morris, Acting Branch Chief, Air Quality Planning and Information Services Branch, 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, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460; and Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto: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<sub>x</sub> 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 SIP Revision**

On October 30, 2002, PADEP submitted a formal revision to its SIP to establish and impose case-by-case RACT for three major sources of VOC and NO<sub>x</sub>. This rulemaking pertains to one of those sources. The other sources are subject to separate rulemaking actions. The RACT determinations and requirements are included in the operating permit issued by PADEP. PPG is a facility that produces flat glass using float bath technology. PPG is located in Greenwood Township, Crawford

County, Pennsylvania, and is considered a major source of NO<sub>x</sub>. In this instance, RACT has been established and imposed by PADEP in an operating permit. On October 30, 2002, PADEP submitted operating permit No. OP 20-145 to EPA as a SIP revision. This permit contains NO<sub>x</sub> emission limits of 26.75 lbs. NO<sub>x</sub> per ton per furnace of glass produced from two glass melting furnaces that are fueled by natural gas; No. 1 and No. 2. To show compliance with NO<sub>x</sub> RACT emission limits, stack testing of No. 1 and No. 2 glass melting furnaces shall take place on an annual basis, to commence during the period from May 1 through October 31 (first test in 1995). Stack testing shall be performed in accordance with 25 Pa. Code Chapter 139 for NO<sub>x</sub> emission testing of stationary sources. Operating conditions at the time of stack testing of No. 1 and No. 2 glass melting furnaces shall be set as standard operating conditions. If, after three consecutive annual tests, compliance with RACT emission limits is shown in a consistent manner, testing frequency may be altered as determined by PADEP. At least 30 days prior to stack testing, a pretest protocol shall be submitted to PADEP. The protocol shall include sampling port locations, specifications of test methods, procedures and equipment, and additional applicable information regarding planned testing protocol. In addition, at least two weeks prior to the test, PADEP shall be informed of the date and time of testing. Within 60 days after testing, two copies of the complete test report shall be submitted, including a furnace pull rate, oxygen concentrations in the upper regenerator chambers, a comparison of glass produced during the stack test versus the design product mix, and other parameters which may be monitored for NO<sub>x</sub> emission optimization. Low excess air operations of No. 1 and No. 2 glass melting furnaces shall be implemented in accordance with 25 Pa. Code section 129.91. The permit also contains presumptive RACT requirements as defined in 25 Pa. Code section 129.93 and specified units shall be operated in such a manner as not to cause air pollution. The permit specifies: (1) Boilers Nos. 1, 2, and 3 shall comply with section 129.93 (b)(2-5); (2) Boiler No. 4 shall comply with section 129.93(c)(1); (3) Emergency Diesel Generators Nos. 1, and 2, Mill Use Water Emergency Pump, Emergency Fire Water Pump, City Water Emergency Pump, and the Boiler Room Emergency Generator shall comply with section 129(c)(5) and also shall not exceed 500

hours of operation on an annual basis, individually; and (4) Line 2 Lehr shall comply with section 129.93(c)(1).

The permit requires PPG to comply with 25 Pa. Code section 129.95 for recordkeeping requirements.

### III. EPA's Evaluation of the SIP Revisions

EPA is approving this SIP submittal 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 a revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for PPG Industries, Inc. (OP 20-145) located in Crawford County, Pennsylvania. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates 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 rule will be effective on May 23, 2003, without further notice unless EPA receives adverse comment by April 23, 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 PPG Industries, Inc.

*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 23, 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 Pennsylvania's source-specific RACT requirements to control NO<sub>x</sub> emissions from PPG Industries, Inc., in Crawford County, 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)(201) to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(201) Revisions pertaining to NO<sub>x</sub> RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on October 30, 2002.

(i) Incorporation by reference.

(A) Letter of October 30, 2002 from the Pennsylvania Department of Environmental Protection transmitting source-specific NO<sub>x</sub> RACT determinations.

(B) Operating permit (OP) for PPG Industries, Inc., Crawford County, OP 20-145, effective May 31, 1995.

(ii) Additional Material—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(201)(i)(B) of this section.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[CA 275-0378a; FRL-7460-5]**

**Revisions to the California State Implementation Plan, Bay Area Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and San Joaquin Valley Unified Air Pollution Control District**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Bay Area Air Quality Management District (BAAQMD), Sacramento Metropolitan Air Quality Management District (SMAQMD), and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). The BAAQMD revision concerns the emission of volatile organic compounds (VOCs) from the transfer of gasoline to

stationary storage tanks and motor vehicle fuel tanks. The SMAQMD and SJVUAPCD revisions concern the emission of VOCs from the transfer of gasoline to motor vehicle fuel tanks. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on May 23, 2003 without further notice, unless EPA receives adverse comments by April 23, 2003. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

**ADDRESSES:** Mail comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You can inspect a copy of the submitted rules and EPA's technical support documents (TSDs) at our Region IX office during normal business hours. You may also see a copy of the submitted rules and TSDs at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, (Mail Code 6102T), Room B-102, 1301 Constitution Avenue, NW., Washington, DC 20460.  
California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.  
Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.  
Sacramento Metropolitan Air Quality Management District, 8411 Jackson Road, Sacramento, CA 95826.  
San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Street, Fresno, CA 93726.

A copy of a rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. This is not an EPA website and it may not contain the same version of the rule that was submitted to EPA. Readers should verify that the adoption date of the rule listed is the same as the rule submitted to EPA for approval and be aware that the official submittal is only available at the agency addresses listed above.

**FOR FURTHER INFORMATION CONTACT:** Al Petersen, Rulemaking Office (AIR-4), U.S. Environmental Protection Agency, Region IX; (415) 947-4118.

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

**Table of Contents**

- I. The State's Submittal
  - A. What Rules did the State Submit?
  - B. Are There Other Versions of These Rules?
  - C. What Is the Purpose of the Submitted Rules?