

that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that included a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to the publication of the rule of today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 28, 1997.

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, on the Pennsylvania General Conformity Rule, 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.

Dated: September 16, 1997.

W. Michael McCabe,
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. 7401-7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(126) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(126) Revisions to the Pennsylvania State Implementation Plan on June 12, 1997 by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) A letter of June 12, 1997 from the Pennsylvania Department of Environmental Protection transmitting the General Conformity Rule.

(B) 25 Pa. Code Chapter 127, §§ 127.801 and 127.802—General Conformity Rule, effective November 9, 1996.

(ii) Additional material from the Pennsylvania's June 12, 1997 submittal pertaining to 25 Pa. Code Chapter 127.
* * * * *

[FR Doc. 97-25654 Filed 9-26-97; 8:45 am]
BILLING CODE 6560-50-F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-103-21a; FRL-5898-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Approval of a NO_x RACT Determination for Panther Creek Energy Facility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision establishes and requires nitrogen oxides (NO_x) reasonably available control technology (RACT) for Panther Creek Energy Facility located in Carbon County, Pennsylvania. The intended effect of this action is to approve a source-specific operating permit that establishes the above-mentioned RACT requirements in accordance with the Clean Air Act. This action is being taken under section 110 of the Clean Air Act.

DATES: This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to David Campbell, Air, Radiation, and Toxics Division, Mailcode 3AT22, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Kelly L. Bunker, (215) 566-2177, at the EPA Region III office or via e-mail at Bunker.Kelly@epamail.epa.gov. While information may be requested via e-mail, any comments must be submitted in writing to the Region III address.

SUPPLEMENTARY INFORMATION: On September 13, 1996 and January 21, 1997, the Commonwealth of Pennsylvania submitted formal revisions to its State Implementation Plan (SIP). Each source subject to this rulemaking will be identified and discussed below. Any plan approvals and operating permits submitted coincidentally with those being approved in this document, and not identified below, will be addressed in a separate rulemaking action.

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), Pennsylvania is required to implement RACT for all major VOC and NO_x sources by no later than May 31, 1995. 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), which is established by the CAA. The Pennsylvania portion of the Philadelphia ozone nonattainment area consists of Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties and is classified as severe. The remaining counties in Pennsylvania are classified as either moderate or marginal nonattainment areas or are designated attainment for ozone. However, under section 184 of the CAA, at a minimum, moderate ozone nonattainment area requirements (including RACT as specified in sections 182(b)(2) and 182(f)) apply throughout the OTR. Therefore, RACT is applicable statewide in Pennsylvania. The Pennsylvania submittal that is the subject of this document is meant to satisfy the RACT requirements for one source in Pennsylvania.

Summary of SIP Revision

The details of the RACT requirements for the source-specific operating permit can be found in the docket and accompanying technical support document (TSD) and will not be reiterated in this document. Briefly, EPA is approving a revision to the Pennsylvania SIP pertaining to the determination of RACT for one major source. The operating permit contains conditions irrelevant to the determination of NO_x RACT. Consequently, these provisions are not being included in this approval for source-specific NO_x RACT.

RACT Determination

The Panther Creek Energy Facility is a cogeneration utility located in Carbon County. NO_x RACT for the facility is addressed in operating permit # 13-0003. The majority of NO_x emissions at the facility are generated by two circulating fluidized bed (CFB) boilers. The facility is not a major VOC source. NO_x RACT for the two CFB boilers was determined to be continuation of current operating conditions which includes the operation of selective non-catalytic reduction (SNCR) controls. The RACT emission rate for each CFB boiler is never to exceed 0.15 pounds of NO_x/MMBtu and 72.5 pounds/hour, based on an one-hour average. Further information on the RACT requirements for this facility are summarized in the accompanying technical support document, which is available upon further request, from the EPA Region III office listed in the **Addresses** section of this document.

EPA is approving this SIP revision without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective November 28, 1997 unless notice is received on or before October 29, 1997 that adverse or critical comments will be submitted.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on November 28, 1997. If adverse comments are received that do not pertain to all documents subject to this rulemaking action, those documents not affected by the adverse comments will be finalized in the manner described here. Only those documents that receive adverse comments will be withdrawn in the manner described here.

Final Action

EPA is approving one operating permit as NO_x RACT for Panther Creek Energy Facility.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Administrative Requirements**A. Executive Order 12866**

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and

is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. 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 November 28, 1997. Filing a petition for reconsideration by the Regional 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 a NO_x RACT determination for a one individual source in Pennsylvania as a revision to the Commonwealth—SIP 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: September 16, 1997.

W. Michael McCabe,
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. 7401-7671q.

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c) (128) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(128) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to NO_x RACT, submitted on September 13, 1996 and January 21, 1997 by the Pennsylvania Department of Environmental Resources (now known as the Pennsylvania Department of Environmental Protection).

(i) Incorporation by reference.

(A) Two letters submitted by the Pennsylvania Department of Environmental Resources (now, the Pennsylvania Department of Environmental Protection) transmitting source-specific NO_x RACT determinations in the form of an operating permit on the following dates: September 13, 1996 and January 21, 1997.

(B) *Operating permit (OP)*. Panther Creek Energy Facility, Carbon County, OP # 13-0003, effective date of December 2, 1996, except for condition # 7 pertaining to particulate, PM-10, SO₂, CO and VOC emission limits, condition # 10 pertaining to particulate emissions, condition # 11 pertaining to opacity, condition # 12 pertaining to the Standards of Performance for New Stationary Sources and the expiration date.

(ii) Additional material.

(A) Remainder of the Commonwealth of Pennsylvania's September 13, 1996 and January 21, 1997 submittals.

[FR Doc. 97-25755 Filed 9-26-97; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-5898-7]

National Oil and Hazardous Substance Pollution Contingency Plan National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion, Bayou Sorrel superfund site.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the Bayou Sorrel Superfund Site, located in Bayou Sorrel, Iberville Parish, Louisiana, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This action is being taken by EPA and the State of Louisiana because it has been determined that all appropriate response actions have been implemented and remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: September 29, 1997.

ADDRESSES: Comprehensive information on the Site is available through the public docket which is available for viewing at the Bayou Sorrel Superfund Site information repositories at the following locations: U.S. EPA Region 6 Library (12th Floor), 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-6424 / 665-6427; Louisiana Department of Environmental Quality, 7290 Bluebonnet Road, Baton Rouge, Louisiana 70809, (504) 765-0487; Police Jury of Iberville Parish, 510 Meriam, Plaquemine, LA 70765, (504) 687-5190; Iberville Parish Library, 1501 J. Gerald Berret Blvd., Plaquemine, LA 70765, (504) 687-2520.

FOR FURTHER INFORMATION CONTACT: Stephen L. Tzhone, Remedial Project Manager (6SF-LP), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, (214) 665-8409.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: Bayou Sorrel Superfund Site, Bayou Sorrel, Iberville Parish, Louisiana. A Notice of Intent to Delete for this site was published on June 4, 1997 (62 FR 30554). The closing date for comments on the Notice of Intent to Delete was July 3, 1997. EPA received comments during and after the public comment period. All accepted comments, including those received after the comment period, and the responses by EPA have been included in the Responsiveness Summary (Appendix 1).

EPA identifies sites that appear to present significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those