

Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or risk to safety that may disproportionately affect children.

Environment

The U. S. Coast Guard considered the environmental impact of this action and concluded that, under figure 2-1, paragraph (34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165—[AMENDED]

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, 160.5; 49 CFR 1.46.

2. From August 1, 2001, to November 15, 2001, new § 165.T14-054 is temporarily added to read as follows:

§ 165.T14-054 Safety Zone: Japanese Fisheries High School Training Vessel EHIME MARU Relocation and Crew Member Recovery, Pacific Ocean, South Shores of the Island of Oahu, Hawaii.

(a) *Location.* The following areas are safety zones:

(1) At the current location of the Japanese Fisheries High School Training Vessel EHIME MARU, all waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°-04.8'N, 157°-49.5'W.

(2) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while en route between the current location at 21°-04.8'N, 157°-49.5'W to

the shallow water recovery site at 21°-17.5'N, 157°-56.4'W.

(3) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius of the recovery vessels while en route between the shallow water work site at 21°-17.5'N, 157°-56.4'W to the deep water relocation site at 21°-05.0'N, 157°-07.0'W.

(4) All waters from the surface of the ocean to the bottom within a 1 nautical mile radius centered at 21°-05.0'N, 157°-07.0'W, except those waters extending beyond the territorial seas.

(b) *Designated representative.* A designated representative of the U. S. Coast Guard Captain of the Port is any U. S. Coast Guard commissioned, warrant, or petty officer that has been authorized by the U. S. Coast Guard Captain of the Port, Honolulu, to act on his behalf. The following officers have or will be designated by the Captain of the Port Honolulu: The senior U. S. Coast Guard boarding officer on each vessel enforcing the safety zone.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into these zones is prohibited unless authorized by the U. S. Coast Guard Captain of the Port or his designated representatives. The Captain of the Port Honolulu will grant general permissions to enter the zones via Broadcast Notice to Mariners.

(d) *Effective dates.* This section is effective from 4 p.m. August 1, 2001, until the operation ends at 4 p.m. November 15, 2001. The public will be notified of the enforcement status of the various zones by Broadcast Notice to Mariners.

Dated: July 31, 2001.

G. J. Kanazawa,

Captain, U.S. Coast Guard, Captain of the Port Honolulu.

[FR Doc. 01-20038 Filed 8-8-01; 8:45 am]

BILLING CODE 4910-15-U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4122a; FRL-7027-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for the Allegheny Ludlum Corporation's Brackenridge Facility in the Pittsburgh-Beaver Valley Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for the Allegheny Ludlum Corporation's Brackenridge facility, a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_x) located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). 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 September 24, 2001 without further notice, unless EPA receives adverse written comment by September 10, 2001. 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 David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mail code 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: Michael Ioff at (215) 814-2166, the EPA Region III address above or by e-mail at ioff.mike@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

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

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are: (1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all other major non-CTG rules were due by November 15, 1992. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

On February 4, 1994, the Pennsylvania Department of Environmental Protection (PADEP) submitted a revision to its SIP to require major sources of NO_x and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_x RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_x is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_x comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_x sources. For other major NO_x sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the

Commonwealth's generic VOC and NO_x RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrates that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_x RACT regulations by submitting 485 case-by-case VOC/NO_x RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_x RACT regulations on a statewide basis. The regulation currently retains its limited approval status. Once EPA has approved the case-by-case RACT determinations submitted by PADEP to satisfy the conditional approval for subject sources located in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington, and Westmoreland Counties; the limited approval of Pennsylvania's generic VOC and NO_x RACT regulations shall convert to a full approval for the Pittsburgh area.

On July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and imposes RACT for several sources of NO_x and VOCs. This rulemaking pertains only to the RACT determination made for the Allegheny Ludlum Corporation's Brackenridge facility, a major source of VOC and NO_x located in the Pittsburgh area. The RACT determinations submitted on July 1, 1997 for other sources are or have been the subject of separate rulemakings. The submittal for the Allegheny Ludlum Corporation's Brackenridge facility consists of Plan Approval Order and Agreement upon Consent (CO) No. 260 in which RACT has been established and imposed by the Allegheny County Health Department (ACHD). The PADEP submitted CO No. 260 on behalf of the ACHD as a SIP revision.

II. Summary of the SIP Revision

Allegheny Ludlum Corporation's Brackenridge facility is located in

Allegheny County, Pennsylvania. The facility produces stainless steel and silicon strip steel from basic raw materials and metallic scrap. The facility consists of two basic oxygen furnaces (BOF), four electric arc furnaces (EAF), three electric induction furnaces (EIF), an argon-oxygen decarburization (AOD) vessel, twenty-seven soaking pits and a large number of various metallurgical furnaces and related equipment. The facility's potential NO_x and VOC emissions were 1,613 tons per year and 1,371 tons per year, respectively. The ACHD specified RACT requirements for the facility in CO No. 260 with the effective date of December 19, 1996. Most of the NO_x and VOC emitting installations and processes at this source are subject to specific SIP-approved, presumptive RACT requirements. Other installations and processes are subject to the generic provisions of Pennsylvania's RACT regulation. The NO_x and VOC emitting installations/processes and the RACT determinations are described below.

A. Descriptions of the NO_x Emitting Installations and Processes

The NO_x emitting sources at the facility are comprised largely of BOFs, EAFs, and AOD vessel, soaking pits, and a large number of various natural gas fired heaters and preheating/heating/reheating and annealing furnaces with rated heat inputs values ranging from less than 20 MMBTU/hr to no more than 50 MMBTU/hr with the exception of the three larger units: the Salem and Rust Reheat furnaces and the Hot Band Normalizing furnace with a rated heat input higher than 50 MMBTU/hr. Additional NO_x emitting sources at the facility are certain pieces of the equipment at the annealing and pickling (A&P) lines Nos. 1, 2 and 3, and two gas fired boilers with a maximum heat input rate of 34 MMBTU/hr each.

(1) The BOFs are barrel-shaped furnaces lined with refractories. The maximum production rate is 140 tons of steel per hour, combined. The furnaces are used to refine a charge of hot metal and metallic scrap by high-purity oxygen blown onto the bath at supersonic velocity through the oxygen lance. Various fluxes and alloying materials are added during the refining process to produce molten steel of the required purity and chemical composition.

(2) The EAFs are refractory-lined furnaces are used to melt and partially refine a metal charge consisting of scrap materials, fluxes, and various alloying elements with maximum production rates ranging from 15 to 26 tons of steel per hour. The sufficient heating is

generated inside the furnace by electrical current flowing between the three graphite electrodes and through the metallic charge. The EAFs largely transfer the generation of NO_x emissions from the steelmaking facility to an electric generating unit at a utility plant where those emissions are controlled.

(3) The AOD vessel is a refractory-lined furnace used in the ladle-metallurgical argon-oxygen decarburization process to refine stainless steel outside the EAF. During the oxygen-argon blowing, fluxes and ferro silicon are added to the furnace. Immediately after the decarburization blow, molten steel is argon-stirred to achieve the desired chemical and temperature homogenization of the material.

(4) The soaking pits and heating/reheating furnaces are used to bring ingots and semi-finished steel products to a uniform temperature in order to make them suitable for hot working. Annealing furnaces are used to refine the steel grain structure, to relieve stresses induced by hot or cold working, and to alter the mechanical properties of steel in order to improve its machinability. Heat treatment of stainless and silicon steels is conducted at a slow rate and relatively low temperatures to minimize thermal stresses and to avoid distortion and cracking.

B. Description of the VOC Emitting Installations and Processes

The major VOC emitting sources at the facility are comprised of two BOFs, four EAFs, AOD, scrap preheaters, various hot and cold rolling mills, and sources of fugitive VOC emissions associated with parts cleaners and miscellaneous paints.

C. Description of the Controls Imposed for NO_x and VOCs

(1) *BOFs and VOD vessel:* The sources generate only modest NO_x emissions as a result of combustion of the waste off-gases consisting chiefly of carbon monoxide. Modest VOC emissions are produced during charging of the BOF when the vessel is occasionally charged with scrap contaminated with oily residues. According to EPA publication "Alternative Control Techniques Document—NO_x Emissions from Iron and Steel Mills" (EPA-453/R-94-065), there are no technically and/or economically feasible control options currently available to control NO_x and VOC emissions from such sources, largely due to substantial fluctuations in the off-gas flow and temperatures. However, due to specific conditions at

the Brackenridge facility (the presence of a wet scrubber) some post-process controls could be technically feasible. Accordingly, a case-by-case RACT analysis was performed for the sources. The control options reviewed in the analysis included, but were not limited to, selective catalytic reduction (SCR), selective non-catalytic reduction (SNCR) and flue gas recirculation (FGR) for NO_x emissions and thermal oxidation, absorption, carbon adsorption, catalytic oxidation, inertial separation and condensation for VOC emissions. The ACHD concluded that the only technically and economically feasible option to impose as RACT for both NO_x and VOCs is that this equipment operate and be maintained in accordance with manufacturer's specifications and good engineering and pollution control practices.

(2) *EAFs:* As noted above, the EAF largely transfers the generation of NO_x emissions from the steelmaking facility to an electric generating unit and thus does not represent a source of substantial NO_x emissions. Modest VOC emissions are produced during charging of the EAF when the furnace is occasionally charged with stainless steel scrap contaminated with oily residues. There are no known cases where NO_x or VOC controls have been retrofitted on existing EAFs. Nevertheless, a case-by-case RACT analysis for the source was performed to review various options such as SCR, NSCR, and FGR to control NO_x emissions and thermal oxidation, absorption, carbon adsorption, and catalytic oxidation to control VOC emissions. The ACHD concluded that only technically and economically feasible option to impose as RACT for both NO_x and VOCs is that this equipment operate and be maintained in accordance with manufacturer's specifications and good engineering and pollution control practices.

(3) *EIFs:* These installations do not emit NO_x or VOCs.

(4) *Salem and Rust Reheat Furnaces:* Various NO_x control options such as SCR, SNCR, FGR, Low NO_x burners (LNB), and Low Excess Air (LEA) were considered for the furnaces. The ACHD has examined whether or not those options were technologically feasible and economically viable control methods. The ACHD determined that LEA is the only option both technically and economically feasible. Therefore, ACHD imposed LEA as NO_x RACT for these emission units. The ACHD limited NO_x emissions from each of these furnaces to 0.15 lbs/MMBTU and to 175 tpy and 60 tpy for the Salem and Rust furnaces, respectively. Various VOC control options such as thermal

oxidation, absorption, carbon absorption, catalytic oxidation, thermal separation and condensation were considered for the furnaces. The ACHD has examined whether or not these options were technologically and economically feasible control methods. The ACHD determined that none of these control options are technologically or economically reasonable for these furnaces. The ACHD concluded that a requirement to operate and maintain these installations in accordance with manufacturer's specifications and good engineering and pollution control practices constitutes RACT.

(5) *Hot Band Normalizing Furnace:* The ACHD considered whether or not the NO_x and VOC control options analyzed for the Salem and Rust Reheat furnaces were technologically feasible and economically viable control methods for this furnace. The ACHD concluded that a requirement to operate and maintain these installations in accordance with manufacturer's specifications and good engineering and pollution control practices constitutes RACT.

(6) *Boilers NO. 1 and 2:* The ACHD has determined that based upon the gross heat input rate of 34 MMBTU/hr, the units are subject to the presumptive SIP-approved NO_x RACT requirements.

(7) *Miscellaneous Painting/Coating Activities:* The ACHD has concluded that utilization of the compliant paints/coatings with a maximum VOC content not to exceed specified limits combined with a requirement to maintain all pertinent records will constitute RACT requirements for those activities.

III. EPA's Evaluation of Pennsylvania's SIP Revisions

EPA is approving Pennsylvania's SIP submittal for the Allegheny Ludlum Corporation's Brackenridge facility because CO No. 260 establishes and imposes RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations and also imposes record-keeping, monitoring, and testing requirements sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the SIP revision submitted by PADEP on behalf of ACHD to establish and require VOC and NO_x RACT for the Allegheny Ludlum Corporation's Brackenridge facility. 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 September 24, 2001 without further notice unless EPA receives adverse comment by September 10, 2001. 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.

V. Administrative Requirements

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." See 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 (Public Law 104-4). This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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 October 9, 2001. 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 VOC and NOx from the Allegheny Ludlum Corporation's Brackenridge facility 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, Nitrogen Oxides, Ozone, Reporting and recordkeeping requirements.

Dated: August 1, 2001.
Thomas C. Voltaggio,
Deputy 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)(159) to read as follows:

§ 52.2020 Identification of plan.

* * * * *
 (c) * * *

(159) Revision pertaining to VOC and NOx RACT for the Allegheny Ludlum Corporation, Brackenridge facility, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997.

(i) Incorporation by reference.

(A) Letter submitted on July 1, 1997 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NOx RACT determinations.

(B) Consent Order No. 260, effective December 19, 1996, for the Allegheny Ludlum Corporation, Brackenridge facility, except for conditions 1.8 and 2.5.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determination for the source listed in (i)(B), above.

[FR Doc. 01-20041 Filed 8-8-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4123a; FRL-7027-6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Two Individual Sources in the Pittsburgh-Beaver Valley Area

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 two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). 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 September 24, 2001 without further notice, unless EPA receives adverse written comment by September 10, 2001. 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 David L. Arnold, 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; Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 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:

Janice Lewis at (215) 814-2185 or Betty Harris at (215) 814-2168, the EPA Region III address above or by e-mail at lewis.janice@epa.gov or harris.betty@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

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

State implementation plan revisions imposing reasonably available control technology (RACT) for three classes of VOC sources are required under section 182(b)(2). The categories are:

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and (3) all major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_x and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994

submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_x RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy) or more, and a major source of NO_x is defined as one having the potential to emit 100 tpy or more. Pennsylvania's RACT regulations require sources, in the Pittsburgh area, that have the potential to emit 50 tpy or more of VOC and sources which have the potential to emit 100 tpy or more of NO_x comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO_x sources. For other major NO_x sources, and all major non-CTG VOC sources (not otherwise already subject to RACT under the Pennsylvania SIP), the regulations contain a "generic" RACT provision. A generic RACT regulation is one that does not, itself, specifically define RACT for a source or source categories but instead allows for case-by-case RACT determinations. The generic provisions of Pennsylvania's regulations allow for PADEP to make case-by-case RACT determinations that are then to be submitted to EPA as revisions to the Pennsylvania SIP.

On March 23, 1998 EPA granted conditional limited approval to the Commonwealth's generic VOC and NO_x RACT regulations (63 FR 13789). In that action, EPA stated that the conditions of its approval would be satisfied once the Commonwealth either (1) certifies that it has submitted case-by-case RACT proposals for all sources subject to the RACT requirements currently known to PADEP; or (2) demonstrate that the emissions from any remaining subject sources represent a de minimis level of emissions as defined in the March 23, 1998 rulemaking. On April 22, 1999, PADEP made the required submittal to EPA certifying that it had met the terms and conditions imposed by EPA in its March 23, 1998 conditional limited approval of its VOC and NO_x RACT regulations by submitting 485 case-by-case VOC/NO_x RACT determinations as SIP revisions and making the demonstration described as condition 2, above. EPA determined that Pennsylvania's April 22, 1999 submittal satisfied the conditions imposed in its conditional limited approval published on March 23, 1998. On May 3, 2001 (66 FR 22123), EPA published a rulemaking action removing the conditional status of its approval of the Commonwealth's generic VOC and NO_x RACT regulations on a statewide basis. The regulation currently retains its limited approval