Authority: 42 U.S.C. 7401 *et seq.*

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(162) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(c)(162) Revisions pertaining to VOC RACT for IDL, Incorporated; Oakmont Pharmaceutical, Inc.; and USAir, Inc. located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997.

(i) Incorporation by reference.

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

(B) Plan Approval and Agreement Upon Consent Orders (COs) for the following sources:

(*1*) IDL, Incorporated, CO 225, effective July 18, 1996, except for condition 2.5.

(*2*) Oakmont Pharmaceutical, Inc., CO 252, effective December 19, 1996, except for condition 2.5.

(*3*) U.S. Air, Inc., CO 255, effective January 14, 1997, except for condition 2.5.

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

[FR Doc. 01–20239 Filed 8–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA–4130a; FRL–7030–6]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Four 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 four 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: Rose Quinto at (215) 814–2182, the EPA Region III address above or by e-mail at *quinto.rose@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 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.

It must be noted that the Commonwealth has adopted and is implementing additional ''post RACT requirements'' to reduce seasonal NO_X emissions in the form of a NO_X cap and trade regulation, 25 Pa Code Chapters 121 and 123, based upon a model rule developed by the States in the OTR. That rule's compliance date is May 1999. That regulation was approved as SIP revision on June 6, 2000 (65 FR 35842). Pennsylvania has also adopted regulations to satisfy Phase I of the NO_X SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO_X SIP Call Phase I consists of the adoption of Chapter 145—Interstate Pollution Transport Reduction and amendments to Chapter 123—Standards for Contaminants. On May 29, 2001 (66 FR 29064), EPA proposed approval of the Commonwealth's NO_X SIP call rule SIP submittal. EPA expects to publish the final rulemaking in the **Federal Register** in the near future. Federal approval of a case-by-case RACT determination for a major source of NO_X in no way relieves that source from any applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

On July 1, 1997 and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_X. This rulemaking pertains to four of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approval and agreement upon consent orders (Consent Orders or COs) and enforcement order (EO) issued by the Allegheny County Health Department (ACHD). These four sources are located in the Pittsburgh area.

II. Summary of the SIP Revisions

A. Ashland Chemical Corporation

Ashland Chemical Corporation (Ashland) is a synthetic organic chemical manufacturing facility located in Pittsburgh, Allegheny County, Pennsylvania. Ashland is a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by ACHD in CO 227. On July 1, 1997, PADEP submitted CO 227 to EPA on behalf of the ACHD as a SIP revision. Under CO 227, Ashland must operate and maintain all VOC and NO_X emission units according to good engineering and air pollution control practices. Ashland must not at any time, with the exception of activities to mitigate emergency conditions, operate the maleic anhydride refinery still while generating VOC emissions unless all such VOC emissions are exhausted to the existing secondary condenser system on the still vacuum system vent or to, at a minimum, an equivalent control device. The maleic anhydride refinery still vacuum system vent secondary condenser system must at all times be properly operated and maintained, with the exception of activities to mitigate emergency conditions. Coolant must be cycled through the facility's coolant system which will be properly operated and maintained at ambient conditions. At no time will coolant inlet temperature be required to be less than 50 degrees Fahrenheit. CO 227 requires that the NO_X emissions from the main boiler not exceed 0.16 lbs/MMBTU and 79 tons per year (tpy). CO 227 also requires Ashland to conduct NO_X emissions testing every two years in accordance with EPA approved test methods and section 2108.02 of Article XXI of the County's air pollution control regulations. The maximum annual operation of the backup boiler must be limited to 500 hours/year. If the backup boiler exceeds 500 hours in any 12 month period, an annual adjustment or tuneup on the combustion process must be conducted to include, at a minimum: (a) Inspection, adjustment, cleaning, or replacement of fuel-burning equipment; (b) inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_X; and (c) inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation. Ashland must keep records of the tuneup that includes, but not limited to the following: (a) The date of the adjustment procedure; (b) the name of the service company and technicians or Ashland personnel; (c) the final operating rate or load after adjustment; (d) the final NO_X emission rates after adjustment; and (e) the final excess oxygen rate after adjustment. CO 227 requires Ashland to maintain records of fuel type and usage for the equipment of the following: (1) Main boiler; (2) backup boiler when operation exceeds 500 hours in any twelve month period; (3) polyester resin plant hot oil heater and thermal oxidizer; and (4) maleic anhydride plant thermal oxidizer. Records must include certifications from fuel suppliers for all types of liquid fuel. For each shipment of distillate oils number 1 or 2, a certification that the fuel complies with ASTM D396–78, ''Standards Specifications for Fuel Oils'' is required. For residual oils, minimum record keeping includes a certification of the nitrogen content of the fuel, and identification of the sampling method and sampling protocol. CO 227 requires Ashland to properly operate and maintain the polyester resin plant oxidizer at all times while processing VOC emissions, with the exception of activities to mitigate emergency conditions, according to the following operating parameters: (1) A minimum destruction efficiency of 95 percent; (2) a minimum operating temperature of 1400 degrees Fahrenheit; and (3) a minimum residence time of one-half seconds at all times. The subject thermal oxidizer shall be equipped with instrumentation that will continuously monitor and record the oxidizer operating temperature. Ashland is also required to conduct emission testing every five years in accordance with EPA approved test methods and section 2107.04 of Article XXI. CO 227 requires Ashland to properly operate and

maintain the maleic anhydride oxidizer at all times while processing VOC emissions, with the exception of activities to mitigate emergency conditions, according to the following operating parameters: (1) A minimum destruction efficiency of 98 percent; (2) a minimum operating temperature of 1442 degrees Fahrenheit, plus or minus 25 degrees Fahrenheit; and (3) a minimum residence time of one-half seconds at all times. The subject thermal oxidizer shall be equipped with instrumentation that will continuously monitor and record the oxidizer operating temperature. Under CO 277, Ashland must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. All records shall be retained for at least two years. Ashland is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145.

B. Hercules Incorporated—NO_X RACT

Hercules Incorporated (Hercules) is a synthetic hydrocarbon resin production facility located in West Elizabeth, Allegheny County, Pennsylvania. Hercules is a major NO_X emitting facility. In this instance, NO_X RACT has been established and imposed by ACHD in EO 216. On July 1, 1997, PADEP submitted EO 216 to EPA on behalf of the ACHD as a SIP revision. Hercules produces synthetic hydrocarbon resins in various batch and finishing processes which require heat at various stages in the processes. Under EO 216, the boilers at Hercules must not be allowed to operate, unless an annual adjustment or tuneup is performed on the combustion process. Such annual adjustment, or tuneup must include, but not limited to: (1) Inspection, adjustment, cleaning, or replacement of fuel-burning equipment, including the burners and moving parts necessary for proper operation as specified by the manufacturer; (2) inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_X; and (3) inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation as specified by the manufacturer. Under EO 216, Hercules shall not allow any time process operations at the facility unless the following records, at a minimum, are contained in Hercules' operating record for boilers 1–5: (1) The date of the adjustment procedure; (2) the name of the service company and technicians; (3) the operating rate or load after adjustment; (4) NO_X emission rate after adjustment; and (e) the excess oxygen rate after adjustment. EO 216 does not allow equipment to operate unless they are being maintained and operated with good engineering practice and within the manufacturer's specifications. Under EO 216, Hercules must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. EO 216 requires Hercules to maintain records of fuel type and usage for each combustion unit including certifications from fuel suppliers for all types of liquid fuel. For each shipment of distillate oils number 1 or 2, a certification that the fuel complies with ASTM D396–78, ''Standards Specifications for Fuel Oils'' is required. For residual oils, minimum record keeping includes a certification from the fuel supplier from the nitrogen content of the fuel, and identification of the sampling method and sampling protocol. For fuels which are by-products of Hercules' processes, the record keeping shall include the nitrogen content of the fuel, as analyzed according to section 2107.01 of Article XXI. All records shall be retained for at least two years. Hercules is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145.

C. Hercules Incorporated—VOC RACT

As stated above, Hercules Incorporated (Hercules) is a synthetic hydrocarbon resin production facility located in West Elizabeth, Allegheny County, Pennsylvania. Hercules is also a major VOC emitting facility. In this instance, VOC RACT has been established and imposed by ACHD in CO 257. On July 1, 1997 and April 19, 2001, PADEP submitted this CO 257 to EPA on behalf of the ACHD as a SIP revision. The facility produces a variety of resins from resin oils, monomers, solvents and catalysts. Under CO 257, Hercules must at no time operate the following process equipment while generating VOC emissions unless all non-fugitive emissions are processed through cooling tower water cooled condensers: (1) V–8 polymerization unit; (2) water-white polymerization unit, (3) MP polymerization unit; (4) suspension polymerization unit; (5) pilot plant; (6) no. 3 LTC finishing unit; (7) C–5 polymerization unit; (8) Numbers 1 and 2 LTC finishing unit, and (9) C-polymerization unit. Such condensers shall be properly maintained and operated at all times while treating VOC emissions from the equipment, with the exception of activities to mitigate emergency conditions, with a coolant inlet temperature no greater than 10 degrees Fahrenheit above ambient air temperature, except that at no time will the coolant temperature be required to be less than 50 degrees Fahrenheit. Under CO 257, Hercules must at no time operate the following process equipment while generating VOC emissions unless all non-fugitive emissions are processed through refrigerated condensers. Such condensers shall be properly maintained and operated at all times while treating VOC emissions, with the exception of activities to mitigate emergency conditions, with coolant inlet temperatures of no greater than ten (10) degrees Centigrade for the MP polymerization unit process equipment and zero (0)degrees Fahrenheit for the C–5 polymerization unit process equipment. Under CO 257, Hercules must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Record keeping requirements must include production records and condenser coolant temperatures. All records shall be retained for at least two years. CO 257 requires Hercules to properly maintain and operate all existing process equipment and VOC control equipment at all times while such equipment is emitting VOCs, with the exception of activities to mitigate emergency situations, according to good engineering and air pollution control practices.

D. Neville Chemical Company

Neville Chemical Company (Neville) is a synthetic hydrocarbon resin production facility located in Allegheny County, Pennsylvania. Neville is a major VOC and NO_X emitting facility. In this instance, RACT has been established and imposed by ACHD in CO 230. On July 1, 1997, PADEP submitted this CO 230 to EPA on behalf of the ACHD as a SIP revision. CO 230 requires all existing VOC and NO_X emission units and control equipment be properly operated and maintained according to good engineering practices at all times, with the exception of activities to mitigate emergency conditions. Under CO 230, Neville must at no time operate the C–5 process while generating VOC emissions unless all such emissions are processed through refrigerated condensers. Such condensers shall be properly maintained and operated at all times while treating VOC emissions, with the exception of activities to mitigate emergency conditions, with an average monthly coolant inlet temperature no greater than 60 degrees Fahrenheit. Neville must at no time operate the following process equipment while generating VOC emissions unless all such emissions are processed through water-cooled

condensers. Such condensers shall be properly maintained and operated at all times while treating VOC emissions, with the exception of activities to mitigate emergency conditions, with an average monthly coolant inlet temperature no greater than 90 degrees Fahrenheit: (1) Resin rework tanks; and (2) screen cleaning unit. CO 230 requires the continuous polymerization unit No. 2 not to operate while generating VOC emissions, unless such emissions are treated by water cooled and refrigerated condensers, with the exception of activities to mitigate emergency conditions. The water cooled and refrigerated condensers shall be properly operated and maintained with average monthly coolant inlet temperatures not exceeding 90 degrees Fahrenheit and 60 degrees Fahrenheit, respectively. The packaging centers No. 2, 3 and 5 shall be properly maintained and operated at all times, with the exception of activities to mitigate emergency conditions. Proper operation shall include the use of covers on all kettles after the initial kettle charging and during process operations. CO 230 requires Neville to perform an annual adjustment or tune-up on boilers No. 4, 6, and 7 once every 12 months (annual tune-up). Such annual tune-up shall include: (1) Inspection, adjustment, cleaning, or replacement of fuel-burning equipment, including the burners and moving parts necessary for proper operation; (2) inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO_X; and (3) inspection of the air-to-fuel ratio control system and adjustments necessary to ensure proper calibration and operation. Neville shall maintain the following records of the annual tune-up for the subject equipment: (1) The date of the annual tune-up; (2) the name of the service company and/or individuals performing the annual tune-up; (3) the operating rate or load after the annual tune-up; (4) NO_X emission rate after the annual tune-up; and (5) the excess oxygen rate after the annual tune-up. CO 230 requires Neville to maintain records of fuel type and usage for each combustion unit including certifications from fuel suppliers for all types of liquid fuel. For each shipment of distillate oils number 1 or 2, a certification that the fuel complies with ASTM D396–78, ''Standards Specifications for Fuel Oils'' is required. For residual oils, minimum record keeping includes a certification from the fuel supplier of the nitrogen content of the fuel, and identification of the sampling method and sampling protocol. For fuels that are co-products of the facility's processes, minimum record keeping shall include the nitrogen content of the fuel and identification of the sampling method and protocol. CO 230 requires Neville to maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. All records shall be retained for at least two years. CO 230 requires Neville to conduct a Leak Detection and Repair (LDAR) program at the facility at all times when facility operation may result in fugitive emissions of VOCs. Neville is also subject to additional post-RACT requirements to reduce NO_X found at 25 PA Code Chapters 121, 123 and 145.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these RACT SIP submittals because ACHD established and imposed these RACT requirements in accordance with the criteria set forth in the SIP-approved RACT regulations applicable to these sources. The ACHD has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with the applicable RACT determinations.

IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on behalf of ACHD to establish and require VOC and NO_X RACT for four major sources located in the Pittsburgh area. 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. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

IV. 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 four named sources.

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 24, 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 NO_X from four individual sources in Pennsylvania 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 record keeping requirements.

Dated: August 3, 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)(166) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(166) Revisions pertaining to VOC and NO_X RACT for Ashland Chemical Company; Hercules, Incorporated; and Neville Chemical Company located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on July 1, 1997 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated July 1, 1997 and April 19, 2001, submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_X RACT determinations.

(B) Plan Approval and Agreement Upon Consent Orders (COs) and an Enforcement Order (EO) for the following sources:

(*1*) Ashland Chemical Company, CO 227, effective December 30, 1996, except for condition 2.5.

(*2*) Hercules, Incorporated, EO 216, effective March 8, 1996.

(*3*) Hercules, Incorporated, CO 257, except for condition 2.5, effective January 14, 1997, including amendments to CO 257, effective November 1, 1999.

(*4*) Neville Chemical Company, CO 230, effective December 13, 1996, except for condition 2.5.

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

[FR Doc. 01–20241 Filed 8–9–01; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7026–1]

New Mexico: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: The State of New Mexico has applied for Final authorization of its revisions to its Hazardous Waste Program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these revisions satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's revisions through this immediate final action. The EPA is publishing this rule to authorize the revisions without a prior proposal because we believe this action is not controversial and do not expect adverse comments. Unless we get adverse comments which oppose this authorization during the comment period, the decision to authorize the New Mexico Environment Department's (NMED) revisions to their hazardous waste program will take effect. If adverse comments are received, we will publish a document in the **Federal Register** either: A withdrawal of the immediate Final decision and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes, or a document containing a response to comments and which either affirms that the immediate Final decision takes effect or reverses the decision.

DATES: This immediate final rule is effective on October 9, 2001 unless EPA receives adverse written comments by September 10, 2001. Should EPA receive such comments, it will publish a timely document either: Withdrawing the immediate final publication or affirming the publication and responding to comments.

ADDRESSES: Written comments, referring to Docket Number NM–00–1, should be sent to Alima Patterson, Region 6 Regional Authorization Coordinator, Grants and Authorization Section (6PD–