

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 five 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 October 5, 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<sub>x</sub> from five 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 recordkeeping requirements.

Dated: August 10, 2001.

**Judith Katz,**

*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)(173) to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(173) Revisions pertaining to VOC and NO<sub>x</sub> RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on January

10, 1996, July 24, 1998, April 9, 1999, February 2, 2001 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated January 10, 1996, July 24, 1998, April 9, 1999, February 2, 2001 and April 19, 2001 submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO<sub>x</sub> RACT determinations.

(B) Plan Approvals (PAs) and Operating Permits (OPs) for the following sources:

(1) Equitrans, Inc., OP 63-000-642, effective July 10, 1995, except for the Permit Term.

(2) Witco Corporation, Petrolia Facility, PA 10-037, effective June 27, 1995.

(3) Ranbar Electrical Materials, Inc., OP 65-000-042, effective February 22, 1999, except for the Permit Term and conditions 11, 12, 13 and 14.

(4) Nova Chemicals, Inc., OP 04-000-033 (Permit No. 04-0033), effective as reissued January 24, 2001, except for the Permit Term and conditions 8, 9, and 10.

(5) BASF Corporation, OP 04-000-306, effective March 23, 2001.

(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 paragraph (c)(173)(i)(B) of this section.

[FR Doc. 01-21030 Filed 8-20-01; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[PA-4143a; FRL-7038-4]**

#### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eight 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 eight major sources of volatile organic compounds (VOC) and nitrogen oxides

(NO<sub>x</sub>). 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 October 5, 2001 without further notice, unless EPA receives adverse written comment by September 20, 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; the 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](mailto:lewis.janice@epa.gov) or [harris.betty@epa.gov](mailto: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<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.

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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> comply with RACT by May 31, 1995. The regulations contain technology-based or operational "presumptive RACT emission limitations" for certain major NO<sub>x</sub> sources. For other major NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> RACT regulations by submitting 485 case-by-case VOC/NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> emissions in the form of a NO<sub>x</sub> 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<sub>x</sub> SIP call and submitted those regulations to EPA for SIP approval. Pennsylvania's SIP revision to address the requirements of the NO<sub>x</sub> 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<sub>x</sub> 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<sub>x</sub> in no way relieves that source from any

applicable requirements found in 25 PA Code Chapters 121, 123 and 145.

**II. Summary of the SIP Revisions**

On December 8, 1995, July 1, 1997, and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO<sub>x</sub>. This

rulemaking pertains to eight of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of operating permits, enforcement orders and consent orders which impose VOC and/or NO<sub>x</sub> RACT requirements for each source. These eight sources are all located in the

Pittsburgh area. The table below identifies the sources and the individual operating permits (OP), enforcement orders (EO), and consent orders (CO) which are the subject of this rulemaking. A summary of the VOC and NO<sub>x</sub> RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO<sub>x</sub> RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	PA #, OP #, or EO #	Source type	"Major source" pollutant
Ashland Petroleum Company .....	Allegheny .....	CO 256	Refinery .....	VOC
BP Exploration & Oil, Inc .....	Westmoreland .....	OP 65-0378	Refinery .....	VOC
Gulf Oil, L. P .....	Allegheny .....	CO 250	Refinery .....	VOC
Penreco .....	Butler .....	OP 10-027	Refinery .....	NO <sub>x</sub> /VOC
Bellefield Boiler Plant .....	Allegheny .....	EO 248	Cogen .....	NO <sub>x</sub>
PA Dept. of Corrections .....	Allegheny .....	EO 244	Cogen .....	NO <sub>x</sub>
Pittsburgh Allegheny County Thermal .....	Allegheny .....	CO 265	Cogen .....	NO <sub>x</sub>
Pittsburgh Thermal Limited Partnership .....	Allegheny .....	CO 220	Cogen .....	NO <sub>x</sub>

**A. Ashland Petroleum Company**

Ashland Petroleum Company (Ashland) is a petroleum storage, blending and distribution facility located in Floreffe, Pennsylvania. Ashland is a major source of VOC. On December 19, 1996, the Allegheny County Health Department (ACHD) issued a Plan Approval and Agreement Upon Consent Order (CO 256) to establish and impose RACT on Ashland. The PADEP submitted CO 256, on behalf of the ACHD, to EPA as a SIP revision. Under CO 256, Ashland must not exceed 50 tons of VOC per year. This limit must be met on a rolling monthly basis over every consecutive 12 month period. Under CO 256, Ashland must maintain all records and testing data to demonstrate compliance with Section 2108.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements shall include the following: type of VOC-containing products stored; and an annual throughput of VOC-containing products processed and/or distributed. All records shall be maintained for at least two years. Under CO 256, Ashland must operate and maintain all equipment according to good engineering and air pollution control practices.

**B. BP Exploration & Oil, Inc.**

BP Exploration & Oil, Inc. (BP) is a petroleum terminal station located in Hempfield, Pennsylvania. BP is a major source of VOC. On March 23, 2001, PADEP issued an operating permit (OP-65-000-378) to establish and impose RACT on BP. Under OP 65-000-378, RACT is the use of a Vapor Recovery

Unit. The VOC emissions from the Vapor Recovery Unit must not exceed a rate of 60 mg/L. In addition, OP 65-000-378 requires the facility not to exceed 48.14 tons per year (tpy) of VOC on a 12-month rolling basis. BP must record and report the Vapor Recovery Unit's throughput of gasoline and kerosene, the VOC emissions from each source including the emission factors and their origin used to calculate the VOCs. BP must properly operate and maintain all equipment according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

**C. Gulf Oil, L.P.**

Gulf Oil, L.P. (Gulf) is a petroleum storage and distribution facility located in Neville, Pennsylvania. Gulf is a major source of VOC. On December 19, 1996, ACHD issued a Plan Approval and Agreement Upon Consent Order (CO 250) to establish and impose RACT on Gulf. The PADEP submitted CO 250, on behalf of the ACHD, to EPA as a SIP revision. Under CO 250, Gulf shall not, at any time, store VOC with vapor pressures greater than 1.5 psia, in any storage tank with a volume greater than 40,000 gallons, unless the storage tank is equipped with a floating roof to control VOC emissions. Under CO 250, the total VOC emissions from marine vessel loading must not exceed 21 tons per year on a rolling monthly basis over every consecutive 12-month period. Under CO 250, Gulf must maintain all records to demonstrate compliance, provide sufficient data and all required calculations with the requirements of Section 2105.06 of Article XXI of the ACHD's air pollution control

regulations. Record keeping requirements shall include the following: type and annual throughput of VOCs stored and distributed at the facility. All records shall be maintained for at least two years. Under CO 250, Gulf must operate and maintain all process equipment according to good engineering and air pollution control practices.

**D. Penreco**

Penreco is a refinery facility located in Karns City, Pennsylvania. Penreco is a major source of NO<sub>x</sub> and VOCs. Penreco has three boilers, five furnaces, two flare units, two retort units and presumptive VOC sources. On May 31, 1995, PADEP issued an operating permit (OP-10-027) to establish and impose RACT on Penreco. The OP 10-027 requires RACT for boilers #1, #5 and #6 to be an annual tune-up and testing. The NO<sub>x</sub> limits must not exceed the following:

Source	NO <sub>x</sub> lbs/MMBTU
Boiler #1 .....	0.1 (natural gas) and 0.14 (oil).
Boiler #5 .....	0.605.
Boiler #6 .....	0.59.

The boilers must be tested annually by the portable analyzer. Stack testing may be required in accordance with EPA reference methods, pending the submission of the results from the portable analyzer. Under OP 10-027, the annual capacity factor for the flares shall not exceed 5% (33 MMBtu/hr for the hydrotreater flare and 15 MMBtu/hr for the kerosene/naphtha flare). Under the OP 10-027, all sources subject to

SIP-approved presumptive RACT (five furnaces, two flare units, two retort units and presumptive VOC sources) at Penreco must be installed, maintained, and operated in accordance with manufacturers specifications. Under OP 10-027, Penreco shall comply with the record keeping requirements of 25 PA Code section 129.95. Penreco must properly operate and maintain all processes according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

*E. Bellefield Boiler Plant*

Bellefield Boiler Plant (Bellefield) is a steam generation facility located in Pittsburgh, Pennsylvania. Bellefield is a major source of NO<sub>x</sub>. On December 19, 1996, the ACHD issued an EO (EO 248) to establish and impose RACT on Bellefield. The PADEP submitted EO 248, on behalf of the ACHD, to EPA as a SIP revision. There are seven boilers located at the Bellefield facility. The EO 248 requires that the NO<sub>x</sub> emissions from the seven boilers not exceed the following:

Boiler No.	NO <sub>x</sub> lbs/mMBtu	TPY
Boiler #1 .....	0.92	376
Boiler #2 .....	0.47	258
Boiler #3 .....	0.63	242
Boiler #4 .....	0.47	241
Boiler #5 .....	0.59	261
Boiler #6 .....	0.28	191
Boiler #7 .....	0.20	65

Under EO 248, Bellefield must not allow the annual average heat input for the natural gas burner in boiler #3 to exceed 64MMBtu/hr or 560,640 MMBtu/yr based on a natural gas heat content of 1,028 Btu/ft<sup>3</sup>. Under EO 248, Bellefield must determine compliance for this condition by maintaining records of natural gas use for the burner. Under EO 248, Bellefield is required to perform emission testing on boilers 1-6 every five years in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Compliance with the above referenced lbs/MMBtu standards for the six boilers must be determined by an average of three one-hour stack tests. Under EO 248, boiler #7 must not operate unless a NO<sub>x</sub> continuous emission monitoring (CEM) system is in place all times. Boiler #7 must properly operate and maintain the CEM according to 40 CFR, part 60, Db. Under EO 248, Bellefield must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Annual limits must

be met on a rolling monthly basis over every consecutive 12 month period. Record keeping requirements must include the following: type and amount of fuel usage per boiler, (tons/day and or MMSCF/day); steam load per boiler, (lbs/day); and operating hours per boiler, (hours/day and days/year). Under EO 248, Bellefield must maintain all records, inspections calibrations and /or replacement of fuel-burning equipment (e.g. replacement of burners, adjustments of flame patterns and/or air-to-fuel ratios). Under EO 248, Bellefield must operate and maintain all equipment according to good engineering and air pollution control practices.

*F. PA Dept. of Corrections*

Pennsylvania Department of Corrections (DOC) is a state correctional institution located in Pittsburgh, Pennsylvania. DOC is a major source of NO<sub>x</sub>. On January 23, 1997, the ACHD issued an EO (EO 244) to establish and impose RACT on DOC. The PADEP submitted EO 244, on behalf of the ACHD, to EPA as a SIP revision. There are three boilers located at the DOC facility. Under EO 244, boilers #1, #2 and #3 must not operate unless an annual adjustment and/or tuneup is performed on the combustion process. The annual adjustment and/or tuneup must include, but not be limited to: inspection, adjustment, cleaning or replacement of fuel-burning equipment, including burners and moving parts necessary for the proper operation as specified by the manufacturer; inspection of the flame pattern or characteristics and adjustments necessary to minimize total emissions of NO<sub>x</sub>; and 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 244, the operating records must contain the following: the date of the adjustment procedure; the name of the service company and technicians; the operating rate or load after adjustment; the NO<sub>x</sub> emission rate after adjustment; and the excess oxygen rate after adjustment. Under EO 244, DOC must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following: fuel type and usage for each combustion unit. Under EO 244, DOC must operate and maintain all equipment according to good engineering and air pollution control practices.

*G. Pittsburgh Allegheny County Thermal, Ltd.*

Pittsburgh Allegheny County Thermal, Ltd. (PACT) is a steam generation facility located in Pittsburgh, Pennsylvania. PACT is a major source of NO<sub>x</sub>. On November 9, 1998, the ACHD issued a Plan Approval and an Agreement Upon Consent Order (CO 265) to establish and impose RACT on PACT. The PADEP submitted CO 265, on behalf of the ACHD, to EPA as a SIP revision. There are four boilers located at the PACT facility. Under CO 265, NO<sub>x</sub> emissions must not exceed the following:

Boiler No.	NO <sub>x</sub> lbs/mMBtu	TPY
Boiler #1 .....	0.22	126.5
Boiler #2 .....	0.22	126.5
Boiler #3 .....	0.22	126.5
Boiler #4 .....	0.22	126.5

The annual limits must be met on a rolling monthly basis over every consecutive 12 months. Under EO 265, PACT is restricted to the use of natural gas or No. 2 fuel oil. Under CO 265, PACT must perform NO<sub>x</sub> emission testing on boilers every two years to demonstrate compliance in accordance with EPA-approved test methods. Under CO 265, PACT must maintain all records and testing data to demonstrate compliance with Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following: production data on a daily basis for each boiler; total fuel consumption and type consumed; amount of fuel usage, (MMBtu/day and/or gallons/day); steam load, (Mlbs/day); and total operating hours, (hours/day) and (hours/year). All records shall be maintained for at least two years. Under CO 265, PACT shall not operate boilers unless all process equipment and O<sub>2</sub> trim equipment are properly operated and maintained according to good engineering practices. Under CO 265, PACT must operate and maintain all equipment according to good engineering and air pollution control practices.

*H. Pittsburgh Thermal Limited Partnership*

Pittsburgh Thermal Limited Partnership (PTLP) is a steam generation facility located in Pittsburgh, Pennsylvania. PTLP is a major source of NO<sub>x</sub>. On March 4, 1996, the ACHD issued CO 220 to establish and impose RACT on PTLP. The PADEP submitted CO 220, on behalf of the ACHD, to EPA as a SIP revision. There are three boilers located at the PTLP facility. Under CO

220, NO<sub>x</sub> emissions must not exceed the following:

Unit No.	NO <sub>x</sub> lbs/ mMBtu	TPY
Boiler #1 .....	0.145	54.2
Boiler #2 .....	0.145	54.2
Boiler #3 .....	0.145	77.3

Under CO 220, PTLP shall not operate boilers unless all process equipment and O<sub>2</sub> trim equipment are properly operated and maintained according to good engineering practices. Fuel usage for boilers shall be natural gas only with the exception of emergency conditions and/or natural gas curtailment. Under CO 220, PTLP must perform NO<sub>x</sub> emission testing on boiler #3 every two years to demonstrate compliance. Testing must be conducted in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Under CO 220, PTLP must maintain all records and testing data to demonstrate compliance with applicable EPA approved test methods and Section 2105.06 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements must include the following, but not be limited to:

(1) Production data on a daily basis for each boiler including fuel consumption and type consumed, amount of fuel usage (MMBtu/day and/or gallon(s)/day), steam load (Mlbs/day), and (d) total operating hours, (hours/day) and (hours/year); and (2) All operation, maintenance, inspection, calibration and/or replacement of fuel burning equipment (i.e. replacement of burner(s), adjustment of flame pattern and/or air-to-fuel ratio, etc). All records shall be retained for at least two years. Under CO 220, PTLP must operate and maintain all equipment according to good engineering and air pollution control practices.

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

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

### IV. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or

NO<sub>x</sub> RACT for eight major of 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 October 5, 2001 without further notice unless EPA receives adverse comment by September 20, 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.

### 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 eight 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 October 5, 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 or NO<sub>x</sub> from eight individual sources in the Pittsburgh-Beaver Valley area of 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 10, 2001.

**Judith Katz,**

*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)(177) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(177) Revisions pertaining to Chapter 129 for VOC and NO<sub>x</sub> RACT for sources located in the Pittsburgh-Beaver Valley

nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on December 8, 1995, July 1, 1997, and April 19, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations, in the form of operating permits, enforcement orders, and consent orders on the following dates: December 8, 1995, July 1, 1997, and April 19, 2001.

(B) Operating Permits (OP), Enforcement Orders (EO), and Consent Orders (CO) issued to the following sources:

(1) Penreco, OP 10-027, effective May 31, 1995.

(2) Ashland Petroleum Company, CO 256, effective December 19, 1996, except for condition 2.9.

(3) Bellefield Boiler Plant, EO 248, effective December 19, 1996.

(4) Gulf Oil L. P., CO 250, effective December 19, 1996, except for condition 2.5.

(5) PA Dept. of Corrections, EO 244, effective January 23, 1997.

(6) Pittsburgh Thermal Limited Partnership, CO 220, effective March 4, 1996, except for condition 2.5.

(7) BP Exploration & Oil, Inc., Greensburg Terminal, OP 65-000-378, effective March 23, 2001.

(8) Pittsburgh Allegheny County Thermal, Ltd., CO 265, effective November 9, 1998, 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 for the sources listed in paragraph (c)(177)(i)(B), of this section.

[FR Doc. 01-21028 Filed 8-20-01; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4138a; FRL-7038-8 ]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eleven 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 eleven major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). 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 October 5, 2001 without further notice, unless EPA receives adverse written comment by September 20, 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; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

#### FOR FURTHER INFORMATION CONTACT:

Catherine Magliocchetti (215) 814-2174, or Ellen Wentworth (215) 814-2034 at the EPA Region III address above or by e-mail at [magliocchetti.catherine@epa.gov](mailto:magliocchetti.catherine@epa.gov) or [wentworth.ellen@epa.gov](mailto:wentworth.ellen@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