

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 nine 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 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 from nine individual sources in the Pittsburgh area 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, Ozone, Reporting and recordkeeping requirements.

Dated: August 9, 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)(170) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(170) Revisions pertaining to VOC RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on March 21, 1996, October 18, 1996, January 21, 1997, July 1, 1997, March 23, 2001, and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated March 21, 1996, October 18, 1996, January 21, 1997, July 1, 1997, March 23, 2001, and April 19, 2001, submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC RACT determinations.

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

(1) Armstrong World Industries, Beaver Falls Plant, OP 04-000-108, effective May 29, 1996.

(2) Bacharach, Inc., CO 263, effective October 10, 1997, except for condition 2.5.

(3) Bakerstown Container Corporation, CO 221, effective May 14, 1996, except for condition 2.5.

(4) Chestnut Ridge Foam, Inc., OP 65-000-181, effective December 29, 1995.

(5) Flexsys America L.P., Monongahela Plant, OP 63-000-015, effective March 23, 2001, except for the Permit Term.

(6) Haskell of Pittsburgh, Inc., CO 224, effective December 19, 1996, except for condition 2.4.

(7) Three Rivers Aluminum Company, OP 10-267, effective March 1, 2001.

(8) Tuscarora Plastics, Inc., OP 04-000-497, effective April 3, 1996.

(9) Witco Corporation, CO 210, effective May 14, 1996.

(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. 01-21423 Filed 8-23-01; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4133a; FRL-7037-4]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Ten 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 ten 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 October 9, 2001 without further notice, unless EPA receives adverse written comment by September 24, 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) 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 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 March 21, 1996, July 1, 1997, April 9, 1999, and April 19, 2001, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several sources of VOC and/or NO_x. This rulemaking pertains to 10 of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of plan approvals (PAs) and operating permits (OPs) issued by PADEP, and agreement upon consent orders (COs) issued by the Allegheny County Health Department (ACHD) which impose VOC and/or NO_x RACT requirements for each source. These sources are all located in the Pittsburgh area.

II. Summary of the SIP Revisions

The table below identifies the sources and the individual PAs, OPs and COs which are the subject of this rulemaking. A summary of the VOC and

NO_x RACT determinations for each source follows the table.

PENNSYLVANIA—VOC AND NO_x RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source	County	Plan approval (PA #) operating permit (OP #), consent order (CO #)	Source type	"Major source" pollutant
Anchor Glass Container Corp	Fayette	PA-26-000-119	Glass Container Mfg	NO _x .
Anchor Hocking Specialty Glass Co ...	Beaver	OP-04-000-084	Pressed & Blown Glass Mfg	NO _x .
Corning Consumer Products Co	Washington	PA-63-000-110	Glassware Mfg	NO _x .
General Electric Company	Allegheny	CO 251	Glass Tubing Mfg	NO _x .
Glenshaw Glass Company, Inc	Allegheny	CO 270	Container Glass Mfg	NO _x .
Guardian Industries, Corp	Allegheny	CO 242	Float Glass Mfg	NO _x .
Allegheny County Sanitary Authority ...	Allegheny	CO 222	Wastewater Treatment	NO _x .
Browning-Ferris Ind	Allegheny	CO 231A	Municipal Landfill	VOC
Chambers Development Company	Allegheny	CO 253	Municipal Landfill	VOC
Kelly Run Sanitation	Allegheny	CO 236	Municipal Landfill	VOC

A. Anchor Glass Container Corporation

Anchor Glass Container Corporation (Anchor) is a glass manufacturer located in Connellsville, Pennsylvania. Anchor is a major source of NO_x. Anchor has three glass melting furnaces for the production of glass. On December 20, 1996, PADEP issued PA-26-000-119 to establish and impose RACT on Anchor. Under the PA, Anchor must meet NO_x emission limitations of 5.5 lbs/ton, 5.5 lbs/ton and 12.75 lbs/ton of glass processed at furnaces #1, #2, and #3, respectively. RACT for furnace #3 also includes any NO_x reductions accomplished by energy efficient rebricking of the furnace. Compliance is to be demonstrated through annual stack testing in accordance with 25 Pa Code Chapter 139. Anchor is subject to the recordkeeping requirements of Pa Code section 129.95. Anchor must properly operate and maintain all process and associated emission control equipment according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

B. Anchor Hocking Speciality Glass Co.

The Anchor Hocking Speciality Glass Co. (Anchor Hocking) is a pressed and blown glass manufacturer located in Monaca, Pennsylvania. Anchor Hocking is a major source of NO_x. Anchor has three glass melting furnaces for the production of glass. On October 13, 1995, PADEP issued OP-04-000-084 to establish and impose RACT on Anchor Hocking. The OP requires RACT as the operation of Low-NO_x burners, underport firing, and low-excess air on the melter tank. It requires SIP-approved presumptive RACT requirements on the annealing, decorating and the quenching lehrs, and the removal of the niter (sodium nitrate) addition from the glass-making process. Under the OP,

Anchor Hocking must maintain excess air at less 4.5 percent. The facility's NO_x emissions may not exceed 5.0lbs/ton of glass produced and shall not exceed 279 tons/year. Under OP-04-000-084, Anchor Hocking shall conduct a minimum of one stack test in accordance with 25 Pa Code Section 139. Anchor Hocking must maintain records in accordance with the recordkeeping requirements of Pa Code Section 129.95. The following records shall be kept: operating hours and daily fuel consumption. These records shall be maintained on file for no less than two years. Units applicable to presumptive limits identified in Pa Code section 129.93 shall operate in accordance with manufacturer's specifications for installation, maintenance, and operation of these sources. Anchor Hocking must properly operate and maintain all process and emission control equipment according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

C. Corning Consumer Products Co.

Corning Consumer Products (Corning) is a glassware manufacturer located in Charleroi, Pennsylvania. Corning is a major source of NO_x. Corning has two glass melting tanks, one firing kiln and 12 small combustion units used in the production of glassware. On January 4, 1996, PADEP issued PA-63-000-110 to establish and impose RACT on Corning. The PA requires Tank #11 to convert gas/oxygen firing on all ports and electric boost to be increased to 30% on this unit. Tank #6 must continue the operation of gas/oxygen firing on all ports. RACT for the Tunnel kiln and the 12 small units shall be the operation and maintenance of these units in accordance with manufacturer's specifications and good air pollution

control practices. Under the PA, Corning must meet the following emission limitations: (1) Tank #6, 22.8 lbs of NO_x/hr and 100 tons of NO_x/year, 0.35 lbs of VOC/hr and 1.53 tons of VOC /year; (2) Tank #11, 57.1 lbs of NO_x/hr and 250 tons of NO_x/year, 2.0 lbs of VOC/hr and 8.8 tons of VOC/year; (3) Tunnel kiln, 1.75 lbs of NO_x/hr and 7.7 tons of NO_x/year, 0.01 lbs of VOC/hr and 0.04 tons of VOC/year; and the combination of the 12 small units, 4.03 lbs of NO_x/hr and 17.66 tons of NO_x/ year, 3.34 lbs of VOC/hr and 14.6 tons of VOC/year. Compliance is to be demonstrated thorough stack testing in accordance with 25 Pa Code Chapter 139. Annual limits are to be met on a rolling monthly basis for every consecutive 12 month period. Corning shall comply with the recordkeeping requirements of Pa Code section 129.95, including daily records on natural gas, oxygen, temperatures, electric consumption and tons of fill charged to Tanks #6 and #11. These records shall be maintained on file for at least two years. Corning must properly operate and maintain all process and emission control equipment according to good engineering and air pollution control practices in accordance with applicable PADEP regulations.

D. General Electric Company

The General Electric Company (GE) is a glass tubing manufacturing facility located in Collier, Pennsylvania. GE is a major source of NO_x. On December 19, 1996, Allegheny County Health Department (ACHD) issued CO 251 to establish and impose RACT on GE. The PADEP submitted CO 251, on behalf of the ACHD, to EPA as a SIP revision. GE produces glass in six glass melting furnaces, three cullet dryers, three natural gas boilers. There are two emergency generators used as back-up

for boilers. RACT for the Simplex furnace is the operation of ox-fuel combustion equipment. General Electric must maintain the baseline controls for the Fait furnace, Germicidal furnace and the 180 furnace including adherence to the furnace manufacturer's specifications and good engineering practices, low-excess oxygen for each furnace and the use of cullet as a batch ingredient for the 180 furnace. All units are required to comply with manufacturer's specifications in accordance with good engineering and air pollution control practices. Additionally, GE must utilize electric boost as part of the baseline controls for the Gas/Electric and Special Furnaces. Under CO 251, the remaining sources (boilers, cullet dryers and emergency generators) must comply with manufacturer's specifications in accordance with good engineering and air pollution control practices. The CO requires that the NO_x emissions from the following units shall not exceed the following: (1) The Simplex furnace, 37.5lbs/hr and 165 tons/yr; (2) the 180 furnace, 27.72lbs/hr and 122 tons/yr. Under CO 251, GE is required to conduct emissions testing at least once every three years in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Annual limits are to met on a rolling monthly basis for every consecutive 12 month period. Under CO 251, GE 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: records of oxygen and fuel usage; production records for the Simplex furnace and; production usage and fuel usage of all other furnaces. All records shall be maintained for at least two years. Under CO 251, GE must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

E. Glenshaw Glass Company

The Glenshaw Glass Company (Glenshaw) is a glass manufacturing facility located in Glenshaw, Pennsylvania. Glenshaw is a major source of NO_x. On March 10, 2000, the ACHD issued CO 270 to establish and impose RACT on Glenshaw. The PADEP submitted CO 270, on behalf of the ACHD, to EPA as a SIP revision. Glenshaw produces glass in four glass melting furnaces. The CO 270 limits NO_x emissions from the glass melting furnaces as the following:

- (1) Furnace #1: 6.5lbs/ton glass and 267 tons/year ;
- (2) Furnace #2: 6.5lbs/ton glass and 250 tons/yr;
- (3) Furnace #3: 6.5lbs/ton glass and 190 tons/year; and
- (4) Furnace #4: 6.5lbs/ton glass and 202 tons/year.

Under CO 270, Glenshaw is required to conduct emissions testing at least once every two years in accordance with applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Annual limits are to met on a rolling monthly basis for every consecutive 12 month period. Under CO 270, Glenshaw 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 shall include fuel use and production date per combustion unit. All records shall be maintained for at least two years. Under CO 270, Glenshaw must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

F. Guardian Industries, Corp.

Guardian Industries, Corp. (Guardian) is a float glass manufacturing facility located in Floreffe, Pennsylvania. Guardian is a major source of NO_x. On August 27, 1996, ACHD issued CO 242 to establish and impose RACT on Guardian. The PADEP submitted CO 242, on behalf of the ACHD, to EPA as a SIP revision. Guardian produces glass in one glass melting furnace. The CO limits the NO_x emissions from the glass melting furnace to 40.0 lbs/ton glass and 2556 tons/year. Under CO 242, Guardian is required to conduct emissions testing at least once every two years in accordance with applicable EPA approved test methods and section 2108.02 of Article XXI of the ACHD's air pollution control regulations. The annual limit is to met on a rolling monthly basis for every consecutive 12 month period. Under CO 242, Guardian must maintain all records and testing data to demonstrate compliance with Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. Record keeping requirements shall include fuel use and operating hours for the glass melting furnace; and all maintenance, inspection and repair activities, calibration and/or replacement of fuel-burning equipment for the glass melting furnace. Guardian must maintain daily records of information on the batch house and the glass melting furnace operations. All records shall be retained

for at least two years. Under CO 242, Guardian must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

G. Allegheny County Sanitary Authority

The Allegheny County Sanitary Authority (ALCOSAN) operates a publically owned wastewater treatment works facility located in Allegheny County, Pennsylvania. ALCOSAN is a major source of NO_x. On May 14, 1996, the ACHD issued CO 222 to establish and impose RACT on ALCOSAN. The PADEP submitted CO 222, on behalf of the ACHD, to EPA as a SIP revision. The CO 222 requires that the NO_x emissions from the entire facility shall not exceed 95 tons per year from two Fluidized bed incinerators (FBI) and one Multi-hearth incinerator. Under CO 222, the multi-hearth sludge incinerator shall not exceed annual operating hours of 3,665 per year. The annual limits are to met on a rolling monthly basis for every consecutive 12 month period. Under CO 222, ALCOSAN must maintain all records to demonstrate compliance, provide sufficient data and 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 fuel type and amount of fuel usage per combustion unit; hours of operation of combustion unit; and amount of sludge processed, in dry tons, for all the incinerators. All records shall be maintained for at least two years. Under CO 222, ALCOSAN must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

H. Browning-Ferris Industries of PA, Inc.

Browning-Ferris Industries of PA, Inc. (BFI) is the operator of a solid waste municipal landfill located in Allegheny County, Pennsylvania. BFI is a major source of VOC. On April 28, 1997, the ACHD issued CO 231A to establish and impose RACT on BFI. The PADEP submitted CO 231A, on behalf of the ACHD, to EPA as a SIP revision. The CO requires a properly maintained and operated active landfill off gas collection system which collects off gas from each cell, area or group of cells in which initial solid waste has been placed for a period equal to or exceeding five (5) years if the subject cell, area or group of cells is active, with the exception of Area Seven (7), Phase Two (2), or two years if the subject cell, area or group of cells is closed or at grade. The average collection system efficiency of the active off gas collection

system shall be a minimum of seventy-five (75%) percent at all times. Compliance for the collection efficiency shall be determined by calculating the VOC emission rate from the cells, areas/groups of cells treated by the off gas collection system according to current approved EPA estimation procedures and the actual collection system off gas flow rate data. Such collection efficiency determinations must be conducted and reported annually. Except in emergency situations and for maintenance purposes requiring shutdown, BFI shall at all times, with the exception of Area Seven (7), Phase Two (2), have a properly maintained and operated off gas control system which shall process collected off gas and meet the following reduction efficiency criteria: (1) A minimum VOC destruction efficiency of ninety-eight (98%) percent, by weight percent; or (2) twenty parts per million (20ppm) as hexane by volume, dry basis at three percent (3%) oxygen or less. Compliance with the reduction criteria specified above shall be determined by emission testing conducted every five years according to applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. The collection system must be operated with negative pressure at each wellhead at all times except (1) when a fire is present or when well temperatures indicate the possibility of a fire; (2) when a geomembrane or synthetic cover is in place; or (3) when a decommissioned well may experience static positive pressure after shutdown to accommodate declining off gas flows. Each interior wellhead shall operate with a landfill gas temperature of less than one-hundred and thirty-one (131) degrees Fahrenheit at all times with the exception of increased levels necessary to control offsite migration, a nitrogen level less than 20 percent or an oxygen level less than five percent. Each wellhead must be monitored monthly for temperature and nitrogen or oxygen levels according to EPA approved methods. Under CO 231A, BFI must maintain all records regarding gas monitoring data, tonnage records, a waste characterization with sufficient data and calculations to clearly demonstrate that all requirements of Section 2108.06 of Article XXI and CO231A are being met. Under CO 231A, all records shall be maintained for at least two years. BFI must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices. Finally, it should be noted

that CO 231A also requires that within one year after Area Seven (7), Phase Two (2) achieves final grade, BFI must install, operate and maintain a landfill gas collection and control system that meets, without exception, all the conditions of CO 231A.

I. Chambers Development Company

Chambers Development Company (Chambers) is the owner and operator of a solid waste municipal landfill located in Allegheny County, Pennsylvania. Chambers is a major source of VOC. On December 30, 1996, ACHD issued CO 253 to establish and impose RACT on Chambers. The PADEP submitted CO 253, on behalf of the ACHD, to EPA as a SIP revision. The CO requires a properly maintained and operated active landfill off gas collection system which collects off gas from each cell, area or group of cells in which initial solid waste has been placed for a period equal to or exceeding five (5) years if the subject cell, area or group of cells is active, or two years if the subject cell, area or group of cells is closed or at grade.

The average collection system efficiency of the active off gas collection system shall be a minimum of seventy-five (75%) percent at all times. Compliance for the collection efficiency shall be determined by calculating the VOC emission rate from the cells, areas/groups of cells treated by the off gas collection system according to current approved EPA estimation procedures and the actual collection system off gas flow rate data. Such collection efficiency determinations must be conducted and reported annually. Except in emergency situations and for maintenance purposes requiring shutdown, Chambers shall, at all times, have a properly maintained and operated off gas control system which shall process collected off gas and meet the following reduction efficiency criteria: (1) A minimum VOC destruction efficiency of ninety-eight (98%) percent, by weight percent; or (2) twenty parts per million (20ppm) as hexane by volume, dry basis at three percent (3%) oxygen or less. Compliance with the reduction criteria specified above shall be determined by emission testing conducted every five years according to applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations. The collection system must be operated with negative pressure at each wellhead at all times except (1) when a fire is present or when well temperatures indicate the possibility of a fire; (2) when a geomembrane or synthetic cover is in

place; or (3) when a decommissioned well may experience static positive pressure after shutdown to accommodate declining off gas flows. Each interior wellhead shall operate with a landfill gas temperature of less than fifty-five (55) degrees centigrade at all times, with a nitrogen level less than 20 percent or an oxygen level less than five percent. Each wellhead must be monitored monthly for temperature and nitrogen or oxygen levels according to EPA approved methods. Under the CO, Chambers must maintain all records regarding gas monitoring data, tonnage records, a waste characterization with sufficient data and calculations to clearly demonstrate that all requirements of Section 2108.06 of Article XXI and CO 253 are being met. Under the CO, all records shall be maintained for at least two years. Chambers must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

J. Kelly Run Sanitation

Kelly Run Sanitation (Kelly Run) operates a solid waste municipal landfill located in Allegheny County, Pennsylvania. Kelly Run is a major source of VOC. On January 23, 1997, ACHD issued CO 236 to establish and impose RACT on Kelly Run. The PADEP submitted CO 236, on behalf of the ACHD, to EPA as a SIP revision. The CO requires a properly maintained and operated active landfill off gas collection system which collects off gas from each cell, area or group of cells in which initial solid waste has been placed for a period equal to or exceeding five (5) years if the subject cell, area or group of cells is active, or two years if the subject cell, area or group of cells is closed or at grade. The average collection system efficiency of the active off gas collection system shall be a minimum of seventy-five (75%) percent at all times. Compliance for the collection efficiency shall be determined by calculating the VOC emission rate from the cells, areas/groups of cells treated by the off gas collection system. Such collection efficiency determinations must be conducted and reported annually. Except in emergency situations and for maintenance purposes requiring shutdown, Kelly Run shall, at all times, have a properly maintained and operated off gas control system which shall process collected off gas and meet a reduction efficiency criteria of a minimum VOC destruction efficiency of ninety-eight (98%) percent, by weight percent. Compliance with the reduction criteria specified above shall be

determined by emission testing conducted every five years according to applicable EPA approved test methods and Section 2108.02 of Article XXI of the ACHD's air pollution control regulations.

The collection system must be operated with negative pressure at each wellhead at all times except (1) when a fire is present or when well temperatures indicate the possibility of a fire; (2) when a geomembrane or synthetic cover is in place; or (3) when a decommissioned well may experience static positive pressure after shutdown to accommodate declining off gas flows. Each interior wellhead shall operate with a landfill gas temperature of less than fifty-five (55) degrees centigrade at all times, with a nitrogen level less than 20 percent or an oxygen level less than five percent. Each wellhead must be monitored monthly for temperature and nitrogen or oxygen levels according to EPA approved methods. Under the CO, Kelly Run must maintain all records regarding gas monitoring data, tonnage records, a waste characterization with sufficient data and calculations to clearly demonstrate that all requirements of Section 2108.06 of Article XXI and CO 236 are being met. Under the CO, all records shall be maintained for at least two years. Kelly Run must operate and maintain all process and emission control equipment according to good engineering and air pollution control practices.

III. EPA's Evaluation

EPA is approving these RACT SIP submittals because PADEP and 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 Commonwealth and the County have 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 NO_x RACT for ten 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 9, 2001 without further notice unless EPA receives adverse comment by September 24, 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 ten 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 23, 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 ten 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 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)(167) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(167) Revisions pertaining to VOC and NO_x RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on March 21, 1996, July 1, 1997, April 9, 1999 and April 19, 2001.

(i) Incorporation by reference.

(A) Letters dated March 21, 1996, July 1, 1997, April 9, 1999 and April 19, 2001 submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO_x RACT determinations, in the form

of plan approvals, operating permits, and consent orders.

(B) Plan approvals (PA), Operating permits (OP), or Consent Orders (CO) for the following sources:

(1) Anchor Glass Container Corporation, Plant 5, PA 26-000-119, effective December 20, 1996.

(2) Anchor Hocking Specialty Glass Co., Phoenix Glass Plant, OP 04-000-084, effective October 13, 1995.

(3) Corning Consumer Products Company, Charleroi Plant, PA 63-000-110, effective January 4, 1996, except for the third sentence of condition 3 (which references condition 13), and conditions 5, 6, 7, 13 in their entirety.

(4) General Electric Company, CO 251, effective December 19, 1996, except for condition 2.5.

(5) Glenshaw Glass Company, Inc., CO 270, effective March 10, 2000, except for condition 2.5.

(6) Guardian Industries, Corp., CO 242, effective August 27, 1996, except for conditions 2.5.

(7) Allegheny County Sanitary Authority, CO 222, effective May 14, 1996, except for condition 2.5.

(8) Browning-Ferris Industries of Pennsylvania Inc., Findlay Township Landfill, CO 231A, effective April 28, 1997, except for condition 2.5.

(9) Chambers Development Company, Monroville Borough Landfill, CO 253, effective December 30, 1996, except for condition 2.5.

(10) Kelly Run Sanitation, Forward Township Landfill, CO 236, effective January 23, 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 for the sources listed in paragraph (c)(167)(i)(B) of this section. [FR Doc. 01-21427 Filed 8-23-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4144a; FRL-7041-1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Ten 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 ten 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 October 9, 2001 without further notice, unless EPA receives adverse written comment by September 24, 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