

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 19, 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 eight individual sources in the Pittsburgh Beaver Valley area 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)(176) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(176) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO<sub>x</sub> RACT, for eight sources located in the Pittsburgh-Beaver Valley area submitted by the Pennsylvania Department of Environmental Protection on January 6, 1995, August 1, 1995, January 10, 1996, January 21, 1997, February 2, 1999, March 3, 1999, 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 on the following dates: January 6, 1995, August 1, 1995, January 10, 1996, January 21, 1997, February 2, 1999, March 3, 1999, and April 19, 2001.

(B) The following companies' Plan approvals (PA) or Operating permits (OP):

(1) Pennsylvania Power Company, Bruce Mansfield Plant, PA 04-000-235, effective December 29, 1994 except for the expiration date.

(2) West Penn Power Company, Mitchell Station, PA 63-000-016, effective June 12, 1995, except for the expiration date.

(3) Carnegie Natural Gas Company, Fisher Station, OP 03-000-182, effective December 2, 1998, except for the Permit Term.

(4) Apollo Gas Company, Shoemaker Station, OP 03-000-183, effective September 12, 1996, except for the Permit Term.

(5) Texas Eastern Transmission Corporation, Delmont Station, OP 65-000-839, effective January 9, 1997, except for the Permit Term.

(6) The Peoples Natural Gas Company, Valley Station, PA 03-000-125, effective October 31, 1994 except for the expiration date and the time limits in condition 6.

(7) The Peoples Natural Gas Company, Girty Station, PA 03-000-076, effective as extended on October 27, 1995, except for the expiration date and time limit in condition 6.

(8) AES Beaver Valley Partners, Monaca Plant, OP 04-000-446, effective as revised on March 23, 2001, except for the Permit Term.

(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)(176)(i) (B) of this section. [FR Doc. 01-20879 Filed 8-17-01; 8:45 am]

BILLING CODE 6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[PA-4128a; FRL-7038-1]

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Five 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 five 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 4, 2001 without further notice, unless EPA receives adverse written comment by September 19, 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](mailto: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<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 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<sub>x</sub>. This rulemaking pertains to five 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 (COs) and enforcement orders (EOs) issued by the Allegheny

County Health Department (ACHD). These five sources are located in the Pittsburgh area. The table below identifies the sources and individual COs and EO 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	Consent Order (CO#), Enforcement Order (EO#)	Source type	"Major source" pollutant
Pruett Schaffer, Chemical Company ....	Allegheny .....	CO 266 .....	Paint and related coatings .....	VOC
PPG Industries, Inc .....	Allegheny .....	CO 254 .....	Resin and paint .....	VOC
Reichhold Chemicals, Inc .....	Allegheny .....	CO 218 .....	Synthetic hydrocarbon resin .....	NO <sub>x</sub>
Reichhold Chemicals, Inc .....	Allegheny .....	CO 219 .....	Synthetic hydrocarbon resin .....	VOC
Valspar Corporation .....	Allegheny .....	EO 209 .....	Paint .....	VOC

### A. Pruett Schaffer Chemical Company

Pruett Schaffer Chemical Company is a paint and related coatings manufacturer located in Pittsburgh, Allegheny County, Pennsylvania. Pruett Schaffer Chemical Company had potential emissions VOC of greater than 50 tons per year (tpy). ACHD issued the facility CO 266. On April 19, 2001, PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The facility consists of two paint manufacturing processes and a storage tank that stores mixed hydrocarbon solvent. Manufacturing is by batch process only. CO 266 does not allow the facility to operate unless the total combined potential facility-wide annual VOC emissions are less than 50 tons per year. In order to limit the potential VOC emissions, the maximum dispersers solvent-based production should not exceed 115,000 gallons per year and 1,965 hours annually. The solvent-based coatings is any coatings with a VOC content equal or greater than 3.5 pounds per gallon, less water and exempt solvents. Annual VOC emissions are determined by EPA AP-42 emission factors applied to the material throughput. Under CO 266, Pruett Schaffer Chemical Company must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Recordkeeping shall include but not limited to records of material type, monthly material usage, total monthly hours of operation, production records of process equipment and monthly usage and type of cleaning solvent used for cleaning and purging equipment, sufficient to perform emission calculations. Compliance with all annual limits must

be met on a rolling monthly basis over every consecutive 12 month period and all records shall be maintained at the facility on a twelve months rolling total in order to determine compliance. All records shall be retained for at least five years.

### B. PPG Industries, Inc.

PPG Industries, Inc. (PPG) is a resin and paint manufacturing facility located in Springdale, Allegheny County, Pennsylvania. PPG is a major VOC emitting facility. In this instance, RACT has been established and imposed by ACHD in CO 254. On July 1, 1997, PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. PPG is a manufacturer of coatings and resins for the general industrial and automotive markets. Manufacturing facilities in this Springdale site include a paint plant and a resin manufacturing plant. The paint plant manufactures coatings for aluminum extrusions, automotive refinishing, and the general industrial and coil coating markets. The resin plant manufactures high temperature polyesters, alkyds, modified epoxies, urethanes and cross linkers for use in paint manufacture.

#### (1) The Resin Plant

CO 254 does not allow PPG to operate the resin plant at any time while generating VOC emissions unless the facility's thermal oxidizer is in service and all associated emission control systems are operating as required with the conditions of the CO, with the exception of required maintenance and/or repairs. The CO requires that the thermal oxidizer should be properly maintained and operated at all times, with instrumentation to continuously

monitor and record the incinerator temperature, with one of three alternative requirements being met and maintained: (a) minimum VOC destruction efficiency of 95 percent by weight; or (b) maximum outlet of 20 ppm VOC by volume (dry basis); or (c) minimum incineration temperature of 1500 degrees Fahrenheit. The thermal oxidizer destruction efficiency shall be determined every five years in accordance with EPA approved test methods and section 2108.02 of Article XXI of ACHD's regulations. All reactor vessels should be equipped with condenser units. The following resin process systems shall be vented to the thermal oxidizer unit at all times when generating VOC emissions: (a) four reactor condenser vents, (b) five raw material weigh tanks, (c) four manual ejectors, (d) five mixers-resin thin down tanks, and (e) seven blenders. Revent systems shall be provided for the following processes: (a) molten raw material storage tanks, (b) molten raw material weigh tanks, (c) mixer unit during product dropping, and (d) finished product tank wagon loading. Dispensing systems shall be used unless they are closed design or minimize free-fall liquids. Under CO 254, PPG must operate and maintain all process and control equipment according to good engineering and air pollution control practices. To minimize VOC emissions, process equipment cleaning must be conducted, floor cleaning operations must employ water based cleaners, and the use of solvents will be limited to spot cleaning. Under CO 254, PPG must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Recordkeeping

shall include but not limited to (a) REECO thermal oxidizer destruction efficiency tests, and (b) daily records of REECO thermal oxidizer operating temperatures. All records shall be retained for at least five years.

(2) The Paint Plant

CO 254 does not allow PPG to process operations involving VOCs at the facility unless all stationary mixers are equipped with covers which completely enclose the mixer openings, except for an opening no larger than necessary to allow safe clearance for a mixer shaft. Such covers shall either extend at least one-half inch beyond the outer rim of the vessel or be attached to the rim. CO 254 also does not allow any stationary mixer operations at the facility unless all covers are closed at all times except when production, sampling, maintenance or inspection procedures otherwise requires access. Portable and stationary vessels must not be used at the facility to process products containing VOCs unless the covers are maintained in good condition, such that when in place, they maintain contact with their respective rims for at least 90 percent of the circumference of the rim. Dispensing systems must not be used unless they are of closed design or minimize free-fall of liquids and filling of solvent borne coatings must not be performed unless they are in a closed system. All grinding mills must be of completely closed design.

Under CO254, PPG must operate and maintain all process and control equipment according to good engineering and air pollution control practices. To minimize VOC emissions, process equipment cleaning must be conducted, floor cleaning operations must employ waterbased cleaners, and the use of solvents will be limited to spot cleaning. Under CO 254, PPG must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Recordkeeping shall include but not limited to (a) records of specific solvents and quantities used, and (b) records of paint production rates by number of batches and quantity of paint produced in each batch. All records shall be retained for at least five years.

*C. Reichhold Chemicals, Inc.*

Reichhold Chemicals, Inc. (RCI) owns a synthetic hydrocarbon resins manufacturing facility located in Bridgeville, Allegheny County, Pennsylvania. RCI had the potential to emit NO<sub>x</sub> in excess of 100 tpy. In this instance, ACHD issued CO218 to RCI. On July 1, 1997, PADEP submitted this CO to EPA on behalf of the ACHD as a

SIP revision. The facility consists of six reactors housed in two buildings with emissions controlled by thermal oxidizers. Under CO 218, RCI is not allowed to exceed 95 tons per year of total combined annual facility wide emissions of NO<sub>x</sub>. Under CO 218, RCI must maintain records to demonstrate compliance with this CO and Article XXI, section 2105.06. Recordkeeping shall include but not limited to the type of fuel and amount used. All records shall be retained for at least two years.

*D. Reichhold Chemicals, Inc.*

The RCI synthetic hydrocarbon resins manufacturing facility located in Bridgeville, Allegheny County, Pennsylvania had the potential to emit VOC in excess of 50 tpy. In this instance, ACHD issued CO 219 to RCI. On July 1, 1997, PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The facility consists of six reactors housed in two buildings with emissions controlled by thermal oxidizers. Under CO 219, RCI is limited to a facility-wide emission limit of 47 tons per year of combined emissions of VOC. CO 219 does not allow RCI the associated process equipment to operate unless the thermal oxidizers are properly maintained and operated with: (a) a minimum destruction efficiency of 95 percent; (b) a minimum operating temperature of 1400 degrees Fahrenheit; and (c) a minimum residence time of one-half seconds at all times. In case of a malfunction, RCI may finish processing the material in the associated equipment at the time of malfunction. RCI must not allow the process equipment to operate unless the emissions from the reactors, process vessels, emissions from the reactors and thin tanks are conveyed to their respective thermal oxidizers. CO 219 requires RCI to provide instrumentation for the thermal oxidizers to continuously monitor and record the following: (a) Operating temperature; (b) oxygen level; and (c) fume (inlet) pressure. RCI must record the following information on a daily basis for all reactors: (a) Batch time; (b) finished product per batch; and (c) raw material feed per batch. RCI must conduct emission testing on the thermal oxidizers no less than once every five years to determine the destruction efficiency of VOCs per unit. RCI must submit a written protocol to ACHD for approval at least 45 days prior to the date of the test, and notify ACHD in writing at least 30 days prior to the date of the test. Testing shall not proceed without ACHD approved protocol and according to EPA approved test methods. Under CO 219, RCI 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.

*E. Valspar Corporation*

Valspar Corporation (Valspar) is a paint manufacturing facility located in Pittsburgh, Allegheny County, Pennsylvania. Valspar is a major VOC emitting facility. In this instance, RACT has been established and imposed by ACHD in EO 209. On July 1, 1997, PADEP submitted this EO to EPA on behalf of the ACHD as a SIP revision. EO 209 does not allow Valspar to process operations involving VOCs at the facility unless all stationary mixers are equipped with covers which completely enclose the mixer openings, except for an opening no larger than necessary to allow safe clearance for a mixer shaft. Such covers shall either extend at least one-half inch beyond the outer rim of the vessel or be attached to the rim. EO 209 does not allow any stationary mixer operations at the facility unless all covers are closed at all times except when production, sampling, maintenance or inspection procedures otherwise requires access. EO 209 does not allow stationary mixers to process products containing VOCs unless the covers are maintained in good condition, such that when in place, they maintain contact with their respective rims for at least 90 percent of the circumference of the rim. Under EO 209, Valspar must maintain records to demonstrate compliance with this EO and Article XXI, section 2105.06. All records shall be retained for at least two years. Also, under EO 209, Valspar must operate and maintain all process and emission control equipment according to good engineering practice.

**III. EPA's Evaluation of the SIP Revisions**

EPA is approving these RACT SIP submittals because ACHD and PADEP 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 and PADEP have 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 to establish and require VOC and NO<sub>x</sub> RACT for five 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 October 4, 2001 without further notice unless EPA receives adverse comment by September 19, 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 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 4, 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 the Pittsburgh-Beaver Valley ozone nonattainment 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 recordkeeping requirements.

Dated: August 10, 2001.

Judith M. 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)(165) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(165) 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 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<sub>x</sub> RACT determinations.

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

(1) Pruett Schaffer Chemical Company, CO 266, effective September 2, 1998, except for condition 2.5.

(2) PPG Industries, Inc., CO 254, effective December 19, 1996, except for condition 2.5.

(3) Reichhold Chemicals, Inc., CO 218, effective December 19, 1996, except for condition 2.5.

(4) Reichhold Chemicals, Inc., CO 219, effective February 21, 1996, except for condition 2.5.

(5) Valspar Corporation, EO 209, effective March 8, 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 paragraph (c)(165)(i) (B) of this section.

[FR Doc. 01-20883 Filed 8-17-01; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA-4116a; FRL-7037-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eighteen Individual Sources in the Philadelphia-Wilmington-Trenton 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 18 major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>). These sources are located in the Philadelphia-Wilmington-Trenton

ozone nonattainment area (the Philadelphia 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 4, 2001 without further notice, unless EPA receives adverse written comment by September 19, 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.

#### FOR FURTHER INFORMATION CONTACT:

Melik Spain at (215) 814-2299, the EPA Region III address above or by e-mail at [spain.melik@epa.gov](mailto:spain.melik@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; (3) All other major non-CTG rules were due by November 15, 1992 and apply to the Pennsylvania submittal. The Pennsylvania SIP has approved RACT regulations and requirements for all sources and source categories covered by the CTG's.

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 Philadelphia area, a major source of VOC is defined as one having the potential to emit 25 tons per year (tpy) or more, and a major source of NO<sub>x</sub> is also defined as one having the potential to emit 25 tpy or more. Pennsylvania's RACT regulations require sources, in the Philadelphia area, that have the potential to emit 25 tpy or more of VOC and sources which have the potential to emit 25 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