

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.*).

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. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

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 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, Intergovernmental relations, Oxides of nitrogen, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compound.

Dated: July 17, 2001.

Jane Diamond,

Acting Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations 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 F—California

2. Section 52.220 is amended by adding paragraphs (c)(239)(i)(C)(2) and (279)(i)(A)(4) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *
(239) * * *
(i) * * *
(C) * * *

(2) Rules 108 and 108.1 adopted on May 2, 1996.

* * * * *

(279) * * *
(i) * * *
(A) * * *

(4) Rules 109 and 110 adopted on September 14, 1999.

* * * * *

[FR Doc. 01-20139 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA101/178-4124a ; FRL-7030-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x 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_x). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on September 24, 2001 without further notice, unless EPA receives adverse written comment by September 10, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register**.

and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; 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 at (215) 814-2174, or Ellen Wentworth at (215) 814-2034 at the EPA Region III address above or by e-mail at magliocchetti.catherine@epa.gov or 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 Commonwealth of Pennsylvania (the Commonwealth of 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 January 6, 1995, September 13, 1996, and July 1, 1997, PADEP submitted revisions to the Pennsylvania SIP which establish and impose RACT for several major sources of VOC and/or NO_x. This rulemaking pertains to five of those sources. The remaining sources are or have been the subject of separate rulemakings. The Commonwealth's submittals consist of Plan Approvals

(PAs) issued by PADEP and Plan Approvals and Agreement Upon Consent Orders (COs) issued by the Allegheny County Health Department (ACHD). These PAs and COs 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 their respective PAs 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	PA# or CO#	Source type	"Major source" pollutant
Duquesne Light Company—Brunot Island Power Station.	Allegheny	CO 214	Combustion Turbine Units	NO _x
Duquesne Light Company—Cheswick Power Station.	Allegheny	CO 217	Steam Boiler	NO _x
Duquesne Light Company—Elrama Plant	Washington	PA 63-000-014	Boilers; Low NO _x Burners	NO _x
Duquesne Light Company—Phillips Power Station.	Allegheny	CO 212	Coal-fired Steam Generators	NO _x
The Pennsylvania Electric Company—Key-stone Generating Station.	Armstrong	PA 03-000-027	Steam Electric Generators; Low NO _x Burners	NO _x /VOC

(1) Duquesne Light Company—Brunot Island Power Station

(1) Duquesne Light Company's Brunot Island Power Station is located in Pittsburgh, Pennsylvania. The Duquesne Light Company's Brunot Island Power Station is a major NO_x emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 214. The PADEP submitted this CO to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 214 to impose RACT for six combustion turbine units at this source, designated 1A, 1B, 1C, 2A, 2B, and 3, as follows. All six of the units can use natural gas or no. 2 fuel oil as fuel. There are no other NO_x emission sources at this facility.

The Brunot Island Power Station is precluded from operating Unit 2A, 2B or 3 in combined combustion cycle (CCC) mode, without a properly installed and operating water/stream injection NO_x control system in place at each of the units. The source is precluded from operating these same units in CCC without a properly installed and operating NO_x continuous emission monitoring system (CEMS) or an approved alternate, meeting all requirements of section 2108.03 of Article XXI of Allegheny County's air pollution control regulations.

Units 2A, 2B and 3, when operating in CCC mode, must each meet NO_x emission limitations of 0.25 lbs/MMBtu and 1,039 tpy. The source is required to determine compliance by using CEM data averaged over a 24-hour period for the first limit, and annual CEM data for the second limit. Units 1A, 1B, and 1C, when operating in Simple Combustion Cycle (SCC), must each meet NO_x emission limitations of 0.698 lbs/

MMBtu and 330 tpy. Units 2A, 2B and 3, when operating in SCC, must each meet NO_x emission limitations of 0.698 lbs/MMBtu and 662 tpy. In addition, Units 1A, 1B and 1C are each limited to a maximum annual average capacity factor of 36 percent, and Units 2A, 2B, and 3 are each limited to a maximum annual average capacity factor of 23 percent.

The Duquesne Light Company is required to conduct NO_x emission tests, record fuel usage, and fuel analyses at its Brunot Island Power Station in order to determine compliance on these units, in accordance with EPA approved test methods and section 2108.2 of Article XXI. The source is required to maintain all appropriate records to demonstrate compliance with the requirements of both section 2105.06 of Article XXI and CO 214. The source is required to retain all records required by both section 2105.06 of Article XXI and CO 214 for this facility, for at least two years. The source is required to at all times properly operate and maintain all process and emission control equipment at the facility according to good engineering practices.

The Duquesne Light Company's Brunot Island Power Station is also subject to the additional post-RACT requirements to reduce NO_x, found at 25 PA Code Chapters 121, 123 and 145.

(2) Duquesne Light Company—Cheswick Power Station

The Duquesne Light Company's Cheswick Power Station is located in Springdale Borough, Pennsylvania. The Cheswick Power Station is a major NO_x emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 217. The PADEP submitted this CO to EPA on behalf of

the ACHD as a SIP revision. The ACHD issued CO 217 to impose RACT for the one unit, a 5,280 MMBtu/hr boiler, known as Boiler No. 1.

The Cheswick Power Station, is precluded from operating the facility unless the low NO_x concentric firing system II, commonly known as "LNCFS II," is properly maintained and operated. The source is also precluded from operating the facility unless a NO_x CEMS is properly maintained and operated as specified in section 2108.03 of Article XXI. Boiler No. 1 must meet the following NO_x emission limitations: 0.5548 lbs/MMBtu, an annual average of 0.45lbs/MMBtu, and total annual emissions may not exceed 10,840 tpy. Compliance with these limits shall be determined by using CEM data, using a 24-hour averaging period for the first limit, a one year averaging period for the second limit and annual CEM data for the third limit.

The Duquesne Light Company is required to maintain all appropriate records to demonstrate compliance at its Cheswick Power Station with the requirements of both section 2105.06 of Article XXI, and CO 217. The source is required to retain all records required by both section 2105.06 of Article XXI and CO 217 for this facility for at least two years. The source is required to, at all times, properly operate and maintain all process and emission control equipment at the facility according to good engineering practices.

Duquesne Light Company, Cheswick Power Station, is also subject to additional post-RACT requirements to reduce NO_x, found at 25 PA Code Chapters 121, 123 and 145.

(3) Duquesne Light Company—Elrama Plant

The Duquesne Light Company's Elrama Plant is located in Union Township, Pennsylvania. The Elrama Plant is a major NO_x emitting facility. The PADEP issued PA 63-000-014 to impose RACT for this plant's NO_x emitting units. The plan approval for this facility requires the installation of low NO_x burning systems and associated modifications on Units 1 through 4 of the Elrama plant. The auxiliary boiler at the plant shall be limited to an annual capacity factor of no more than 66 percent, and Duquesne Light shall operate it in accordance with manufacturer specifications and keep data that clearly demonstrates compliance with this capacity factor.

The NO_x emission limit of 0.5 lbs/MMBtu, based on a 30-day rolling average, applies to the main stack at this facility. The yearly NO_x emission limit for Units 1, 2, 3, and 4 is 11,353 tpy. Stack testing is required in accordance with 25 PA Code Chapter 139 and the PADEP's Source Testing Manual.

The Duquesne Light Company's Elrama Plant is also subject to additional post-RACT requirements to reduce NO_x found at 25 PA Code Chapters 121, 123 and 145.

(4) Duquesne Light Company—Phillips Power Station

Duquesne Light Company's Phillips Power Station is located in Crescent Township, Pennsylvania. The Phillips Power Station, is a major NO_x emitting facility. In this instance, RACT has been established and imposed by the ACHD in CO 212. The PADEP submitted CO 212 to EPA on behalf of the ACHD as a SIP revision. The ACHD issued CO 212 to impose RACT for Units 3, 4, and 5 (which are twin furnace steam generators) and Unit 6 (which is a re-heat unit).

The Phillips Power Station is precluded from operating Units 3, 4, 5, and 6 without proper installation and operation of low NO_x burner systems in place on each unit. The source is not allowed to operate these units without a properly installed and operating NO_x CEMs, meeting all the requirements of section 2108.03 of Article XXI. The NO_x emission limit for each of the units is 0.72 lbs/MMBtu. Units 3, 4, and 5 have an annual NO_x limitation of 2,718.3 tpy. Unit 6 has an annual NO_x limitation of 4,702.0 tpy. The Duquesne Light Company is required to determine compliance at its Phillips Power Station with the above-reference limits by using CEM data averaged over a 24 hour period and a one year period,

respectively. The source is required to maintain all appropriate records to demonstrate compliance with the requirements of both section 2105.06 of Article XXI and CO 212. The source is required to retain all records required by both section 2105.06 of Article XXI and CO 212 for this facility, for at least two years. The source is required to at all times properly operate and maintain all process and emission control equipment at the facility according to good engineering practices.

Duquesne Light Company's Phillips Power Station is also subject to additional post-RACT requirements to reduce NO_x found at 25 PA Code Chapters 121, 123 and 145.

(5) The Pennsylvania Electric Power Company—Keystone Generating Station

The Pennsylvania Electric Power Company's (PENELEC's) Keystone Generating Station is located in Plumcreek Township, Pennsylvania. The Keystone Generating Station is a major source of both NO_x and VOCs. The PADEP issued PA 03-000-027 to PENELEC to impose RACT for the NO_x and VOC emitting units at its Keystone Generating Station.

The PADEP's PA 03-000-027 for this facility requires the installation of the low NO_x concentric firing system level II, commonly known as "LNCFS, III" on main Units 1 and 2.

The PADEP's PA 03-000-027 also requires that the plant's auxiliary boilers, Units A and B, be operated at a capacity factor of no more than 10 percent, and maintained in accordance with the manufacturer's specifications. PENELEC is required to maintain an operating log for the auxiliary boilers to verify that the annual capacity limit, noted above, is not exceeded. The source shall not operate diesel generators 3 through 6 in excess of a 5 percent annual capacity factor. These units are to be installed, maintained, and operated in accordance with the manufacturer's specifications. In addition, the source is required to maintain an operating log for diesel generators, emergency generator, fire pump and all other sources subject to any operating restriction to verify compliance with the applicable SIP-approved presumptive RACT limitations.

The NO_x emission limit for each main unit is 0.45 lbs/MMBtu, based on a 30-day rolling average. The yearly NO_x emission limit, facility-wide, is 31,673 tpy. Each main unit must meet an annual VOC limit of 71 tpy, and the entire facility's VOC emissions are limited to 144 tpy. All stack testing is required to be performed in accordance

with 25 PA Code Chapter 139 and the PADEP's Source Testing Manual.

The PENELEC's Keystone Generating Station is also subject to additional post-RACT requirements to reduce NO_x found at 25 PA Code Chapters 121, 123 and 145.

EPA is approving these RACT SIP submittals because the 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. For the subject installations and processes at these sources, ACHD and PADEP determined RACT to be the technologically and economically feasible controls available to minimize NO_x and VOCs emissions, or to be SIP-approved presumptive RACT requirements. 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.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and NO_x RACT for five 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 September 24, 2001 without further notice unless EPA receives adverse comment by September 10, 2001. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if adverse comment is received for a specific source or subset of sources covered by an amendment, section or paragraph of this rule, only that amendment, section, or paragraph for that source or subset of sources will be withdrawn.

IV. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is

not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.” See 66 FR 28355, May 22, 2001. This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and

Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today’s action under section 801 because this is a rule of particular applicability establishing source-specific requirements for 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 9, 2001. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Commonwealth’s source-specific RACT requirements to control VOC and NO_x from five power plants in the Pittsburgh 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 3, 2001.

Thomas C. Voltaggio,
Deputy Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

Subpart NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(161) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(161) Revisions pertaining to NO_x and/or VOC RACT for major sources, located in the Pittsburgh-Beaver Valley ozone nonattainment area, submitted by the Pennsylvania Department of Environmental Protection on January 6, 1995, September 13, 1996, and July 1, 1997.

(i) Incorporation by reference.

(A) Letters from the Pennsylvania Department of Environmental Protection dated January 6, 1995, September 13, 1996, and July 1, 1997, transmitting source-specific VOC and/or NO_x RACT determinations.

(B) The following companies’ Plan Approvals (PA), or Consent Orders (CO):

(1) Duquesne Light Company’s Brunot Island Power Station, CO 214, effective May 20, 1996, except for conditions 1.7, 2.4, and 2.5.

(2) Duquesne Light Company’s Cheswick Power Station, CO 217, effective March 8, 1996, except for condition 2.5.

(3) Duquesne Light Company’s Elrama Plant, PA 63–000–014, effective December 29, 1994.

(4) Duquesne Light Company’s Phillips Power Station, CO 212, effective March 8, 1996, except for conditions 1.4, 2.4 and 2.5.

(5) Pennsylvania Electric Company’s Keystone Generating Plant, PA 03–000–027, effective December 29, 1994.

(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 (i) (B), above.

[FR Doc. 01-20237 Filed 8-9-01; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA-4125a; FRL-7030-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC RACT Determinations for Three 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 three major sources of volatile organic compounds (VOC). These sources are located in the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area). EPA is approving these revisions to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on September 24, 2001 without further notice, unless EPA receives adverse written comment by September 10, 2001. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to David L. Arnold, Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; Allegheny County Health Department, Bureau of

Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201 and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto at (215) 814-2182, the EPA Region III address above or by e-mail at quinto.rose@epa.gov. Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted, in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 182(b)(2) and 182(f) of the Clean Air Act (CAA), the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO_x sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

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

(1) All sources covered by a Control Technique Guideline (CTG) document issued between November 15, 1990 and the date of attainment;

(2) All sources covered by a CTG issued prior to November 15, 1990; and

(3) All major non-CTG sources. The regulations imposing RACT for these non-CTG major sources were to be submitted to EPA as SIP revisions by November 15, 1992 and compliance required by May of 1995.

The Pennsylvania SIP already includes approved RACT regulations for all sources and source categories covered by the CTGs. On February 4, 1994, PADEP submitted a revision to its SIP to require major sources of NO_x and additional major sources of VOC emissions (not covered by a CTG) to implement RACT. The February 4, 1994 submittal was amended on May 3, 1994 to correct and clarify certain presumptive NO_x RACT requirements. In the Pittsburgh area, a major source of VOC is defined as one having the potential to emit 50 tons per year (tpy)

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

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