

(11) Washington Steel Corporation, OP 63-000-023, effective September 12, 1996, 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)(172)(i)(B), of this section.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 169-4134; FRL-7038-3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Nitrogen Oxides Budget Trading Program

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania on October 30, 2000 and April 4, 2001. This revision establishes and requires a nitrogen oxides (NO<sub>x</sub>) allowance trading program for large electric generating and industrial units beginning in 2003. The intended effect of this action is to approve the Pennsylvania NO<sub>x</sub> Budget Trading Program because it addresses the requirements of the NO<sub>x</sub> SIP Call Phase I that will significantly reduce ozone transport in the eastern United States.

**EFFECTIVE DATE:** This final rule is effective on September 20, 2001.

**ADDRESSES:** 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; Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178, or by e-mail at fernandez.cristina@epa.gov.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On May 29, 2001 (66 FR 29064), EPA published a notice of proposed

rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of the Pennsylvania NO<sub>x</sub> Budget Trading Program. The formal SIP revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) on October 30, 2000 and April 4, 2001. The Commonwealth of Pennsylvania submitted a revision to its SIP to address the requirements of the NO<sub>x</sub> SIP Call Phase I. Pennsylvania's SIP revision to address the requirements of the NO<sub>x</sub> SIP Call Phase I consists of the addition of Chapter 145—Interstate Pollution Transport Reduction (sections 145.1 through 145.90, inclusive) as well as amendments and additions to Chapter 123—Standards for Contaminants. A detailed description of this SIP revision and EPA's rationale for approving it was provided in the May 29, 2001 NPR and will not be restated here. Two letters of comment were submitted on EPA's proposal. The comments do not oppose EPA's proposed action to approve Pennsylvania's regulations, but rather asked that EPA clarify whether or not section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction was being made part of the SIP. A summary of the comments and EPA's response is provided in Section II, below.

##### II. Public Comments and EPA Response

*Comment:* Two letters of comment were submitted requesting that EPA clarify that its approval of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction does not include section 145.100 of that regulation. The commenters stated that while they could infer from reading the May 29, 2001 NPR that Section 145.100 was not included in the SIP revision, they urged EPA to state explicitly in its final rulemaking that Section 145.100 was not being approved as a revision to the Pennsylvania SIP.

*Response:* Pennsylvania's submittal to EPA requesting that its NO<sub>x</sub> Budget Trading Program be approved as a SIP revision did not include Section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction. Therefore, EPA is neither approving section 145.100 nor incorporating it into the Pennsylvania SIP.

##### III. Final Action

EPA is approving SIP revisions as submitted by the Commonwealth of Pennsylvania on October 30, 2000 and April 4, 2001. These SIP revisions consist of the Commonwealth's NO<sub>x</sub> Budget Trading Program to satisfy the

requirements of the NO<sub>x</sub> SIP Call Phase I. Pennsylvania's SIP revisions to address the requirements of the NO<sub>x</sub> SIP Call Phase I consist of the addition of Chapter 145—Interstate Pollution Transport Reduction (sections 145.1 through 145.90, inclusive) as well as amendments and additions to Chapter 123—Standards for Contaminants. The Commonwealth's SIP revision request does not include section 145.100 of 25 PA Code Chapter 145—Interstate Pollution Transport Reduction.

##### 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" (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. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *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 22, 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 Pennsylvania NO<sub>x</sub> Budget Trading Program 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, Incorporation by reference, Nitrogen dioxide, 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)(168) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(168) Revisions submitted on October 30, 2000 and March 28, 2001 by the Secretary of the Pennsylvania Department of Environmental Protection requesting approval of Pennsylvania's Nitrogen Oxides Budget Trading Program :

(i) Incorporation by reference.

(A) Letters of October 30, 2000 and March 28, 2001 from the Secretary of the Pennsylvania Department of Environmental Protection transmitting regulatory amendments to 25 PA Code to implement the Nitrogen Oxides Budget Trading Program .

(B) Revisions to 25 PA Code, amending Chapter 123 and adding Chapter 145 pertaining to the Nitrogen Oxides Budget Trading Program, effective on September 23, 2000.

(1) Revisions to section 123.115.

(2) Addition of section 123.121.

(3) Addition of sections 145.1 through 145.7, 145.10 through 145.14, 145.30, 145.31, 145.40 through 145.43, 145.50 through 145.57, 145.60 through 145.62, 145.70 through 145.76, 145.80 through 145.88, and 145.90.

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[PA-4127a; FRL-7040-1]

#### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Eight Individual Sources in the Pittsburgh-Beaver Valley Area; Correction**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule; correction.

**SUMMARY:** This document corrects an error in the preamble language of the final rule pertaining to EPA's approval of the VOC and NO<sub>x</sub> RACT determinations for eight individual sources in the Pittsburgh-Beaver Valley Area, submitted by the Commonwealth of Pennsylvania.

**EFFECTIVE DATE:** September 27, 2001.

**FOR FURTHER INFORMATION CONTACT:** Ellen Wentworth (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:** On August 13, 2001 (66 FR 42418), EPA published a direct final rulemaking action announcing EPA's approval of VOC and NO<sub>x</sub> RACT determinations for eight individual sources in the Pittsburgh-Beaver Valley Area. In the preamble of this document, EPA inadvertently stated that these eight sources (Consolidated Natural Gas Transmission Corporation-South Oakford Station, Consolidated Natural Gas Transmission Corporation-Tonkin Station, Carnegie Natural Gas Company-Creighton Station, Consolidated Natural Gas Transmission Corporation-Beaver Station, Consolidated Natural Gas Transmission Corporation-Jeannette Station, Consolidated Natural Gas Transmission Corporation-South Bend Station, Consolidated Natural Gas Transmission Corporation-Oakford Station, and Texas Eastern Transmission Corporation-Uniontown Station) were subject to additional post-RACT requirements to reduce NO<sub>x</sub> found at 25 PA Code Chapters 121, 123 and 145. This action removes the erroneous language from the preamble.

#### **Corrections**

In rule document 01-20378, beginning on page 42418 in the issue of Monday, August 13, 2001, make the following corrections:

1. On page 42420, third column, remove the last sentence of the second paragraph.