

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 one named source.

### 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 December 27, 2004. 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 pertaining to RACT for National Fuel Gas Supply Corporation's Roystone Compressor Station, located in Sheffield, Warren County, 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, Incorporation by reference, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 23, 2004.

Donald S. Welsh,

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)(213)(i)(B)(1) to read as follows:

### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(213) \* \* \*  
(i) \* \* \*  
(A) \* \* \*  
(B) \* \* \*

(1) National Fuel Gas Supply Corp.,  
Roystone Compressor Station, Sheffield,  
Warren County, OP 62–141F, effective  
date April 1, 2003.

\* \* \* \* \*

[FR Doc. 04–23951 Filed 10–26–04; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA203–4218a; FRL–7821–2]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Two Individual Sources

**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 two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) located in Pennsylvania. 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 December 27, 2004 without further notice, unless EPA receives adverse written comment by November 26, 2004. 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:** Submit your comments, identified by PA203–4218 by one of the following methods:

A. Federal eRulemaking Portal:  
<http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov)

C. Mail: Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. Hand Delivery: At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. PA203–4218. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov* or e-mail. The Federal *regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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, 1301 Constitution Avenue, NW., Room B108, 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:** Betty Harris at (215) 814–2168 or via e-mail at [harris.betty@epa.gov](mailto:harris.betty@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

Pursuant to sections 182(b)(2) and 182(f) of the 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.

## II. Summary of the SIP Revision

On August 15, 2003, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for several major sources of VOC and NO<sub>x</sub>. This rulemaking pertains to two of those sources, namely, Tennessee Gas Pipeline Company (TGP), Station 321, located in Susquehanna County, Pennsylvania and Tennessee Gas Pipeline Company (TGP), Station 219, located in Mercer County, Pennsylvania. The RACT determinations and requirements are included in operating permits (OP) issued by PADEP. The RACT requirements imposed by PADEP and submitted to EPA for approval as SIP revisions are described in the following paragraphs.

### A. Tennessee Gas Pipeline Company (TGP) (Station 321)

The TGP Company (Station 321) is in the business of transporting natural gas and operates an interstate pipeline system. In this instance, RACT has been established and imposed by PADEP in an operating permit. On August 15, 2003, PADEP submitted operating permit No. OP-58-0001A to EPA as a SIP revision. This operating permit incorporates RACT determinations for three (3) Solar Centaur Recuperated natural gas-fired turbines, one (1) Waukesha backup generator, one (1) boiler, two (2) furnaces, and thirteen (13) heaters. The RACT provisions of Section 129.91 through 129.95 limit NO<sub>x</sub> emissions from each of the Solar Centaur Recuperator turbines. These units shall not exceed 140 ppm<sub>dv</sub> corrected at 15% oxygen. The NO<sub>x</sub> emission limits apply at all times except during periods of start-up and shut-down, however the duration of start-up or shut-down shall not exceed one hour per occurrence. RACT requirements under 25 PA Code Section 129.93 (c)(1) for two furnaces, one boiler, and thirteen heaters shall be installation, maintenance, and operation in accordance with manufacturer's specifications. These sources shall also be operated and maintained in

accordance with good air pollution control practices.

Under the presumptive RACT requirements 25 Pa. Code Section 129.93(c)(5), the 228 brake horsepower backup generator shall not operate more than 500 hours in any consecutive 12 month period. This source shall also be operated and maintained in accordance with good air pollution control practices. TGP shall perform semi-annual NO<sub>x</sub> tests on the three Solar Centaur turbines using an PADEP approved portable exhaust gas analyzer. The results from these tests shall be used to demonstrate compliance with NO<sub>x</sub> emissions limits. The frequency of portable analyzer tests maybe altered by PADEP based on the test results and reserve the rights to require stack tests in accordance with EPA reference methods should the data from the portable analyzer warrant.

TGP shall maintain records in accordance with the recordkeeping requirements of 25 PA Code Section 129.95 which shall include: (a) The number of hours per calendar year and (b) the amount of fuel used per calendar year in each of the sources identified in the operating permit. These records shall be retained for a minimum of 2 years and shall be made available to PADEP upon request.

### B. Tennessee Gas Pipeline Company (TGP) (Station 219)

The TGP Company (Station 219) operates a natural gas transmission pipeline which transports and distributes gas throughout the area. In this instance, RACT has been established and imposed by PADEP in an operating permit. On August 15, 2003, PADEP submitted operating permit No. OP-43-0272 to EPA as a SIP revision. This operating permit incorporates RACT determinations for fourteen (14) Cooper-Bessemer engines, four (4) heaters, one (1) boiler, one (1) office and utility furnace and three (3) auxiliary engines. NO<sub>x</sub> emissions from each of the following Cooper-Bessemer engines shall not exceed the following: Six GMV-IOTF 31.6 lb/hr., Two GMV-IOTFS 11.9 lb/hr., Five GMVA-10 33.3 lb/hr., One 16V-250 48.5 lb/hr. The 6 Cooper-Bessemer GMV-IOTF engines shall be set and maintained with an ignition timing of 6 degrees before top dead center, which corresponds to a 3 degree retard from a standard ignition timing of 9 degrees before top dead center. The 5 Cooper-Bessemer GMV10 engines shall be set and maintained with an ignition timing of 8 degrees before top dead center, which corresponds to a 4 degree retard from a standard ignition timing of 12 degrees

before top dead center. These engines shall also be operated and maintained in accordance with good air pollution control practices. RACT requirements under 25 PA Code Section 129.93 (c)(1), 1 boiler, 4 furnaces and heaters shall be installation, maintenance, and operation in accordance with manufacturer's specifications. These sources shall also be operated and maintained in accordance with good air pollution control practices. RACT requirements under 25 PA Code Section 129.93 (c) (3), for 3 auxiliary engines shall be set and maintained at 4 degree retarded before top dead center relative to standard ignition timing. These engines shall be maintained and operated in accordance with manufacturer's specifications and with good air pollution control practices. Rules and Regulations under PADEP RACT provisions of Section 129.91 through 129.95, volatile organic compounds (VOC) emissions from one 16-V250 Cooper-Bessemer engine shall not exceed 6 lbs per hour and 26.3 tons per year calculated on a 12-month rolling basis. The VOC RACT for all sources shall be operated and maintained in accordance with good air pollution control practices. TGP (Station 219) shall perform semi-annual NO<sub>x</sub> tests on all 14 Cooper-Bessemer engines using PADEP approved portable exhaust gas analyzer. The results from these tests shall be used to demonstrate compliance with NO<sub>x</sub> emissions limits.

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

EPA is approving the operating permits issued to the two Tennessee Gas Pipeline Companies' by PADEP as described in Section II. EPA is approving them as SIP revisions because the Commonwealth established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT or for limiting a source's potential to emit. The Commonwealth has also imposed record-keeping, monitoring, and testing requirements on these sources sufficient to determine compliance with these requirements.

## IV. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania's SIP which establish and require RACT for these two major sources of VOC and NO<sub>x</sub>: (1) Tennessee Gas Pipeline Company, Station 321, located in Susquehanna County, Pennsylvania (OP-58-0001A); (2) Tennessee Gas Pipeline Company, Station 219, located in Mercer County, Pennsylvania (OP-43-0272). EPA is publishing this rule without prior proposal because we view

this as a noncontroversial amendment and anticipate 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 direct final rule will be effective on December 27, 2004 without further notice unless we receive adverse comment by November 26, 2004. 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 EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

## V. Statutory and Executive Order Reviews

### 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 (Pub. L. 104-4). This rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does not 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). This action 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 "Protection of Children from Environmental Health Risks and Safety Risks" (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. 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 two 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 December 27, 2004. 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 NO<sub>x</sub> and VOC from two individual sources 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, Volatile organic compounds, Reporting and recordkeeping requirements.

Dated: September 22, 2004.

**Thomas Voltaggio,**

*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)(218) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(218) Revisions pertaining to VOC and NO<sub>x</sub> RACT for Tennessee Gas Pipeline Company, Station 321, located in Susquehanna County, Pennsylvania; and Tennessee Gas Pipeline Company, Station 219, located in Mercer County, Pennsylvania submitted by the Secretary of the Pennsylvania Department of Environmental Protection on August 15, 2003.

(i) Incorporation by reference.

(A) Letter submitted on August 15, 2003 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT

determinations, in the form of operating permits:

(B) Operating permit (OP):

(1) Tennessee Gas Pipeline Company, Station 321, Susquehanna County, OP-58-0001A, effective date April 16, 1999.

(2) Tennessee Gas Pipeline Company, Station 219, Mercer County, OP-43-0272, effective date April 7, 1998.

(ii) Additional Material—Additional materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(218)(i) of this section.

[FR Doc. 04-23940 Filed 10-26-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[CA284-0462; FRL-7811-2]

### Revisions to the California State Implementation Plan, Bay Area Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the Bay Area Air Quality Management District portion of the California State Implementation Plan (SIP). These revisions were proposed in the **Federal Register** on October 20, 2003 and concern volatile organic compound (VOC) emissions from solvents and surface cleaning operations when coating large appliances, metal furniture, and miscellaneous metal parts. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** This rule is effective on November 26, 2004.

**ADDRESSES:** You can inspect copies of the administrative record for this action at EPA's Region IX office during normal business hours by appointment. You can inspect copies of the submitted SIP revisions by appointment at the following locations:

Environmental Protection Agency, Region IX,  
75 Hawthorne Street, San Francisco, CA  
94105-3901

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B-102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814 and,

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

**FOR FURTHER INFORMATION CONTACT:** Jerald S. Wamsley, EPA Region IX, at (415) 947-4111, or via email at [wamsley.jerry@epa.gov](mailto:wamsley.jerry@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, "we," "us" and "our" refer to EPA.

### I. Proposed Action

On October 30, 2003 (68 FR 61782), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule #	Rule title	Adopted	Submitted
BAAQMD .....	8-14	Surface Preparation and Coating of Large Appliances and Metal Furniture.	10/16/02	04/01/03
BAAQMD .....	8-19	Surface Preparation and Coating of Miscellaneous Metal Parts and Products.	10/16/02	04/01/03

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

### II. Public Comments and EPA Responses

EPA's proposed action provided a 30-day public comment period. During this period, we received comments from the following parties.

1. Adrienne Bloch, Communities for a Better Environment (CBE); letter and electronic mail dated November 21, 2003.

2. Marc Chytilo, Transportation Solutions Defense and Education Fund (TRANSDEF); co-signee same letter referenced above. The comments and our responses are summarized below.

*Comment:* EPA should disapprove or defer action on BAAQMD Rules 8-14 and 8-19 because on July 23, 2003 a State Court ruled that the BAAQMD did not follow mandated state law in adopting the 2001 SIP stationary source control measure SS-13 (Rules 8-14 and

8-19 in a different form). The State Court found that the BAAQMD's initial study and negative declarations under the California Environmental Quality Act (CEQA) for the 2001 Ozone Attainment Plan (OAP), including SS-13, were inadequate. Given that the BAAQMD has not met CEQA's substantive and procedural requirements, the commenters assert that the BAAQMD has neither legal authority to adopt Rules 8-14 and 8-19, nor sufficient procedural evidence that they have followed State law in adopting and submitting Rules 8-14 and 8-19. Consequently, EPA should reject the rule revisions concerning Rules 8-14 and 8-19 because they violate the Clean Air Act (CAA) at Section 110(a)(2)(E) and EPA regulations at 40 Code of Federal Regulations (CFR), Part 51, Appendix V.

The CAA Section 110(a)(2)(E) does not allow EPA to approve a SIP revision unless the State can assure that it has authority under state and local law to carry out the SIP revision. CFR 40 Part 51, Appendix V requires that a State provide evidence of legal authority to

adopt a SIP revision and show that the State followed all of its procedural requirements.

*EPA Response:* In subsequent actions, BAAQMD and the commenters, CBE and TRANSDEF, appealed the July 23, 2003 State Court decision. In April 2004, BAAQMD, CBE, and TRANSDEF entered into a settlement agreement that vacated the July 23, 2003 State Court judgement. As a part of the settlement, CBE and TRANSDEF agreed to dismiss their lawsuit against BAAQMD that challenged the 2001 OAP on CEQA and other grounds and relinquish all claims associated with the lawsuit. Consequently, we are left with no substantive basis requiring that we adjudicate CBE and TRANSDEF's claim that we should not act on Rules 8-14 and 8-19 as submitted.

However, it should be noted that as part of BAAQMD's September 2002 adoption action on Rules 8-14 and 8-19, the district published its "Initial Study/Negative Declaration for Amendments to the BAAQMD Regulation 8, Rules 4, 14, 19, 31, and 43 (Surface Coating Rules)." This