(*1*) *Effect on corporation.* Pursuant to § 1.1368–2(a)(3)(iii), X's AAA is reduced by $6,000 to $4,000. Beginning on November 3, 2020, pursuant to § 1.1371–1(a)(2)(vii), X's ETSC period resumes (after the intervening audit PTTP's conclusion) because its AAA balance is greater than zero.

(*2*) *Effect on shareholder.* Pursuant to section 1371(e)(1), A reduces its basis in its X stock by $6,000 to $5,000.

(C) *ETSC period.* Beginning on November 3, 2020, X's ETSC period resumes, and distributions of money are subject to section 1371(f) and § 1.1371–1 until X's AAA balance is zero. For purposes of calculating each of X's AAA and AE&P ratios, X's historical AAA is $59,000 (at the beginning of January 1, 2019, which includes the $10,000 increase as a result of the July 6, 2020, closing agreement).

(d) *Applicability date.* This section applies to taxable years beginning after October 20, 2020. However, a corporation may choose to apply the rules in §§ 1.481–5, 1.1371–1, and 1.1371–2 in their entirety to taxable years that began on or before October 20, 2020. If a corporation makes the choice described in the previous sentence, all shareholders of the corporation must report consistently, and the corporation must continue to apply the rules in §§ 1.481–5, 1.1371–1, and 1.1371–2 in their entirety for the corporation's subsequent taxable years.

§ 1.1377–2 [Amended]

■ **Par. 7.** Section 1.1377–2 is amended by removing the last sentence of paragraph (b).

■ **Par. 8.** Section 1.1377–3 is revised to read as follows:

§ 1.1377–3 Applicability dates.

(a) *In general.* Except as otherwise provided in this section, §§ 1.1377–1 and 1.1377–2 apply to taxable years of an S corporation beginning after December 31, 1996.

(b) *Certain conversions.* Section 1.1377–1(a)(2)(iii) and (c)(3) (*Example 3)* are applicable for taxable years beginning on and after May 14, 2002.

(c) *Special treatment of distributions of money during post-termination transition period*—(1) *In general.* Except as provided in paragraph (c)(2) of this section, § 1.1377–2(b) applies to taxable years beginning after October 20, 2020. For taxable years beginning on or before October 20, 2020, see § 1.1377–2(b) as contained in 26 CFR part 1, revised April 1, 2020.

(2) *Taxable years beginning on or before October 20, 2020.* A corporation may choose to apply § 1.1377–2(b) to taxable years beginning on or before October 20, 2020 and with respect to which the period described in section 6501(a) has not expired. If a corporation makes the choice described in the previous sentence, all shareholders of the corporation must report consistently, and the corporation must adopt §§ 1.481–5, 1.1371–1, 1.1371–2, if an ETSC, and 1.1377–2(b) in their entity and continue to apply those rules in their entirety for the corporation's subsequent taxable years.

Sunita Lough,

Deputy Commissioner for Services and Enforcement.

Approved: September 9, 2020.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2020–21144 Filed 10–19–20; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2019–0657; FRL–10014–53–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Reasonably Available Control Technology Determinations for Case-by-Case Sources Under the 1997 and 2008 8-Hour Ozone National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for individual major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) pursuant to the Commonwealth of Pennsylvania's conditionally approved RACT regulations. In this action, EPA is only approving source-specific (also referred to as ''case-by-case'') RACT determinations for nine major sources. These RACT evaluations were submitted to meet RACT requirements for the 1997 and 2008 8-hour ozone national ambient air quality standards (NAAQS). EPA is approving these revisions to the Pennsylvania SIP in accordance with the requirements of the Clean Air Act (CAA) and EPA's implementing regulations.

DATES: This final rule is effective on November 19, 2020.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2019–0657. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Bertram, Permits Branch (3AD10), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–5273. Ms. Bertram can also be reached via electronic mail at *bertram.emily@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On May 5, 2020, EPA published a notice of proposed rulemaking (NPRM). 85 FR 26643. In the NPRM, EPA proposed approval of case-by-case RACT determinations for nine of the 10 sources included in the subject SIP submission for the 1997 and 2008 8-hour ozone NAAQS.[1] The case-by-case RACT determinations for these sources were included in a SIP revision submitted by PADEP on April 11, 2019.

Under certain circumstances, states are required to submit SIP revisions to address RACT requirements for major sources of NO_X and VOC or any source category for which EPA has promulgated control technique guidelines (CTG) for each ozone NAAQS. Which NO_X and VOC sources in Pennsylvania are considered ''major,'' and therefore to be addressed for RACT revisions, is dependent on the location of each source within the Commonwealth. Sources located in nonattainment areas would be subject to the ''major source'' definitions

[1] The portion of PADEP's SIP submission related to American Craft Brewery, LLC was withdrawn on October 21, 2019. EPA will be taking action on this source in a future rulemaking action, once resubmitted by PADEP for approval into the PA SIP.

established under the CAA based on their classification. In Pennsylvania, sources located in areas outside of moderate or above nonattainment areas, as part of the Ozone Transport Region (OTR), are subject to source thresholds of 50 tons per year (tpy). CAA section 184(b).

On May 16, 2016, PADEP submitted a SIP revision addressing RACT under both the 1997 and 2008 8-hour ozone NAAQS in Pennsylvania. PADEP's May 16, 2016 SIP revision intended to address certain outstanding non-CTG VOC RACT, VOC CTG RACT, and major NO_X RACT requirements for both standards. The SIP revision requested approval of Pennsylvania's 25 Pa. Code 129.96–100, Additional RACT Requirements for Major Sources of NO_X and VOCs (the ''presumptive'' RACT II rule). Prior to the adoption of the RACT II rule, Pennsylvania relied on the NO_X and VOC control measures in 25 Pa. Code 129.92–95, Stationary Sources of NO_X and VOCs, (the RACT I rule) to meet RACT for non-CTG major VOC sources and major NO_X sources. The requirements of the RACT I rule remain approved into Pennsylvania's SIP and continue to be implemented.[2] On September 26, 2017, PADEP submitted a supplemental SIP revision, dated September 22, 2017, which committed to address various deficiencies identified by EPA in their May 16, 2016 ''presumptive'' RACT II rule SIP revision.

On May 9, 2019, EPA conditionally approved the RACT II rule based on the commitments PADEP made in its September 22, 2017 supplemental SIP revision. 84 FR 20274. In EPA's final conditional approval, EPA noted that PADEP would be required to submit, for EPA's approval, SIP revisions to address any facility-wide or system-wide averaging plan approved under 25 Pa. Code 129.98 and any case-by-case RACT determinations under 25 Pa. Code 129.99. PADEP committed to submitting these additional SIP revisions within 12 months of EPA's final conditional approval, specifically May 9, 2020. The SIP revision addressed in this rule is part of PADEP's efforts to meet the conditions of its supplemental SIP revision and EPA's conditional approval of the RACT II Rule.

II. Summary of SIP Revision and EPA Analysis

A. Summary of SIP Revision

To satisfy a requirement from EPA's May 9, 2019 conditional approval, PADEP submitted to EPA SIP revisions addressing case-by-case RACT requirements for major sources in Pennsylvania subject to 25 Pa. Code 129.99. In the Pennsylvania RACT SIP revisions, PADEP included a case-by-case RACT determination for the existing emissions units at each of the major sources of NO_X and/or VOC that required a source-specific RACT determination. In PADEP's RACT determinations, an evaluation was completed to determine if previously SIP-approved, case-by-case RACT emission limits or operational controls (herein referred to as RACT I and contained in RACT I permits) were more stringent than the new RACT II presumptive or case-by-case requirements. If more stringent, the RACT I requirements will continue to apply to the applicable source. If the new case-by-case RACT II requirements are more stringent than the RACT I requirements, then the RACT II requirements will supersede the prior RACT I requirements.[3]

Here, EPA is taking action on SIP revisions pertaining to case-by-case RACT requirements for nine major sources of NO_X and/or VOC in Pennsylvania, as summarized in Table 1.

TABLE 1—NINE MAJOR NO_X AND/OR VOC SOURCES IN PENNSYLVANIA SUBJECT TO CASE-BY-CASE RACT II DETERMINATIONS UNDER THE 1997 AND 2008 8-HOUR OZONE NAAQS

Major source (county)	1-Hour ozone RACT source? (RACT I)	Major source pollutant (NO_X and/or VOC)	RACT II permit (effective date)
Carpenter Co. (Lehigh)	No	VOC	39–00040 (9/5/2018)
East Penn Manufacturing Co. Inc, Smelter Plant (Berks).	No	NO_X and VOC	06–05040D (1/3/2019)
Ellwood Quality Steels Co. (Lawrence)	Yes	NO_X and VOC	37–00264 (10/13/2017)
GE Transportation—Erie Plant (Erie)	Yes	NO_X and VOC	25–00025 (2/21/2018)
Graymont Pleasant Gap (Centre)	Yes	NO_X	14–00002 (2/5/2018)
Hazleton Generation (Luzerne)	Yes	NO_X	40–00021 (6/19/2018)
Helix Ironwood (Lebanon)	No	NO_X	38–05019 (9/24/2018)
Magnesita Refractories (York)	Yes	NO_X	67–05001 (11/27/2018)
Penn State University (Centre)	Yes	NO_X	14–00003 (12/13/2017)

The case-by-case RACT determinations submitted by PADEP consist of an evaluation of all reasonably available controls at the time of evaluation for each affected emissions unit, resulting in a PADEP determination of what specific emission limit or control measures, if any, satisfy RACT for that particular unit. The adoption of new, additional, or revised emission limits or control measures to existing SIP-approved RACT I requirements were specified as requirements in new or revised Federally enforceable permits (hereafter RACT II permits) issued by PADEP to the source. The RACT II permits, which revise or adopt additional source-specific limits and/or controls, have been submitted as part of the Pennsylvania RACT SIP revisions for EPA's approval in the Pennsylvania SIP under 40 CFR 52.2020(d)(1). The RACT II permits submitted by PADEP are listed in the last column of Table 1, along with the permit effective date, and are part of the docket for this rule, which is available online at *https://www.regulations.gov,* Docket No. EPA–R03–OAR–2019–0657.[4] EPA is

[2] The RACT I Rule was approved by EPA into the Pennsylvania SIP on March 23, 1998. 63 FR 13789. Through the current rulemaking, certain source-specific RACT I requirements will be superseded by more stringent RACT II requirements. See Section II of this preamble.

[3] While the prior SIP-approved RACT I permit will remain part of the SIP, this RACT II rule will incorporate by reference the RACT II requirements through the RACT II permit and clarify the ongoing applicability of specific conditions in the RACT I permit.

[4] The RACT II permits are redacted versions of a facility's Federally enforceable permits and reflect the specific RACT requirements being approved into the Pennsylvania SIP.

incorporating by reference in the Pennsylvania SIP, via the RACT II permits, source-specific RACT emission limits and control measures under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of NO_X and VOC emissions.

B. EPA's Proposed Action

PADEP's SIP revisions incorporate its determinations of source-specific RACT II controls for individual emission units at major sources of NO_X and/or VOC in Pennsylvania, where those units are not covered by or cannot meet Pennsylvania's presumptive RACT regulation. After thorough review and evaluation of the information provided by PADEP in its SIP revision submittals for nine major sources of NO_X and/or VOC in Pennsylvania, EPA proposed to find that PADEP's case-by-case RACT determinations and conclusions establish limits and/or controls on individual sources that are reasonable and appropriately considered technically and economically feasible controls.

PADEP, in its RACT II determinations, considered the prior source-specific RACT I requirements and, where more stringent, retained those RACT I requirements as part of its new RACT determinations. In the NPRM, EPA proposed to find that all the proposed revisions to previously SIP-approved RACT I requirements would result in equivalent or additional reductions of NO_X and/or VOC emissions. The proposed revisions should not interfere with any applicable requirements concerning attainment, reasonable further progress with the NAAQS, or section 110(l) of the CAA.

Other specific requirements of Pennsylvania's 1997 and 2008 8-hour ozone NAAQS case-by-case RACT determinations and the rationale for EPA's proposed action were explained in the NPRM, and its associated technical support document (TSD), and will not be restated here.

III. Public Comments and EPA Responses

EPA received comments from five commenters on the May 5, 2020 NPRM. 85 FR 26643. A summary of the comments and EPA's response are discussed in this section of the preamble. A copy of the comments can be found in the docket for this rule action.

Comment 1: One commenter stated that the ''PADEP economic benchmark for RACT determination is low and not appropriate for all case-by-case situations.'' The commenter then goes on to assert that ''PADEP should not use any absolute amount in any case-by-case RACT economic determinations.'' The commenter claims that this ''presumptive benchmark allows Pennsylvania major sources to emit significant amounts of NO_X which makes it difficult for New Jersey (NJ) and other neighboring states to attain the ozone NAAQS.'' Finally, the commenter mentions New Jersey's 2004 RACT rule and cost estimates they found acceptable.

Response 1: EPA is aware that Pennsylvania considered cost-effectiveness levels ($/ton removed) that are lower than other states, such as New Jersey and New York as the commenter notes, when developing the RACT II rule. However, EPA has not set a single cost, emission reduction, or cost-effectiveness figure to fully define cost-effectiveness in meeting the NO_X or VOC RACT requirement. Therefore, states have the discretion to determine what costs are considered reasonable when establishing RACT for their sources. Each state must make and defend its own determination on how to weigh these values in establishing RACT.

As PADEP explained in its RACT II rulemaking, it did not establish a bright-line cost effectiveness threshold in determining what is economically reasonably for purposes of defining RACT.[5] Instead, it developed as guidance a cost-effectiveness threshold of $2,800 per ton of NO_X controlled and $5,500 per ton of VOC controlled for RACT. Pennsylvania also determined that even evaluating control technology options with an additional 25% margin, an upper bound cost-effectiveness threshold of $3,500 per ton NO_X controlled and $7,000 per ton VOC controlled, would not affect the add-on control technology decisions required by RACT. Id. Pennsylvania determined that these higher cost-effectiveness thresholds did not impact the determination of what add on control technology was feasible. Pennsylvania also reviewed examples of benchmarks used by other states: Wisconsin, $2,500 per ton NO_X; Illinois, $2,500–$3,000 per ton NO_X; Maryland, $3,500–$5,000 per ton NO_X; Ohio, $5,000 per ton NO_X; and New York, $5,000–$5,500 per ton NO_X.[6]

In a separate prior final agency action, EPA found that PADEP's cost effectiveness thresholds are reasonable and reflect control levels achieved by the application and consideration of available control technologies, after considering both the economic and technological circumstances of Pennsylvania's own sources. See 84 FR 20274, 20286 (May 9, 2019).

Comment 2: The commenter states that EPA and PADEP should have considered a shared Selective Catalytic Reduction (SCR) system for multiple test cells under Source ID 372 at GE Erie as RACT. The commenter claims that the facility could have capitalized on a shared SCR system where emissions could be reduced at multiple test cells by one or two SCR systems, making it a cost-effective approach with large emission reductions.

Response 2: The GE Erie facility includes an engine lab test facility. The commenter raises concerns about emission controls at test cells in Source ID 372. Six of the test cells found in Source ID 372 (test cells B, C, D, E, F and G located in GE Erie's Building 18E) were evaluated for NO_X and VOC RACT. An SCR system was evaluated as to whether it would be NO_X RACT by PADEP per the case-by-case requirements of 25 Pa. Code 129.99. PADEP found that the SCR system was technically feasible; however, it was determined to be cost prohibitive when applied to an individual test cell. In follow up correspondence with GE Erie, PADEP specifically asked the company for justification as to why the Source 372 test cells could not be combined into a single stack with a single control technology, such as a shared SCR system, versus installing control technology for each individual test cell. In its response, GE identified that the multiple test cells found in Source ID 372 presently each have their own stack and explained the several design and operational considerations necessitating that each emission point have an individual stack.[7]

This analysis identified that there is a wide range of potential operating conditions across test cells that result in a broad range of differences in air flow, velocity, and temperature associated with those operating conditions. The differences in air flow, velocity, and temperature associated with these different operating modes varies by orders of magnitude. A dedicated air pollution control system for each stack provides the facility the opportunity to optimize each test cell to run in the mode required by that stack configuration at that particular time. It concluded that it is technically

[5] 46 Pa. Bulletin 2036 (April 23, 2016).

[6] PADEP Responses to Frequently Asked Questions, Final Rulemaking RACT Requirements for Major Sources of NO_X and VOCs. October 20, 2016.

[7] See email dated December 13, 2018 from Hubert Flaherty, PADEP, to Lynn Khalife, PADEP, which includes an email dated June 15, 2017 from GE Transportation to PADEP, which is part of the record in this docket.

infeasible to design and operate a single air pollution control system that can accommodate the necessary range of operation that would be required in a multiple line context.[8]

Additionally, the analysis considered that the engine test cell exhaust handling systems must operate with minimal backpressure that mimics that of a locomotive in order to conduct meaningful testing. It concluded that it is technically infeasible to design and operate a single air pollution control system that can minimize inherent backpressure and prevent cross feed backpressure from one operating engine into another. Another factor considered in the analysis was GE Erie's claims that multiple air pollution control systems provide operational redundancy that protects business continuity in the event of system interruption, which the company identified as occurring with meaningful frequency.[9]

EPA agrees with the assessment presented by PADEP that a shared air pollution control system, such as an SCR system, for the multiple test cells found in Source ID 372 is technically infeasible. Therefore, per 25 Pa. Code 129.99, this potential control strategy would not require a cost assessment and would be determined infeasible as NO_X RACT for Source ID 372.

Comment 3: The commenter notes that for Penn State's RACT analysis, PADEP has determined that the previous RACT I NO_X emission limit of 107.5 tpy for each boiler is to be superseded with a new RACT II natural gas usage restriction of 520 million cubic feet/year and a No. 2 fuel oil usage restriction of 743,000 gallons/year. The commenter asks what this means and asks that EPA clarify whether the 107.5 tpy NO_X emission limit is to be removed from Pennsylvania's SIP. If the RACT I annual limit is intended to be removed from the SIP, the commenter demands that EPA re-propose Penn State's RACT determination because the removal was not mentioned in this proposed notice.

Response 3: The commenter correctly notes that EPA indicated in its TSD that PADEP had determined that the NO_X RACT annual limit of 107.5 tpy per boiler for Source IDs 036 and 037, two East Campus Steam Plant, would be superseded with the new RACT II natural gas and No. 2 fuel oil usage restrictions. The RACT I 107.5 tpy NO_X limit will not be removed from the SIP. This RACT II rule will add the RACT II limits to the SIP and clarify that its more stringent requirements have superseded the prior annual limit and, in effect, will govern.[10]

As a result of the RACT process, PADEP, based on a statistical evaluation of Penn State's historical test data for the two boilers, reduced the NO_X short-term emission limit for each boiler from 0.20 lbs/MMBtu to 0.18 lbs/MMBtu when fired on natural gas and 0.12 lbs/MMBtu when fired on No. 2 fuel oil. A recent Non-Attainment New Source Review (NNSR) restriction established the usage restriction of 520 million cubic feet of natural gas in any 12 consecutive month period per boiler for the two boilers. This fuel usage restriction, coupled with the NO_X RACT short-term emission limit of 0.20 lbs/MMBtu (which has now been lowered to 0.18 lbs/MMBtu), equates to expected emissions of 53.7 tpy. As part of the NO_X RACT determination for the two boilers, PADEP has proposed adding the new fuel restrictions along with the short-term emission limit to the SIP.

PADEP's Technical Review Memo (PADEP Memo), dated August 9, 2017, and EPA's TSD, both of which are part of the record in this docket, clearly discuss the outdated nature of the prior NO_X RACT I determination of 107.5 tpy for Source IDs 036 and 037 and that it would be less stringent than the new RACT II determination. As PADEP indicated in its review memo, ''[t]he existing RACT annual limit of 107.5 TPY is out-of-date due to the NNSR restriction established in the operating permit for natural gas usage. This restriction, along with the 0.2 lbs/MMBtu limit, equates to 53.7 tpy. This is the potential to emit (PTE) used in the economic feasibility analyses noted above.'' PADEP Memo, page 5.

As the RACT I annual NO_X limit of 107.5 will not be removed from the SIP, there is no need for any additional notice.

Comment 4: The commenter states that EPA should determine that for Source IDs 036 and 037 at Penn State, RACT is the installation of SCR because the facility determined the cost effectiveness of SCR to be $4,817 per ton of NO_X removed. The commenter states that this level of cost effectiveness was determined economically feasible for the purposes of RACT when EPA approved rules for both New York and New Jersey. The commenter demands that EPA retract Penn State's RACT determination and apply the cost effectiveness thresholds previously approved for New York and New Jersey.

Response 4: EPA is aware that Pennsylvania considered cost-effectiveness levels ($/ton removed) that are lower than other states, such as New Jersey and New York as the commenter notes, when developing the RACT II rule. However, EPA has not set a single cost, emission reduction, or cost-effectiveness figure to fully define cost-effectiveness in meeting the NO_X or VOC RACT requirement. Therefore, states have the discretion to determine what costs are considered reasonable when establishing RACT for their sources. Each state must make and defend its own determination on how to weigh these values in establishing RACT.

As PADEP explained in its RACT II rulemaking, it did not establish a bright-line cost effectiveness threshold in determining what is economically reasonably for purposes of defining RACT.[11] Instead, it developed as guidance a cost-effectiveness threshold of $2,800 per ton of NO_X controlled and $5,500 per ton of VOC controlled for RACT. Pennsylvania also determined that even evaluating control technology options with an additional 25% margin, an upper bound cost-effectiveness threshold of $3,500 per ton NO_X controlled and $7,000 per ton VOC controlled, would not affect the add-on control technology decisions required by RACT. Id. Pennsylvania determined that these higher cost-effectiveness thresholds did not impact the determination of what add on control technology was feasible. Pennsylvania also reviewed examples of benchmarks used by other states: Wisconsin, $2,500 per ton NO_X; Illinois, $2,500–$3,000 per ton NO_X; Maryland, $3,500–$5,000 per ton NO_X; Ohio, $5,000 per ton NO_X; and New York, $5,000–$5,500 per ton NO_X.[12]

In a separate prior final agency action, EPA found that PADEP's cost effectiveness thresholds are reasonable and reflect control levels achieved by the application and consideration of available control technologies, after considering both the economic and

[8] Id.

[9] Id.

[10] EPA notes that PADEP, in its RACT SIP revisions for Helix Ironwood, GE Transportation—Erie, Carpenter, Pennsylvania State University, Ellwood Quality Steels, East Penn Manufacturing, Magnesita Refractories, Hazleton Generation, and Graymont PA, included some form of annual limits in the RACT II permits for those facilities. EPA wishes to clarify that it is not approving any such annual limits as RACT limits. Rather, because PADEP analyzed what should be RACT under operating conditions that included annual limits from the existing facility permit, and PADEP included those requirements in its SIP submittal to us, EPA is incorporating those annual limits into the SIP not as RACT control limits but for the purpose of SIP strengthening.

[11] 46 Pa. Bulletin 2036 (April 23, 2016).

[12] PADEP Responses to Frequently Asked Questions, Final Rulemaking RACT Requirements for Major Sources of NO_X and VOCs. October 20, 2016.

technological circumstances of Pennsylvania's own sources. See 84 FR 20274, 20286 (May 9, 2019).

Comment 5: The commenter urges EPA to reconsider the VOC limit of 0.30 lbs/ton of steel produced, which was established as RACT for the electric arc furnace (EAF) at Ellwood Quality Steels, to more closely align with actual stack test results. The commenter states that the VOC RACT limit for the EAF should be lower because, in PADEP's RACT analysis, results are summarized from the facility's last four stack tests, which averaged an emission rate of 0.14 lbs/ton of steel produced, with the most recent stack test from October 2016 showing an average of 0.082 lbs/ton of steel produced.

Response 5: PADEP conducted a RACT analysis per 25 Pa. Code 129.99 for VOC emissions at the EAF. The potential control technologies evaluated were all determined to be technically infeasible for the source. Additionally, PADEP reviewed EPA's RACT/BACT/LAER Clearinghouse (RBLC) for examples of controls and emission limits at EAF facilities (20 in total). That review revealed that VOC limits (lbs/ton of steel produced) at EAFs ranged from 0.03 lbs/ton to 0.43 lbs/ton with an average limit of 0.20 lbs/ton, a range within which Ellwood Quality Steels' RACT VOC limit falls.[13]

Based on this analysis, PADEP determined VOC RACT for the EAF to be continued operation of the existing RACT I controls—direct evacuation control, process controls, and scrap management, along with the short-term VOC emission limit of 0.3 lbs/ton. EPA concluded that PADEP's VOC RACT determination for the EAF at Ellwood Quality Steels was reasonable for that specific source and meets statutory and regulatory requirements.

IV. Final Action

EPA is approving case-by-case RACT determinations for nine sources in Pennsylvania, as required to meet obligations pursuant to the 1997 and 2008 8-hour ozone NAAQS, as revisions to the Pennsylvania SIP.

V. Incorporation by Reference

In this document, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of source-specific RACT determinations under the 1997 and 2008 8-hour ozone NAAQS for certain major sources of VOC and NO_X in Pennsylvania. EPA has made, and will continue to make, these materials generally available through *https://www.regulations.gov* and at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rule of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.[14]

VI. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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, however, exempts from section 801 the following types of rules: Rules of particular applicability; rules relating to agency management or personnel; and 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). Because this is a rule of particular applicability, EPA is not required to submit a rule report regarding this action under section 801.

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 21, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 Pennsylvania's NO_X and VOC RACT requirements for nine case-by-

[13] See PADEP's Technical Review Memo, dated April 28, 2017, which is part of the docket for this rulemaking action.

[14] 62 FR 27968 (May 22, 1997).

case facilities for the 1997 and 2008 8-hour ozone NAAQS 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 22, 2020.

Cosmo Servidio,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by:

■ a. Revising the entries ''General Electric Transportation Systems—Erie''; ''J. E. Baker Co. (Refractories)—York''; ''Con-Lime, Inc''; ''Con-Lime, Inc.—Bellefonte''; ''Williams Generation Company—Hazleton''; ''General Electric Transportation Systems''; ''The Pennsylvania State University—University Park''; ''Ellwood Group Inc''; ''Graybec Lime, Inc''; and ''Bellefonte Lime Company''; and

■ b. Adding the entries at the end of the table: ''Carpenter Co.''; ''East Penn Manufacturing Co. Inc, Smelter Plant''; ''Ellwood Quality Steels Co. (formerly referenced as Ellwood Group Inc)''; ''GE Transportation—Erie Plant (formerly referenced as General Electric Transportation Systems and General Electric Transportation Systems—Erie)''; ''Graymont Pleasant Gap''; ''Hazleton Generation (formerly referenced as Williams Generation Company—Hazleton)''; ''Helix Ironwood''; ''Magnesita Refractories (formerly referenced as J. E. Baker Co. (Refractories)—York)''; ''Penn State University (formerly referenced as The Pennsylvania State University—University Park)''.

The revisions and additions read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanations/ §§ 52.2063 and 52.2064 citations[1]
*	*	*	*	*	*
General Electric Transportation Systems—Erie	OP–25–025	Erie	12/21/94	8/8/95, 60 FR 40292	See also 52.2064(c)(4).
J. E. Baker Co. (Refractories)—York	OP–67–2001	York	12/22/94	8/8/95, 60 FR 40292	See also 52.2064(c)(8).
*	*	*	*	*	*
Con-Lime, Inc	OP–14–0001	Centre	6/30/95	6/3/97, 62 FR 30250	See also 52.2064(c)(5).
*	*	*	*	*	*
Con-Lime, Inc.—Bellefonte	OP–14–0001	Centre	1/7/98	3/9/98, 63 FR 11370	See also 52.2064(c)(5).
*	*	*	*	*	*
Williams Generation Company—Hazleton	OP–40–0031A	Luzerne	3/10/00	4/1/03, 68 FR 15661	See also 52.2064(c)(6).
*	*	*	*	*	*
General Electric Transportation Systems	OP–25–025A	Erie	8/26/02	4/7/03, 68 FR 16724	See also 52.2064(c)(4).
*	*	*	*	*	*
The Pennsylvania State University—University Park	OP–14–0006	Centre	12/30/98	3/30/05, 70 FR 16118	See also 52.2064(c)(9).
*	*	*	*	*	*
Ellwood Group Inc	OP–37–313	Lawrence	1/31/01	3/30/05, 70 FR 16124	See also 52.2064(c)(3).
*	*	*	*	*	*
Graybec Lime, Inc	OP–14–0004	Centre	4/16/99	4/28/06, 71 FR 25070	See also 52.2064(c)(5).
*	*	*	*	*	*
Bellefonte Lime Company	OP–14–0002	Centre	10/19/98	6/14/06, 71 FR 34259	See also 52.2064(c)(5).
*	*	*	*	*	*
Carpenter Co	39–00040	Lehigh	9/5/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(1).
East Penn Manufacturing Co. Inc, Smelter Plant	06–05040D	Berks	1/3/19	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(2).
Ellwood Quality Steels Co. (formerly referenced as Ellwood Group Inc).	37–00264	Lawrence	10/13/17	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(3).
GE Transportation—Erie Plant (formerly referenced as General Electric Transportation Systems and General Electric Transportation Systems—Erie).	25–00025	Erie	2/21/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(4).
Graymont Pleasant Gap	14–00002	Centre	2/5/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(5).
Hazleton Generation (formerly referenced as Williams Generation Company—Hazleton).	40–00021	Luzerne	6/19/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(6).
Helix Ironwood	38–05019	Lebanon	9/24/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(7).
Magnesita Refractories (formerly referenced as J. E. Baker Co. (Refractories)—York).	67–05001	York	11/27/18	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(8).
Penn State University (formerly referenced as The Pennsylvania State University—University Park).	14–00003	Centre	12/13/17	10/20/2020, [INSERT **Federal Register** citation].	52.2064(c)(9).

[1] The cross-references that are not § 52.2064 are to material that pre-date the notebook format. For more information, see § 52.2063.

* * * * *

■ 3. Amend § 52.2064 by adding paragraph (c) to read as follows:

§ 52.2064 EPA-Approved Source Specific Reasonably Available Control Technology (RACT) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X).

* * * * *

(c) Approval of source-specific RACT requirements for 1997 and 2008 8-hour ozone national ambient air quality standards for the facilities listed below are incorporated as specified below. (Rulemaking Docket No. EPA–OAR–2019–0657).

(1) Carpenter Co.—Incorporating by reference Permit No. 39–00040, issued September 5, 2018, as redacted by Pennsylvania.

(2) East Penn Manufacturing Co. Inc, Smelter Plant—Incorporating by reference Permit No. 06–05040D, issued January 3, 2019, as redacted by Pennsylvania.

(3) Ellwood Quality Steels Co.—Incorporating by reference Permit No. 37–00264, issued October 13, 2017, as redacted by Pennsylvania. All permit conditions in the prior RACT Permit No. OP–37–313, issued January 31, 2001, remain as RACT requirements. See also § 52.2063(d)(1)(d) for prior RACT approval.

(4) GE Transportation—Erie Plant—Incorporating by reference Permit No. 25–00025, issued February 21, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. OP–25–025A, issued August 26, 2002. See also §§ 52.2063(c)(98)(i)(B)(5) and 52.2063(c)(198)(i)(B) for prior RACT approvals.

(5) Graymont Pleasant Gap—Incorporating by reference Permit No. 14–00002, issued February 5, 2018, as redacted by Pennsylvania, which supersedes Graybec Lime, Inc. OP–14–0004 (issued April 16, 1999), Bellefonte Lime Company. OP–14–0002 (issued October 19, 1998), and Con-Lime, Inc. OP–14–0001 (issued June 30, 1995 and amended January 7, 1998). Graymont Pleasant Gap is the consolidation of three facilities, formerly referenced as Graybec Lime, Inc., Bellefonte Lime Company, and Con-Lime, Inc. (Con-Lime, Inc.—Bellefonte) See §§ 52.2063(d)(1)(n), 52.2063(d)(1)(q), 52.2063(c)(122)(i)(B)(5), and 52.2063(c)(130)(i)(B)(3) for prior RACT approvals.

(6) Hazleton Generation—Incorporating by reference Permit No. 40–00021, issued June 19, 2018, as redacted by Pennsylvania, which supersedes the prior RACT Permit No. 40–0031A, issued March 10, 2000, except for Conditions 5–8, 12, and 14–17. See also § 52.2063(c)(196)(i)(B)(4) for prior RACT approval.

(7) Helix Ironwood—Incorporating by reference Permit No. 38–05019, issued September 24, 2018, as redacted by Pennsylvania.

(8) Magnesita Refractories—Incorporating by reference Permit No. 67–05001, issued November 27, 2018, as redacted by Pennsylvania, which supersedes the prior RACT I Permit No 67–2001, issued December 22, 1994, except for Conditions 4, 6, 7, 8, 10, and 11. See also § 52.2063(c)(98)(i)(B)(6) for prior RACT approval.

(9) Penn State University—Incorporating by reference Permit No. 14–00003, issued December 13, 2017, as redacted by Pennsylvania which supersedes the prior RACT Permit No. OP–14–0006, issued December 30, 1998; however, RACT Permit No. OP–14–0006 remains in effect as to Source ID 035, WCSP Boiler 8, and as to Source IDs 036 and 037, ECSP Boilers No. 1 and 2, except for Condition 8, which is superseded. See also § 52.2063(d)(1)(c) for prior RACT approval.

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