

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. section 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 August 26, 2002. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 22, 2002.

Keith Takata,

Associate 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 paragraph (c)(294)(i)(A)(3) to read as follows:

§ 52.220 Identification of plan.

* * * * *

- (c) * * *
- (294) * * *
- (i) * * *
- (A) * * *

(3) Rule 4602 adopted on April 11, 1991 and amended on December 20, 2001; Rule 4604 adopted on April 11, 1991 and amended on December 20, 2001; Rule 4606 adopted on December 19, 1991 and amended on December 20, 2001; Rule 4607 adopted on April 11,

1991 and amended on December 20, 2001; and, Rule 4684 adopted on May 19, 1994 and amended on December 20, 2001.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA183-4195a; FRL-7230-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Hershey Chocolate USA and Pennsylvania Power Company

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve a revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revision was submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for Hershey Chocolate USA and the Pennsylvania Power Company, New Castle Plant. Hershey Chocolate USA is located in Dauphin County, Pennsylvania and is a major source of nitrogen oxides (NO_x). The Pennsylvania Power Company's New Castle Plant is located in Lawrence County, Pennsylvania and is a major source of volatile organic compounds (VOC) and NO_x. EPA is approving this revision to establish RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

DATES: This rule is effective on August 26, 2002, without further notice, unless EPA receives adverse written comment by July 26, 2002. 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, Branch Chief, Air Quality Planning & Information Services Branch, Air Protection Division, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division,

U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Janice Lewis at (215) 814-2185 or Betty Harris at (215) 814-2168 or via e-mail at lewis.janice@epa.gov or harris.betty@epa.gov. Please note that while questions may be posed via 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.

II. Summary of the SIP Revisions

On December 21, 2001, PADEP submitted formal revisions to its SIP to establish and impose RACT for several major sources of VOC and NO_x. This rulemaking pertains to two of those sources. The other sources are the subject of separate rulemaking actions. The RACT determinations and requirements are included in plan approvals or operating permits issued by PADEP.

(1) Hershey Chocolate USA (Hershey) is a chocolate candy and confectionery manufacturing facility. This facility is located in Dauphin County, Pennsylvania and is a major NO_x emitting facility. In this instance, RACT has been established and imposed by PADEP in an operating permit. On December 21, 2001, PADEP submitted Operating Permit No. OP 22-02004A to EPA as a SIP revision. This permit requires Hershey to ensure that all combustion units subject to monitoring, recordkeeping and reporting requirements comply with RACT. In

addition, all facility units must be operated and maintained in a manner consistent with good operating and management practices. Operating Permit No. OP 22-02004A also requires Hershey NO_x emissions limit of 100 tons per year. NO_x emissions from Hershey's Boilers Nos. 5 and 7 shall not exceed 0.54 lb/mmBtu when firing natural gas and 0.45 lb/mmBtu when firing No. 6 fuel oil. Combined NO_x emissions from Boilers Nos. 5 and 7 shall not exceed 14 tons per consecutive 12 month period. This limit represents an annual capacity factor of less than two percent which satisfies the presumptive RACT requirements specified under 25 PA Code section 129.93 (c)(5) of the SIP. NO_x emissions from Boilers Nos. 2 and 3 shall not exceed 0.04 lb/mmBtu when firing natural gas and 0.40 lb/mmBtu when firing No. 6 fuel oil. These emission rates must be verified annually by stack testing or other means approved by PADEP. Records must be maintained in accordance with 25 Pa Code, section 129.95 requirements.

(2) Pennsylvania Power Company (PPC), New Castle Plant, is a utility facility. This facility is located in Lawrence County, Pennsylvania and is a major VOC and NO_x emitting facility. There are several large combustion units at this facility, and they include five medium bituminous coal-fired steam electric generating units and two oil-fired diesel generators. RACT has been established and imposed by PADEP in an operating permit issued by the state. On December 21, 2001, PADEP submitted Operating Permit No. OP 37-0023 to EPA as a SIP revision. This permit requires that NO_x emission rates for PPC Boilers Nos. 3, 4 and 5 shall not exceed 0.50 lb/mmBtu on a 30-day rolling average. The NO_x emission rates for PPC Boilers Nos. 1 and 2 shall not exceed 0.50 lb/mmBtu on an annual basis. PPC's Electron Diesel units A and B shall have an annual capacity factor for each diesel unit at less than 5 percent as required under 25 PA Code section 129.93 (c)(5) of the SIP. All combustion units are subject to monitoring, recordkeeping and reporting requirements, and must comply with RACT. PPC must maintain all records in accordance with the recordkeeping requirements of 25 PA Code section 129.95. All units must be operated and maintained in a manner consistent with good air pollution control practices and manufacturer's specifications as identified in PPC's operating permit. These records shall be retained for two years, and made available to PADEP upon request.

III. EPA's Evaluation of the SIP Revisions

EPA is approving these SIP submittals 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 recordkeeping, 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 establishes and requires RACT for Hershey Chocolate USA located in Dauphin County, Pennsylvania and Pennsylvania Power Company's New Castle Plant, located in Lawrence County, Pennsylvania. 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 August 26, 2002, without further notice unless we receive adverse comment by July 26, 2002. 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 for a specific source or subset of sources covered by an amendment, paragraph, or section of this rule, only that amendment, paragraph, or section of that source or subset of sources will be withdrawn.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (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 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 Hershey Chocolate USA and Pennsylvania Power Company, New Castle Plant.

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 August 26, 2002. 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 Hershey Chocolate USA and Pennsylvania Power Company, New Castle Plant, 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: June 3, 2002.
Thomas C. 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)(194) to read as follows:

§ 52.2020 Identification of plan.

- * * * * *
- (c) * * *
- (194) Revisions pertaining to VOC and NO_x RACT determinations for a major source submitted by the Pennsylvania Department of Environmental Protection on December 21, 2001.
- (i) Incorporation by reference.
- (A) A letter submitted on December 21, 2001 by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and NO_x RACT determinations.
- (B) Operating permit (OP) :
- (1) Hershey Chocolate USA, Dauphin County, 22–02004A, effective January 24, 2000.
- (2) Pennsylvania Power Company, Lawrence County, New Castle Plant, OP 37–0023, effective April 8, 1999.
- (ii) Additional Material—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the source listed in paragraph (c)(194)(i)(B) of this section.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA247–0352; FRL–7227–2]

Revisions to the California State Implementation Plan, South Coast Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of revisions to the South Coast Air Quality Management District (SCAQMD) portion of the California State Implementation Plan (SIP). This action was proposed in the **Federal Register** on February 25, 2002 and concerns volatile organic compound (VOC) emissions from food product manufacturing and processing operations. Under authority of the Clean Air Act as amended in 1990 (CAA or the Act), this action simultaneously approves a local rule regulating these emission sources and directs California to correct rule deficiencies.

EFFECTIVE DATE: This rule is effective on July 26, 2002.

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

- Environmental Protection Agency,
Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901;
- Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460;
- California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814; and,
- South Coast Air Quality Management District, 21865 East Copley Drive, Diamond Bar, CA 91765.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4111.

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

I. Proposed Action

On February 25, 2002 (67 FR 8493), EPA proposed a limited approval and limited disapproval of the following rule that was submitted for incorporation into the California SIP.

Local agency	Rule No.	Rule title	Adopted	Submitted
SCAQMD	1131	Food Product Manufacturing and Processing Operations	09/15/00	05/08/01