

Signed in Washington, DC, this 2nd day of May, 2006.

Philip N. Hogen,
Chairman.

Cloyce Choney,
Commissioner.

[FR Doc. 06-4276 Filed 5-10-06; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 12

[R03-OAR-2005-0502; FRL-8168-5]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Six Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania 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 six major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_x) pursuant to the Commonwealth of Pennsylvania's (Pennsylvania's or the Commonwealth's) SIP-approved generic RACT regulations. EPA is approving these revisions in accordance with the Clean Air Act (CAA).

DATES: *Effective Date:* This final rule is effective on June 12, 2006.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2005-0502. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, i.e., 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 either electronically through <http://www.regulations.gov> or in hard copy 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. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182, or by e-mail at quinto.rose@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On March 2, 2006 (71 FR 10626), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of formal SIP revisions submitted by Pennsylvania on November 21, 2005. These SIP revisions consist of source-specific operating permits, consent orders and/or plan approvals issued by PADEP to establish and require RACT pursuant to the Commonwealth's SIP-approved generic RACT regulations. The following table identifies the sources and the individual consent orders (COs) and operating permits (OPs) which are the subject of this rulemaking.

PENNSYLVANIA—VOC AND NO_x RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source's name	County	Operating permit (OP No.) Consent order (CO No.)	Source type	"Major source" pollutant
DLM Foods (formerly Heinz USA)	Allegheny	CO 211	Food Processing	NO _x
NRG Energy Center (formerly Pittsburgh Thermal Limited Partnership).	Allegheny	CO 220	Steam Generation	NO _x
Tasty Baking Oxford, Inc.	Chester	OP-15-0104	Bakery Operations	VOC
Silberline Manufacturing Company	Carbon	OP-13-0014	Paint and Lacquers Production	VOC
Adhesives Research, Inc.	York	OP-67-2007	Surface Coating	VOC
Mohawk Flush Doors, Inc.	Northumberland	OP-49-0001	Surface Coating	VOC

An explanation of the CAA's RACT requirements as they apply to the Commonwealth and EPA's rationale for approving these SIP revisions were provided in the NPR and will not be restated here. No public comments were received on the NPR.

II. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on November 21, 2005 to establish and require VOC and NO_x RACT for six sources pursuant to the Commonwealth's SIP-approved generic RACT regulations.

III. 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 six 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 July 10, 2006. 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 source-specific RACT requirements for six sources in the Commonwealth of 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 26, 2006.

Judith 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. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for DLM Foods, NRG Energy Center, Tasty Baking Oxford, Inc., Silberline Manufacturing Company, Adhesives Research, Inc., and Mohawk Flush Doors, Inc., at the end of the table to read as follows:

§ 52.2020 Identification of plan.

*	*	*	*	*
(d)	*	*	*	
(1)	*	*	*	

Name of source	Permit No.	County	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
* * *					
DLM Foods (formerly Heinz USA).	CO 211	Allegheny	6/9/05	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).
NRG Energy Center (formerly Pittsburgh Thermal Limited Partnership).	CO 220	Allegheny	6/9/05	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).
Tasty Baking Oxford, Inc.	OP-15-0104	Chester	5/12/04	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).
Silberline Manufacturing Company.	OP-13-0014	Carbon	4/19/99	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).
Adhesives Research, Inc.	OP-67-2007	York	7/1/95	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).
Mohawk Flush Doors, Inc.	OP-49-0001	Northumberland	1/20/99	5/11/06 [Insert page number where the document begins].	52.2020(d)(1)(o).

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 228**

[FRL-8167-7]

Ocean Dumping; De-Designation of Ocean Dredged Material Disposal Site and Designation of New Site Near Coos Bay, OR**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: EPA is finalizing its proposal to de-designate an existing ocean dredged material disposal site and designate a new ocean dredged material disposal site located offshore of Coos Bay, Oregon. EPA's proposed rule was published March 31, 2000. The new site is needed for long-term use by authorized Coos Bay navigation projects and may be available for use by persons meeting the criteria for ocean disposal of dredged material. The de-designation of the existing site allows for its

incorporation into the newly designated site. This will allow EPA to manage the entire new site to avoid adverse mounding conditions and will ensure site capacity is sufficient for total volumes of dredged material. The newly designated site is necessary for current and future dredged material ocean disposal needs and will be subject to ongoing monitoring and management to ensure continued protection of the marine environment so as to mitigate adverse impacts on the environment to the greatest extent practicable.

DATES: This final rule will be effective on June 12, 2006.

ADDRESSES: EPA has established a docket for this final action under Docket ID No. EPA-R10-OW-2006-0409. All documents in the docket are listed on the www.regulations.gov Web site. The documents are also available for inspection at the Region 10 Library, 10th Floor, 1200 Sixth Avenue, Seattle, Washington 98101. For access to the documents at the Region 10 Library, contact the Region 10 Library Reference Desk at (206) 553-1289, between 9 a.m. to 11:30 a.m. and 1 p.m. to 4 p.m., Monday through Friday, excluding legal holidays, for an appointment or contact John Malek, U.S. EPA, Region 10, 1200

Sixth Avenue, Mail Stop ETPA-083, e-mail: malek.john@epa.gov, phone number (206) 553-1286.

FOR FURTHER INFORMATION CONTACT: John Malek, Ocean Dumping Coordinator, U.S. Environmental Protection Agency, Region 10 (ETPA-083), 1200 Sixth Avenue, Seattle, WA 98101-1128, telephone (206) 553-1286, e-mail: malek.john@epa.gov.

SUPPLEMENTARY INFORMATION:**1. Potentially Affected Persons**

Persons potentially affected by this action include those who seek or might seek permits or approval by EPA to dispose of dredged material into ocean waters pursuant to the Marine Protection, Research, and Sanctuaries Act, as amended, 33 U.S.C. 1401 to 1414, ("MPRSA"). EPA's action would be relevant to persons, including organizations and government bodies seeking to dispose of dredged material in ocean waters offshore of Coos Bay, Oregon. Currently, the U.S. Army Corps of Engineers (Corps) and other persons with permits to use designated sites at Coos Bay would be most impacted by this final action. Potentially affected categories and persons include:

Category	Examples of potentially regulated persons
Federal Government	U.S. Army Corps of Engineers Civil Works Projects, and other Federal Agencies.
Industry and General Public	Port Authorities, Marinas and Harbors, Shipyards and Marine Repair Facilities, Berth Owners.
State, local and tribal governments	Governments owning and/or responsible for ports, harbors, and/or berths, Government agencies requiring disposal of dredged material associated with public works projects.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding persons likely to be affected by this action. For any questions regarding the applicability of this action to a particular person, please refer to the section of this action titled **FOR FURTHER INFORMATION CONTACT**.

2. Background*a. History of Disposal Site Designations Off of Coos Bay, OR*

Pursuant to the MPRSA, the Administrator of EPA, as delegated to the Regional Administrator, designated three disposal sites (Site E, original Site F and Site H) off of Coos Bay, Oregon in 1986. The original Site F began to experience mounding that rendered it unable to accept the total volume of dredged material generated on an annual basis. In 1989, with EPA approval, the size of the original Site F was roughly doubled by the Corps exercising its Section 103 authority to select disposal sites under the MPRSA. In 1995, EPA approved a second Corps

expansion of the original Site F. On March 31, 2000, EPA published in the **Federal Register** its proposal to de-designate the original Site F and designate a new Site F that consisted of the 103 configured Site F and the original Site F (65 FR 17240). A forty-five day public comment period, which closed on May 14, 2000, was provided. EPA did not receive comments from the public on the proposed rule. The coordinates of the proposed Site F (North American Datum 1983; NAD 83) were:

43°22'58" N, 124°19'32" W
 43°21'50" N, 124°20'29" W
 43°22'52" N, 124°23'28" W
 43°23'59" N, 124°22'31" W

The proposed site was rectangular with an east-west side length dimension of 14,500 feet and a north-south side length dimension of 8,000 feet. Figure 1 is a diagram of the site EPA proposed in 2000.

Subsequent to EPA's proposed designation, the North Jetty at Coos Bay failed in December 2002, due in part to

undermining. The Corps then examined the potential for augmenting transport of disposed material into the eddy created by the North Jetty itself. With EPA concurrence, the Corps began making selected disposals in the southeastern corner of the 103 Site F nearest the jetty. Monitoring indicated that some material was captured by the eddy and augmented the substrate that the jetty rests upon. This experience and the lessons learned during the designations of ocean dredged material disposal sites near the Mouth of the Columbia River in 2005, as well as increased public awareness of, and attention to, coastal erosion processes and opportunities to manage dredged material more beneficially led EPA to review its proposed site designation near Coos Bay. The result of this review is a minor change to the configuration of new Site F toward the North Jetty at the north side of the mouth of Coos Bay. This reconfiguration could potentially benefit the stabilization of the North Jetty and keep material in the littoral zone. This