

Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(284)(i)(B)(3) and (c)(288)(i)(C) to read as follows:

§ 52.220 Identification of plan.

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(c) * * *

(284) * * *

(i) * * *

(B) * * *

(3) Rule 442 adopted on May 7, 1976 and amended on December 15, 2000.

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(288) * * *

(i) * * *

(C) Ventura County Air Pollution Control District.

(1) Rule 74.19 adopted on August 11, 1992 and amended on April 10, 2001.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA183-4192a; FRL-7211-8]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_x RACT Determinations for Bethlehem Steel Corporation

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 Bethlehem Steel Corporation. Bethlehem Steel Corporation is a major source of volatile organic compounds (VOC) and nitrogen oxides (NO_x) located in Dauphin County, Pennsylvania. 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 July 22, 2002 without further notice, unless EPA receives adverse written comment by June 24, 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: Rose Quinto at (215) 814-2182 or Betty Harris at (215) 814-2168 or via e-mail at quinto.rose@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 Revision

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 one 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.

Bethlehem Steel Corporation (BSC) manufactures steel materials. This facility is located in Dauphin County, Pennsylvania and is considered a major VOC and 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 22-02012 to EPA as a SIP revision. This permit requires BSC sources and any associated air cleaning devices to be operated and maintained in a manner consistent with good operating and management practices. This permit also contains a facility-wide NO_x emission limit of 1,206 tons per year based on a 12-month rolling total, and includes NO_x emissions generated by BSC's steel production sources, combustion units of rated capacity greater than 50 million British Thermal Units per hour (mmbtu/hr), and combustion sources of rated capacity between 20–50 mmbtu/hr. Additionally, VOC emissions from this facility shall not exceed 210 tons per year based on a 12-month rolling total. The annual capacities of BSC's Boilers 2 and 5; 20-inch Mill Reheat Furnace; 35-inch Mill Reheat Furnaces 3 and 4; and Soaking Pit Batteries 1 through 6, shall not exceed the aforementioned facility-wide VOC emission limit. This permit also requires BSC to perform stack testing in accordance with 25 Pa Code Chapter 139 and approved by PADEP. BSC must comply with the recordkeeping requirements of 25 Pa Code, section 129.95, and shall consist of records pertaining to fuel usage, steel production throughput, and operating hours for NO_x sources. For the VOC sources, BSC shall maintain records pertaining to operating hours and usage of coatings, isopropylene, quench oil, and safety kleen. 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 this SIP submittal 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 a revision to the Commonwealth of Pennsylvania's SIP which establishes and requires RACT for Bethlehem Steel Corporation located in Dauphin 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 July 22, 2002 without further notice unless we receive adverse comment by June 24, 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.

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 (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 Bethlehem Steel Corporation.

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 22, 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 Bethlehem Steel Corporation 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: May 8, 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)(191) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(191) 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) for Bethlehem Steel Corporation, Dauphin County, 22-02012, effective April 9, 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)(191)(i)(B) of this section.

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