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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52****[EPA-R03-OAR-2005-MD-0009; FRL-8267-6]****Approval and Promulgation of Air Quality Implementation Plans; Maryland; VOC RACT for Perdue Farms, Inc.****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the Maryland State Implementation Plan (SIP). The revision pertains to a Consent Order establishing volatile organic compound (VOC) reasonably available control technology (RACT) for Perdue Farms, Incorporated. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**EFFECTIVE DATE:** This final rule is effective on February 12, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2005-MD-0009. All documents in the docket are listed in the [www.regulations.gov](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 [www.regulations.gov](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 Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

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

**SUPPLEMENTARY INFORMATION:****I. Background**

On July 29, 2005 (70 FR 43817), EPA published a notice of proposed

rulemaking (NPR) for the State of Maryland. The NPR proposed approval of the establishment of VOC RACT for Perdue Farms, Inc., located at 6906 Zion Church Road, Wicomico County, Maryland. The formal SIP revision (#05-04) was submitted by the Maryland Department of the Environment (MDE) on May 31, 2005. Specific requirements of the SIP revision and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. On August 9, 2005, EPA received an adverse comment on its July 29, 2005 NPR. A summary of the comment submitted and EPA's response is provided in Section II of this document.

**II. Summary of Public Comments and EPA Responses**

*Comment:* A commenter states that the annual limit is inappropriate because it is not calculated on a rolling basis. Specifically, the VOC limit of 0.3 gallons per ton of soybean processes in a calendar year requires calculation of compliance on a rolling 12-month basis.

*Response:* EPA disagrees with this comment. Perdue Farms, Inc. is required by their Title V Operating Permit No. 24-045-00042, issued on August 1, 2005, to report their compliance with the RACT VOC limit of 0.3 gallons per ton on soybeans processed to MDE on a rolling 12-month period (Section 5.5, Reporting Requirements). This is consistent with the requirements of MDE (COMAR 26.11.19.02, Applicability, Determining Compliance, Reporting, and General Requirements) and with 40 CFR 63 Subpart GGGG, National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production, which require these sources to determine compliance with annual VOC emission limits on a rolling 12-month period.

**III. Final Action**

EPA is approving the Consent Order establishing VOC RACT for Perdue Farms, Inc. located in Wicomico County, Maryland submitted on May 31, 2005. EPA is approving this SIP submittal because MDE established and imposed requirements in accordance with the criteria set forth in SIP-approved regulations for imposing RACT. MDE has also imposed recordkeeping, monitoring, and testing requirements on this source sufficient to determine compliance with these requirements.

**IV. 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 requirement, 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 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 March 12, 2007. 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 a Consent Order establishing VOC RACT for Perdue Farms, Inc. located in Wicomico County, Maryland, 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: January 4, 2007.

**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 V—Maryland**

■ 2. In § 52.1070, the table in paragraph (d) is amended by adding an entry for Perdue Farms, Inc. at the end of the table to read as follows:

**§ 52.1070 Identification of plan.**

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(d) \* \* \*

**EPA-APPROVED MARYLAND SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit number/type	State effective date	EPA approval date	Additional explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Perdue Farms, Inc .....	Consent Order .....	02/01/05	01/11/07 [Insert page number where the document begins].	52.1070(d)(1)

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R05-OAR-2006-0399; FRL-8267-9]

**Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Allen County 8-hour Ozone Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** On May 30, 2006, the Indiana Department of Environmental

Management (IDEM), submitted a request to redesignate the Allen County, Indiana, (Fort Wayne) nonattainment area to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). In this submittal, IDEM also requested EPA approval of an Indiana State Implementation Plan (SIP) revision containing a 14-year maintenance plan for Allen County. EPA is making a determination that the Allen County, Indiana ozone nonattainment area has attained the 8-hour ozone NAAQS. This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2003-2005 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the area. Quality-assured monitoring data for 2006 show that the area continues to attain the standard. EPA is also approving the request to redesignate the area to attainment for

the 8-hour ozone standard. EPA's approval of the 8-hour ozone redesignation request is based on its determination that Allen County, Indiana has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA). EPA is also approving as a SIP revision the State's maintenance plan for the area. Further, EPA is approving, for purposes of transportation conformity, the motor vehicle emission budgets (MVEBs) for the year 2020 that are contained in the 14-year, 8-hour ozone maintenance plan for Allen County.

**DATES:** This final rule is effective on February 12, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0399. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available,