

2.6, 8-1-2.8, 8-1-3.1 through 8-1-3.20, Appendix I, and Appendix II.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA157-4112a; FRL-6981-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Approval of Revisions to Stage II Vapor Recovery Regulations for Southwest Pennsylvania

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan which were submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection (PADEP). These revisions modify and clarify the existing regulatory requirements for the control of volatile organic compounds (VOCs) from gasoline dispensing facilities (Stage II) in the Pittsburgh-Beaver Valley ozone nonattainment area. The revisions modify the compliance dates and make other technical amendments. EPA is approving these revisions to the Commonwealth of Pennsylvania's SIP in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on July 5, 2001 without further notice, unless EPA receives adverse written comment by June 20, 2001. 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, Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. You may inspect copies of the documents relevant to this action during normal business hours at the following locations: 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, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

#### FOR FURTHER INFORMATION CONTACT:

Ellen Wentworth, Project Officer, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Description of the SIP Revision and EPA's Action

The information in this section is organized as follows:

- A. What Action Is EPA Taking Today?
- B. Why Is EPA Taking This Action?
- C. How Did EPA Review the Commonwealth's Submittal?
- D. Why Is the Request Approvable?
- E. What Is the Process for EPA Approval of This Action?

##### A. What Action Is EPA Taking Today?

EPA is approving revisions to the Commonwealth of Pennsylvania SIP which were submitted on March 6, 2000 by PADEP. These revisions amend the existing Stage II regulatory requirements of 25 PA Code, Chapter 129, Standards for Sources, section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II), for the Pittsburgh-Beaver Valley ozone nonattainment area. Specifically, the revisions incorporate revised compliance dates for the Pittsburgh-Beaver Valley ozone nonattainment area, and make other technical amendments. The revised Stage II compliance dates are as follows: (1) For facilities for which construction was commenced after April 1, 1997, compliance shall be achieved at the time of the opening of the gasoline dispensing facility, (2) for facilities which dispense greater than or equal to 120,000 gallons of gasoline per month, based on average monthly sales during calendar years 1995 and 1996, compliance shall be achieved by July 1, 1999; and (3) for facilities which dispense greater than 90,000 gallons per month but less than 120,000 gallons per month based on average monthly sales during calendar years 1995 and 1996 compliance shall be achieved by December 31, 2000. Other revisions include subsection (d) which provides that if the onboard canister refueling emissions control program has been fully implemented by 2010, the Stage II systems will no longer be required in the area. Finally, subsection (e) establishes the functional testing and

certification requirements consistent with EPA's regulations.

##### B. Why Is EPA Taking This Action?

EPA is approving these SIP revisions to the Commonwealth of Pennsylvania SIP at the request of PADEP. The Commonwealth revised the Stage II VOC control requirements for Southwest Pennsylvania based upon the recommendations of the Southwest Pennsylvania Ozone Stakeholder Working Group as part of its ongoing efforts to address ozone air quality issues in the Pittsburgh-Beaver Valley ozone nonattainment area. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in Southwest Pennsylvania.

##### C. How Did EPA Review the Commonwealth's Submittal?

The Commonwealth of Pennsylvania's SIP revisions were submitted by PADEP on March 6, 2000. EPA evaluated the Commonwealth's revised Stage II requirements for Southwest Pennsylvania to verify that the revisions were consistent with the previously approved Stage II regulations for the Commonwealth and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

##### D. Why Is the Request Approvable?

This request is approvable because it meets the requirements of EPA's applicable technical and enforcement guidance and the CAA.

##### E. What Is the Process for EPA Approval of This Action?

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse written comments be filed. This action will be effective on July 5, 2001 without further notice unless EPA receives adverse comment by June 20, 2001. 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.

## II. Final Action

EPA is approving revisions to the Commonwealth of Pennsylvania SIP, which were submitted on March 6, 2000 by PADEP. These revisions will revise 25 PA Code section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II) for Southwest Pennsylvania.

## III. What Are the 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. 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 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), nor will it 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), because it 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 (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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. 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. 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**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

### 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 20, 2001. Filing a petition for reconsideration by the Administrator of this final rule approving revisions to the Commonwealth's Stage II regulations for Southwest Pennsylvania 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.

Dated: May 1, 2001.

**William C. Early,**

*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 paragraphs (c)(153) to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(153) Revisions to the Commonwealth of Pennsylvania Regulations pertaining to Stage II VOC control requirements for Southwest Pennsylvania submitted on March 6, 2000 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 6, 2000 from the Pennsylvania Department of Environmental Protection transmitting the revisions to the Stage II VOC control requirements for Southwest Pennsylvania.

(B) Revisions to 25 PA Code, Chapter 129, Standards for Sources at section 129.82, Control of VOCs from gasoline dispensing facilities (Stage II). These revisions became effective on April 10, 1999.

(ii) Additional Material—Remainder of March 6, 2000 submittal.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[FRL-6978-5]

RIN 2060-AF30

### National Emission Standards for Hazardous Air Pollutants: Manufacturing of Nutritional Yeast

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