

Dated: October 15, 2001.

**James W. Newsom,**  
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)(184) to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(184) Revisions to the Pennsylvania Regulations, Chapter 129 pertaining to VOC and NO<sub>x</sub> RACT, for sources located in the Philadelphia area submitted by the Pennsylvania Department of Environmental Protection on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific VOC and/or NO<sub>x</sub> RACT determinations, in the form of plan approvals and operating permits on April 16, 1996, June 10, 1996, November 4, 1997, December 31, 1997, March 24, 1998, March 23, 2001, and August 8, 2001.

(B) Plan approvals (PA), or Operating Permits (OP) issued to the following sources:

(1) Jefferson Smurfit Corporation and Container Corporation of America, PA-51-1566, for PLID 1566, effective April 10, 1995.

(2) Maritank Philadelphia, Inc., PA-51-5013, for PLID 5013, effective December 28, 1995.

(3) Moyer Packing Company, OP-46-0001, effective March 15, 1996, except for the expiration date.

(4) Tullytown Resource Recovery Facility (Waste Management of PA, Inc.), OP-09-0024, effective July 14, 1997, except for the expiration date.

(5) SPS Technologies, OP-46-0032, effective October 30, 1997, except for the expiration date.

(6) PECO Energy Company, OP-09-0077, effective December 19, 1997, except for the expiration date.

(7) Philadelphia Gas Works, Richmond Plant, PA-51-4922, effective

July 27, 1999, except for condition 1.A. 10-17, inclusive, condition 2.E., 2.F., 2.G., and condition 8.

(8) Exelon Generation Company-Delaware Generating Station, PA-51-4901, effective July 11, 2001.

(9) Exelon Generation Company-Schuylkill Generating Station, PA-51-4904, effective July 11, 2001.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations for the sources listed in paragraph (c)(184) (i)(B) of this section.

[FR Doc. 01-26765 Filed 10-30-01; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 70**

[KY-T5-2001-02; FRL-7095-1]

**Clean Air Act Final Full Approval of Operating Permit Program; KY**

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

**ACTION:** Final full approval.

**SUMMARY:** EPA is promulgating full approval of the operating permit program of the Kentucky Department of Environmental Protection. This program was submitted in response to the directive in the 1990 Clean Air Act (CAA) Amendments that permitting authorities develop, and submit to EPA, programs for issuing operating permits to all major stationary sources and to certain other sources within the permitting authorities' jurisdiction. On November 14, 1995, EPA granted interim approval to the Kentucky title V operating permit program. This agency revised its program to satisfy the conditions of the interim approval, and EPA proposed full approval in the **Federal Register** on September 12, 2001. EPA did not receive any comments on the proposed action, so this action promulgates final full approval of the Kentucky operating permit program.

**EFFECTIVE DATE:** November 30, 2001.

**ADDRESSES:** Copies of the Kentucky submittal and other supporting documentation used in developing the final full approval are available for inspection during normal business hours at EPA, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Interested persons wanting to examine these documents, which are contained in EPA docket number KY-T5-2001-01, should make an appointment at least 48 hours before the visiting day.

**FOR FURTHER INFORMATION CONTACT:** Ms. Kim Pierce, EPA Region 4, at (404) 562-9124 or *pierce.kim@epa.gov*.

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

What is the operating permit program?  
Why is EPA taking this action?  
What is involved in this final action?

**What Is the Operating Permit Program?**

Title V of the CAA Amendments of 1990 required all state and local permitting authorities to develop operating permit programs that met certain federal criteria. In implementing the title V operating permit programs, the permitting authorities require certain sources of air pollution to obtain permits that contain all applicable requirements under the CAA. The focus of the operating permit program is to improve enforcement by issuing each source a permit that consolidates all of the applicable CAA requirements into a federally enforceable document. By consolidating all of the applicable requirements for a facility, the source, the public, and the permitting authorities can more easily determine what CAA requirements apply and how compliance with those requirements is determined.

Sources required to obtain an operating permit under the title V program include: "major" sources of air pollution and certain other sources specified in the CAA or in EPA's implementing regulations. For example, all sources regulated under the acid rain program, regardless of size, must obtain operating permits. Examples of major sources include those that have the potential to emit 100 tons per year or more of volatile organic compounds (VOCs), carbon monoxide, lead, sulfur dioxide, nitrogen oxides (NO<sub>x</sub>), or particulate matter (PM<sub>10</sub>); those that emit 10 tons per year of any single hazardous air pollutant (specifically listed under the CAA); or those that emit 25 tons per year or more of a combination of hazardous air pollutants (HAPs). In areas that are not meeting the National Ambient Air Quality Standards for ozone, carbon monoxide, or particulate matter, major sources are defined by the gravity of the nonattainment classification. For example, in ozone nonattainment areas classified as "serious," major sources include those with the potential of emitting 50 tons per year or more of VOCs or NO<sub>x</sub>.

**Why Is EPA Taking This Action?**

Where a title V operating permit program substantially, but not fully, met the criteria outlined in the

implementing regulations codified at 40 Code of Federal Regulations (CFR) part 70, EPA granted interim approval contingent on the state revising its program to correct the deficiencies. Because the Kentucky program substantially, but not fully, met the requirements of part 70, EPA granted interim approval to this program in a rulemaking (60 FR 57186) published on November 14, 1995. The interim approval notice described the conditions that had to be met in order for the Kentucky program to receive full approval. Interim approval of this program expires on December 1, 2001.

#### **What Is Involved in This Final Action?**

The Kentucky Department of Environmental Protection has fulfilled the conditions of the interim approval granted on November 14, 1995. On September 12, 2001, EPA published a notice in the **Federal Register** (see 66 FR 47428) proposing full approval of the Kentucky title V operating permit program, and proposing approval of other program revisions. Since EPA did not receive any comments on the proposal, this action promulgates final full approval of the Kentucky program and final approval of the other program changes described in the proposal.

#### **Administrative Requirements**

##### *A. Docket*

Copies of the Kentucky submittal and other supporting documentation used in developing the final full approval are contained in docket files maintained at the EPA Region 4 office. The docket is an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of this proposed full approval. The primary purposes of the docket are: (1) To allow interested parties a means to identify and locate documents so that they can effectively participate in the approval process, and (2) to serve as the record in case of judicial review. The docket files are available for public inspection at the location listed under the **ADDRESSES** section of this document.

##### *B. Executive Order 12866*

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

##### *C. Executive Order 13045*

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive

Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined in Executive Order 12866, and it does not involve decisions intended to mitigate environmental health or safety risks.

##### *D. Executive Order 13132*

This rule does not have Federalism implications because it will 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, "Federalism" (64 FR 43255, August 10, 1999). This rule merely approves existing requirements under state law, and does not alter the relationship or the distribution of power and responsibilities between the state and the federal government established in the CAA.

##### *E. Executive Order 13175*

This rule 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, "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000).

##### *F. Executive Order 13211*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significantly regulatory action under Executive Order 12866.

##### *G. Regulatory Flexibility Act*

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not

have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because operating permit program approvals under section 502 of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because this approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

##### *H. Unfunded Mandates Reform Act*

Under sections 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

##### *I. National Technology Transfer and Advancement Act*

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

In reviewing operating permit programs, EPA's role is to approve state

choices, provided that they meet the criteria of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the state to use VCS, EPA has no authority to disapprove an operating permit program for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews an operating permit program, to use VCS in place of an operating permit program that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of NTTAA do not apply.

*J. Paperwork Reduction Act*

This action will not impose any collection of information subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, other than those previously approved and assigned OMB control number 2060-0243. For additional information concerning these requirements, see 40 CFR part 70. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

*K. 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**. 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. 804(2).

**List of Subjects in 40 CFR Part 70**

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: October 22, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

For reasons set out in the preamble, Appendix A of part 70 of title 40, chapter I, of the Code of Federal Regulations is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

2. Appendix A to part 70 is amended by revising the entry for Kentucky to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*

**Kentucky**

(a)(1) Kentucky Natural Resources and Environmental Protection Cabinet: Submitted on December 27, 1993, and supplemented on November 15, 1994, April 14, 1995, May 3, 1995, and May 22, 1995; interim approval expires on December 1, 2001.

(2) Revision submitted on February 13, 2001. Rule revisions contained in the February 13, 2001 submittal adequately addressed the conditions of the interim approval which expires on December 1, 2001. The Commonwealth is hereby granted final full approval effective on November 30, 2001.

(b)(1) Air Pollution Control District of Jefferson County: submitted on February 1, 1994, and supplemented on November 15, 1994, May 3, 1995, July 14, 1995, and February 16, 1996; full approval effective on April 22, 1996.

(2) [Reserved]

\* \* \* \* \*

[FR Doc. 01-27362 Filed 10-30-01; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[FRL-7095-8]

RIN 2060-AJ76

**Prohibition on Gasoline Containing Lead or Lead Additives for Highway Use: Fuel Inlet Restrictor Exemption for Motorcycles**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** This rule exempts motorcycles with emission control devices that could be affected by the use of leaded gasoline from having to be equipped with gasoline tank filler inlet restrictors. As before, motorcycles and other motor vehicles without such emission control devices are not required to be equipped with gasoline tank filler inlet restrictors.

The Clean Air Act and corresponding EPA regulations prohibit gasoline containing lead or lead additives (leaded gasoline) as a motor vehicle fuel

after December 31, 1995. As a deterrent to misfueling prior to that date, the EPA regulations required filler inlet restrictors on motor vehicles equipped with an emission control device that could be affected by the use of leaded gasoline, such as a catalytic converter. EPA retained that provision after 1995 because the filler inlet restrictor, besides being a deterrent to misfueling, has also been incorporated into the design of some vapor recovery gasoline nozzle spouts. Gasoline tank filler inlet restrictors do not work well with most motorcycle fuel tanks, especially the saddle type of tank, because of their shallow depth. A gasoline tank filler inlet restrictor may cause gasoline spitback or spillage when a motorcycle is refueled, which increases evaporative emissions. Today there is relatively little risk of misfueling a motorcycle. Also, it is unlikely that a gasoline tank filler inlet restrictor on a motorcycle helps to control gasoline vapors when the motorcycle is refueled.

**DATES:** This action will be effective December 31, 2001, unless the Agency receives adverse or critical comments or a request for a public hearing by November 30, 2001. If the Agency receives adverse or critical comments, EPA will publish in the **Federal Register** a timely withdrawal of this direct final rule informing the public that this rule will not take effect.

**ADDRESSES:** Any person wishing to submit comments should submit them (in duplicate, if possible) to the docket listed below, with a copy forwarded to Richard Babst, U.S. Environmental Protection Agency, Transportation and Regional Programs Division, 1200 Pennsylvania Avenue, N.W., (Mail Code: 6406J), Washington, D.C. 20460.

Public Docket: Materials relevant to this rule are available for inspection in public docket A-2001-17 at the Air Docket Office of the EPA, Room M-1500, 401 M Street, S.W., Washington, D.C. 20460, (202) 260-7548, between the hours of 8:00 a.m. to 5:30 p.m., Monday through Friday. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying docket material.

**FOR FURTHER INFORMATION CONTACT:** Richard Babst at (202) 564-9473 facsimile: (202) 565-2085, e-mail address: babst.richard@epa.gov

**SUPPLEMENTARY INFORMATION**

**Regulated Entities**

Entities potentially affected by this rule are manufacturers of motorcycles. Regulated categories include: