

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 eight 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 January 4, 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 revisions to the Pennsylvania SIP submitted by PADEP to establish and require VOC and/or NO<sub>x</sub> RACT for eight sources located in the Philadelphia area 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: 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)(187) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(187) Revisions to the Pennsylvania Regulations, Chapter 129.91 pertaining to NO<sub>x</sub> RACT, submitted on November 4, 1997, July 24 1998, October 2, 1998,

March 3, 1999, April 9, 1999, and April 20, 1999.

(i) Incorporation by reference.

(A) Letters submitted by the Pennsylvania Department of Environmental Protection transmitting source-specific NO<sub>x</sub> RACT determinations in the form of plan approvals or operating permits on November 4, 1997, July 24, 1998, October 2, 1998, March 3, 1999, April 9, 1999, and April 20, 1999.

(B) Plan approvals (PA), and Operating permits (OP) for the following sources:

(1) Stoney Creek Technologies, L.L.C., PA-23-0002, effective February 24, 1999, except for the expiration date.

(2) Superpac, Inc., OP-09-0003, effective March 25, 1999, except for the expiration date.

(3) Transit America Inc., PA-1563 for PLID 1563, effective June 11, 1997, except for Condition 4 and Condition 5.

(4) American Bank Note Company, OP-46-0075, effective May 19, 1997, as revised August 10, 1998, except for the expiration date.

(5) Atlas Roofing Corporation, OP-09-0039, effective March 10, 1999, except for the expiration date.

(6) Beckett Corporation, OP-15-0040, effective July 8, 1997, except for the expiration date.

(7) Klearfold, Inc., OP-09-0012, effective April 15, 1999, except for the expiration date.

(8) National Label Company, OP-46-0040, effective July 28, 1997.

(ii) Additional Materials—Other materials submitted by the Commonwealth of Pennsylvania in support of and pertaining to the RACT determinations submitted for the sources listed in paragraph (c)(187)(i)(B) of this section.

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**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 70 and 71

[FRL-7096-4]

RIN 2060-AJ04

#### State and Federal Operating Permits Programs: Amendments to the Compliance Certification Requirements

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

**ACTION:** Direct Final Rule, removal of amendments.

**SUMMARY:** We, EPA, received adverse comment, on the direct final action

published on March 1, 2001 (66 FR 12872) to amend the State Operating Permits Program and the Federal Operating Permits Program. We had stated in that direct final action that, if we received adverse comment by April 2, 2001, we would publish a timely withdrawal in the **Federal Register**. We, however, did not publish the withdrawal prior to the April 30, 2001, effective date of the direct final rule. In this action, we are removing the amendments that were published in the March 1, 2001 direct final rule. We will address the adverse comment in a subsequent final action based on the parallel proposal also published on March 1, 2001 (66 FR 12916). We have determined that there is good cause for making this rule final without notice and comment procedures because under the terms of the March 1, 2001 direct final action, no amendment to the State and Federal Operating Permits Programs should have occurred. Thus, notice and comment are contrary to the public interest and unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) and 553(d).

**DATES:** This action is effective November 5, 2001.

**ADDRESSES:** Docket No. A-91-52, containing information relevant to the direct final action being withdrawn, is available for public inspection between 8 a.m. and 5:30 p.m., Monday through Friday (except for Federal holidays) at the following address: Air and Radiation Docket and Information Center (6102), U.S. Environmental Protection Agency, 401 M Street, SW., Room 1500, Washington, DC 20460 or by phoning the Air Docket Office at (202) 260-7548. Refer to Docket No. A-91-52. The Docket Office may charge a reasonable fee for copying docket materials.

**FOR FURTHER INFORMATION CONTACT:** Peter Westlin, Environmental Protection Agency, Office Air Quality Planning and Standards, at 919/541-1058, e-mail: westlin.peter@epa.gov, facsimile 919/541-1039.

**SUPPLEMENTARY INFORMATION:** On October 22, 1997 (62 FR 54900), we published the final part 64, Compliance Assurance Monitoring (CAM) rule, and revisions to parts 70 and 71, the State and Federal Operating Permits Programs. Part 64 included procedures, design specifications, and performance criteria intended to satisfy, in part, the enhanced monitoring requirements of the Clean Air Act ("the Act"). The revisions to parts 70 and 71 included language to Secs. 70.6(c)(5)(iii)(B) and 71.6(c)(5)(iii)(B) specifying the minimum information necessary for the compliance certification required of

responsible officials. Subsequent to that publication, the Natural Resources Defense Council, Inc. (NRDC) and the Appalachian Power Company et al. (industry) filed petitions with the United States Court of Appeals for the District of Columbia Circuit (Court) challenging several aspects of the CAM rule. In particular, the NRDC argued that the parts 70 and 71 revisions were inconsistent with the Act's explicit requirement that compliance certifications indicate whether compliance is continuous or intermittent. On October 29, 1999, the Court issued its decision (see docket A-91-52, item VIII-A-1) *Natural Resources Defense Council v. EPA*, 194 F.3d 130 (D.C. Cir. 1999) and agreed with NRDC that EPA's removal from parts 70 and 71 of the explicit requirement that compliance certifications address whether compliance is continuous or intermittent revisions ran contrary to the statutory requirement that each source must certify "whether compliance is continuous or intermittent \* \* \*"

On March 1, 2001, we published a direct final action (66 FR 12872) and a parallel proposal (66 FR 12916) to amend the State Operating Permits Program and the Federal Operating Permits Program to effect the direction expressed in the remand. We stated in the direct final action that if we received adverse comment by April 2, 2001, we would publish a withdrawal in the **Federal Register** informing you that this direct final rule will not take effect. We received several adverse comments and, therefore, took steps to withdraw the direct final action. The withdrawal action, however, was not published prior to April 30, 2001, the date upon which the direct final rule amending Parts 70 and 71 took effect.

Because we received several adverse comments on the amendments to the State and Federal Operating Permits Programs, the direct final rule effecting those amendments, by its terms, should not have become effective. We, therefore, are hereby removing those amendments in today's action.

This removal action is simply a ministerial correction of the prior direct final rulemaking, which by its terms should not have become effective because several parties commented adversely on the amendments to the State and Federal Operating Permits Programs. Therefore, we are invoking the good cause exception under the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(B) because we believe that notice-and-comment rulemaking of this removal action is contrary to the

public interest and unnecessary. This removal action merely restores the regulatory text that existed prior to the direct final rule. We stated in the March 1, 2001 direct final action that should adverse comment be received, the rule would not take effect. The rule took effect because we did not publish a timely withdrawal in the **Federal Register** prior to the rule's effective date. It would be contrary to the public interest to keep that final rule in effect when it should not have taken effect since adverse comment was received. Additionally, further notice-and-comment on this action is unnecessary because we are merely restoring the regulatory text that existed prior to the final rule. For the same reasons, we believe there is good cause for this removal to become effective upon publication. We will address all public comments in a subsequent final action on the parallel proposed rule amendment.

**Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. Executive Order 13175, Consultation and Coordination with Indian Tribal Governments does not apply to this action. Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) or sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use because it is not a significant regulatory action under Executive Order 12866. This notice does not have any federalism implications under Executive Order 13132. The Paper Reduction Act, the Unfunded Mandates Reform Act, and the National Technology Transfer and Advancement Act do not apply here. 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 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefore, and established an effective date of November 5, 2001. 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 action is not a "major rule" as defined by 5 U.S.C. 804(2).

Dated: October 25, 2001.

**Christine Todd Whitman,**  
*Administrator.*

For the reasons stated in the preamble, we amend title 40, chapter I, parts 70 and 71 of the Code of Federal Regulations to read as follows:

**PART 70—STATE OPERATING PERMIT PROGRAMS**

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

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

2. Section 70.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

**§ 70.6 Permit content.**

\* \* \* \* \*

(c) \* \* \*

(5) \* \* \*

(iii) \* \* \*

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification. The certification shall also identify as possible exceptions to compliance any periods during which compliance is required and in which an excursion or exceedance as defined under part 64 of this chapter occurred; and

\* \* \* \* \*

**PART 71—FEDERAL OPERATING PERMITS PROGRAMS**

1. The authority citation for part 71 continues to read as follows:

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

2. Section 71.6 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

**§ 71.6 Permit content.**

\* \* \* \* \*

- (c) \* \* \*
- (5) \* \* \*
- (iii) \* \* \*

(C) The status of compliance with the terms and conditions of the permit for the period covered by the certification, based on the method or means designated in paragraph (c)(5)(iii)(B) of this section. The certification shall identify each deviation and take it into account in the compliance certification; and

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 80**

[AMS-FRL-7096-5]

RIN-2060-AJ69

**Revisions to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Direct Final Rule**

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

**ACTION:** Direct final rule.

**SUMMARY:** Deposits that form in gasoline-fueled motor vehicle engines and fuel supply systems have been shown to increase emissions of harmful air pollutants. All gasoline used in the U.S. must contain additives that have been certified with EPA as effective in limiting the formation of such deposits. During certification, additive manufacturers must provide EPA with information on additive composition. To ensure that in-use additives meet

EPA requirements, manufacturers are required to limit variation in the composition of additive production batches from that reported during certification.

Today's action makes revisions to the information that must be provided on additive composition by the manufacturer at the time of certification and clarifies the requirements associated with limiting variability in additive production batches. These changes address additive manufacturer concerns that compliance with the existing requirements would be burdensome and difficult, while maintaining the emissions control benefits of the gasoline deposit control program.

We are making these regulatory changes by direct final rule without prior proposal because we view these changes as noncontroversial revisions and anticipate no adverse comment. The "Proposed Rules" section of this **Federal Register**, contains a proposed rule in which we propose the regulatory changes in this direct final rule. If we receive no adverse comment, we will not take further action on the proposed rule. If we receive adverse comment, we will withdraw the portions of the direct final rule receiving such comment and those portions will not take effect. Any adverse comments received on this notice will be addressed in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. We are not planning to hold a public hearing regarding this action.

**DATES:** This rule is effective on February 4, 2002 without further notice, unless EPA receives adverse comment by January 4, 2002. If we receive adverse comment, we will withdraw an amendment, paragraph, or section of the direct final rule receiving such comment and those amendments, paragraphs, or sections will not take effect. Any distinct amendment, paragraph, or section of today's rulemaking for which we do not receive adverse comment will become effective on the date set out above, notwithstanding any adverse comment on any other distinct amendment, paragraph, or section of today's rule.

**ADDRESSES:** Interested parties may submit written comments in response to this notice (in duplicate if possible) to Public Docket No. A-2001-15, at: Air Docket Section, U.S. Environmental Protection Agency, Attention: Docket No. A-2001-15, First Floor, Waterside Mall, Room M-1500, 401 M Street SW., Washington, DC 20460 (Telephone 202-260-7548; Fax 202-260-4400). We also request that a copy of the comments be sent to Jeff Herzog by mail at, U.S. EPA, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, MI 48105-2498, or by E-Mail at herzog.jeff@epa.gov

This direct final rule and the associated proposed rule are available electronically on the day of publication from the Office of the Federal Register internet Web site listed below. Electronic copies of these notices are also available from the EPA Office of Transportation and Air Quality Web site listed below. This service is free of charge, except for any cost that you already incur for internet connectivity.

**Federal Register Web Site:**

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**Office of Transportation and Air Quality Web Site:**

<http://www.epa.gov/otaq/> (Look in "What's New" or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

**FOR FURTHER INFORMATION CONTACT:** Jeff Herzog, U.S. Environmental Protection Agency, Assessment and Standards Division, 2000 Traverwood, Ann Arbor, MI, 48105-2498. Telephone (734) 214-4227; Fax (734) 214-4051; e-mail herzog.jeff@epa.gov

**SUPPLEMENTARY INFORMATION:**

**Regulated Entities**

Entities potentially regulated by this action are those that manufacture gasoline deposit control (detergent) additives. Regulated categories and entities include:

Category	NAICS code	SIC code	Example of regulated entities
Industry .....	325998	2899	Gasoline deposit control additive manufacturers.

a. North American Industry Classification System (NAICS).  
 b. Standard Industrial Classification (SIC) system code.