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**Stanley F. Mires,**

*Chief Counsel, Legislative.*

[FR Doc. 04-14902 Filed 6-30-04; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA217-4230a; FRL-7777-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revision to the 1-Hour Ozone Maintenance Plan for the Pittsburgh-Beaver Valley Area to Reflect the Use of MOBILE6

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. The revision amends Pennsylvania's ten-year plan to maintain the 1-hour ozone national ambient air quality standard (NAAQS) in the Pittsburgh-Beaver Valley ozone maintenance area (the Pittsburgh area). The maintenance plan is being amended to revise the volatile organic compound (VOC) and nitrogen oxides (NO<sub>x</sub>) motor vehicle emission budgets (MVEBs) to reflect the use of MOBILE6. The intended effect of this action is to approve a SIP revision that will better enable the Commonwealth of Pennsylvania to maintain attainment of the 1-hour ozone NAAQS in the Pittsburgh area. This action is being taken in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on August 30, 2004 without further notice, unless EPA receives adverse written comment by August 2, 2004. 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:** Submit your comments, identified by PA217-4230, by one of the following methods:

A. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [budney.larry@epa.gov](mailto:budney.larry@epa.gov).

C. *Mail:* Carol Febbo, Chief, Energy, Radiation and Indoor Environment Branch, Mail code 3AP23, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

**Instructions:** Direct your comments to Docket ID No. PA217-4230. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information through [regulations.gov](http://www.regulations.gov) or e-mail that you consider to be CBI or otherwise protected. The federal [regulations.gov](http://www.regulations.gov) website is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic

comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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, 1301 Constitution Avenue, NW., Room B108, 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:** Larry Budney, (215) 814-2184, or by e-mail at [budney.larry@epa.gov](mailto:budney.larry@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On October 19, 2001 (66 FR 53094), EPA redesignated the Pittsburgh area to attainment for the 1-hour ozone NAAQS and approved the maintenance plan submitted by the Pennsylvania Department of Environmental Protection (DEP) as a revision to the Pennsylvania SIP. The Pittsburgh area consists of Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland Counties. The approved maintenance plan demonstrates that the area will maintain the 1-hour ozone NAAQS for ten years from the date of its approval (through 2011). The plan includes VOC and NO<sub>x</sub> emission inventories for all

(point, area, highway and non-road mobile) source sectors for the years 1990, 1999, 2007 and 2011. The highway, or on-road, portion of the mobile inventories also constitute the MVEBs for each year. These MVEBs are to be used to demonstrate conformity when performing analyses of transportation plans. The MVEBs in the maintenance plan approved on October 19, 2001 are based upon the MOBILE5 emissions model.

## II. Summary of SIP Revision

On April 22, 2004, the Pennsylvania DEP submitted a formal revision to its SIP. The revision amends the ten-year maintenance plan for the 1-hour ozone NAAQS in the Pittsburgh area. The maintenance plan is being amended to revise the highway mobile emissions, and, therefore, the MVEBs to reflect the use of the MOBILE6 emissions model. The MOBILE6 model is an updated version of the MOBILE model used for calculating highway mobile source emissions of the ozone precursors VOC and NO<sub>x</sub>. The remaining sectors of the VOC and NO<sub>x</sub> emission inventories (point, area and non-road mobile) are unchanged from those in the original maintenance plan approved by EPA on October 19, 2001. The 1-hour ozone NAAQS, the maintenance plan approved by EPA on October 19, 2001 demonstrated continued attainment of the 1-hour ozone NAAQS by showing that total emissions (from all emission source sectors) projected to 2011 would remain below the total emissions in the 1999 attainment year. The year 1999 was chosen as it was one the three years of consecutive air quality data used to demonstrate attainment of the 1-hour ozone NAAQS. The year 2007 was chosen as an interim year between 2001 and 2011.

The following table presents the revised highway mobile emissions, and, therefore, MVEBs for the Pittsburgh area based upon MOBILE6. Emissions are presented in tons per Summer day:

	2004	2007	2011
VOC .....	74.03	60.42	45.68
NO <sub>x</sub> .....	140.63	110.37	77.09

In the following tables, the revised MOBILE6-based highway emissions are entered in place of the original MOBILE5-based highway mobile emissions. The tables show the same VOC and NO<sub>x</sub> emission levels for each of the other emission inventory sectors as those of the maintenance plan approved by EPA on October 19, 2001. When the Pittsburgh area maintenance plan's original MOBILE5 based highway

mobile emissions are replaced with the revised MOBILE6 based highway mobile emissions, the tables indicate that attainment will continue to be maintained through 2011. All emissions are presented in tons per Summer day:

VOC source sectors	1999	2007	2011
Point .....	34	36	38
Area .....	130	136	142
Non-road .....	64	42	37
Highway .....	104.25	60.42	45.68
Total .....	332.25	274.42	262.68

NO <sub>x</sub> source sectors	1999	2007	2011
Point .....	282	199	199
Area .....	10	10	10
Non-road .....	75	67	60
Highway .....	182.73	110.37	77.09
Total .....	549.73	386.37	346.09

## III. Final Action

EPA is approving Pennsylvania's April 22, 2004 SIP revision. The revision amends the Pittsburgh-Beaver Valley area maintenance plan for the 1-hour ozone NAAQS by updating the highway mobile emission inventories and, therefore, the MVEBs to reflect the use of the MOBILE6 emissions model. The revised plan for the Pittsburgh-Beaver Valley area continues to demonstrate maintenance of the 1-hour NAAQS for ozone through 2011.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates 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 rule will be effective on August 30, 2004 without further notice unless EPA receives adverse comment by August 2, 2004. 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.

## 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 (Public Law 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. 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 August 30, 2004. 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 to approve a revision to the Pittsburgh-Beaver Valley area's maintenance plan for the 1-hour NAAQS 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 10, 2004.

**Richard J. Kampf,**

*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)(226) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(226) Revisions to Pennsylvania's 1-hour ozone maintenance plan for the Pittsburgh-Beaver Valley area to revise the highway mobile emissions and, therefore, the motor vehicle emission budgets to reflect the use of MOBILE6. These revisions were submitted by the Commonwealth of Pennsylvania's Department of Environmental Protection on April 22, 2004.

(i) Incorporation by reference.

(A) Letter of April 22, 2004 from the Pennsylvania Department of Environmental Protection transmitting a revision to Pennsylvania's 1-hour ozone maintenance plan for the Pittsburgh-Beaver Valley area.

(B) Document entitled, "Revision to the State Implementation Plan for the Pittsburgh-Beaver Valley Area—Revised Highway Vehicle Emissions Budgets" dated April, 2004. The document revises the Pittsburgh-Beaver Valley 1-hour ozone maintenance plan, establishing revised motor vehicle emission budgets of 74.03 tons/day of volatile organic compounds (VOC) and 140.63 tons/day of nitrogen oxides (NO<sub>x</sub>) for 2004, 60.42 tons/day of VOC and 110.37 tons/day of NO<sub>x</sub> for 2007, and 45.68 tons/day of VOC and 77.09 tons/day of NO<sub>x</sub> for 2011.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(226)(i) of this section.

[FR Doc. 04-14823 Filed 6-30-04; 8:45 am]

**BILLING CODE 6560-50-P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[Region 2 Docket No. NJ69-276, FRL-7776-5]

#### **Conditional Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New Jersey**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is conditionally approving a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the sodium nitrite manufacturing plant operated by Repauno Products, LLC. This action conditionally approves the source-specific RACT determination that was made by New Jersey in accordance with provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this final rule is to conditionally approve source-specific emission limitations required by the Clean Air Act.

**EFFECTIVE DATE:** This rule is effective on August 2, 2004.

**ADDRESSES:** The official public rulemaking file is available for public viewing during normal business hours at the EPA, Region 2 Office, Air Programs Branch, 290 Broadway, New York, New York 10007-1866. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours at the New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Pollution Control, 401 East State Street, CN027, Trenton, New Jersey 08625. Copies of documents related to the docket are also available at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102T), 1301 Constitution Avenue, NW., Washington, DC 20460.

**FOR FURTHER INFORMATION CONTACT:** Richard Ruvo, Air Programs Branch, Environmental Protection Agency Region 2, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4014, [Ruvo.Richard@epa.gov](mailto:Ruvo.Richard@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Overview**

EPA is conditionally approving the New Jersey State Department of Environmental Protection's (New Jersey's) source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen (NO<sub>x</sub>) from the sodium nitrite manufacturing plant operated by Repauno Products, LLC (Repauno).

The following table of contents describes the format for this

##### **SUPPLEMENTARY INFORMATION** section:

- I. What Action Is EPA Taking Today?
- II. What Comments Did EPA Receive on the Proposal?
- III. What Is EPA's Conclusion?
- IV. Statutory and Executive Order Reviews