

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 February 7, 2005. 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 the Pennsylvania control requirements for portable fuel containers 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 24, 2004.

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 NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(229) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(229) Revisions to the Pennsylvania Regulations, Chapter 130, Subchapter A pertaining to volatile organic compound control requirements for portable fuel containers submitted on March 26, 2003 by the Pennsylvania Department of Environmental Protection.

(i) Incorporation by reference.

(A) Letter of March 26, 2003 from the Pennsylvania Department of Environmental Protection transmitting the Pennsylvania regulations for portable fuel containers.

(B) 25 Pa Code Chapter 130 Subchapter A. Portable Fuel Containers, Sections 130.101–130.108, inclusive, effective on October 5, 2002.

(ii) Additional Material. Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(229)(i) of this section.

[FR Doc. 04–26941 Filed 12–7–04; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03–OAR–2004–PA–0004; FRL–7845–1]

### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC Requirements for Consumer Products

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Pennsylvania State Implementation Plan (SIP). The revisions pertain to new control requirements to reduce volatile organic compounds (VOCs) from consumer products. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on February 7, 2005 without further notice, unless EPA receives adverse written comment by January 7, 2005. 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 Regional Material in EDocket (RME) ID Number R03–OAR–2004–PA–0004 by one of the following methods:

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

B. Agency Web site: <http://www.docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. E-mail: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov)

D. Mail: R03–OAR–2004–PA–0004, Makeba Morris, Chief, Air Quality

Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. 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 RME ID No. R03–OAR–2004–PA–0004. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at <http://www.docket.epa.gov/rmepub/>, 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 that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://www.regulations.gov) or e-mail. The EPA RME and the Federal [regulations.gov](http://www.regulations.gov) websites are 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 RME or [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.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://www.docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, 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 in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

Copies of material to be incorporated by reference are available at the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez, (215) 814-2178, or by e-mail at [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Background**

In December 1999, EPA identified emission reduction shortfalls in several severe 1-hour ozone nonattainment areas, including those located in the Ozone Transport Region (OTR). States were required areas to address the shortfalls in those areas. The Ozone Transport Commission (OTC) developed model rules to for a number of source categories. One of the model rules is to reduce VOC emissions from consumer products. The OTC model rules are based on existing rules developed by the California Air Resources Board (CARB), which were analyzed and modified by OTC-formed workgroups to address emission reduction needs in the OTR. Adoption and implementation of these model rules by the OTR member states is intended to attain and maintain the 1-hour ozone standard and reduce 8-hour ozone levels.

#### **II. Summary of SIP Revision**

On March 26, 2003, the Pennsylvania Department of Environmental Protection (PADEP) submitted a formal revision to its SIP. The SIP revision consists of new regulation Chapter 130, Subchapter B. Consumer Products, Sections 130.201–130.202, Sections 130.211 through 130.216, Sections 130.331 through 130.337, Sections 130.351–130.352, Sections 130.371 through 130.373, Sections 130.391–130.392, Sections 130.411 through 130.414, Section 130.431, Sections 130.451 through 130.465, and Section 130.471. This regulation applies statewide to any person who sells, supplies, offers for sale, or manufactures consumer products on or after January 1, 2005, for use in the Commonwealth of Pennsylvania. This rule includes general provisions, VOC standards, provisions for exemptions, provisions for innovative products, administrative requirements, reporting requirements, provisions for variances, test methods,

and provisions for alternative control plans for consumer products.

#### **III. Final Action**

EPA is approving a new Pennsylvania regulation, Chapter 130, Subchapter B. Consumer Products as a SIP strengthening measure. The Pennsylvania Consumer Products regulation's VOC limits are all either as stringent or more stringent than the Federal Consumer Products regulation, and are, therefore, approvable. Implementation of this rule will result in statewide emission reductions, and will help the Philadelphia-Wilmington-Trenton ozone nonattainment area attain the 1-hour ozone standard.

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 February 7, 2005 without further notice unless EPA receives adverse comment by January 7, 2005. 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 (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 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 February 7, 2005. 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 the Pennsylvania VOC control requirements for consumer products 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 24, 2004.

**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 NN—Pennsylvania

■ 2. Section 52.2020 is amended by adding paragraph (c)(230) to read as follows:

#### § 52.2020 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(230) Revisions pertaining to the control of volatile organic compound emissions from consumer products submitted on March 26, 2003 by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of March 26, 2003 from the Pennsylvania Department of Environmental Protection transmitting Pennsylvania's

consumer products regulations.

(B) 25 PA Code Chapter 130 Subchapter B. Consumer Products, effective on October 5, 2002, consisting of Sections 130.201 and 130.202, 130.211 through 130.216, 130.331 through 130.337, 130.351 and 130.352, 130.371 through 130.373, 130.391 and 130.392, 130.411 and 130.414, 130.431, 130.451 through 130.465, and 130.471.

(ii) Additional Material. Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(230)(i) of this section.

[FR Doc. 04-26939 Filed 12-7-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[OPP-2004-0211; FRL-7685-1]

### Cyazofamid; Pesticide Tolerance; Technical Correction

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

**ACTION:** Final rule; correction.

**SUMMARY:** EPA issued a final rule in the **Federal Register** of September 30, 2004 establishing a tolerance for the combined residues of cyazofamid and its metabolite CCIM in or on potatoes, tomatoes, cucurbits, and imported wine. ISK Biosciences Corporation requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). Today's document is being issued to correct the signature block.

**DATES:** This correction is effective on September 30, 2004.

**ADDRESSES:** Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** document of September 30, 2004.

**FOR FURTHER INFORMATION CONTACT:** Janet Whitehurst, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-6129; e-mail address: [whitehurst.janet@epa.gov](mailto:whitehurst.janet@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this Action Apply to Me?

The Agency included in the final rule a list of those who may be potentially affected by this action. If you have

questions regarding the applicability of this action to a particular entity, consult the person listed under the **FOR FURTHER INFORMATION CONTACT**.

#### B. How Can I Access Electronic Copies of this Document and Other Related Information?

In addition to using EDOCKET at <http://www.epa.gov/edocket/>, you may access this **Federal Register** document electronically through the EPA Internet under the "**Federal Register**" listings at <http://www.epa.gov/fedrgstr/>. A frequently updated electronic version of 40 CFR part 180 is available at E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

## II. What Does this Correction Do?

FR Doc. 04-21931 published in the **Federal Register** of September 30, 2004 (69 FR 58290) (FRL-7367-4) is corrected as follows:

On page 58299, at the top of the first column, in the signature block for the Cyazomid pesticide tolerance, both the signature date and the signature were inadvertently left out. The date and signature should read as follows:

"Dated: September 23, 2004."

"James Jones,"

## III. Why is this Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's technical correction final without prior proposal and opportunity for comment, because EPA is merely inserting language that was inadvertently omitted from the previously published final rule. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(B).

## IV. Do Any of the Statutory and Executive Order Reviews Apply to this Action?

The applicable statutory and Executive Order reviews were included in the September 30, 2004 **Federal Register** document. This document is a technical correction and as such no new review requirements are applicable.

## V. Congressional Review Act

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