

(18) Proceed northerly along the east line of T36S, R2E, to the northeast corner of T36S, R2E; then

(19) Proceed westerly along the north line of T36S, R2E, to the northwest corner of T36S, R2E; then

(20) Proceed northerly along the east line of T35S, R1E, to the northeast corner of T35S, R1E; then

(21) Proceed westerly along the north line of T35S, R1E, to the northwest corner of T35S, R1E; then

(22) Proceed northerly along the east line of T34S, R1W, to the northeast corner of T34S, R1W; then

(23) Proceed westerly along the common boundary line of T34S–T33S to the northwest corner of T34S, R5W; then

(24) Proceed northerly along the west line of T33S, R5W, to the Josephine–Douglas County line; thence in a generally east, northeasterly direction along the county line to the intersection of R3W–R4W range line; thence north along the R3W–R4W range line approximately 11.8 miles to the 1,000-foot contour line just south of State Route 227 southeast of the town of Days Creek; then

(25) Proceed in an easterly, westerly, and eventually northerly along the 1,000-foot contour line, crossing to the Roseburg map from the Medford map, to a point approximately 3.5 miles east of Dillard, where the contour line crosses Interstate 5 on the Roseburg map; thence northeast along Interstate 5 approximately 0.25 mile, returning to the 1,000-foot contour line; thence in a generally northeasterly, southeasterly, northwesterly, and eventually northeasterly along the 1,000-foot contour line past the town of Idlewild Park to the R2W–R3W range line; then

(26) Proceed north along range line R2W–R3W approximately 1.75 miles to the T25S–T26S township line; thence west along township line T25S–T26S approximately .25 mile, returning to the 1,000-foot contour line; thence in a generally westerly and then a northerly direction along the 1,000-foot contour line toward the valley of Calapooya Creek to the R3W–R4W range line; thence north along range line R3W–R4W approximately 2.25 miles, back to the 1,000-foot contour line; then

(27) Proceed in a westerly and then a northerly direction along the 1,000-foot contour line to the T23S–T24S township line, then east along the T23S–T24S township line approximately 2.75 miles to the 1,000-foot contour line; then in a northerly direction along the 1,000-foot contour line to its intersection with the Douglas–Lane County line; thence north along

the county line approximately 0.75 mile to the beginning point.

Signed: November 1, 2004.

**Arthur J. Libertucci,**  
*Administrator.*

Dated: November 29, 2004.

**Timothy E. Skud,**  
*Deputy Assistant Secretary (Tax, Trade, and Tariff Policy).*

[FR Doc. 04–26865 Filed 12–7–04; 8:45 am]

**BILLING CODE 4810–31–P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R03–OAR–2004–PA–0003; FRL–7845–3]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC Requirements for Portable Fuel Containers

**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 requirements to control volatile organic compound (VOC) emissions from portable fuel containers. 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–0003 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–0003, 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–0003. 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, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**FOR FURTHER INFORMATION CONTACT:** Cristina Fernandez at (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 to address the shortfalls in those areas. The Ozone Transport Commission (OTC) developed model rules to reduce VOCs for a number of source categories. One of the model rules is to reduce VOC emissions from portable fuel containers. 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 A. Portable Fuel Containers, Sections 130.101 through 130.108. This regulation applies statewide to any person who sells, supplies, offers for sale, or manufactures for sale portable fuel containers and/or spill-proof fill spouts for use in Pennsylvania on or after January 1, 2003.

This regulation requires each portable fuel container and/or spill-proof fill spout to meet the following requirements: (1) Have an automatic shut-off to prevent overflow during refueling, (2) have automatic closing and sealing of the container and/or spout when not dispensing fuel, (3) have only one opening for both filling and pouring, (4) have a minimum flow rate and fill level, (5) meet a permeation standard, (6) have a manufacturer's warranty against defects, and (7) clearly display a label with the date of

manufacture and identifying the container and/or spout as a spill proof system. Also included in the regulation are provisions for exemptions, innovative procedures, administrative requirements, variances, and compliance testing procedures.

**III. Final Action**

EPA is approving a revision to the Pennsylvania SIP that adds new regulation Chapter 130, Subchapter A. Portable Fuel Containers, Sections 130.101 through 130.108 to reduce VOC emissions from portable fuel containers as a SIP strengthening measure. Implementation of this rule will result in statewide emission reductions, and will help the Philadelphia-Wilmington-Trenton nonattainment area to 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 (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 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.