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[FR Doc. E8-579 Filed 1-16-08; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R03-OAR-2006-1011; FRL-8517-2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Stage II Requirements in Allegheny County**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan which were submitted on November 21, 2006 by the Pennsylvania Department of Environmental Protection (PADEP). These revisions modify and clarify the existing regulatory requirements for the control of volatile organic compounds from gasoline dispensing facilities in Allegheny County. The revisions modify the compliance dates and make other minor technical amendments to the efficiency and compliance testing portions of the Stage II regulations in Allegheny County. EPA is approving these revisions to the Commonwealth of Pennsylvania's State Implementation Plan in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on March 17, 2008 without further notice, unless EPA receives adverse written comment by February 19, 2008. 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 Docket ID Number EPA-R03-OAR-2006-1011 by one of the following methods:

A. *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *E-mail: fernandez.cristina@epa.gov*

C. *Mail: EPA-R03-OAR-2006-1011, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, 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. EPA-R03-OAR-2006-1011. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov*, 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 *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site 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 *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 *www.regulations.gov* index. 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 *www.regulations.gov* 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 the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301

39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT:

Catherine L. Magliocchetti, (215) 814-2174, or by e-mail at *magliocchetti.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION:

Throughout this document, whenever "we," "us," or "our" is used, we mean EPA. This supplementary information is arranged as follows:

- I. What Action Is EPA Taking Today?
- II. Why Is EPA Taking This Action?
- III. How Did EPA Review the Commonwealth's Submittal?
- IV. What Final Action is EPA Taking Today?
- V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP), which were submitted on November 21, 2006 by PADEP. These changes to Allegheny County's Article XXI Air Pollution Control Rules and Regulations amend the existing Stage II regulatory requirements to conform with 25 PA Code, Chapter 129, Standards for Sources, section 129.82, Control of volatile organic compounds (VOCs) from gasoline dispensing facilities. Specifically, the revisions incorporate revised compliance dates for Allegheny County, and make other minor technical amendments. The revised Stage II compliance dates are all now in the past, so gasoline dispensing facilities with throughputs greater than 10,000 gallons per month are subject to these regulations. In the case of independent small business marketers, as defined in Section 324 of the CAA, the regulation does not apply if the throughput is less than 50,000 gallons per month. Allegheny County has also revised its regulations to establish functional testing and certification requirements, as well as recordkeeping requirements consistent with EPA's regulations. The regulation also establishes a 95% efficiency for Stage II vapor recovery systems in Allegheny County, consistent with EPA requirements.

II. Why Is EPA Taking This Action?

EPA is approving these SIP revisions to the Commonwealth of Pennsylvania SIP. The Allegheny County Health Department (ACHD) revised its Stage II VOC control requirements in order to follow revisions to Stage II requirements that were made at the State level. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in Southwest Pennsylvania.

III. How Did EPA Review the Commonwealth's Submittal?

The Commonwealth of Pennsylvania's SIP revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on November 21, 2006. EPA evaluated the Commonwealth's revised Stage II requirements for Allegheny County to verify that the revisions were consistent with the previously approved Stage II regulations for the Commonwealth and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

IV. What Final Action Is EPA Taking Today?

EPA is approving a SIP revision request submitted by PADEP that makes compliance schedule changes and minor technical amendments to Allegheny County's Article XXI Air Pollution Control Rules and Regulations amending the existing Stage II regulatory requirements, controlling the emission of VOCs from gasoline dispensing facilities.

We are publishing this rule without prior proposal because the Agency views this as a non-controversial 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 March 17, 2008 without further notice unless EPA receives adverse comment by February 19, 2008. 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.

V. 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 requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 approves a state rule implementing a Federal standard.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 CAA. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *March 17, 2008*. 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 Allegheny County's Stage II regulations, 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 8, 2008.

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. In § 52.2020, the table in paragraph (c)(2) is amended by revising the entry for Article XXI, Section 2105.14 to read as follows:

§ 52.2020 Identification of plan. (c) * * *
 * * * * * (2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
Part E—Source Emission and Operating Standards				
Subpart 1—VOC Sources				
1205.14	Gasoline Dispensing Facilities—Stage II Control.	7/10/05	1/17/08 [Insert page number where the document begins].	

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 [FR Doc. E8-583 Filed 1-16-08; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2007-1075; FRL-8506-2]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM-10) emissions from ambient dust, propellant testing, and rocket testing. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on March 17, 2008 without further notice, unless EPA receives adverse comments by February 19, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA-R09-

OAR-2007-1075, by one of the following methods:
 • *Federal eRulemaking Portal:* www.regulations.gov. Follow the on-line instructions.

• *E-mail:* steckel.andrew@epa.gov.
 • *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an “anonymous access” system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all

documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Al Petersen, EPA Region IX, (415) 947-4118, petersen.alfred@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to EPA.

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I. The State’s Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that the rules were adopted or amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Amended	Submitted
KCAPCD	404.1	Particulate Matter Concentration	01/24/07	08/24/07
KCAPCD	431	Propellant Combustion and Rocket Testing	03/08/07	08/24/07