

(i) Incorporation by reference.

(A) Letter of October 26, 1995 from the Pennsylvania Department of Environmental Protection transmitting sections 6.7 (b), (c), (h) and section 17(2) of the Pennsylvania Air Pollution Control Act as amended on June 29, 1992.

(B) Sections 6.7 (b), (c), (h), and section 17(2) of the Pennsylvania Air Pollution Control Act, amended June 29, 1992 and effective on July 9, 1992.

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40 CFR Part 52

[PA 081-4012c; FRL-5343-7]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Interim Final Determination That Pennsylvania has Corrected the Deficiency in the Stage II Vapor Recovery Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final determination.

SUMMARY: Elsewhere in today's Federal Register, EPA has published a direct final rulemaking fully approving the Commonwealth of Pennsylvania's submittal of its Stage II Vapor Recovery requirements. The EPA has also published a proposed rulemaking to provide the public with an opportunity to comment on EPA's action. If a person submits adverse comments on EPA's proposed action, EPA will withdraw its direct final action and will consider any comments received before taking final action on the State's submittal. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiency for which a sanctions clock began on July 13, 1994. This action will defer the application of the offset sanction and defer the application of the highway sanction. Although this action is effective upon publication, EPA will take comment on this interim final determination as well as EPA's proposed approval of the State's submittal. If no comments are received on EPA's proposed approval of the State's submittal, the direct final action published in today's Federal Register will also finalize EPA's determination that the State has corrected the deficiency that started the sanctions clock. If comments are received on EPA's proposed approval and this interim final action, EPA will publish a final rule taking into consideration any comments received.

DATES: *Effective date.* December 13, 1995.

Comment date. Comments must be received by January 12, 1996.

ADDRESSES: Comments should be sent to Marcia L. Spink, Associate Director, Air Programs, (3AT00), Air, Radiation and Toxics Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19103. The state submittal and EPA's analysis for that submittal, which are the basis for this action, are available for public review at the above address and 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:

Cynthia H. Stahl, (215) 597-9337, at the EPA Region III address above or via e-mail at stahl.cynthia@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the EPA Region III address above.

SUPPLEMENTARY INFORMATION:

I. Background

On March 4, 1992, the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, submitted a Stage II vapor recovery regulation, Chapter 129.82, which EPA disapproved in a limited fashion on June 13, 1994 (59 FR 30302). The EPA's disapproval action started an 18-month clock for the application of one sanction (followed by a second sanction 6 months later) under section 179 of the Clean Air Act (Act) and a 24-month clock for promulgation of a Federal implementation plan under section 110(c)(1) of the Act. The State subsequently submitted a revised program on October 27, 1995, correcting the deficiencies in the original submittal. The EPA has taken direct final action on this submittal pursuant to its modified direct final policy set forth at 59 FR 24054 (May 10, 1994). In the Rules section of today's Federal Register, EPA has issued a direct final full approval of the Commonwealth of Pennsylvania's submittal of its Stage II vapor recovery regulation. In addition, in the Proposed Rules section of today's Federal Register, EPA has proposed full approval of the State's submittal.

II. EPA Action

Based on the proposed full approval set forth in today's Federal Register, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiency that started the sanction clock and, therefore, EPA is taking this interim final action

finding that the State has corrected the disapproval deficiency, effective on publication. This action does not stop the sanction clock that started under section 179 for this area on July 13, 1994. However, this action will defer the application of the offset sanction and will defer the application of the highway sanction. See 59 FR 39832 (Aug. 4, 1994) to be codified at 40 CFR 52.31. If EPA's direct final action fully approving the State's submittal becomes effective, such action will permanently stop the sanction clock and will permanently lift any applied, stayed or deferred sanctions.

Today EPA is also providing the public with an opportunity to comment on this interim final action. If, based on any comments on this action and any comments on EPA's proposed full approval of the State's submittal, EPA determines that the State's submittal is not fully approvable and this final action was inappropriate, EPA will take further action to disapprove the State's submittal and to find that the State has not corrected the original disapproval deficiency. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiency has not been corrected. In addition, the sanctions consequences described in the sanctions rule will also apply. See 59 FR 39832.

III. Administrative Requirements

Because EPA has preliminarily determined that the State has an approvable plan, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception under the Administrative Procedure Act (APA) in not providing an opportunity for comment before this action takes effect.¹ 5 U.S.C. 553(b)(B). The EPA believes that notice-and-comment rulemaking before the effective date of this action is impracticable and contrary to the public interest. The EPA has reviewed the State's submittal and, through its proposed and direct final action, is indicating that it is more likely than not that the State has corrected the deficiency that started the sanctions clock. Therefore, it is not in the public interest to initially apply sanctions or to keep applied sanctions in place when the State has most likely done all that it can to correct the deficiency that triggered the sanctions clock. Moreover, it would be impracticable to go through notice-and-comment rulemaking on a

¹ As previously noted, however, by this action EPA is providing the public with a chance to comment on EPA's determination after the effective date and EPA will consider any comments received in determining whether to reverse such action.