

document provided the basis for the BAAQMD Board's negative declaration within the district's resolution of adoption and for satisfying its CEQA obligations. In turn, this negative declaration and other submittal documents provided the basis for EPA's May 13, 2003 completeness finding on Rules 8-14 and 8-19.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

**IV. Statutory and Executive Order Reviews**

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.*).

The Congressional Review Act, 5 U.S.C. section 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**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

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 December 27, 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 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: August 6, 2004.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

■ Part 52, chapter I, title 40 of the Code of Federal Regulations 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 F—California**

■ 2. Section 52.220 is amended by adding paragraph (c)(315)(i)(A)(3) to read as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*  
 (c) \* \* \*  
 (315) \* \* \*  
 (i) \* \* \*  
 (A) \* \* \*

(3) Rule 8-14, adopted on March 7, 1979 and amended on October 16, 2002; and Rule 8-19, adopted on January 9, 1980 and amended on October 16, 2002.

\* \* \* \* \*

[FR Doc. 04-23950 Filed 10-26-04; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[MD170-3113a; FRL-7819-7]

**Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of VOC Emissions from Yeast Manufacturing**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan (SIP). The SIP revisions pertain to the amendments of a regulation that control volatile organic compound (VOC) emissions from yeast manufacturing facilities. EPA is approving these revisions in accordance with the

requirements of the Clean Air Act (CAA).

**DATES:** This rule is effective on December 27, 2004 without further notice, unless EPA receives adverse written comment by November 26, 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 MD170-3113 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: [morris.makeba@epa.gov](mailto:morris.makeba@epa.gov).

C. Mail: Makeba Morris, 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. MD170-3113. 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 that you consider to be CBI or otherwise protected through [regulations.gov](http://www.regulations.gov) or e-mail. 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 Maryland Department of the Environment (MDE), 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:** Rose Quinto, (215) 814-2182, or by e-mail at [quinto.rose@epa.gov](mailto:quinto.rose@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On July 12, 2004, the State of Maryland submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of amendments to COMAR 26.11.19.17—Control of VOC Emissions from Yeast Manufacturing. Yeast is manufactured in large reaction vessels referred to as fermenters. In Maryland, most of the yeast manufactured is baker's or nutritional yeast. The yeast is manufactured in batches with an average fermenting time of 18 hours for each batch.

##### II. Summary of SIP Revision

The amendments to COMAR 26.11.19.17 add the following definitions: (a) "nutritional yeast" means a yeast that becomes an ingredient in dough for bread or any other yeast-raised baked product; or a nutritional food additive intended for consumption by humans; and (b) "specialty yeast" means a yeast that is used in the production of beer, wine or alcoholic beverages or in the production of ethanol. The amendment also limits the production of specialty yeast to less than one percent by weight of the total annual yeast production excluding specialty yeast batches that meet the emission limits for nutritional yeast. Compliance with this amendment shall be achieved beginning July 1, 2004 and determined with the use of continuous emission monitors. In addition, the amendment removed the requirement to conduct periodic stack tests because the VOC emissions are now determined by continuous monitors.

The standards in the amended regulation shall be met for at least 98 percent of all nutritional yeast batches in each 12-month period. The amended regulation also requires semi-annual reports submitted to MDE by the end of the month following each 6-month

period. The semi-annual reports shall include: (a) A summary of the number of batches for each month and calculations showing the percent of batches that failed to meet the VOC standards for each month; (b) calculations showing the percent of batches that failed to meet the VOC standards during the 6-month period; and (c) calculations showing the percent of batches, by fermenter, that were not monitored during the 6-month period.

##### III. Final Action

EPA is approving the amendments to COMAR 26.11.19.17, "Control of VOC Emissions from Yeast Manufacturing," submitted by MDE on July 12, 2004. Implementation of these amendments will result in the reduction of VOC emissions from yeast manufacturing facilities.

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 December 27, 2004 without further notice unless EPA receives adverse comment by November 26, 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 (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 December 27, 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, pertaining to the amendments to control VOC emissions from yeast manufacturing facilities in Maryland, 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 20, 2004.

**Thomas C. Voltaggio**,  
*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 V—Maryland**

■ 2. Section 52.1070 is amended by adding paragraph (c)(189) to read as follows:

**§ 52.1070 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(189) Revisions to the Maryland Regulations on the Control of Volatile Organic Compound Emissions from Yeast Manufacturing submitted on July

12, 2004 by the Maryland Department of the Environment (MDE):

(i) Incorporation by reference.

(A) Letter of July 12, 2004 from the Maryland Department of the Environment transmitting the amendments to the control of VOC from yeast manufacturing.

(B) The following revisions to COMAR 26.11.19.17, Control of VOC Emissions from Yeast Manufacturing with an effective date of June 21, 2004.

(1) Addition of paragraphs .17A(3) and .17A(4) of existing paragraphs .17A(3) and .17A(4) to .17A(5) and .17A(6) respectively.

(2) Addition of paragraph .17B(2), replacing existing paragraph .17B(2).

(3) Revisions to paragraphs .17B(3), .17C(2), .17C(3), .17D (introductory sentence), .17D(1), and .17D(2).

(4) Addition of paragraph .17E; renumbering of existing paragraph .17E to .17F.

(5) Addition of paragraphs .17F(1) and .17F(2), replacing existing paragraphs .17E(1) and .17E(2).

(ii) Additional Material.—Remainder of the State submittal pertaining to the revisions listed in paragraph (c)(191)(i) of this section.

[FR Doc. 04-23948 Filed 10-26-04; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[R03-OAR-2004-WV-0001; FRL-7821-4]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Attainment and Redesignation of the City of Weirton PM<sub>10</sub> Nonattainment Area to Attainment and Approval of the Maintenance Plan**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is determining that the City of Weirton PM<sub>10</sub> nonattainment area (the Weirton area) has attained the National Ambient Air Quality Standard (NAAQS) for PM<sub>10</sub>. This determination is based on three years of complete, quality-assured, ambient air quality monitoring data for the years 2000-2002 which demonstrate that the NAAQS for PM<sub>10</sub> has been attained in the area. On the basis of this determination, EPA is also determining that certain attainment demonstration requirements along with other related requirements of the Clean Air Act (CAA), are no applicable to the Weirton area. EPA is also approving the