

additional requirements beyond those imposed by state law. The Circuit Court's action does not change or negate the pre-existing state requirements, impose any new requirements on sources, including small entities, nor impose any additional enforceable duty beyond that previously required and it does not contain any unfunded mandate or significantly or uniquely affect small governments. Under these circumstances, correcting the approval status in 40 CFR part 532 of these State implementation plans does not impose any new requirements on sources, including small entities. 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 merely implements the Circuit Court's order vacating EPA's approvals and conditional approvals, it does not impose any additional enforceable duty beyond that previously required and 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).

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 merely reflects the Circuit Court's decision, removing EPA's approval or conditional approval, it 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 rule merely implements the Circuit Court's orders

vacating EPA's approvals and conditional approvals of 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.

This technical correction action does not involve technical standards; 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. 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).

#### *B. 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 September 20, 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 to vacate certain approvals of SIP revisions submitted by the District of Columbia, Maryland and Virginia 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: July 13, 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 J—District of Columbia**

##### **§ 52.475 [Removed]**

■ 2. Section 52.475 is removed and reserved.

##### **§ 52.476 [Amended]**

■ 3. Section 52.476 is amended by removing and reserving paragraphs (b) and (c).

#### **Subpart V—Maryland**

##### **§ 52.1076 [Amended]**

■ 4. Section 52.1076 is amended by removing and reserving paragraphs (e) and (g).

##### **§ 52.1078 [Amended]**

■ 5. Section 52.1078 is amended by removing and reserving paragraph (a).

#### **Subpart VV—Virginia**

##### **§ 52.2428 [Amended]**

■ 6. Section 52.2428 is amended by removing and reserving paragraphs (c) and (d).

##### **§ 52.2429 [Removed]**

■ 7. Section 52.2429 is removed and reserved.

[FR Doc. 04-16569 Filed 7-20-04; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Parts 52 and 81**

[PA209-4302; FRL-7781-3]

### **Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Redesignation of the Hazelwood SO<sub>2</sub> Nonattainment and the Monongahela River Valley Unclassifiable Areas to Attainment and Approval of the Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Pennsylvania. These revisions include a

regulation change to the allowable sulfur oxide emission limits for fuel burning equipment, and a modeled demonstration of attainment of the national ambient air quality standards (NAAQS) for sulfur dioxide (SO<sub>2</sub>) in the Hazelwood nonattainment area and the Monongahela River Valley unclassifiable area, located in the Allegheny Air Basin in Allegheny County, Pennsylvania. In addition, EPA is redesignating these areas to attainment of the NAAQS for SO<sub>2</sub>, and approving a combined maintenance plan for both areas as a SIP revision. These SIP revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD). This action is being taken in accordance with the Clean Air Act (CAA).

**DATES:** This final rule is effective on August 20, 2004.

**ADDRESSES:** 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, the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, 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:** Ellen Wentworth, (215) 814-2034, or by e-mail at [wentworth.ellen@epa.gov](mailto:wentworth.ellen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

### I. Background

On April 2, 2004 (69 FR 17374), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania on behalf of the ACHD. The NPR proposed approval of a regulation change to the allowable sulfur oxide emission limits for fuel burning equipment, and a modeled demonstration of attainment of the NAAQS for SO<sub>2</sub> in the Hazelwood nonattainment area and the Monongahela River Valley unclassifiable area, located in the Allegheny Air Basin in Allegheny County. In addition the NPR also proposed to redesignate these areas to attainment of the NAAQS for SO<sub>2</sub>, and to approve a combined maintenance

plan for both areas as a SIP revision. The formal SIP revision was submitted by PADEP on behalf of the ACHD on August 15, 2003. The specific details of the regulatory change to the allowable sulfur oxide emission limits for fuel burning equipment, the modeled demonstration of attainment of the NAAQS for SO<sub>2</sub> for the Hazelwood and Monongahela River Valley areas in Allegheny County, and the redesignation and maintenance plan for these areas, as well as EPA's rationale for its proposed action were all provided in the April 2, 2004 NPR and will not be restated here. No comments were submitted to EPA on that NPR.

### II. Final Action

EPA is approving SIP revisions submitted on August 15, 2003 by the Commonwealth of Pennsylvania on behalf of the ACHD. These SIP revisions include a regulation change to the allowable sulfur oxide emission limits for fuel burning equipment, and a modeled demonstration of attainment of the NAAQS for SO<sub>2</sub> in the Hazelwood River Valley unclassifiable areas located in the Allegheny Air Basin, in Allegheny County, Pennsylvania. In addition, EPA is approving the redesignation of these areas to attainment of the NAAQS for SO<sub>2</sub>, and approving a combined maintenance plan for both areas as a SIP revision.

### III. 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 September 20, 2004. Filing a petition for reconsideration by the Administrator of this final rule, which approves a regulation change to the allowable sulfur oxide emission limits for fuel burning equipment, a modeled demonstration of attainment, and the redesignation and associated maintenance plan for the Hazelwood and Monongahela River Valley areas in Allegheny County, Pennsylvania, 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

*40 CFR Part 81*

Air pollution control, National parks, Wilderness areas.

Dated: June 24, 2004.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR parts 52 and 81 are 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)(216) to read as follows:

**§ 52.2020 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*  
(216) Revisions to the Allegheny portion of the Pennsylvania State Implementation Plan (SIP) submitted on August 15, 2003 by the Pennsylvania Department of Environmental Protection consisting of a regulatory change to Article XXI, section 2104.03, Sulfur Oxide Emissions, a modeled demonstration of attainment of the national ambient air quality standards (NAAQS) for SO<sub>2</sub> in the Hazelwood and Monongahela River Valley areas of Allegheny County, and the SO<sub>2</sub> Maintenance Plan for these areas associated with their redesignation to attainment:

(i) Incorporation by reference.

(A) Letter of August 15, 2003 from the Pennsylvania Department of Environmental Protection transmitting a regulatory change to the allowable sulfur oxide emission limits for fuel burning equipment, a modeled demonstration of attainment, and the maintenance plan for the Hazelwood and Monongahela River Valley areas of Allegheny County, Pennsylvania.

(B) Maintenance Plan for Sulfur Dioxide for Southwestern Pennsylvania, Parts I through V, and Appendices A

and B, dated August 2001, and effective July 10, 2003.

(C) Revisions to section 2104.03 of Article XXI, Rules and Regulations of the Allegheny County Health, effective July 10, 2003.

(ii) Additional Material.

(A) Remainder of the August 15, 2003 State submittal pertaining to the revisions listed in paragraph (c)(216)(i) of this section.

(B) Additional material submitted by the Pennsylvania Department of Environmental Protection on February 12, 2004, which consists of minor clarifications to the Summary and Responses document from the public hearing, and a letter dated February 6, 1992 which was referenced but not included in the August 15, 2003 SIP revision submittal.

■ 3. Section 52.2033 is amended by adding paragraph (c) to read as follows:

**§ 52.2033 Control strategy: Sulfur oxides**

\* \* \* \* \*

(c) EPA approves the attainment demonstration State Implementation Plan for the Hazelwood and Monongahela River Valley areas of the Allegheny County Air Basin in Allegheny County, submitted by the Pennsylvania Department of Environmental Protection on August 15, 2003.

**PART 81—[AMENDED]**

■ 1. The authority citation for Part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart C—Section 107 Attainment Status Designations**

■ 2. In § 81.339, the table for "Pennsylvania—SO<sub>2</sub>" is amended by revising the entry for the Allegheny County Air Basin to read as follows:

**§ 81.339 Pennsylvania**

**PENNSYLVANIA—SO<sub>2</sub>**

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
* * * * *				
V. Southwest Pennsylvania Intrastate AQCR:				
* * * * *				
(B) Allegheny County Air Basin:				
(1) The areas within a two-mile radius of the Hazelwood monitor ...				X
(2) That portion of Allegheny County within an eight-mile radius of the Duquesne Golf Association Club House in West Mifflin excluding the nonattainment area (#1) .....				X
* * * * *				

\* \* \* \* \*

[FR Doc. 04-16568 Filed 7-20-04; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 180****[OPP-2004-0141; FRL-7364-1]****Acequinocyl; Pesticide Tolerance****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** This regulation establishes tolerances for combined residues of acequinocyl, 2-(acetyloxy)-3-dodecyl-1,4-naphthalenedione, and its metabolite, 2-dodecyl-3-hydroxy-1,4-naphthoquinone, expressed as acequinocyl equivalents in or on almond; almond, hulls; apple, wet pomace; citrus, oil; fat and liver of cattle, goat, horse, and sheep; fruit, citrus, group 10; fruit, pome, group 11; pistachio; and strawberry. Arvesta Corporation requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA).

**DATES:** This regulation is effective July 21, 2004. Objections and requests for hearings must be received on or before September 20, 2004.

**ADDRESSES:** To submit a written objection or hearing request follow the detailed instructions as provided in Unit VI. of the **SUPPLEMENTARY INFORMATION**. EPA has established a docket for this action under Docket ID number OPP-2004-0141. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket/>. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (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 EDOCKET or in hard copy at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1801 South Bell St., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305-5805.

**FOR FURTHER INFORMATION CONTACT:** Marilyn Mautz, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460-0001; telephone number: (703) 305-6785; e-mail address: [mautz.marilyn@epa.gov](mailto:mautz.marilyn@epa.gov).

**SUPPLEMENTARY INFORMATION:****I. General Information***A. Does this Action Apply to Me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., agricultural workers; greenhouse, nursery, and floriculture workers; farmers.
- Animal production (NAICS 112), e.g., cattle ranchers and farmers, dairy cattle farmers, livestock farmers.
- Food manufacturing (NAICS 311), e.g., agricultural workers; farmers; greenhouse, nursery, and floriculture workers; ranchers; pesticide applicators.
- Pesticide manufacturing (NAICS 32532), e.g., agricultural workers; commercial applicators; farmers; greenhouse, nursery, and floriculture workers; residential users.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

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

In addition to using EDOCKET (<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 on E-CFR Beta Site Two at <http://www.gpoaccess.gov/ecfr/>.

**II. Background and Statutory Findings**

In the **Federal Register** of February 25, 2004 (69 FR 8645) (FRL-7344-7),

EPA issued a notice pursuant to section 408(d)(3) of FFDCA, 21 U.S.C. 346a(d)(3), announcing the filing of pesticide petitions (PP 2F6440 and 3F6596) by Arvesta Corporation, 100 First St., Suite 1700, San Francisco, CA 94105. That notice included a summary of the petitions prepared by Arvesta Corporation, the registrant. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR part 180 be amended by establishing tolerances for combined residues of the insecticide acequinocyl, 3-dodecyl-1,4-dihydro-1,4-dioxo-2-naphthyl acetate, and its metabolite, 2-dodecyl-3-hydroxy-1,4-naphthoquinone (acequinocyl-OH), expressed as acequinocyl equivalents, in or on the listed commodities as follows:

- PP 2F6440:* Fruit, pome group at 0.4 parts per million (ppm); apple, wet pomace at 1.0 ppm; fruit, citrus, group at 0.3 ppm; orange, oil at 30 ppm; almond and pistachio at 0.01 ppm; almond, hulls at 1.5 ppm; cattle, meat and kidney at 0.01 ppm; cattle, liver and fat at 0.02 ppm; and milk at 0.01 ppm.
- PP 3F6595:* Strawberries at 0.4 ppm

The petition, PP 2F6440, was subsequently amended to: Increase the tolerances for almond and pistachio from 0.01 ppm to 0.02 ppm; increase the tolerance for almond hulls from 1.5 ppm to 2.0 ppm; to decrease the tolerance for citrus fruit group from 0.3 ppm to 0.20 ppm; add separate tolerances for fat and liver of goat, horse and sheep; withdraw the proposed tolerances for milk, and meat and kidney of cattle; and to correct the terms for certain commodities as summarized in the Table 1 of this unit.

The almond and pistachio tolerances were increased to account for the combined limit of quantification (LOQ) of the residue analytical method for the parent and its metabolite. The LOQ for each one is 0.01 ppm in/on each plant and livestock commodity, with the exception of citrus oil, where the LOQ for each one is 0.5 ppm. The withdrawal of the proposed milk, kidney and meat commodities and the addition of other livestock commodities are based on the results of the submitted cattle feeding study.

In addition, the chemical name is corrected from 3-dodecyl-1,4-dihydro-1,4-dioxo-2-naphthyl acetate to 2-(acetyloxy)-3-dodecyl-1,4-naphthalenedione to be consistent with the nomenclature used in the *Chemical Abstracts Chemical Substance Index*, published by the American Chemical Society.