

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. From 7 p.m. to 10 p.m. on May 10, 2003, in § 165.1191 temporarily suspend the entry in Table 1 to the section for “KFOG KaBoom” and add a new temporary paragraph (c) to read as follows:

**§ 165.1191 Safety Zones: Northern California annual fireworks events.**

\* \* \* \* \*

(c) *KFOG KaBoom Safety Zone.* The safety zone for KFOG KaBoom in San Francisco consists of the navigable waters within a 1,000-foot radius of the launch platform, which will be located approximately 1,000 feet off Piers 30 and 32 in San Francisco, California. This safety zone will be enforced from 7 p.m. PDT to 10 p.m. PDT on May 10, 2003. In accordance with the general regulations in § 165.23 of this part, entering into, transiting through, or anchoring within this zone is prohibited, unless authorized by the Captain of the Port or the Patrol Commander, or their designated representative.

Dated: April 25, 2003.

**Gerald M. Swanson,**

*Captain, U.S. Coast Guard, Captain of the Port, San Francisco Bay, California.*

[FR Doc. 03-11299 Filed 5-6-03; 8:45 am]

BILLING CODE 4910-15-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[MD136-3091a; FRL-7483-9]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to Stage II Vapor Recovery at Gasoline Dispensing Facilities

**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 revisions allow existing gasoline dispensing facilities to continue using installed vapor recovery equipment and require new gasoline dispensing facilities to be equipped with the most recently approved system. EPA is proposing to approve these revisions in accordance with the requirements of the Clean Air Act.

**DATES:** This rule is effective on July 7, 2003 without further notice, unless EPA receives adverse written comment by June 6, 2003. 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:** Written comments should be addressed to Makeba Morris, Acting Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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 the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Anderson, (215) 814-2173, or by e-mail at

[anderson.kathleen@epa.gov](mailto:anderson.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On May 23, 2002, the Maryland Department of the Environment (MDE) submitted a formal revision (#02-03) to its State Implementation Plan (SIP) revising certain provisions in the State's regulations pertaining to Stage II Vapor Recovery at Gasoline Dispensing Stations. The SIP revision went to public hearing on February 27, 2002 and became effective on March 14, 2002. On April 5, 2002, MDE made corrections to the adopted rule to remove incorrectly placed brackets and an incorrect reference to a test method.

#### II. Summary of SIP Revision

The 1990 Clean Air Act Amendments (CAAA) required states to develop regulations requiring owners or operators of certain gasoline dispensing facilities to install systems for recovery of gasoline vapor emissions. This requirement is also known as Stage II Vapor Recovery (Stage II) and is required in areas classified as moderate and above ozone nonattainment. Stage II is the control of gasoline vapors when dispensing gasoline into vehicle fuel tanks. The MDE adopted Stage II regulations on January 18, 1993 which became effective on February 15, 1993.

These regulations were submitted to EPA as a SIP revision on January 18, 1993 and approved as a final rule by EPA on June 9, 1994 (54 FR 29730).

Maryland's SIP-approved Stage II regulation requires the use of vapor recovery systems that have been certified or “approved” by the California Air Resources Board (CARB). In general, these systems are 95 percent efficient. However, CARB has decided to de-certify the existing approved systems in favor of those able to achieve an efficiency of 98 percent. This means that in California, all existing CARB-approved systems will be de-certified and will be required, within a specified time frame, to be re-certified using systems that meet, among other things, the new efficiency requirements. MDE is continuing to evaluate the CARB system changes. In the meantime, MDE will require existing gasoline dispensing facilities to continue to use the installed equipment and require new gasoline dispensing facilities to be equipped with a system that was approved by CARB prior to April 1, 2001.

The changes proposed by this SIP revision to MDE's Stage II regulations are to:

(A) Redefine the term “approved Stage II Vapor Recovery System” as a system approved by CARB before April 1, 2001 or a system approved by the department. This change will require existing and new gas station operators to use systems that were previously approved by CARB.

(B) Identify “vapor assist system I” as the conventional vapor assist system and a “vapor assist system II” as the “Healy” system that requires different tests.

(C) Clarify the requirements for continued use of an existing Stage II system regardless of ownership unless the monthly throughput drops below 10,000 gallons.

(D) Clarify the requirements when a person purchases a facility that is not equipped with an approved system.

(E) Allow approved systems to be used after April 1, 2001 (the date when CARB-approved systems are de-certified) for both existing and new gasoline dispensing facilities.

(F) Require the use of a pressure/vacuum valve on gasoline tanks.

(G) Require owners to maintain inspection and testing reports on site and to notify the MDE of tests to be performed.

(H) Incorporate by reference the CARB-approved test methods.

EPA has reviewed these changes and has determined that the revisions continue to meet the CAAA requirements for states to have an

approved Stage II Vapor Recovery System. In addition, the revisions, in general, strengthen the SIP by providing additional clarification of certain provisions, requiring that records be maintained onsite and by incorporating by reference appropriate test methods for vapor recovery systems.

### III. Final Action

EPA is approving the revisions to MDE's Stage II regulations submitted to EPA on May 23, 2002. 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 July 7, 2003 without further notice unless EPA receives adverse comment by June 6, 2003. 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 July 7, 2003. 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 revisions to MDE's Stage II Vapor Recovery program 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: April 9, 2003.

**James W. Newsom,**

*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 paragraphs (c)(178) to read as follows:

#### § 52.1070 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(178) Revisions to the Maryland State Implementation Plan for Stage II Vapor Recovery at Gasoline Dispensing Facilities submitted on May 23, 2002 by the Maryland Department of the Environment:

(i) Incorporation by reference.

(A) Letter of May 23, 2002 from the Maryland Department of the Environment transmitting revisions to the Maryland State Implementation Plan pertaining to Stage II Vapor Recovery at Gasoline Dispensing Facilities.

(B) The following revisions and additions to COMAR 26.11.24, effective on April 15, 2002:

- (1) Revisions to .01B(1) and (17); addition of .01B(18) and .01B(19).
- (2) Addition of .01-1.
- (3) Revisions to .02C(1) and (3); addition of .02D, .02E and .02F.
- (4) Revisions to .03F; addition of .03H and .03I.
- (5) Revisions to .04A (introductory paragraph), .04B, .04C and .04C(1); addition of .04A(1) through .04A(5) and .04C(2).
- (6) Revisions to .07A, .07B and .07D; addition of .07E.
- (ii) Additional Material.—Remainder of the State submittal(s) pertaining to the revisions listed in paragraph (c)(178)(i) of this section.

[FR Doc. 03-11183 Filed 5-6-03; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA188-4205a; FRL-7482-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO<sub>x</sub> RACT Determinations for Two Individual Sources

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for two major sources of volatile organic compounds (VOC) and nitrogen oxides (NO<sub>x</sub>) located in Pennsylvania. The two major sources are Dominion Trans Inc. in Clinton County, and Textron Inc. in Lycoming County. EPA is approving these revisions to establish VOC and NO<sub>x</sub> RACT requirements in the SIP in accordance with the Clean Air Act (CAA).

**DATES:** This rule is effective on July 7, 2003 without further notice, unless EPA receives adverse written comment by June 6, 2003. 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:** Written comments should be mailed to Makeba Morris, Acting

Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

**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

Pursuant to sections 182(b)(2) and 182(f) of the CAA, the Commonwealth of Pennsylvania (the Commonwealth or Pennsylvania) is required to establish and implement RACT for all major VOC and NO<sub>x</sub> sources. The major source size is determined by its location, the classification of that area and whether it is located in the ozone transport region (OTR). Under section 184 of the CAA, RACT as specified in sections 182(b)(2) and 182(f) applies throughout the OTR. The entire Commonwealth is located within the OTR. Therefore, RACT is applicable statewide in Pennsylvania.

##### II. Summary of SIP Revision

On October 30, 2002, PADEP submitted formal revisions to its SIP to establish and impose case-by-case RACT for three major sources of VOC and NO<sub>x</sub>. This rulemaking pertains to two of those sources. The other source is subject to a separate rulemaking action. The RACT determinations and requirements are included in operating permits (OP) issued by PADEP.

The following identifies the individual operating permit that EPA is approving for each source.

##### A. Textron Lycoming

Textron Inc., owns and operates the Textron Lycoming Reciprocating Engine Division (TLRED) facility in Williamsport, Lycoming County, Pennsylvania. Aircraft engines and engine parts are manufactured at the facility, which is considered a major source of VOC. In this instance, RACT has been established and imposed by PADEP in an operating permit. On

October 30, 2002, PADEP submitted operating permit No. OP 41-00005 to EPA as a SIP revision. The operating permit lists the following sources:

(1) The permit contains VOC emission limit of 3.040 tons per year (tpy) for the combustion source group. The combustion source group includes: 7 firetube boilers, 5 air make-up units, 140 Cercor heaters, 42 Dravos air heaters, 2 heat treat furnaces, and 4 aqueous washer burners (Source IDs: 032, 033, 034, 035, 036, 037, respectively). RACT for Source IDs 032, 033, 034, 035, 036, and 037 are the installation, maintenance and operation of the source in accordance to the manufacturers specifications. The operating permit contains the description of each source:

(a) Source ID 32 includes seven natural gas fired Firetube Boilers rated at 6.28 MMBTU/hr each;

(b) Source ID 033 includes five natural gas fired Air Make-Up Units with one rated at 3.89 MMBTU/hr, three rated at 5.20 MMBTU/hr each, and another one rated at 6.54 MMBTU/hr;

(c) Source ID034 includes 140 natural gas Cercor Heaters with 111 rated at 0.05 MMBTU/hr each, and 29 rated at 0.10 MMBTU/hr; (d) Source ID 035 includes 42 natural gas fired Dravos Air Heaters rated from 0.10 to 2.38 MMBTU/hr each. An air heater which has been taken out of service must comply with all applicable requirements of 25 Pa. Code section 127.11a in order to be reactivated; (e) Source ID 036 includes two natural gas fired heat treat furnaces using methanol for carburization, rated at 0.7 MMBTU/hr each; and (f) Source ID 037 includes four natural gas fired aqueous washer burners rated at 0.24 MMBTU/hr associated with a washer; 0.36 MMBTU/hr associated with a washer; 0.36 MMBTU/hr associated with a belt washer; and 0.36 MMBTU/hr associated with a spray washer.

(2) Source ID P202 includes 5 large Cooper Tanks with surface area of more than 10 square feet and Source ID P203 includes 6 Cooper Tanks with surface area less than 10 square feet. The permit contains a total combined VOC emission limits of 36.54 tpy from Source IDs P202 and P203 in any 12 consecutive month period. The tanks range in size from 85 to 470 gallons. Each tank contains solvent for the cold degreasing of metal parts. A Cooper Tank, which has been taken out of service, must comply with all applicable requirements of 25 Pa. Code section 127.11a in order to be reactivated.

(3) Source ID P204 includes 76 dip tanks. The permit contains a total combined VOC emission of 4.8 tpy from