

This action 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 January 31, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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 determinations of attainment for the Parkersburg-Marietta, WV-OH and the Wheeling, WV-OH PM_{2.5} nonattainment areas 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, Particulate matter, Reporting and recordkeeping requirements.

Dated: September 27, 2011.

W.C. Early,

Acting Regional Administrator, Region 3.

Dated: October 18, 2011.

Susan Hedman,

Regional Administrator, Region 5.

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 KK—Ohio

■ 2. Section 52.1892 is amended by adding paragraph (d) to read as follows:

§ 52.1892 Determinations of attainment.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Parkersburg-Marietta, WV-OH and Wheeling, WV-OH fine particle (PM_{2.5}) nonattainment areas attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the areas' air quality as of the attainment date, whether the areas attained the standard. EPA also determined that the Parkersburg-Marietta, WV-OH and

Wheeling, WV-OH PM_{2.5} nonattainment areas are not subject to the consequences of failing to attain pursuant to section 179(d).

Subpart XX—West Virginia

■ 3. Section 52.2527 is amended by adding paragraph (d) to read as follows:

§ 52.2527 Determinations of attainment.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2007 to 2009, EPA determined that the Parkersburg-Marietta, WV-OH and Wheeling, WV-OH fine particle (PM_{2.5}) nonattainment areas attained the 1997 annual PM_{2.5} National Ambient Air Quality Standard (NAAQS) by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the areas' air quality as of the attainment date, whether the areas attained the standard. EPA also determined that the Parkersburg-Marietta, WV-OH and Wheeling, WV-OH PM_{2.5} nonattainment areas are not subject to the consequences of failing to attain pursuant to section 179(d).

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2010-0775; FRL-9496-8]

Approval and Promulgation of Air Quality Implementation Plans; Louisiana; Revisions To Control Volatile Organic Compound Emissions for Surface Coatings and Graphic Arts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions for control of volatile organic compounds (VOCs) adopted by Louisiana on June 20, 2009 and August 20, 2010, and submitted to EPA on August 31, 2010. EPA is also approving, by parallel processing, a SIP revision for control of emission of organic compounds which was proposed by Louisiana on January 10, 2011 and adopted on April 20, 2011. EPA issued Control Techniques Guidelines (CTGs) in 2006, 2007 and 2008; Louisiana's rule revisions being approved in this action were developed in response to these CTGs. EPA is approving these revisions because they

meet the requirements of Reasonably Available Control Technology (RACT) as set forth in the Clean Air Act (CAA) as well as the requirements of EPA's regulations, and they are consistent with EPA's guidance. This action is being taken under section 110 and part D of the CAA.

DATES: This final rule is effective on January 3, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R06-OAR-2010-0775. All documents in the docket are listed at <http://www.regulations.gov>. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 through www.regulations.gov or in hard copy at the Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733. The file will be made available by appointment for public inspection in the Region 6 Freedom of Information Act (FOIA) Review Room between the hours of 8:30 a.m. and 4:30 p.m. weekdays except for legal holidays. Contact the person listed in the **FOR FURTHER INFORMATION CONTACT** paragraph below or Mr. Bill Deese at (214) 665-7253 to make an appointment. If possible, please make the appointment at least two working days in advance of your visit. There will be a 15 cent per page fee for making photocopies of documents. On the day of the visit, please check in at the EPA Region 6 reception area at 1445 Ross Avenue, Suite 700, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Belk, Air Planning Section (6PD-L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-2164; fax number (214) 665-7263; email address belk.ellen@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document wherever "we," "us," or "our" is used, we mean the EPA.

Outline

- I. What is the background for these actions?
- II. What comments did we receive on the proposed rule?
- III. What actions are we taking?
- IV. Statutory and Executive Order Reviews

I. What is the background for these actions?

This action approves rules to implement measures in response to CTGs issued in 2006, 2007, and 2008. We are approving these revisions because they enhance the Louisiana SIP by improving control of emissions from VOC sources in Louisiana. These revisions reflect changes in response to CTGs issued in 2006, 2007 and 2008. These CTGs cover the following source categories: Consumer and Commercial Products Group II: Control Techniques Guidelines in Lieu of Regulations for Flexible Packaging Printing Materials, Lithographic Printing Materials, Letterpress Printing Materials, Industrial Cleaning Solvents, and Flat Wood Paneling Coatings (71 FR 58745, October 5, 2006); Consumer and Commercial Products: Control Techniques Guidelines in Lieu of Regulations for Paper, Film, and Foil Coatings; Metal Furniture Coatings; and Large Appliance Coatings (72 FR 57215, October 9, 2007); Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly Coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives (73 FR 58481, October 7, 2008). These revisions include updates to the following Louisiana rules: Chapter 1 General Provisions, amendments to § 111 Definitions; Chapter 21 Control of Emission of Organic Compounds, amendments to § 2123 Organic Solvents, and § 2143 Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes.

Also, this action finds that these revisions meet RACT requirements for the above source categories. These revisions meet statutory and regulatory requirements, and are consistent with EPA's guidance. EPA is approving these revisions pursuant to section 110 and part D of the CAA. For additional information, see our March 17, 2011, proposal (76 FR 14602).¹

¹ We note that in our March 17, 2011 proposal, the summary of Louisiana's graphics arts regulations contains certain details which are not correct. The reference to applicability for the graphic arts rules should refer to § 2143. A. (rather than B.). Also, in East Baton Rouge, Iberville, Livingston, Pointe Coupee and West Baton Rouge parishes, the rules apply to any facility with the potential to emit a combined weight of VOCs greater than 25 tpy (rather than 50 tpy). The applicability in the rules is consistent with requirements for a severe nonattainment area. These inadvertent errors in the description of the

II. What comments did we receive on the proposed rule?

We received a comment letter from American Coatings Association on our proposed rulemaking. The comment letter was received by email and is available for review in the electronic docket for this rulemaking at the *regulations.gov* Web site (Docket No. EPA-R06-OAR-2010-0775). Our response to the comment letter is provided below.

Response to Comments

Comments: American Coatings Association (ACA) expressed concerns with the Pleasure Craft portion of the Control Techniques Guidelines (CTG) for Miscellaneous Metal and Plastic Parts Coatings, Group IV. The ACA objected to the limits the CTG recommended as being RACT for the Pleasure Craft coatings industry, and requested modifications to the VOC limits for three categories, changes to the definition of two categories, an additional specialty coating category, and an exemption. These requested changes are summarized as follows:

Finish Primer/Surfacers:

Revised VOC Limit (from 420 g/L to 600 g/L).

Extreme High Gloss Coating

Revised VOC Limit (from 490 g/L to 600 g/L).

Revised Definition.

Other Substrate Anti-Foulant Coating:

Revised VOC Limit (from 330 g/L to 400 g/L).

Anti-fouling Sealer/Tie Coat (new category):

Additional Specialty Category and VOC Limit of 420 g/L.

Pre-Treatment Wash Primer:

Revised Definition.

Small Container Exemption.

According to ACA, these revisions are necessary to meet customer expectations and continue to make the industry economically viable.

As mentioned above, the comment letter is available in the docket for this action.

Response: This rulemaking action is limited to approval of the state's official SIP submittal, submitted to us on August 31, 2010. Specifically, this action concerns whether the rules that LDEQ submitted to EPA to meet the requirements of section 182(b)(2)(A) of the CAA meet statutory and regulatory requirements. The state revised its *Miscellaneous Metal and Plastic Parts Coatings* regulations based on EPA's 2008 guidance titled "Control

Louisiana rules do not affect our decision to approve the rule revisions.

Techniques Guidelines for Miscellaneous Metal Products Coatings and Plastic Parts Coatings." As explained in more detail in our proposal, EPA determined that the state's submitted revisions meet RACT requirements and are consistent with the 2008 guidance. The comments do not present evidence of why the requirements established in the State's submission are inconsistent with the RACT requirement of the Act and thus provide no basis for our disapproval of the State submission.

EPA must either approve or disapprove the state's submitted SIP revision pursuant to CAA section 110(k)(3), 42 U.S.C. 7407(k)(3). As a matter of law, EPA is required to approve a SIP revision if it meets the Act's requirements. EPA has no authority to modify the State's submission.

We note that issues similar to those raised by the Commenters have previously been raised to the Agency. In response to those concerns, EPA issued guidance that provides additional information regarding the pleasure craft industry in a memorandum from Stephen D. Page, Director, OAQPS, dated June 1, 2010, titled, "Control Technique Guidelines for Miscellaneous metal and Plastic Part Coatings—Industry Request for Reconsideration." The Page memorandum provides additional information on how the Commenters' concerns can best be addressed. The memo, in part, states: "After careful evaluation of the issues raised by the pleasure craft industry, OAQPS is recommending that the pleasure craft industry work with state agencies during their RACT rule development process to assess what is reasonable for the specific sources regulated because the CTG impose no legally binding requirements on any entity, including pleasure craft coating facilities * * *. The CTG are intended to provide state and local air pollution control authorities with information to assist them in determining RACT for VOC * * *. States can use the recommendations from the MMPPC CTG to inform their own determination as to what constitutes RACT for VOC for pleasure craft coating operations in their particular nonattainment areas." (p. 3 of the June 1, 2010 Memo). In addition, we note that LDEQ considered similar comments from the Commenters prior to the adoption of this SIP package by the State on August 10, 2010 and provided those comments to us in its official SIP submittal. Those comments are a part of the state's official submittal, which is included in the docket for this rulemaking.

III. What actions are we taking?

EPA is approving SIP revisions for control of emission of volatile organic compounds (VOC) adopted by Louisiana on June 20, 2009, and August 20, 2010, and submitted to EPA as part of a larger submittal on August 31, 2010. These revisions were included as appendices to the second of three volumes submitted by the LDEQ in August 2010; these are Appendices A and B of the second volume, entitled "VOC RACT Control Technique Guidelines". We are also approving, by parallel processing, a revision for control of emission of VOC adopted on April 20, 2011, which is a small wording change. Together, these August 2010 and April 2011 revisions include updates to the following Louisiana rules: Chapter 1 General Provisions, amendments to § 111 Definitions; Chapter 21 Control of Emission of Organic Compounds, amendments to § 2123 Organic Solvents, and § 2143 Graphic Arts (Printing) by Rotogravure, Flexographic, Offset Lithographic, Letterpress, and Flexible Package Printing Processes.

We are approving these revisions as meeting the requirements of the CAA, including CAA section 182(b)(2)(A). These revisions reflect changes in response to CTGs issued in 2006, 2007 and 2008: Consumer and Commercial Products Group II: Control Techniques Guidelines in Lieu of Regulations for Flexible Packaging Printing Materials, Lithographic Printing Materials, Letterpress Printing Materials, Industrial Cleaning Solvents, and Flat Wood Paneling Coatings (71 FR 58745, October 5, 2006); Consumer and Commercial Products: Control Techniques Guidelines in Lieu of Regulations for Paper, Film, and Foil Coatings; Metal Furniture Coatings; and Large Appliance Coatings (72 FR 57215, October 9, 2007); Consumer and Commercial Products, Group IV: Control Techniques Guidelines in Lieu of Regulations for Miscellaneous Metal Products Coatings, Plastic Parts Coatings, Auto and Light-Duty Truck Assembly coatings, Fiberglass Boat Manufacturing Materials, and Miscellaneous Industrial Adhesives (73 FR 58481, October 7, 2008).

We have determined that these revisions meet the requirements of the CAA and our regulations, and that they are consistent with EPA's guidance. EPA is granting approval of these revisions pursuant to section 110 and part D of the CAA.

As previously mentioned, more information on the SIP revisions we are approving can be found in our proposal

published in the March 17, 2011 **Federal Register** (76 FR 14602).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - 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);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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. 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 January 31, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Intergovernmental relations, Incorporation by reference, Nitrogen dioxides, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 7, 2011.

Al Armendariz,
Regional Administrator, Region 6.

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 T—Louisiana

- 2. The table in § 52.970(c) entitled "EPA Approved Louisiana Regulations in the Louisiana SIP" is amended as follows:
 - a. Under Chapter 1, by adding a new entry for Section 111;

■ b. Under Chapter 21, Subchapter B, by adding a new entry for Section 2123; ■ c. Under Chapter 21, Subchapter H, by adding a new entry for Section 2143. § 52.970 Identification of plan.
 The additions read as follows: (c) * * *

EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP

State citation	Title/subject	State approval date	EPA approval date	Comments
LAC Title 33. Environmental Quality Part III. Air				
Chapter 1—General Provisions				
* Section 111	* Definitions	* 8/20/2010	* 12/2/2011 [Insert FR page number where document begins].	* Revisions to Section 111 approved in the Louisiana Register August 20, 2010 (LR 36:1773).
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Chapter 21—Control of Emissions of Organic Compounds				
Subchapter B—Organic Solvents				
* Section 2123	* Organic Solvents	* 4/20/2011	* 12/2/2011 [Insert FR page number where document begins].	* Revisions to Section 2123 approved in the Louisiana Register April 20, 2011 (LR 37:1150).
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Subchapter H—Graphic Arts				
* Section 2143	* Graphic Arts (Printing) by Rotogravure and Flexographic Processes. Control Requirements.	* 6/20/2009	* 12/2/2011 [Insert FR page number where document begins].	* Revisions to Section 2143 approved in the Louisiana Register June 20, 2009 (LR 35:1101).
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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 177

[Docket No. PHMSA-2010-0227(HM-256A)]

RIN 2126-AB29

Federal Motor Carrier Safety Administration

49 CFR Parts 383, 384, 390, 391, and 392

[Docket No. FMCSA-2010-0096]

RIN 2137-AE65

Drivers of CMVs: Restricting the Use of Cellular Phones

AGENCIES: Federal Motor Carrier Safety Administration (FMCSA) and Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Final rule.

SUMMARY: FMCSA and PHMSA are amending the Federal Motor Carrier Safety Regulations (FMCSRs) and the Hazardous Materials Regulations (HMR) to restrict the use of hand-held mobile telephones by drivers of commercial motor vehicles (CMVs). This rulemaking will improve safety on the Nation's highways by reducing the prevalence of distracted driving-related crashes, fatalities, and injuries involving drivers of CMVs. The Agencies also amend their regulations to implement new driver disqualification sanctions for drivers of CMVs who fail to comply with this Federal restriction and new driver disqualification sanctions for commercial driver's license (CDL) holders who have multiple convictions for violating a State or local law or ordinance on motor vehicle traffic control that restricts the use of hand-held mobile telephones. Additionally, motor carriers are prohibited from requiring or allowing drivers of CMVs to use hand-held mobile telephones.