

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05–1(g), 6.04–1, 6.04–6, 160.5; 49 CFR 1.46.

2. Add temporary § 165.T17–008 to read as follows:

§ 165.T17–008 Alaska Aerospace Development Corporation, Narrow Cape, Kodiak Island, AK: Safety Zones.

(a) *Description.* This safety zone includes an area in the Gulf of Alaska, southeast of Narrow Cape, Kodiak Island, Alaska. Specifically, the zone includes the waters of the Gulf of Alaska that are within the area bounded by a line drawn from a point located at 57°26'53" North, 152°22'14" West, then south to a point located at 57°24'42" North, 152°23'18" West, then southeast to a point located at 57°11'32" North, 152°05'35" West, then northeast to a point located at 57°18'45" North, 151°53'47" West, then west northwest to the point located at 57°27'45" North, 152°18'31" West, then back to the first point. All coordinates reference Datum: NAD 1983.

(b) *Effective dates.* This section is effective from 6:30 a.m. to 10:30 a.m. each day starting November 9, 2001 through November 14, 2001, and then from 5 a.m. to 9:15 a.m. each day starting November 15, 2001 through November 21, 2001.

(c) *Regulations.* (1) The Captain of the Port and the Duty Officer at Marine Safety Office, Anchorage, Alaska can be contacted at telephone number (907) 271–6700.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing the safety zone.

(3) The general regulations governing safety zones contained in § 165.23 of this part apply. No person or vessel may enter or remain in this safety zone, with the exception of attending vessels, without first obtaining permission from the Captain of the Port or his on-scene representative. In the vicinity of Narrow Cape, the Captain of the Port, Western Alaska's on-scene representative may be

contacted at the Kodiak Launch Complex via VHF marine channel 16.

Dated: October 26, 2001.

W. J. Hutmacher,

Captain, U.S. Coast Guard, Captain of the Port, Western Alaska.

[FR Doc. 01–28005 Filed 11–6–01; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[AL–056–2–200205; FRL–7098–6]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Alabama: Control of Gasoline Sulfur and Volatility

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a SIP revision submitted by the State of Alabama establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the Birmingham nonattainment area (Shelby and Jefferson counties in Alabama). Alabama developed these fuel requirements to reduce emissions of nitrogen oxides and volatile organic compounds as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Birmingham nonattainment area. EPA is approving Alabama's fuel requirement into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Birmingham nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

EFFECTIVE DATE: This final rule is effective on December 7, 2001.

ADDRESSES: Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. Lynorae Benjamin, (404) 562–9040.

Alabama Department of Environmental Management (ADEM), 400 Coliseum Boulevard, Montgomery, Alabama 36110–2059.

FOR FURTHER INFORMATION CONTACT: Lynorae Benjamin, Regulatory Planning Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental

Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at benjamin.lynorae@epa.gov.

SUPPLEMENTARY INFORMATION: On November 1, 2000, the State of Alabama submitted an attainment demonstration for the 1-hour ozone NAAQS for the Birmingham nonattainment area for inclusion into the Alabama SIP. The rule for the fuel program (the subject of this final rulemaking) is included in this submittal in Appendix I; the request for a waiver from Federal preemption pursuant to 211(c)(4)(C) of the Act (also the subject of this final rulemaking) is included as Appendix II of this submittal. Specifically, Appendix II of the Alabama submittal contains data and analyses to support a finding under section 211(c)(4)(C) that the State's low-sulfur and low-RVP requirements are necessary for the Birmingham nonattainment area to achieve the ozone NAAQS. On September 11, 2001, (66 FR 47142) EPA published a notice of proposed rulemaking (NPR) to approve the fuel waiver request and fuel rule. That NPR provides a detailed description of this action and EPA's rationale for proposed approval. The public comment period for this action ended on October 11, 2001. No comments, adverse or otherwise, were received on EPA's proposal.

Final Action

EPA is approving Alabama's low-sulfur/low-RVP fuel program into the federally enforceable SIP because the fuel requirements are in accordance with the Act, are necessary for the Birmingham nonattainment area to achieve the 1 hour ozone NAAQS in a timely manner, and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Administrative 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 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, 2001). 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, 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 CAA. 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 CAA. In this context, in the absence of prior existing requirements 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1195 (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 Action 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**. 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 7, 2002. 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: October 24, 2001.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

Chapter I, title 40, *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 B—Alabama

2. Section 52.50 is amended:

A. In paragraph (c) add a new chapter heading No. 335-3-20-Control Fuels, and entries for Sections 335-3-20-.01, 335-3-20-.02, and 335-3-20-.03; and

B. In paragraph (e) add a new entry for "Alabama Fuel Waiver Request—Appendix II of the Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Nonattainment Area," at the end of the table to read as follows:

§ 52.50 Identification of plan.

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(c) * * *

EPA APPROVED ALABAMA REGULATIONS

State citation	Title subject	Adoption date	EPA approval date	Federal Register notice
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Chapter No. 335-3-20—Control of Fuels				
335-3-20-.01	Definitions	October 24, 2000	November 7, 2001	66 FR 56219.
335-3-20-.02	Control of Fuels	October 24, 2000	November 7, 2001	66 FR 56219.
335-3-20-.03	Recordkeeping, Reporting, and Testing.	October 24, 2000	November 7, 2001	66 FR 56219.

* * * * *

(e) * * *

Provision	State effective date	EPA approval date	Federal Register notice	Comments
Alabama Fuel Waiver Request-Appendix II of the Attainment Demonstration of the 1-hour NAAQS for Ozone for the Birmingham Non-attainment Area.	December 1, 2000	November 7, 2001	66 FR 56220.	

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 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD124-3084; FRL-7085-1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compound Emissions from Distilled Spirits Facilities, Aerospace Coating Operations and Kraft Pulp Mills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the State of Maryland. These revisions establish reasonably available control technology (RACT) requirements to reduce emissions of volatile organic compounds (VOCs) from distilled spirits facilities, aerospace coating operations, and kraft pulp mills. The intended effect of this action is to approve three regulations that reduce VOC emissions from distilled spirits facilities, aerospace coating operations, and kraft pulp mills. This action is being taken under the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on December 7, 2001.

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, 401 M Street, SW., Washington, DC 20460; and Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland, 21224.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814-2182 and Kristeen Gaffney, (215) 814-2092, or via e-mail at

quinto.rose@epamail.epa.gov and gaffney.kristeen@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 2, 2001, the Maryland Department of Environment (MDE) requested that EPA parallel-process its approval of three proposed state regulations as revisions to the Maryland SIP. These regulations control VOC emissions from (1) distilled spirits facilities, COMAR 26.11.19.29, (2) aerospace coating operations, COMAR 26.11.19.13-1, and (3) kraft pulp mills, COMAR 26.11.14.01, 26.11.14.02 and 26.11.14.06. These regulations impose RACT requirements for the control of VOC emissions at affected facilities in Maryland. EPA published its notices of proposed rulemaking (NPRs) to approve the aerospace coating and kraft pulp mills regulations on August 24, 2001 (66 FR 44574), and the distilled spirits facilities regulation on August 27, 2001 (66 FR 44995), as revisions to the Maryland SIP.

EPA proposed approval of Maryland's proposed regulations under a procedure called parallel-processing, whereby EPA proposes rulemaking action concurrently with the state's procedures for amending and/or adopting its regulations. These regulations have now been fully adopted by Maryland and were formally submitted to EPA for approval into the Maryland SIP on October 5, 2001. The adopted regulations were not changed from the proposed versions submitted for parallel-processing. The specific requirements of Maryland's regulations to control VOC emissions from distilled spirits facilities, aerospace coating operations, and kraft pulp mills; and the rationale for EPA's proposed actions are explained in the NPRs and will not be restated here. No public comments were received on the NPR pertaining to aerospace coating operations. EPA did receive comments on the NPRs pertaining to kraft pulp mills and distilled spirits facilities. They are not adverse comments which oppose EPA's approval of Maryland's regulations, but rather comments that request to make

certain clarifications in its final rulemaking.

II. Comments and Responses

Comment: EPA should make it clear that the terms and provisions of the kraft pulp mills and the distilled spirits facilities, for this rulemaking, only apply to the affected facilities in Maryland.

Response: The terms and provisions of the Maryland's RACT regulations to control VOC emissions from kraft pulp mills and distilled spirits facilities, only apply to the affected facilities located in Maryland, namely Westvaco's Luke Mill (for kraft pulp mills) and Seagram Americas (for the distilled spirits facilities), respectively.

Comment: It is not possible to control emissions of VOCs from aging houses from distilled spirits facilities.

Response: Neither the proposed nor adopted version of Maryland's RACT to control VOC emissions from distilled spirits facilities requires that VOCs be controlled from the aging warehouses. The Maryland regulation is not to be construed to mean that the required good operating practices manual extends to the aging process at the affected facility in Maryland. There are, however, other emission sources at the affected facility in Maryland where fugitive VOC emissions can be minimized. The requirements of Maryland's distilled spirits facilities regulation to minimize VOC emissions by implementing good operating practices at fugitive emission sources, other than the aging warehouses, is unique to the affected facility in Maryland.

III. Final Action

EPA is approving revisions submitted by the State of Maryland on October 5, 2001 pertaining to RACT requirements to reduce VOC from distilled spirits facilities, COMAR 26.11.19.29; aerospace coating operations, COMAR 26.11.19.13-1; and kraft pulp mills, COMAR 26.11.14.01, 26.11.14.02 and 26.11.14.06.