

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 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 15, 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 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, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

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

Dated: September 3, 2003.

#### Wayne Nastri,

*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 paragraphs (c)(296)(i)(A)(2) and (312)(i)(B) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(296) \* \* \*

(i) \* \* \*

(A) \* \* \*

(2) Rule 232, adopted on October 18, 1994 and amended on September 25, 2001.

\* \* \* \* \*

(312) \* \* \*

(i) \* \* \*

(B) Santa Barbara County Air Pollution Control District.

(1) Rule 360, adopted on October 17, 2002.

\* \* \* \* \*

[FR Doc. 03-25800 Filed 10-10-03; 8:45 am]

**BILLING CODE 6560-50-U**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY 135—200337(a); FRL-7572-9]

### Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Marathon Ashland Petroleum Marine Repair Terminal

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision requires the Marathon Ashland Petroleum Marine Repair Terminal (MAPMRT) to implement volatile organic compound (VOC) reasonably available control technology (RACT) for its barge cleaning operation as part of a contingency measure implemented for the Huntington-Ashland 1-Hour Ozone Maintenance Area.

**DATES:** This direct final rule is effective December 15, 2003 without further notice, unless EPA receives adverse comment by November 13, 2003. If adverse comment is received, EPA 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:** Comments may be submitted by mail to: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in **SUPPLEMENTARY INFORMATION** (sections VI. B.1. through 3.).

**FOR FURTHER INFORMATION CONTACT:** Michele Notarianni, Air Planning

Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Phone: (404) 562-9031. E-mail: [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. What Is Today's Action?

EPA is approving a source-specific SIP revision to the Kentucky SIP, submitted by the Commonwealth of Kentucky on October 7, 2001, which requires MAPMRT to implement vapor collection and control equipment with an overall efficiency of at least 90 percent for its barge cleaning operation. This revision satisfies a requirement for Kentucky to implement a contingency measure for the Huntington-Ashland 1-Hour Ozone Maintenance Area and meets EPA's VOC RACT requirements for major VOC sources. The Huntington-Ashland 1-Hour Ozone Maintenance Area consists of: Boyd County and a portion of Greenup County, Kentucky; and Cabell County and Wayne County, West Virginia. MAPMRT is located in Boyd County, Kentucky, within the maintenance area. MAPMRT is a major VOC point source because the source's barge cleaning operation has the potential to emit more than 100 tons per year of VOC.

#### II. Why Must Kentucky Adopt an Ozone Contingency Measure for the Huntington-Ashland Maintenance Area?

During calendar year 1998, a Huntington, West Virginia ozone monitor recorded five exceedances of the 1-hour ozone National Ambient Air Quality Standard (NAAQS) during a period when the 1-hour NAAQS was revoked by EPA. The 1-hour ozone maintenance plan for the Kentucky portion of the Huntington-Ashland maintenance area requires Kentucky to adopt one or more contingency measures within six months of a monitored violation. This six-month time period is not applicable in this case, since the initial violation occurred in 1998, during a time period in which EPA had revoked the 1-hour ozone

NAAQS. Upon reinstatement of the 1-hour NAAQS, effective October 18, 2000, EPA required violating maintenance areas to expeditiously provide plans to implement their maintenance plans to address any violations. Kentucky is fulfilling the latter requirement. A June 28, 2001, letter from the Commonwealth officially notified EPA of its implementation of an ozone contingency measure in the Kentucky portion of the Huntington-Ashland maintenance area. Currently, the area is attaining the 1-hour ozone NAAQS.

### III. What Contingency Measure Was Adopted for the Area?

Kentucky utilized the contingency measure listed in the area's maintenance plan to implement "a program to make existing controls on stationary sources more effective, or require additional emission reductions." Because VOC emissions from MAPMRT's barge cleaning operations were significant, MAPMRT was selected as a source where additional emission reductions may be realized. Based on year 2000 emissions data, the barge cleaning operations represent an estimated 87 percent of the source's total VOC emissions. The title V permit for MAPMRT requires the overall efficiency for capture and control of VOC emissions from barge cleaning operations to be at least 90 percent to satisfy Kentucky rule 401 KAR 50:012, "General application". This rule requires RACT for major VOC sources in Kentucky counties designated ozone nonattainment with the exception of marginal areas. Although the Kentucky portion of the Huntington-Ashland area is classified attainment for the 1-hour ozone NAAQS, Kentucky elected as a contingency measure to require VOC RACT for MAPMRT's barge cleaning operations. Since no EPA Control Technique Guideline (CTG) exists for this source category, Kentucky must submit the controls as a source-specific non-CTG RACT SIP revision to ensure that these controls meet RACT and are adequately enforceable.

### IV. What VOC Control System Is MAPMRT Using?

Earlier than required, MAPMRT installed and is operating a vapor collection and control system for its barge cleaning operations with an overall efficiency of 90 percent. The control system will reduce the source's emissions by an estimated 0.76 tons per day and reduce VOC point source emissions for the area by an estimated 2.78 percent. MAPMRT's Barge Cleaning VOC Control Plan, required as

part of its title V permit, describes its Barge Degassing Vapor Control System. This control system is consistent with those controls used at similar operations in the country (*i.e.*, Louisiana and Texas). The system uses thermal oxidation to combust vapors from the barge. The combustion products are used to produce hot water (or steam) and inert gas, which are used for input back into the system for greater combustion efficiency and into the barge for enhanced safety. EPA and Kentucky believe the system satisfies EPA's RACT requirement for major VOC sources.

### V. What Is EPA's Final Action?

The EPA is approving this source-specific revision to the Kentucky SIP requiring VOC RACT for MAPMRT because it is consistent with the requirements of the Clean Air Act and EPA policy.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective December 15, 2003 without further notice unless the Agency receives adverse comments by November 13, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on December 15, 2003 and no further action will be taken on the proposed rule.

### VI. General Information

#### A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under KY-135-200337. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action.

Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency, Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403. (502/573-3382).

3. *Electronic Access.* You may access this **Federal Register** document electronically through the Regulation.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

#### B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on

proposed rulemaking KY-135-200337" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD-ROM you submit, and in any cover letter accompanying the disk or CD-ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov). Please include the text "Public comment on proposed rulemaking KY-135-200337" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through [Regulations.gov](http://www.regulations.gov), EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulation.gov.* Your use of [Regulation.gov](http://www.regulations.gov) is an alternative method of submitting electronic comments to EPA. Go directly to [Regulations.gov](http://www.regulations.gov) at <http://www.regulations.gov>, then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD-ROM.* You may submit comments on a disk or CD-ROM that you mail to the mailing address

identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Please include the text "Public comment on proposed rulemaking KY-135-200337." in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

#### *C. How Should I Submit CBI to the Agency?*

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD-ROM, mark the outside of the disk or CD-ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

#### *D. What Should I Consider as I Prepare My Comments for EPA?*

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/ rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

#### **VII. 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 (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.*).

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 15, 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 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 1, 2003.

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

■ Part 52 of 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 S—Kentucky**

■ 2. Section 52.920(d) is amended by adding a new entry at the end of the table to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*  
(d) \* \* \*

**EPA—APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit No.	State effective date	EPA approval date	Federal Register Notice
* * * * *				
Marathon Ashland Petroleum Marine Repair Terminal.	N/A	12/22/99	10/14/03 .....	[Insert FR page citation].

\* \* \* \* \*  
[FR Doc. 03-25798 Filed 10-10-03; 8:45 am]  
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**DEPARTMENT OF HOMELAND SECURITY**

**Federal Emergency Management Agency**

**44 CFR Parts 59 and 61**

**RIN 1660-AA14**

**National Flood Insurance Program (NFIP); Inspection of Insured Structures by Communities**

**AGENCY:** Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security (DHS).

**ACTION:** Adoption of interim final rule as final.

**SUMMARY:** This final rule adopts the interim final rule, published in the **Federal Register** on March 8, 2002, to amend the NFIP regulations to clarify that areas of Monroe County, Florida that incorporate on or after January 1, 1999, and become eligible for the sale of flood insurance must participate in the inspection procedure as a condition of joining the NFIP. An inspection procedure was established to help the communities of Monroe County and the Village of Islamorada verify that structures comply with the community's floodplain management ordinance and to ensure that property owners pay