

### B. Subpart 1 RACM Requirements

Subpart 1 requires that each attainment plan “provide for the implementation of all reasonably available control measures as expeditiously as practicable (including such reductions in emission from the existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology), and shall provide for attainment of the national primary ambient air quality standards.” See CAA section 172(c)(1). EPA has consistently interpreted this provision to require only implementation of potential RACM measures that could advance attainment.<sup>5</sup> Thus, when an area is already attaining the standard, no additional RACM measures are required. EPA’s interpretation that Subpart 1 requires only the implementation of RACM measures that would advance attainment was upheld by the United States Court of Appeals in the Fifth Circuit<sup>6</sup> and by the United States Court of Appeals for the D.C. Circuit.<sup>7</sup>

### C. Proposed Action

In its August 9, 2016, SIP submission, the Commonwealth determined that no additional control measures are necessary in the Area to satisfy the CAA section 172(c)(1) RACM requirement because the Area has attained the 1997 Annual PM<sub>2.5</sub> NAAQS. As noted above, EPA has determined that the Area attained the standard by the April 5, 2010, attainment date and that no additional measures are required to satisfy Subpart 1 RACM when an area is attaining the standard. Therefore, EPA proposes to agree with the Commonwealth’s analysis, to approve Kentucky’s SIP revision, and to incorporate the section 172(c)(1) RACM determination into the SIP.

## IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. See 42 U.S.C. 7410(k); 40 CFR 52.02(a).

This memorandum is not required to satisfy EPA’s regional consistency regulations. See 40 CFR 56.5(b)(1); 81 FR 51102 (August 3, 2016).

<sup>5</sup> This interpretation was adopted in the General Preamble, see 57 FR 13498 (April 16, 1992), and has been upheld as applied to the Clean Data Policy, as well as to nonattainment SIP submissions. See *NRDC v. EPA*, 571 F.3d 1245 (D.C. Cir. 2009); *Sierra Club v. EPA*, 294 F.3d 155 (D.C. Cir. 2002).

<sup>6</sup> *Sierra Club v. EPA*, 314 F.3d 735, 743–745 (5th Cir. 2002).

<sup>7</sup> *Sierra Club v. EPA*, 294 F.3d 155, 162–163 (D.C. Cir. 2002); *NRDC v. EPA*, 571 F.3d 1245, 1252 (D.C. Cir. 2009).

Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- 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 CAA; 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: October 11, 2016.

**Heather McTeer Toney,**  
Regional Administrator, Region 4.

[FR Doc. 2016–25433 Filed 10–20–16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R03–OAR–2016–0308; FRL–9954–17–Region 3]

### Approval and Promulgation of Air Quality Implementation Plans; Virginia; Removal of Stage II Gasoline Vapor Recovery Requirements for Gasoline Dispensing Facilities

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve the state implementation plan (SIP) revision submitted by the Commonwealth of Virginia for the purpose of removing the requirement for gasoline vapor recovery equipment on gasoline dispensing pumps (otherwise referred to as Stage II vapor recovery, or simply as Stage II) in Virginia area facilities formerly required to have installed and operated Stage II vapor recovery controls under the prior, approved Virginia SIP. In the Rules and Regulations section of this **Federal Register**, EPA is approving the Commonwealth’s SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for EPA’s approval of Virginia’s Stage II-related SIP revision with amended regulations addressing vapor recovery is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by November 21, 2016.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R03-OAR-2016-0308 at <http://www.regulations.gov>, or via email to [pino.maria@epa.gov](mailto:pino.maria@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, (215) 814-2176, or by email at [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

**SUPPLEMENTARY INFORMATION:** For further information, please see the information provided in the direct final action, with the same title, that is located in the Rules and Regulations section of this issue of the **Federal Register**.

Dated: September 29, 2016.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

[FR Doc. 2016-25297 Filed 10-20-16; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 271 and 272

[EPA-R06-RCRA-2015-0664; FRL-9951-20-Region 6]

### Louisiana: Final Authorization of State-Initiated Changes and Incorporation by Reference of State Hazardous Waste Management Program

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

**ACTION:** Proposed rule.

**SUMMARY:** During a review of Louisiana's regulations, the Environmental Protection Agency (EPA) identified a variety of State-initiated changes to Louisiana's hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended, for which the State had not previously sought authorization. EPA proposes to authorize the State for the program changes. In addition, EPA proposes to codify in the regulations entitled "Approved State Hazardous Waste Management Programs", Louisiana's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that EPA will enforce under RCRA.

**DATES:** Send written comments by November 21, 2016.

**ADDRESSES:** Submit any comments identified by Docket ID No. EPA-R06-RCRA-2015-0664, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. *Email:* [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov) or [banks.julia@epa.gov](mailto:banks.julia@epa.gov).

3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, Permit Section (RPM), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

4. *Hand Delivery or Courier:* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, or Julia Banks, Codification Coordinator, Permit Section (RPM), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733.

**Instructions:** Do not submit information that you consider to be Confidential Business Information (CBI) or otherwise protected through *regulations.gov*, or email. Direct your comments to Docket ID No. EPA-R06-RCRA-2015-0664. The Federal *regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov*, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that

you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy the documents that form the basis for this authorization and codification and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following location: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, phone number: (214) 665-8533 or (214) 665-8178. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

**FOR FURTHER INFORMATION CONTACT:**

Alima Patterson, Region 6, Regional Authorization Coordinator or Julia Banks, Codification Coordinator, Permit Section (RPM), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, Phone number: (214) 665-8533 or (214) 665-8178, and Email address: [patterson.alima@epa.gov](mailto:patterson.alima@epa.gov) or [banks.julia@epa.gov](mailto:banks.julia@epa.gov).

**SUPPLEMENTARY INFORMATION:** For additional information, please see the direct final rule published in the "Rules and Regulations" section of this **Federal Register**. EPA did not make a proposal prior to the direct final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the direct final rule. Unless we get written comments which oppose this authorization during the comment period, the direct final rule will become effective 60 days after publication and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the direct final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

The purpose of this **Federal Register** document is to codify Louisiana's base hazardous waste management program and its revisions to that program through RCRA Clusters XXI, XXII including RCRA Cluster XXIII Checklist 229 Exclusions for Solvent Contaminated Wipes. (See 80 FR 55032) September 14, 2015. The EPA provided