

205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the final action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. 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 December 16, 1996. 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, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen oxides, Ozone, Particulate matter, Sulfur oxides.

Dated: August 29, 1996.

Robert F. McGhee,

Acting Regional Administrator.

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. 7401-7671q.

Subpart RR—Tennessee

2. Section 52.2220, (c) is amended by adding paragraph (c)(140) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(140) Permit-by-rule regulations for Knox County Department of Air Pollution Control submitted by the Knox County Department of Air Pollution Control through the Tennessee Department of Environment and Conservation on May 23, 1995 as part of Knox County's portion of the Tennessee SIP.

(i) Incorporation by reference.

(A) Regulation Section 25.10 of the Knox County portion of the Tennessee SIP as adopted by the Knox County Air Pollution Control Board on April 12, 1995.

(ii) Other material. None.

[FR Doc. 96-26199 Filed 10-11-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 52

[ME-001-3567a; A-1-FRL-5620-1]

Approval and Promulgation of Air Quality Implementation Plans; Maine; Stage II Vapor Recovery

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maine on July 24, 1995. This revision includes requirements for controlling volatile organic compound (VOC) emissions from bulk gasoline terminals and gasoline dispensing facilities. The intended effect of this action is to approve these regulations into the Maine SIP. This action is being taken in accordance with the Clean Air Act.

DATES: This action is effective December 16, 1996, unless EPA receives adverse or critical comments by November 14, 1996. If the effective date is delayed,

timely notice will be published in the Federal Register.

ADDRESSES: Comments may be mailed to Susan Studien, Deputy Director, Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE-131), Washington, D.C. 20460; and the Bureau of Air Quality Control, Department of Environmental Protection, 71 Hospital Street, Augusta, ME 04333.

FOR FURTHER INFORMATION CONTACT: Anne E. Arnold, (617) 565-3166.

SUPPLEMENTARY INFORMATION: On July 26, 1995, EPA received a formal State Implementation Plan submittal from the Maine Department of Environmental Protection (DEP) containing the following VOC regulations:

Chapter 100: Definitions Regulation
Chapter 112: Bulk Terminal Petroleum Liquid Transfer Requirements
Chapter 118: Gasoline Dispensing Facilities Vapor Control

These regulations had been recently revised pursuant to the reasonable further progress (RFP) requirements of the Clean Air Act (CAA) [Section 182(b)(1)].

Background

On November 15, 1990, amendments to the 1977 Clean Air Act were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. Section 182(b)(1) of the amended Act requires that states with ozone nonattainment areas classified as moderate and above develop reasonable further progress (RFP) plans to reduce VOC emissions by 15 percent within these areas by 1996 when compared to 1990 baseline emission levels. The State of Maine contains three moderate ozone nonattainment areas 56 FR 56694 (Nov. 6, 1991). EPA, however, determined that RFP plans were not required in the Lewiston-Auburn moderate ozone nonattainment area and the Knox and Lincoln counties moderate ozone nonattainment area (60 FR 29763, (June 6, 1995)). Therefore, Maine adopted and submitted to EPA an RFP Plan for the Portland moderate ozone nonattainment area only. The revisions to Maine's Chapter 112 and Chapter 118 were adopted in order to generate VOC

emission reductions which are included in Maine's RFP Plan for the Portland area.

Also, Section 184(b)(2) of the amended Act requires that states in the Ozone Transport Region (OTR) adopt Stage II or comparable measures within one year of EPA completion of a study identifying control measures capable of achieving emissions reductions comparable to those achievable through Section 182(b)(3) Stage II vapor recovery controls. On January 13, 1995, EPA completed its study "Stage II Comparability Study for the Northeast Ozone Transport Region" (EPA-452/R-94-011). Therefore, states in the OTR must adopt Stage II or comparable measures and submit them to EPA as a SIP revision by January 13, 1996. Maine has not yet submitted its Stage II comparability SIP revision to EPA, however, the reductions resulting from Maine's revisions to Chapters 112 and 118 may be used by the State in meeting the Stage II comparability requirement.

Maine's regulation revisions are briefly summarized below.

Summary of Regulation Revisions Chapter 100: Definitions Regulation

The definition of "volatile organic compound (VOC)" was revised. Acetone, parachlorobenzotrifluoride, and volatile methyl siloxanes are now included on the list of compounds that are exempted from the definition of VOC because of their negligible photochemical reactivity.

Chapter 112: Bulk Terminal Petroleum Liquid Transfer Requirements

The emission limit for bulk gasoline terminals was lowered from 80 mg/l to 35 mg/l. Compliance with the new lower limit is required by August 31, 1996.

Chapter 118: Gasoline Dispensing Facilities Vapor Control

New Stage II vapor recovery requirements for gasoline dispensing facilities were added to this regulation.

Gasoline dispensing facilities in the Portland ozone nonattainment area which dispense 1,000,000 gallons of gasoline or more per year must install Stage II controls by November 15, 1996.

Maine's revisions will reduce VOC emissions. VOCs contribute to the production of ground level ozone and smog. These revisions were adopted as part of an effort to achieve the National Ambient Air Quality Standards for ozone. The following is EPA's evaluation of Maine's submittal.

Evaluation of Maine's Submittal

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the Act and EPA regulations, as found in section 110 and part D of the Act and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). EPA's interpretation of these requirements, which forms the basis for today's action, appears in various EPA policy guidance documents. The specific guidance relied on for this action is referenced within the technical support document and this notice. For the purpose of assisting State and local agencies in developing VOC rules, EPA prepared a series of Control Techniques Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify presumptive norms for reasonably available control technology (RACT) for specific source categories. EPA has not yet developed CTGs to cover all sources of VOC emissions. Further interpretations of EPA policy are found in, but not limited to, the following: (1) The proposed Post-1987 ozone and carbon monoxide policy, 52 FR 45044 (November 24, 1987); (2) the document entitled, "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice," otherwise known as the "Blue Book" (notice of availability was published in the Federal Register on May 25, 1988); and (3) the "Model Volatile Organic Compound Rules for Reasonably Available Control Technology," (Model VOC RACT Rules) issued as a staff working draft in June of 1992. In general, these guidance documents have been set forth to ensure that VOC rules are fully enforceable and strengthen or maintain the SIP.

Also, under Section 182(b)(3) of the Act, EPA was required to issue guidance as to the effectiveness of Stage II vapor recovery systems. In November 1991, EPA issued technical and enforcement guidance to meet this requirement. In addition, on April 16, 1992, EPA published the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990" (General Preamble) (57 FR 13498). The guidance documents and the General Preamble interpret the Stage II statutory requirement and indicate what EPA believes a State submittal needs to include to meet that requirement.

EPA has evaluated Maine's revisions to its Chapter 100 and 112 regulations and has found that these revisions are generally consistent with EPA model

regulations, 40 CFR Part 51.100(s), 40 CFR Part 60 Subpart XX, and the following EPA guidance document: "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals" (EPA-450/2-77-026). EPA has also evaluated the Stage II vapor recovery provisions which were added to Maine's Chapter 118 regulation and has found that these provisions are generally consistent with the following EPA guidance documents: "Technical Guidance—Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities" (EPA-450/3-91-022); and "Enforcement Guidance for Stage II Vehicle Refueling Control Programs" (October 1991).

There is, however, one provision of Chapter 118 which is unique to Maine's Stage II program. This provision is briefly summarized below.

Maine's Market-Based Exemption

Section 12 of Maine's revised Chapter 118 includes a "market-based exemption" provision which states that a gasoline dispensing facility may apply for an exemption from the Stage II requirements of the regulation if the facility installs Stage II controls at substituting facilities not otherwise subject to the rule (i.e., gasoline dispensing facilities whose gasoline throughput is less than the 1,000,000 gallons per year applicability threshold of the regulation). The substituting facilities must be located in the Portland ozone nonattainment area and have a total combined throughput which is greater than the throughput of the facility requesting the exemption. In addition, "All substituting facilities participating in the market-based exemption are subject to all Stage II requirements specified in Section 4 (Standards for Stage II vapor recovery systems), Section 7 (Testing for Stage II vapor recovery systems), Section 8 (Training and Public Education), Section 9 (Recordkeeping and Reporting), and Section 10 (Registration of the Stage II vapor recovery systems)." This "market-based exemption" provision may be viewed as an economic incentive program in which participation is limited to gasoline dispensing facilities.

In order for EPA to grant approval of a state's economic incentive program certain criteria must be met. These criteria are outlined in EPA's Economic Incentive Program (EIP) rule which was promulgated on April 7, 1994 (59 FR 16690) and is codified at 40 CFR Part 51 Subpart U. Specifically, the EIP rule requires that trading programs contain specific source requirements, replicable

emissions quantification methods, audit/reconciliation procedures, and an additional environmental benefit beyond that which would be achieved through a traditional regulatory program. EPA has evaluated Maine's Stage II market-based exemption provision and has found that this provision, in conjunction with the state's Stage II implementation policy (as stated in a letter to EPA dated May 6, 1996), satisfies the criteria outlined in the EIP rule.

A detailed discussion of Maine's Chapter 100, Chapter 112, and Chapter 118 revisions and EPA's evaluation are contained in a memorandum dated June 19, 1996, entitled "Technical Support Document—Maine—Stage II Vapor Recovery." Copies of that document are available, upon request, from the EPA Regional Office listed in the ADDRESSES section of this notice.

EPA is publishing this action without prior proposal in order to expedite the Agency's approval and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective December 16, 1996 unless adverse or critical comments are received by November 14, 1996.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent notice that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 16, 1996.

Final Action

EPA is approving Maine's revised Chapter 100 "Definitions Regulation," Maine's revised Chapter 112 "Bulk Terminal Petroleum Liquid Transfer Requirements," and Maine's revised Chapter 118 "Gasoline Dispensing Facilities Vapor Control."

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. §§ 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-

profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under Section 110 and subchapter I, Part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector, or to State, local, or tribal governments in the aggregate.

Through submission of this State Implementation Plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under Sections 182 and 184 of the Clean Air Act. These rules may bind State, local and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements; such sources are already subject to these regulations under State law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted 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 General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any State Implementation Plan. Each request for revision to the State Implementation Plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

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 16, 1996. 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).) Any such petition must be based on objections raised with reasonable specificity as a public comment, unless it was impracticable to do so. Section 307(b)(7)(B). Therefore, interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone.

Note: Incorporation by reference of the State Implementation Plan for the State of Maine was approved by the Director of the Federal Register on July 1, 1982.

Dated: September 23, 1996.

John P. DeVillars,
Regional Administrator, Region I.

Part 52 of 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. 7401-7671q.

Subpart U—Maine

2. Section 52.1020 is amended by adding paragraphs (c)(42) and (c)(43) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on July 24, 1995.

(i) Incorporation by reference.

(A) Two letters from the Maine Department of Environmental Protection dated July 24, 1995 submitting revisions to the Maine State Implementation Plan.

(B) Chapter 100 of the Maine Department of Environmental Protection

Regulations, "Definitions Regulation," definition of "volatile organic compounds (VOC)" effective in the State of Maine on July 25, 1995.

(C) Chapter 112 of the Maine Department of Environmental Protection Regulations, "Bulk Terminal Petroleum Liquid Transfer Requirements," effective in the State of Maine on July 25, 1995.

(ii) Additional materials

(A) Nonregulatory portions of the submittal.

(43) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on July 24, 1995.

(i) Incorporation by reference.

(A) Letter from the Maine Department of Environmental Protection dated July

24, 1995 submitting a revision to the Maine State Implementation Plan.

(B) Chapter 118 of the Maine Department of Environmental Protection Regulations, "Gasoline Dispensing Facilities Vapor Control," effective in the State of Maine on July 25, 1995.

(ii) Additional materials

(A) Letter from the Maine Department of Environmental Protection dated May 6, 1996.

(B) Nonregulatory portions of the submittal.

3. In § 52.1031, Table 52.1031 is amended by adding new entries to existing state citations for Chapters 100, 112, and 118 to read as follows:

§ 52.1031 EPA—Approved Maine Regulations.

* * * * *

TABLE 52.1031—EPA—APPROVED RULES AND REGULATIONS

State citation	Title/Subject	Date adopted by State	Date approved by EPA	Federal Register citation	52.1020
100	Definitions	7/19/95	October 15, 1996.	[Insert FR citation from published date].	(c)(42) Definition of "VOC" revised.
112	Gasoline Bulk Terminals.	7/19/95	October 15, 1996.	[Insert FR citation from published date].	(c)(42) Emission limit lowered from 80 mg/l to 35 mg/l
118	Gasoline Dispensing Facilities.	7/19/95	October 15, 1996.	[Insert FR citation from published date].	(c)(43) Stage II vapor recovery requirements added.

[FR Doc. 96-26197 Filed 10-11-96; 8:45 am]
BILLING CODE 6560-50-P

40 CFR Parts 52 and 81

[LA-27-1-7166a, NM-30-1-7299a, FRL-5612-7]

Clean Air Act (Act) Approval and Promulgation of State Implementation Plans; Prevention of Significant Deterioration (PSD); Louisiana and New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: In this document, EPA is approving revisions to the PSD permitting regulations which were submitted as revisions to the State Implementation Plans (SIP) for Louisiana and New Mexico. The revisions were submitted to address the replacement of the total suspended

particulate (TSP) increments, with increments for PM-10 (particulate matter 10 micrometers or less in diameter). The EPA is approving the SIP revisions because they are consistent with the corresponding Federal regulations. The EPA is also removing the TSP area designation tables and revising and/or adding PM-10 area designation tables in 40 CFR part 81 for these States. With the PM-10 increments becoming effective in these areas, the TSP area designations no longer serve any useful purpose relative to PSD.

DATES: This action is effective on December 16, 1996, unless notice is postmarked by November 14, 1996 that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSEES: Comments should be mailed to Jole C. Luehrs, Chief, Air Permits Section (6PD-R), U.S. EPA

Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733. Copies of the State's submittal and other information relevant to this action are available for inspection during normal hours at the following locations:

- Environmental Protection Agency, Region 6, Air Permits Section (6PD-R), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733
- Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460
- New Mexico Environment Department, Air Monitoring and Control Strategy Bureau, 1190 St. Francis Drive, Room So. 2100, Santa Fe, New Mexico 87503

Louisiana Department of Environmental Quality, Office of Air Quality, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810

Anyone wishing to review this information at the Region 6 EPA office