

Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (32)(2) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation based on the fact that it is a promulgation of the operating regulations for a drawbridge. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g); Section 117.255 also issued under the authority of Pub. L. 102-587, 106 Stat. 5039.

2. Effective 11:01 p.m. August 31, 1998 through November 23, 1998, Section 117.253 is amended by suspending paragraph (a) and adding paragraph (c) to read as follows:

§ 117.253 Anacostia River.

* * * * *

(c) From 8 a.m. on March 11, 1998 until 11 p.m. on November 23, 1998, the draw of the Frederick Douglass Memorial (South Capitol Street) bridge need not be opened for the passage of vessels.

Dated: August 14, 1998.

Roger T. Ruff, Jr.,

*Vice Admiral, U.S. Coast Guard Commander,
Fifth Coast Guard District.*

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD068-3027a; FRL-6144-5]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compounds From Sources That Store and Handle Jet Fuel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Maryland. This revision establishes and requires volatile organic compound (VOC) emission control requirements for sources that store or handle jet fuel. The intended effect of this action is to approve revisions to COMAR 26.11.13 into the Maryland SIP in accordance with the Clean Air Act.

DATES: This final rule is effective October 26, 1998 unless within September 25, 1998, adverse or critical comments are received. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone and Mobile Sources Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. 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 the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Kristeen Gaffney at (215) 814-2092, or by e-mail at gaffney.kristeen@epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the above EPA Region III address.

SUPPLEMENTARY INFORMATION: On March 31, 1998, the State of Maryland submitted a formal revision to its SIP, which consists of amendments to existing state regulation COMAR

26.11.13, the "Control of Gasoline and Volatile Organic Compound Storage and Handling." The purpose of the amendments to COMAR 26.11.13 are to establish VOC emission control requirements on sources that store and handle jet fuel. This revision was submitted to satisfy the requirements of sections 182 and 184 of the Clean Air Act to implement reasonably available control technology (RACT) on major sources of VOCs.

Summary of the SIP Revision

The provisions COMAR 26.11.13 are the control requirements of VOC emissions from gasoline and VOC storage tanks. COMAR 26.11.13 was amended to also apply to any source which handles or stores jet fuel. Sources handling or storing jet fuel were not previously subject to regulation 26.11.13. Jet fuel, also known as JP-4, has similar volatility properties as gasoline, is a significant source of VOC emissions and is stored and used at several major sources in Maryland. The purpose of these amended revisions is to apply controls constituting RACT on sources that store and handle jet fuel.

Formerly COMAR 26.11.13 only applied to sources that stored VOCs or gasoline. Gasoline was defined in COMAR 26.11.13 under section .01, "Definitions", as "* * * fuel used for internal combustion engines". The amended language in the rule consists entirely of a change to the definition of gasoline under section .01. The definition for the term "gasoline" found at 26.11.13.01 (B)(4) has been revised to read: "Gasoline means a petroleum distillate or alcohol, or their mixtures, having a true vapor pressure within the range of 1.5 to 11 pounds per square inch absolute (psia) (10.3 to 75.6 kilonewton/square meter) that is used as fuel for internal combustion engines or aircraft." This is the only provision that was changed in the rule in the March 31, 1998 SIP submittal.

COMAR 26.11.13 applies statewide. All provisions of Rule 26.11.13 related to emission control requirements, monitoring, compliance, record-keeping, test methods now apply to sources that store and handle jet fuel. A summary of these provisions follows:

Requirements for large closed top storage tanks: Tanks must be equipped with gas-tight gauges and sampling devices and either: an internal floating roof with a primary and secondary seal; a pressure tank system that maintains pressure at all times; or a vapor control system to collect and dispose vapors. Seals must be checked and maintained in good condition. Visual inspections of the internal floating roof and seals must

be performed annually. All findings must be recorded. The Maryland Department of the Environment (MDE) shall be notified of any internal tank inspections at least 15 days prior to the inspection.

Requirements for large open top storage tanks: Open top tanks are prohibited for gasoline or VOCs with vapor pressures that exceed 11 psia. Open top tanks with a capacity greater than or equal to 40,000 gallons must be equipped with an external floating roof with a primary and secondary seal and roof drains. Seals must be checked and maintained in good condition. Semiannual visual inspections of the primary and secondary seals must be performed. The total secondary seal gap must be determined annually. All findings must be recorded. The MDE shall be notified of any tank inspections at least 15 days prior to the inspection. Records of all inspections, repairs and the average monthly storage temperature and throughput must be maintained for two years.

Requirements for bulk gasoline terminals: The loading system must be equipped with a vapor control system to collect and control at least 90% of vapors from the loading rack. The vapor control system and the gasoline loading equipment must assure that the gasoline tank truck pressure does not exceed 18 inches of water and vacuum does not exceed 6 inches of water. The vapor control system must be tested every 5 years, between May and September for leak-tight conditions. MDE must be notified in advance of all tests and receive a copy of the test results.

Requirements for bulk gasoline plants with a daily throughput of greater than or equal to 4,000 gallons: The loading rack must be equipped with a vapor balance system and a top submerged or bottom loading system. The vapor control system and the gasoline loading equipment must assure that the gasoline tank truck pressure does not exceed 18 inches of water and vacuum does not exceed 6 inches of water. All tank truck loading and transfer should be equipped with a vapor balance line.

Requirements for small storage tanks: Small storage tanks are defined as those with a capacity greater than or equal to 2,000 gallons but less than or equal to 40,000 gallons built before May 8, 1991; or with a capacity greater than or equal to 250 gallons but less than or equal to 40,000 gallons built after May 8, 1991. Loading systems between tanks and tank trucks must be equipped with a vapor balance line.

Requirements for gasoline tank trucks: Tank trucks must be certified as capable of sustaining a pressure change of not

more than 3 inches of water in five minutes when pressurized to a gauge pressure of 18 inches of water, or evacuated to a gauge pressure of six inches of water. Certification tests must be performed annually and any repairs must be completed and retested within 15 days of the original test. The certification test expiration date must be displayed on all gasoline tank trucks.

General standards: A person may not load any gasoline or VOC with a total vapor pressure of 1.5 psia or greater into any truck or railroad car unless the loading connections are equipped with leak-proof fittings that close automatically on disconnection. Equipment must be maintained and operated in a manner to prevent liquid leaks during loading or unloading.

EPA has determined that the control requirements of COMAR 26.11.13 constitutes an acceptable level of RACT on major sources that store and handle jet fuel, a known VOC. EPA is approving this rule without prior proposal because the Agency views this as a noncontroversial amendment 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 or critical comments be filed. This rule will be effective October 26, 1998 without further notice unless by September 25, 1998, adverse or critical comments are received. If EPA receives such comments, then EPA will publish a timely withdrawal of the direct 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. EPA will not institute a second comment period on this rule. Only 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 rule will be effective on October 26, 1998 and no further action will be taken on the proposed rule.

Final Action

EPA is approving the revisions to COMAR 26.11.13 submitted by the State of Maryland on March 31, 1998 as a revision to the Maryland SIP.

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.

Administrative Requirements

A. Executive Order 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review. The final rule is not subject to E.O. 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks," because it is not an "economically significant" action under E.O. 12866.

B. Regulatory Flexibility Act

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 Clean Air Act 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, the Administrator certifies 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 flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 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 approval action promulgated does not include a Federal mandate that may result in estimated costs of \$100 million or more to either 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 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

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**. 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 to approve revisions to COMAR 26.11.13 relating to RACT for sources that store and handle jet fuel into the Maryland SIP must be filed in the United States Court of Appeals for the appropriate circuit by October 26, 1998. 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: August 5, 1998.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

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 V—Maryland

2. Section 52.1070 is amended by adding paragraph (c)(130) to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

(130) Revisions to the Maryland State Implementation Plan submitted on March 31, 1998 by the Maryland Department of the Environment.

(i) Incorporation by reference.

(A) Letter of March 31, 1998 from the Maryland Department of the Environment transmitting revisions to Maryland's air quality regulation COMAR 26.11.13, pertaining to the control of VOC emissions from sources that store and handle jet fuel adopted by the Secretary of the Environment on March 28, 1997 and effective August 11, 1997.

(B) Revisions to COMAR 26.11.13.01(B)(4) the definition of "gasoline."

(ii) Additional Material: Remainder of March 31, 1998 Maryland State submittal pertaining to COMAR 26.11.13 control of VOCs from sources that store and handle jet fuel.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region II Docket No. NJ28-1-162-3; FRL-6151-2]

Approval and Promulgation of Air Quality Implementation Plans; State of New Jersey; Disapproval of the 15 Percent Rate of Progress Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of final rule.

SUMMARY: EPA hereby gives notification that pursuant to its authority under Clean Air Act (the Act), section 110(k)(4), in a December 12, 1997 letter, EPA notified New Jersey that the conditional interim approval of the New Jersey 15 Percent Rate of Progress Plan

had been converted to a disapproval. The letter triggered the 18-month time clock for the mandatory application of sanctions under section 179(a) of the Act and the 24-month time clock for the Federal Implementation Plan (FIP) under section 110(c)(1). This also serves to amend Title 40, part 52 to note the conversion of the conditional interim approval to a disapproval.

EFFECTIVE DATE: This action is effective as of December 12, 1997.

ADDRESSES: Copies of New Jersey's original submittals and EPA's Technical Support Document are available at the following addresses for inspection of them during normal business hours:

Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007-1866;

New Jersey Department of Environmental Protection, Office of Air Quality Management, Bureau of Air Quality Planning, 401 East State Street, CN418, Trenton, New Jersey 08625.

FOR FURTHER INFORMATION CONTACT: Paul R. Truchan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007-1866, (212) 637-4249.

SUPPLEMENTARY INFORMATION: On April 30, 1997 (62 FR 23410), EPA proposed a conditional interim approval of New Jersey's December 31, 1996 and February 25, 1997 SIP submittals pertaining to New Jersey's 15 Percent Rate of Progress (ROP) Plan as well as taking action on other Clean Air Act requirements. On June 30, 1997, an interim final rule was published in the **Federal Register** (62 FR 35100) which granted a conditional interim approval of New Jersey's 15 Percent ROP Plan.

EPA's conditional interim approval of the 15 Percent ROP Plan was based on, among other things, the State starting the enhanced inspection and maintenance program component of the 15 Percent ROP Plan in sufficient time to achieve the 15 percent reduction in volatile organic compounds (VOC) emissions that the State relied upon to fulfill the 15 percent requirement. EPA granted the conditional interim approval of the 15 Percent ROP Plan based on New Jersey achieving the emission reductions from the enhanced inspection and maintenance program. Based on New Jersey's schedule and due to New Jersey's delays in starting the enhanced inspection and maintenance program, New Jersey cannot achieve the required 15 percent emission reductions.

As a result, EPA notified New Jersey by a December 12, 1997 letter that the