

## 12. Energy Effects

This action is not a “Significant energy action” under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

## 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the disestablishment of an existing safety zone. This action is categorically excluded from further review under, paragraph 34(g) of figure 2–1 of the Commandant Instruction.

### List of Subjects in 33 CFR Part 165

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

For the reasons discussed 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; 46 U.S.C. Chapter 701, 3306, 3703; 33 CFR 1.05–1, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

#### § 165.120 [Removed]

- 2. Remove § 165.120.

Dated: September 11, 2013.

**J.C. O'Connor III**,  
Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2013–23272 Filed 9–24–13; 8:45 am]

BILLING CODE 9110–04–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2013–0271; FRL–9901–23–Region 4]

### Approval and Promulgation of Implementation Plans; Kentucky; Stage II Requirements for Enterprise Holdings, Inc. at Cincinnati/Northern Kentucky International Airport in Boone County

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve a source-specific State Implementation Plan (SIP) revision submitted to EPA by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ) on April 25, 2013, for the purpose of exempting an Enterprise Holdings, Inc., facility from the Clean Air Act (CAA or Act) Stage II vapor control requirements. The subject Enterprise Holdings, Inc., facility is currently being constructed at the Cincinnati/Northern Kentucky International Airport in Boone County, Kentucky. EPA’s approval of this revision to Kentucky’s SIP is based on the December 12, 2006, EPA policy memorandum from Stephen D. Page, entitled “*Removal of Stage II Vapor Recovery in Situations Where Widespread Use of Onboard Refueling Vapor Recovery is Demonstrated*.” This action is being taken pursuant to the CAA.

**DATES:** *Effective Date:* This rule will be effective October 25, 2013.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2013–0271. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy 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 person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For information regarding this source specific SIP revision, contact Ms. Kelly Sheckler, 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. Ms. Sheckler’s telephone number is (404) 562–9222; email address: [sheckler.kelly@epa.gov](mailto:sheckler.kelly@epa.gov).

### SUPPLEMENTARY INFORMATION:

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- I. Background
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#### I. Background

Under the CAA Amendments of 1990, EPA designated and classified three Kentucky Counties (Boone, Campbell and Kenton) and four Ohio Counties (Butler, Clermont, Hamilton and Warren) as a “moderate” nonattainment area for the 1-hour ozone national ambient air quality standards (NAAQS) as part of the Cincinnati/Northern Kentucky Area. See 56 FR 56694, effective January 6, 1992. The designation was based on the Area’s 1-hour ozone design value of 0.157 parts per million for the three year period of 1988–1990.

Pursuant to the requirements of section 182(b)(3) of the CAA, KDAQ developed the Kentucky Administrative Regulation (KAR) 401 KAR 59:174 *Stage II controls at gasoline dispensing facilities*, and submitted the rule to EPA for approval as part of Kentucky’s ozone SIP. The rule was adopted by Kentucky on January 12, 1998, and approved by EPA into the SIP on December 8, 1998. See 63 FR 67586. Under this regulation, gasoline dispensing facilities with a monthly throughput of 25,000 gallons or more located in a Kentucky County in which the entire County is classified as severe, serious, or moderate nonattainment for ozone are required to install Stage II vapor recovery systems.

On October 29, 1999, KDAQ submitted to EPA an ozone maintenance plan and request for redesignation of the Kentucky portion of Cincinnati/Northern Kentucky area to attainment. At that time the area had three years of attaining data (1996–1998) and Kentucky had implemented all measures then required by the CAA for

a moderate 1-hour ozone nonattainment area. The maintenance plan, as required under section 175A of the CAA, showed that nitrogen oxides and volatile organic compounds (VOC) emissions in the Area would remain below the 1990 “attainment year’s” levels. In making these projections KDAQ factored in the emissions benefit (primarily VOC) of the Area’s Stage II program, and did not remove this program from the Kentucky SIP. The redesignation request and maintenance plan were approved by EPA, effective June 19, 2000 (65 FR 37879).

Since the Kentucky Stage II program was already in place and had been included in the Commonwealth’s October 29, 1999, redesignation request and 1-hour ozone maintenance plan for the Area, KDAQ elected not to remove the program from the SIP at that time. On April 6, 1994, EPA promulgated regulations requiring the phase-in of onboard refueling vapor recovery (ORVR) systems on new motor vehicles. Under section 202(a)(6) of the CAA, moderate ozone nonattainment areas are not required to implement Stage II vapor recovery programs after promulgation of ORVR standards.

KDAQ submitted a SIP revision on April 25, 2013, to exempt Stage II vapor control requirements for the Enterprise Holdings, Inc., facility located at the Cincinnati/Northern Kentucky International Airport in Boone County. On May 16, 2013, EPA published a proposed rulemaking to approve Kentucky’s April 25, 2013, SIP revision related to Stage II requirements at the Enterprise Holdings, Inc., facility. Detailed background for today’s final rulemaking can be found in EPA’s May 16, 2013, proposed rulemaking. *See* 78 FR 28776. The comment period for this proposed rulemaking closed on June 17, 2013. EPA did not receive any comments, adverse or otherwise, during the public comment period.

## II. Final Action

EPA is taking final action to approve the aforementioned source-specific SIP revision request from Kentucky. VOC emissions from vehicles at the Cincinnati/Northern Kentucky International Airport Enterprise Holdings, Inc., facility are controlled by ORVR, therefore, EPA has concluded that removal of Stage II requirements at this facility would not result in an increase of VOC emissions, and thus would not contribute to ozone formation. The Commonwealth has requested removal of this requirement for this facility and EPA has determined that Kentucky has fully satisfied the requirements of section 110(l) of the

CAA. Therefore, EPA is taking final action to approve this source-specific SIP revision, as being consistent with section 110 of the CAA.

## III. 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. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - 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).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country

located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 November 25, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: September 11, 2013.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 is amended as follows:

## PART 52—[APPROVAL AND PROMULGATION OF PLANS]

- 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 is amended, under Table 1, by revising the entry for “401 KAR 59:174” to read as follows:

### § 52.920 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

TABLE 1—EPA-APPROVED KENTUCKY REGULATIONS

| State citation                         | Title/subject                                        | State effective date | EPA approval date                          | Explanation                                                                                                                                                                          |
|----------------------------------------|------------------------------------------------------|----------------------|--------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Chapter 59 New Source Standards</b> |                                                      |                      |                                            |                                                                                                                                                                                      |
| 401 KAR 59:174                         | Stage II controls at gasoline dispensing facilities. | 04/25/13             | 09/25/13 [Insert citation of publication]. | Exemption from Stage II vapor control requirements for rental fleet vehicle refueling at the Cincinnati/Northern Kentucky International Airport Enterprise Holdings, Inc., facility. |
| *                                      | *                                                    | *                    | *                                          | *                                                                                                                                                                                    |

\* \* \* \* \*

[FR Doc. 2013-22973 Filed 9-24-13; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2012-0568; FRL-9396-1]

### FD&C Blue No. 1; Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of FD&C Blue No. 1 (CAS Reg. No. 3844-45-9) when used as an inert ingredient (dye) in pesticides formulation applied to growing crops (seed treatment). Exponent on behalf of Sensient Colors, LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of FD&C Blue No. 1.

**DATES:** This regulation is effective September 25, 2013. Objections and requests for hearings must be received on or before November 25, 2013, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2012-0568, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West

Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Lois Rossi, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-7090; email address: [RDfRNotices@epa.gov](mailto:RDfRNotices@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

##### *B. How can I get electronic access to other related information?*

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://www.ecfr.gov/cgi-bin/text-](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl)

[idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl).

##### *C. How can I file an objection or hearing request?*

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2012-0568 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before November 25, 2013. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2012-0568, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001.