



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R01-OAR-2016-0296; A-1-FRL-9964-81-Region 1]

Air Plan Approval; Maine; Decommissioning of Stage II Vapor Recovery Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Maine Department of Environmental Protection (Maine DEP). This SIP revision includes regulatory amendments that repeal Stage II vapor recovery requirements at gasoline dispensing facilities (GDFs) as of January 1, 2012, with the mandate that all Stage II equipment be decommissioned by January 1, 2013. Maine DEP's submission to EPA also included a demonstration that such removal is consistent with the Clean Air Act and relevant EPA guidance. This revision also includes regulatory amendments that update Maine's testing and certain equipment requirements for Stage I vapor recovery systems at GDFs. The intended effect of this action is to approve Maine's revised gasoline vapor recovery regulations. This action is being taken in accordance with the Clean Air Act.

DATES: This rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R01-OAR-2016-0296. All documents in the docket are listed on the

<http://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., CBI 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 at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square - Suite 100, Boston, MA. 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, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Eric Rackauskas, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, 5 Post Office Square, Suite 100 [mail code: OPE05-2], Boston, MA 02109-3912, telephone number (617) 918-1628, fax (617) 918-0628, email rackauskas.eric@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

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I. Background and Purpose

On May 8, 2017 (82 FR 21348), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Maine. The NPR proposed approval of Maine's revised Chapter 118, *Gasoline Dispensing Facilities Vapor Control*, that had been amended to allow for and require the decommissioning of all Stage II vapor recovery systems at GDFs in York, Cumberland, and Sagadahoc Counties. The updated regulation also strengthened the testing requirements for Stage I systems throughout the State. The formal SIP revision was submitted by the Maine DEP on April 13, 2016, and included a demonstration that decommissioning the Stage II vapor recovery systems is consistent with the Clean Air Act and EPA guidance.

A detailed discussion of Maine's April 13, 2016 SIP revision and EPA's rationale for proposing approval of the SIP revision were provided in the NPR and will not be restated in this notice. No public comments were received on the NPR.

II. Final Action

EPA is approving Maine's April 13, 2016 SIP revision. Specifically, EPA is approving Maine's revised Chapter 118, *Gasoline Dispensing Facilities Vapor Control*, and incorporating it into the Maine SIP. EPA is approving this SIP revision because it meets all applicable requirements of the Clean Air Act and relevant EPA guidance, and it will not interfere with attainment or maintenance of the ozone NAAQS.

III. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by

reference of the of the State of Maine's revised Chapter 118 described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents generally available through <http://www.regulations.gov>.

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. 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 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 (Public Law 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 Clean Air Act; 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, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 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 **INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER**.

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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: June 26, 2017.

Deborah A. Szaro,
Acting Regional Administrator,
EPA New England.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart U - Maine

2. In § 52.1020:

a. In paragraph (c), the table titled “EPA-Approved Maine Regulations” is amended by revising the entry for “Chapter 118.”

b. In paragraph (e), the table titled “Maine Non Regulatory” is amended by adding an entry for “Demonstration of Compliance with the Comparable Measures Requirement of CAA section 184(b)(2)” at the end of the table.

The revision and addition read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

EPA-Approved Maine Regulations

State citation	Title/Subject	State effective date	EPA Approval Date EPA approval date and citation ¹	Explanations
**	*	*	*	**
Chapter 118	Gasoline Dispensing Facilities Vapor Control	1/1/2012	[Insert date of publication in the Federal Register] [Insert <u>Federal</u> <u>Register</u> citation]	Includes decommissioning of Stage II vapor recovery systems.
**	*	*	*	**

¹ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

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(e)* * *

Maine Non Regulatory

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date³	Explanations
**	*	*	*	**
Demonstration of Compliance with the Comparable Measures Requirement of CAA section 184(b)(2)	York, Cumberland, and Sagadahoc Counties	4/13/2016	[Insert date of publication in the Federal Register.] [Insert <u>Federal Register</u> citation]	Emission calculations and narrative associated with Stage II Decommissioning SIP revision

³ In order to determine the EPA effective date for a specific provision listed in this table, consult the **Federal Register** notice cited in this column for the particular provision.

[FR Doc. 2017-14735 Filed: 7/13/2017 8:45 am; Publication Date: 7/14/2017]