



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0740; FRL-9976-81-Region 4]

Air Plan Approval; Tennessee; Revisions to Stage I and Stage II Vapor Recovery

Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on November 11, 2017, for the purpose of establishing minor changes to the gasoline dispensing regulations, including adding clarifying language and effective and compliance dates and specifying the counties subject to the reporting requirement rule. EPA has preliminarily determined that Tennessee's November 11, 2017, SIP revision is approvable because it is consistent with the Clean Air Act (CAA or Act) and with EPA's regulations and guidance.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2017-0740 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. 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. 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, 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: Kelly Sheckler, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9222. Ms. Sheckler can also be reached via electronic mail at sheckler.kelly@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On July 15, 2016, Tennessee submitted a SIP revision to EPA seeking to modify SIP requirements related to Stage II and Stage I vapor recovery systems. In relation to Stage II, TDEC sought the removal of the Stage II vapor recovery requirements from Tennessee Air Pollution Control Regulation TAPCR 1200-3-18-.24 through two mechanisms: (1) the addition of requirements for decommissioning; and (2) the phase out of the Stage II vapor recovery systems over a 3-year period from January 1, 2016, to January 1, 2019, in Davidson, Rutherford, Sumner, Williamson and Wilson Counties. TDEC also sought to amend the Stage I requirements

for gasoline dispensing facilities by adopting by reference the federal requirements of 40 CFR part 63, subpart CCCCCC and removing from the SIP the state-specific language for Stage I vapor recovery.

On September 20, 2016 (81 FR 64354), EPA approved in a final action, Tennessee’s July 15, 2016, SIP revision that changed Tennessee Gasoline Dispensing Facilities, Stage I and II Vapor Recovery, rule 1200-03-18-.24. to: (1) allow for the removal of the Stage II requirement and the orderly decommissioning of Stage II equipment; and (2) incorporate by reference Federal rule 40 CFR part 63, subpart CCCCCC, and remove certain non-state-specific requirements for the Stage I.

II. Analysis of the State’s Submittal

On November 11, 2017, TDEC submitted a SIP revision to EPA seeking to add clarity for the benefit of the regulated community with gasoline dispensing facilities. Tennessee is making a minor change to its rules regarding gasoline dispensing facilities (GDF) at subparagraph (1)(d) of rule 1200-03-18-.24 – “For any GDF otherwise exempt from subparagraph (c) of this paragraph based on monthly throughput, if the GDF *ever* exceeds the applicability threshold specified in subparagraph (c) of this paragraph, it shall be subject to the requirements of subparagraph (c) of this paragraph *and shall remain subject to those requirements* even if its throughput later falls below the threshold. The owner or operator shall inform the Technical Secretary within 30 days following the exceedance.” The revision clarifies the meaning and application of subparagraph (1)(d) of rule 1200-03-18-.24 by adding the words “ever” and “and shall remain subject to those requirements” italicized above

In addition, this revision replaces the phrase “the effective date of this rule” with the

actual effective date of the rule (July 14, 2016) and replaces “three years after effective date” with the actual date of the rule for compliance (August 14, 2019). Finally, this revision adds the list of counties (Davidson, Rutherford, Shelby, Sumner, Knox, Anderson, Williamson and Wilson) that need to report to their permitting authority (if they emit more than 25 tons in a calendar year) and the cross reference to the existing reporting requirement in rule 1200-03-18-.02 to simplify the issuances of notices of authorization under pending permit-by-rule provisions.

Pursuant to CAA section 110(l), the Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in CAA section 171), or any other applicable requirement of the Act. The State’s addition of clarifying language, specific dates for the gas dispensing rule’s effective and compliance dates, as well as specifying the counties subject to the reporting requirement under the cross-referenced rule are approvable under section 110(l) because they merely clarify the application of the rule and are consistent with the CAA and EPA’s regulations.

III. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the TDEC Regulation section 1200-03-18-.24 entitled “Gasoline Dispensing Facilities-Stage I and II Vapor Recovery” effective August 31, 2017. EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 office (please contact the person identified in the “For Further Information Contact” section of this preamble for more information).

IV. Proposed Action

EPA is proposing to approve Tennessee's November 11, 2017, SIP revision consisting of minor revisions to the gasoline dispensing regulations to add clarifying language, effective and compliance dates and to specify counties subject to reporting requirements under the cross-referenced rule. The revision changes TDEC Regulation 1200-03-18-.24, *Gasoline Dispensing Facilities-Stage I and II Vapor Recovery*, to provide greater clarity as to the application of the rule and the start and finish dates, as well as specifying which counties are subject to reporting requirements. EPA is proposing this approval because the Agency has made the preliminary determination that the revision is consistent with the CAA and with EPA's regulations.

V. 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). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. This 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- 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 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 2, 2018.

Onis “Trey” Glenn, III,
Regional Administrator,
Region 4.

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