



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R06-OAR-2019-0496; FRL-10008-75-Region 6]**

### **Air Plan Approval; Louisiana; Withdrawal of Stage II Vapor Recovery Systems Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is approving a revision to the Louisiana State Implementation Plan (SIP) submitted by the State of Louisiana (“State”) on May 30, 2019 that pertains to gasoline dispensing facilities (GDFs) in the parishes of Ascension, East Baton Rouge, Iberville, Livingston, West Baton Rouge, and Pointe Coupee (“the 6-Parish Area”). The SIP revision EPA is approving removes from the SIP the requirement to install Stage II vapor recovery systems and includes requirements for the decommissioning of existing Stage II equipment at GDFs in the 6-Parish Area.

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

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2019-0496. All documents in the docket are listed on the <https://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., 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. Publicly available docket materials are available electronically through <https://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** Wendy Jacques, EPA Region 6 Office, Infrastructure & Ozone Section, 214-665-7395, [jacques.wendy@epa.gov](mailto:jacques.wendy@epa.gov). Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. Please call or e-mail the contact listed above if you need alternative access to material indexed but not provided in the docket.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

The background for this action is discussed in detail in our February 28, 2020 proposal (85 FR 11928). In that document, we proposed to approve the Louisiana SIP revisions submitted on May 30, 2019 by the State that (1) remove from the SIP the requirement to implement Stage II vapor recovery in the 6-Parish Area and (2) provide decommissioning procedures that existing GDFs in the 6-Parish Area shall complete within 18 months of the effective date of EPA’s approval of this final rule. The removal of the Stage II requirements is possible because on-board vapor recovery is now in widespread use in the vehicle fleet. The revisions to the SIP also include a demonstration that the removal of Stage II equipment in the 6-Parish Area is consistent with section 110(l) of the Act which precludes approval of revisions to the SIP that contribute to nonattainment or interfere with maintenance of any National Ambient Air Quality Standard.

Our February 28, 2020 proposal provided a detailed description of the revisions and the rationale for EPA’s proposed actions, together with a discussion of the opportunity to comment. The public comment period for these actions closed on March 30, 2020. We received a comment

of support on our proposal from a private citizen, which is posted in the docket for this action. See the docket for this rulemaking and our proposal at 85 FR 11928 for more information.

We did not receive adverse comments regarding our proposal. Therefore, we are finalizing our action as proposed.

## **II. Final Action**

We are approving revisions to the Louisiana SIP that control emissions of VOCs and pertain to the removal of Stage II vapor recovery equipment submitted on May 30, 2019. Specifically, we are approving the revisions at Title 33 of the Louisiana Air Code, Part III, Chapter 21 (denoted LAC 33:III.2132), subsections B-F and J that remove from the SIP the requirement to implement Stage II from Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge parishes and address the decommissioning of Stage II equipment. We are also approving related revisions to the Stage II SIP narrative that address the maintenance and removal of Stage II equipment, and demonstrate that the removal of, or failure to install Stage II equipment in the 6-Parish Area, meets section 110(l) of the Act.

## **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 the revisions to the Louisiana regulations as described in the Final Action section above. The EPA has made, and will continue to make, these materials generally available through *www.regulations.gov* (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the

CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated in the next update to the SIP compilation.

#### **IV. 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, the 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 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)).

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 proposed 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, Incorporation by reference, Intergovernmental relations, Ozone, Volatile organic compounds.

Dated: May 5, 2020.

**Kenley McQueen,**  
*Regional Administrator, Region 6.*

For the reasons stated in the preamble, amend 40 CFR part 52 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 T – Louisiana**

2. In §52.970:

a. In paragraph (c) amend the table by revising the entry for “Section 2132”; and

b. In paragraph (e) amend the table titled “EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures” by adding an entry for “Stage II Vapor Recovery Program SIP” at the end of the table.

The revision and addition read as follows:

**§52.970 Identification of plan**

\* \* \* \* \*

(c) \* \* \*

**EPA APPROVED LOUISIANA REGULATIONS IN THE LOUISIANA SIP**

State citation	Title/subject	State approval date	EPA approval date	Comments
* * * * *	<b>Chapter 21 – Control of Emissions of Organic Compounds</b>			
* * * * *	<b>Subchapter F Gasoline Handling</b>			
* * * * *				
Section 2132	Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities	7/20/2018	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
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(e) \* \* \*

**EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				
Stage II Vapor Recovery Decommissioning	Statewide	5/30/2019	[Insert date of publication in the Federal Register], [Insert Federal Register citation]	

[FR Doc. 2020-09948 Filed: 6/2/2020 8:45 am; Publication Date: 6/3/2020]