



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2020-0092; FRL-10014-12-Region 4]**

**Air Plan Approval; KY; Jefferson County**

**Existing and New VOC Storage Vessels Rule Changes**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet) on September 5, 2019. The revisions were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District or APCD) and make changes to the regulations for new and existing storage vessels for volatile organic compounds (VOCs). EPA is proposing to approve the portions of the revisions that regulate new and existing storage vessels for VOCs because the changes are consistent with the Clean Air Act (CAA or Act).

**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-2020-0092 at [www.regulations.gov](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 [www2.epa.gov/dockets/commenting-epa-dockets](http://www2.epa.gov/dockets/commenting-epa-dockets).

**FOR FURTHER INFORMATION CONTACT:** Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via electronic mail at [larocca.sarah@epa.gov](mailto:larocca.sarah@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. EPA's Proposed Action**

In this rulemaking, EPA is proposing to approve changes to Regulation 6.13, *Standards of Performance for Existing Storage Vessels for Volatile Organic Compounds*, and Regulation 7.12, *Standards of Performance for New Storage Vessels for Volatile Organic Compounds*, of the Louisville Metro Air Pollution Control District portion of the Kentucky SIP, submitted by the Commonwealth on September 5, 2019. These modifications update the current SIP-approved version of Regulation 6.13 (Version 7) and Regulation 7.12 (Version 7) to Version 8 of each.

**II. EPA's Analysis of the Revisions**

The Commonwealth of Kentucky previously submitted SIP revisions related to this action on March 23, 2018, which included changes to APCD Regulations 6.13 and 7.12. Those

SIP revisions were approved by EPA on October 1, 2019. *See* 84 FR 51983. In the District's March 23, 2018, submittals, Section 1 (Applicability) of APCD Regulation 6.13 and Regulation 7.12 were revised to include an additional criteria of "true vapor pressure of the VOCs as stored equal to or greater than 78 mm Hg [millimeters of mercury] (1.5 psia [pounds per square inch absolute])." This change was consistent with the minimum true vapor pressure of VOCs subject to the emission control standards provided in Section 3 (Standard for Volatile Organic Compounds) of these regulations. Section 5 (Monitoring of Operations), however, continued to contain monitoring requirements under subsection 5.1 that applied to certain vessels "having a true vapor pressure greater than 7.0 kPa [kilopascal] (1.0 psia)." As noted in EPA's June 5, 2019, proposed action, the District explained that the monitoring requirements in subsections 5.1 and 5.2 would continue to apply to sources that store a liquid having a true vapor pressure greater than 1.0 psia despite the addition of the 1.5 psia criteria to Section 1.

In their September 9, 2019, submittals, the District includes a modification that changes the true vapor pressure criteria of subsection 5.1 from 1.0 psia to 1.5 psia to better align with the general applicability provision of Section 1 of Regulations 6.13 and 7.12. Subsection 5.1 is a monitoring requirement which applies only to storage vessels that (1) have an external floating roof, (2) have a capacity of greater than 40,000 gallons, and (3) are not equipped with a secondary seal or approved alternative control technology. The District notes that because subsection 3.4 of Regulations 6.13 and 7.12 explicitly requires secondary seals for nearly all storage tanks with capacity of greater than 40,000 gallons, there are very few tanks which could be subject to subsection 5.1. The only exceptions to the subsection 3.4 requirement for installing secondary seals would be, as described in subsections 3.4.1 through 3.4.3, for welded tanks storing liquids with a true vapor pressure of less than 4.0 psia and for certain types of primary

seals, which the District states are “a very small portion of the hundreds of facilities to which [Regulations 6.13 and 7.12] are applicable.”<sup>1</sup> In addition, the District states that they currently permit no external floating roof tanks without secondary seals or approved alternative technologies, so the monitoring requirement in subsection 5.1 does not currently apply to any facilities under their jurisdiction.<sup>2</sup> EPA also notes that this change does not alter the number of tanks subject to emission controls and that subsection 5.1 does not apply to any storage vessels that are newly constructed or modified after July 23, 1984, because such vessels would be subject to EPA’s New Source Performance Standards subpart Kb which requires that a secondary seal be installed. *See* 40 CFR 60.112b(a)(2). For these reasons, EPA proposes to determine that, in accordance with CAA section 110(l), the changes will not interfere with attainment or maintenance of a NAAQS, reasonable further progress toward attainment of a NAAQS, or any other applicable requirement of the CAA.

The September 9, 2019, SIP revisions also contain the following changes: necessary renumbering of Regulation 6.13, Section 2; revising units of pressure measurement from mm Hg to the International System of Units standard kPa in Regulations 6.13 and 7.12, Sections 1 and 3; correcting 11.1 psia to 11.0 psia as this is equivalent to the pressure of 570 mm Hg in Regulations 6.13 and 7.12, Section 3; changing 10.3 kPa to 10.4 kPa for consistency within Section 3 of Regulation 7.12, Section 3.4.3; clarifying that subsection 3.3 applies only to vessels with a storage capacity of less than 40,000 gallons in Regulations 6.13 and 7.12, Section 3;<sup>3</sup>

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<sup>1</sup> District SIP submission, September 5, 2019, p. 72.

<sup>2</sup> *Id.*

<sup>3</sup> Although storage vessels with a capacity greater than 40,000 gallons and vapor pressure equal to or greater than 1.5 psia but not greater than 11.0 psia would no longer be required to install a permanent submerged fill pipe, these sources would still be required to install a floating roof and a vapor recovery system, or their equivalent in accordance with subsection 3.1. The technology requirements in subsection 3.1 are more effective control technologies than a permanent submerged fill pipe.

changing the word “section” to “subsection” in Regulation 6.13, Section 3; and replacing the term “VOCs” with the phrase “volatile organic compounds” in Regulation 7.12, Sections 2 and 3. EPA is proposing to determine that these changes will not interfere with attainment or maintenance of a NAAQS, reasonable further progress, or any other applicable requirement of the CAA because they are minor in nature and do not change the number of tanks that are subject to emission controls under these regulations.

### **III. Incorporation by Reference**

In this document, 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 APCD Regulation 6.13, *Standards of Performance for Existing Storage Vessels for Volatile Organic Compounds*, Version 8, and Regulation 7.12, *Standards of Performance for New Storage Vessels for Volatile Organic Compounds*, Version 8, effective June 19, 2019, which make minor amendments to units of measurement and the applicability of standards for both existing and new storage vessels for volatile organic compounds. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://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 the changes to Regulation 6.13, *Standards of Performance for Existing Storage Vessels for Volatile Organic Compounds*, and Regulation 7.12, *Standards of Performance for New Storage Vessels for Volatile Organic Compounds*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on September 5, 2019. The

September 5, 2019, SIP revisions update the current SIP-approved version of Regulation 6.13 (Version 7) and Regulation 7.12 (Version 7) to Version 8 for each. EPA is proposing to approve these changes for the reasons discussed above.

## **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. These actions merely propose to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are 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);
- Are not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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, Incorporation by reference, Ozone, Volatile organic compounds.

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

Dated: August 26, 2020.

Mary Walker,  
Regional Administrator,  
Region 4.