



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2020-0102; FRL-10018-62-Region 4]

#### Air Plan Approval; KY;

#### Gasoline Loading Facilities at Existing Bulk Terminals and New Bulk Plants

**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) and include amendments related to the standards for existing gasoline loading facilities at bulk terminals and new gasoline loading facilities at bulk plants. The amendments to these standards replace a requirement for gasoline tank trucks to possess a valid Kentucky pressure vacuum test sticker with a requirement for specific vapor tightness testing and recordkeeping procedures, clarify rule applicability, and remove language stating that a pressure measuring device will be supplied by the District. EPA is proposing to approve the revisions because they 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-2020-0102 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](http://www.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**

EPA is proposing to approve changes to Regulation 6.21, *Standard of Performance for Existing Gasoline Loading Facilities at Bulk Terminals*, and Regulation 7.20, *Standard of Performance for New Gasoline Loading Facilities at Bulk Plants*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth of Kentucky on September 5, 2019. The amendments replace the requirement for tank trucks being loaded at bulk terminals and plants to possess a valid Kentucky pressure vacuum sticker with specific vapor tightness testing and recordkeeping requirements and make minor, non-substantive changes as discussed in section II. The SIP revisions update the current SIP-approved versions of Regulation 6.21 (Version 2) and Regulation 7.20 (Version 2) to Version 3.

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

The District's September 5, 2019, SIP revision includes changes to Regulation 6.21 and Regulation 7.20 related to standards for existing gasoline loading facilities at bulk terminals and

standards for new gasoline loading facilities at bulk plants, respectively, as described below.

The District notes that it enacted these regulations to control volatile organic compound emissions from gasoline loading facilities and that Regulations Parts 6 and 7 apply more stringent standards to a broader cross-section of sources than the federal New Source Performance Standards (NSPS).<sup>1</sup>

The District has revised Regulation 6.21 and Regulation 7.20 to discontinue the practice of requiring gasoline transport vehicles to display a Kentucky pressure vacuum sticker. Specifically, the revisions to Regulation 6.20 and Regulation 7.21 delete the text of subsection 3.6.4 and subsection 3.11.1, respectively, which provide that no owner or operator of a bulk gasoline terminal or plant subject to these regulations may allow a tank truck or trailer to be loaded with gasoline unless the vehicle has “a valid Kentucky pressure-vacuum test sticker as required by Regulation 6.37 attached and visibly displayed.”<sup>2</sup> This requirement is replaced with specific procedures for assuring that tank trucks and their associated vapor collection systems have passed the required vapor tightness test on an annual basis. New subsection 3.6.4.1 of Regulation 6.21 and subsection 3.11.1.1 of Regulation 7.20 state that no owner or operator of an existing bulk gasoline terminal or a new bulk gasoline plant shall allow loading unless the gasoline tank truck and its vapor collection system has demonstrated a pressure change within specific parameters. The parameters to be met are a pressure change of no more than 75 millimeter (mm) water (3 inches water) in five minutes when pressurized to 450 mm water (18 inches water) and when evacuated to 150 mm water (6 inches water) using the test procedure described in the regulation.

The SIP revision also adds a new subsection 3.6.4.2 of Regulation 6.21 and a new

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<sup>1</sup> 40 CFR part 60, subpart XX is the federal NSPS containing standards of performance for bulk gasoline terminals.

<sup>2</sup> The District has no record of ever having created “Regulation 6.37” (*see* email from Byron Gary, Louisville Air Pollution Control District, to Sarah LaRocca, EPA Region 4, March 23, 2020), and the Jefferson County portion of the Kentucky SIP does not contain “Regulation 6.37.” The District’s September 5, 2019, revisions rectify this discrepancy by removing the references to the non-existent “Regulation 6.37” and adding new provisions (at subsection 3.6.4 for Regulation 6.21 and subsection 3.11.1 for Regulation 7.20) containing detailed, updated procedures that explicitly state the vapor tightness and recordkeeping requirements.

subsection 3.11.1.2 of Regulation 7.20 to specify the testing procedures that must be used to assure compliance with the new vapor tightness requirements described above. As proposed for incorporation into the SIP, these subsections require that EPA Method 27, “Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure Vacuum Test,” as specified in 40 CFR 60, Appendix A, on July 1, 1991, shall be used to determine compliance with subsection 3.6.4.1 of Regulation 6.21 and subsection 3.11.1.1 of Regulation 7.20.<sup>3</sup> The new subsections also require the owner or operator of a tank truck being loaded at an affected facility to have this vapor tightness test completed annually and to maintain all testing records (i.e., test data, date of testing, identification of tank truck, type of repair, retest data and date) for two years after the date of testing, and to make such records available upon request by the District. EPA notes that the District’s revised tank truck vapor tightness standards, testing procedures and recordkeeping requirements as proposed for incorporation into the SIP are consistent with the Commonwealth of Kentucky’s requirements at 401 KAR 63:031, *Leaks from gasoline tank trucks*, and also with EPA’s requirements applicable to gasoline cargo tanks under 40 CFR part 60, subpart XX, *Standards of Performance for Bulk Gasoline Terminals* (see 40 CFR 60.505(b)) and 40 CFR part 63, subpart BBBB, *National Emission Standards for Hazardous Air Pollutants for Source Category: Gasoline Distribution Bulk Terminals, Bulk Plants, and Pipeline Facilities* (see 40 CFR 63.11092(f)(1) and 63.11094(b)).

The revisions also include minor changes Regulation 6.21 and Regulation 7.20. A non-substantive change to Section 1 of Regulation 6.21 clarifies that the rule applies to each affected facility that was either existing or had a construction permit issued on or before June 13, 1979.<sup>4</sup> The non-substantive changes to Regulation 7.20 clarify that the rule applies to each affected

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<sup>3</sup> EPA is not acting on the phrase “or an alternate procedure approved by the District” in the District’s new subsection 3.6.4.2 of Regulation 6.21 and subsection 3.11.1.2 of Regulation 7.20. The District intends to withdraw this phrase from the submitted SIP revision.

<sup>4</sup> The SIP-approved version of the rule states that it applies to “each affected facility which was in being or had a construction permit issued by the District before June 13, 1979.” “Affected facility” is defined in Section 2.1 of the rule as “facilities at a bulk gasoline terminal for loading gasoline into tank trucks, trailers, railroad tank cars, or other mobile, non-marine vessels.”

facility which commenced construction, modification, or reconstruction after June 13, 1979;<sup>5</sup> remove language in subsection 3.11.3 such that a pressure measuring device is no longer required to be supplied by the District; and renumber subsections within Section 3.

Because these rule revisions will not increase air pollutant emissions, EPA proposes to determine that, in accordance with CAA section 110(l), that they will not interfere with attainment or maintenance of the NAAQS, reasonable further progress toward attainment of the NAAQS, or any other applicable requirement of the CAA. EPA has preliminarily determined that these changes are consistent with the CAA is therefore proposing to approve these portions of the SIP revisions.

### **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 Louisville Metro Air Pollution Control District Regulation 6.21, *Standard of Performance for Existing Gasoline Loading Facilities at Bulk Terminals*, Version 3, and Regulation 7.20, *Standard of Performance for New Gasoline Loading Facilities at Bulk Plants*, Version 3, state-effective June 19, 2019, with the exception of the phrase “or an alternate procedure approved by the District” in Regulation 6.21, subsection 3.6.4.2 and Regulation 7.20, subsection 3.11.1.2. The changes to these rules replace a requirement for gasoline tank trucks to possess valid pressure vacuum test sticker with a requirement for specific vapor tightness testing and recordkeeping procedures, clarify rule applicability, and remove language stating that a pressure measuring device will be supplied by the District. EPA has made, and will continue to make, these materials generally available through

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<sup>5</sup> The SIP-approved version of the rule states that it applies to “each new affected facility which is commenced after the June 13, 1979.” “Affected facility” is defined in Section 2.1 of the rule as “a bulk gasoline plant.”

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 revisions to the Jefferson County portion of the Kentucky SIP (Regulation 6.21, Standard of Performance for Existing Gasoline Loading Facilities at Bulk Terminals, Version 3, and Regulation 7.20, Standard of Performance for New Gasoline Loading Facilities at Bulk Plants, Version 3), submitted on September 5, 2019, as 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. 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 1955 (Public Law 104-4);
- Does not have Federalism implications as specified in the 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 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: December 11, 2020.

Mary Walker,

Regional Administrator,

Region 4.

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