

them and participate in the rulemaking. If the rule affects your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Mr. Alston Colihan, Project Manager, Office of Boating Safety, by telephone at (202) 267-0984 or by e-mail at [acolihan@comdt.uscg.mil](mailto:acolihan@comdt.uscg.mil).

Small businesses may also send comments on the actions of Federal employees who enforce, or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

#### Collection of Information

This final rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this final rule under that Order and have determined that it does not have implications for federalism.

#### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. This final rule would not impose an unfunded mandate.

#### Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### Civil Justice Reform

This final rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation,

eliminate ambiguity, and reduce burden.

#### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

#### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

#### Environment

We have analyzed this rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2-1, paragraph (34)(d), of the Instruction, from further environmental documentation. The proposed rule to remove the requirement to separate the 2-character country of origin code from the 12-character HIN by means of borders or on a separate label relates to the documentation of vessels and is not expected to have any environmental impact. An "Environmental Analysis Checklist" and a "Categorical Exclusion Determination" are available in the

docket where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 181

Labeling, Marine safety, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 181 as follows:

#### PART 181—MANUFACTURER REQUIREMENTS

■ 1. The authority citation for part 181 is revised to read as follows:

**Authority:** 46 U.S.C. 4302.

■ 2. Revise § 181.27 to read as follows:

#### § 181.27 Information displayed near hull identification number.

With the exception of the characters "US-", which constitute the country of origin code for the United States, if information is displayed on the boat within 2 inches of the 12-character hull identification number (HIN), that information must be separated from the HIN by means of borders or must be on a separate label, so that it will not be interpreted as part of the hull identification number.

Dated: May 10, 2004.

**David S. Belz,**

*Rear Admiral, U.S. Coast Guard, Director of Operations.*

[FR Doc. 04-13609 Filed 6-16-04; 8:45 am]

**BILLING CODE 4910-15-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[R04-OAR-2003-FL-0001-200414(f); FRL-7773-8]

#### Approval and Promulgation of Implementation Plans: Florida Broward County Aviation Department Variance

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is finalizing approval of revisions to the State Implementation Plan (SIP) submitted by the State of Florida for the purpose of a department order granting a variance from Rule 62-252.400 to the Broward County Aviation Department. This final rule addresses comments submitted in response to EPA's direct final rule published previously for this action.

**DATES:** *Effective Date:* This rule will be effective July 19, 2004.

**ADDRESSES:** Copies of documents relevant to this action are available for

public inspection during normal business hours at: Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Or, by going to the Regional Material in EDocket index at <http://docket.epa.gov/rmepub/> and doing a quick search on "R04-OAR-2003-FL-0001."

**FOR FURTHER INFORMATION CONTACT:**

Sean Lakeman, Regulatory Development Section, Air Planning 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) 562-9043. Mr. Lakeman can also be reached via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On April 6, 2004, EPA simultaneously published a proposed rule (69 FR 18006) and a direct final rule (69 FR 17929) to approve a department order granting a variance from Rule 62-252.400 to the Broward County Aviation Department. The Florida Administrative Code (F.A.C.) Rule 62-252.400, requires Stage II vapor recovery systems for all gasoline dispensing facilities located in Broward, Dade, and Palm Beach counties which commence construction or undertake a significant modification after November 15, 1992, prior to dispensing 10,000 gallons or more in any one month. The purpose of the Stage II vapor recovery requirement in Rule 62-252.400, F.A.C. is to recover 95% by weight of vapors displaced from a vehicular fuel tank during refueling.

On April 22, 2003, Broward County Aviation Department submitted a petition for variance from the requirements of Rule 62-252.400, F.A.C. for a proposed consolidated rental car facility fueling area at the Ft. Lauderdale-Hollywood International Airport. The petitioner has estimated that 100% of the vehicles to be refueled at the consolidated rental car facility fueling area will be new vehicles equipped with on-board refueling vapor recovery (ORVR) technologies. The design recovery efficiency of installed ORVR systems is 95%. Further, the petitioner estimates the cost of installation of Stage II vapor recovery will be \$250,000 to \$370,000 initially with additional cost for maintaining the system. Given the estimated 100% use of the onboard refueling vapor recovery technologies for all vehicles and the

high cost of complying with rule 62-252.400 F.A.C., the department has determined that the health and environmental concerns addressed by the underlying statute will be met without Stage II vapor recovery systems. Therefore the department has issued an Order Granting Variance to Broward County Aviation Department, relieving the county from requirements of Rule 62-252.400, F.A.C. Since this rule has previously been approved into Florida's SIP, the department is requesting approval of this variance as a revision to the SIP.

EPA received an adverse comment during the 30-day comment period and therefore withdrew the direct final rule on April 28, 2004 (69 FR 23109).

**II. Today's Action**

In this final rulemaking, EPA is responding to the adverse comment, and granting final approval to a department order granting a variance from Rule 62-252.400 to the Broward County Aviation Department.

**III. Comment and Response**

EPA received one adverse comment submitted by a citizen. A summary of the adverse comment and EPA's response is provided below.

*Comment:* The commenter asserted that we should not fall over backwards in letting aviation industry emit more and more pollution, and that we need to scrutinize carefully and very closely what we allow this industry to do to our air, water and soil. The commenter saw no proof in the proposed SIP approval that these rental cars will be equipped with ORVR controls having 95% control efficiency. The commenter stated that there must be a document in the record proving that this agency owns and uses 100% of these cars and proof that all of these cars capture 95% and meet the standards."

*Response:* EPA believes that this revision to the SIP is approvable based on the June 23, 1993, EPA policy memorandum entitled, *Impact of the Recent Onboard Decision on Stage II Requirements in Moderate Nonattainment Areas* which indicates that a Stage II program is not a mandatory requirement for areas classified "moderate" or below, upon EPA's promulgation of regulations under section 202(a)(6) of the Clean Air Act for ORVR systems. States were required to adopt Stage II rules for all areas classified as "moderate" or worse under section 182(b)(3). However, 202(a)(6) states that "the requirements of section 182(b)(3) (relating to Stage II gasoline vapor recovery) for areas classified under section 181 as moderate

for ozone shall not apply after promulgation of such standards [i.e., onboard controls]\* \* \*" ORVR regulations were promulgated by EPA on April 6, 1994, (see 59 FR 16262, 40 CFR 86.001 and 40 CFR 86.098) and the requirements of these regulations are currently being phased-in. As a result the Clean Air Act no longer requires moderate areas to impose stage II controls under section 182(b)(3), and such areas may seek SIP revisions to remove such requirements from their SIPs, subject to section 110(l) of the Act.

In this circumstance, EPA does not believe that a determination of "widespread" use is necessary to provide for the variance for Stage II requirements for this area or the facility in question. In accordance with the June 23, 1993, EPA policy memorandum, the State has the option to implement a Stage II program in this area, subject to section 110(l), and as such, the State can provide this variance for the consolidated rental car facility. The area is attainment for the 8-hour ozone National Ambient Air Quality Standard, so EPA is able to approve this SIP revision.

**IV. Final Action**

EPA is granting final approval to the revisions to the Florida SIP described above because they are consistent with EPA guidance and the CAA, as amended in 1990.

**V. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be

inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 August 16, 2004. Filing a petition for reconsideration by the Administrator of this final rule does

not affect the finality of this rule 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 3, 2004.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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

**PART 52—[AMENDED]**

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

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

**Subpart (K)—Florida**

■ 2. Section 52.520, is amended by adding a new entry at the end of the table in paragraph (d) for "Broward County Aviation Department" to read as follows:

**§ 52.520 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit number	State effective date	EPA approval date	Explanation
* * * * * Broward County Aviation Department.	* * * * *	* * * * * August 15, 2003	* * * * * June 17, 2004 [Insert citation of publication].	* * * * * Order Granting Variance from Rule 62-252.400.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[GA-62, GA-64-200418; FRL-7672-4]

**Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan**

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

**ACTION:** Final rule.

**SUMMARY:** On July 18, 2003, EPA published a proposed rule (68 FR 42653) proposing to approve revisions to the State of Georgia's "Gasoline Marketing Rule" which were submitted to EPA on January 31, 2003, and June 19, 2003.

Adverse comment was received during the comment period, and this action addresses the adverse comments and grants final approval to the revisions.

**DATES:** *Effective Date:* This rule will be effective July 19, 2004.

**ADDRESSES:** Copies of documents relevant to this action are available for public inspection during normal business hours at the following addresses:

Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International