

because it does 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.

We received no letters commenting on the interim rule. No public hearing was requested, and none was held.

### 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

We received no letters commenting on the interim rule. No public hearing was requested, and none was held.

### Environment

We have considered the environmental impact of this rule and concluded that under figure 2-1, paragraph (34)(g), of Commandant Instruction M16475.ID, this rule is categorically excluded from further environmental documentation because we are establishing a security zone. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under ADDRESSES.

### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

### PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

**Authority:** 33 U.S.C. 1231; 50 U.S.C. 191, 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; 49 CFR 1.46.

2. Add § 165.1155 to read as follows:

#### § 165.1155 Security Zone; Diablo Canyon Nuclear Power Plant, Avila Beach, California.

(a) *Location.* The following area is a security zone: all waters of the Pacific Ocean, from surface to bottom, within a 2,000 yard radius of Diablo Canyon Nuclear Power Plant centered at position 35°12'23" N, 120°51'23" W. [Datum: NAD 83].

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, entry into or remaining in this zone is prohibited unless authorized by the Coast Guard Captain of the Port, Los Angeles-Long Beach, or his or her designated representative.

(2) Persons desiring to transit the area of the security zone may contact the Captain of the Port at telephone number 1-800-221-8724 or on VHF-FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: December 6, 2002.

**J. M. Holmes,**

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.*

[FR Doc. 02-31767 Filed 12-17-02; 8:45 am]

BILLING CODE 4910-15-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[KY 139-200307(a); FRL-7423-3]

#### Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Lawson Mardon Packaging

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision allows Lawson Mardon Packaging, USA, Corporation to have an alternative compliance averaging period of 30 days instead of the 24-hour averaging period specified by Kentucky air quality regulations 59:210 and 59:212.

**DATES:** This direct final rule is effective February 18, 2003 without further notice, unless EPA receives adverse comment by January 17, 2003. If adverse comment is received, EPA will publish

a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** All comments should be addressed to: Michele Notarianni, Air Planning Branch, U.S. Environmental Protection Agency Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).)

Copies of the Commonwealth's submittal are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. (Michele Notarianni, 404/562-9031, [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov))

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601-1403. (502/573-3382)

#### FOR FURTHER INFORMATION CONTACT:

Michele Notarianni at address listed above or 404/562-9031 (phone) or [notarianni.michele@epa.gov](mailto:notarianni.michele@epa.gov) (e-mail).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Today's Action
- II. EPA's Evaluation
- III. Final Action

#### I. Today's Action

The EPA is approving a source-specific revision into the Kentucky SIP for the Lawson Mardon Packaging, USA, Corporation (LMP) located in Shelby County, Kentucky. The revision was submitted to EPA by Kentucky on March 4, 2002. This revision allows LMP to use a 30-day averaging period instead of the required 24-hour averaging period as specified in Kentucky air quality regulations 59:210, "New fabric, vinyl and paper surface coating operations," and 59:212, "New graphic arts facilities using rotogravure and flexography." The effect of today's approval action is that once LMP's synthetic minor operating permit is finalized, LMP shall determine compliance with volatile organic compound (VOC) emission rates allowed by its permit every 30 days instead of every 24 hours.

#### II. EPA's Evaluation

The LMP plant in Shelbyville, Kentucky manufactures flexible packaging for the food and pharmaceutical industries. LMP currently operates a total of 15 printing and/or laminating machines. The plant's proposed, facility-wide synthetic minor operating permit covers all 15 machines,

and is conditioned on EPA's approval of the permit as a source-specific SIP revision.

The Agency's policy regarding emissions time averaging for existing sources of VOCs is established and clarified in a January 20, 1984, EPA Memorandum from John O'Connor, Acting Director of the Office of Air Quality Planning and Standards, to Air Directors in Regions I-X. The policy requires that SIP revisions relating to VOC control must maintain the National Ambient Air Quality Standards (NAAQS) for ozone. To allow VOC compliance averaging periods greater than 24 hours, the policy establishes four conditions which are summarized below along with EPA's analysis of the LMP submittal.

**Condition 1:** Real reductions in actual emissions must be achieved, consistent with Reasonably Available Control Technology (RACT) levels in SIPs or Agency control technique guidelines. *EPA Analysis:* Incinerators are used as add-on controls on those production lines required to have them. These controls meet or exceed RACT control levels.

**Condition 2:** Averaging periods must be as short as practicable, and in no case longer than 30 days. *EPA Analysis:* LMP has requested a 30-day compliance averaging period, which meets this condition. LMP supported its request with a statistical analysis demonstrating that daily, maximum potential VOC emissions are significantly less than daily, maximum allowable VOC emissions. The level of confidence for the statistical analysis is 99.73 percent.

**Condition 3:** A demonstration must be made that the use of averaging periods greater than 24 hours will not jeopardize the ozone NAAQS or the Reasonable Further Progress (RFP) plan for the area. *EPA Analysis:* LMP submitted a statistical analysis to compare 24-hour and 30-day compliance averaging results against maximum allowable permit VOC emission rates. The analysis accounts for potential daily emission fluctuations and shows that actual VOC emissions for eight of LMP's older machines are consistently and far below the allowable VOC emission rates. The analysis does not include data from seven, newer machines, which were installed after submittal of LMP's permit application, because data were not available at that time. However, because the seven, newer machines have better overall control efficiencies and less variation than the older machines, the statistical analysis for the existing machines may also be applied to the new machines as representative. A further consideration is that LMP uses

continuous emission monitoring systems to ensure its control equipment is operating properly and within limits.

**Condition 4:** Sources in areas with measured violations cannot be considered for longer term averaging until the SIP has been revised to demonstrate attainment of the ozone NAAQS and maintenance of RFP. *EPA Analysis:* Shelby County, Kentucky is currently classified as unclassified/attainment for the 1-hour ozone NAAQS and is currently attaining the standard. The closest, downwind monitor has not shown an exceedance of the 1-hour NAAQS within the last five years. Conditions addressing RFP plans are not applicable to 1-hour ozone attainment areas.

### III. Final Action

EPA is approving this source-specific revision to the Kentucky SIP allowing LMP to use a 30-day compliance averaging period because it is consistent with the requirements of the Clean Air Act and EPA policy. Use of an alternative averaging period is not expected to jeopardize maintenance of the 1-hour ozone NAAQS in Shelby County for reasons discussed in section II.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 18, 2003 without further notice unless the Agency receives adverse comments by January 17, 2003.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 18, 2003 and no further action will be taken on the proposed rule.

### V. Administrative Requirements

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 (Pub. L. 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not

required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 February 18, 2003. 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, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2002.

**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 S—Kentucky

2. Section 52.920(d) is amended by adding a new entry at the end of the table to read as follows:

#### § 52.920 Identification of plan.

\* \* \* \* \*

(d) \* \* \*

#### EPA—APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	Federal Register Notice
* * *	* * *	* * *	* * *	* * *
Lawson Mardon USA Packaging Corporation	N/A .....	February 18, 2003 .....	December 18, 2002 ...	[Insert FR page citation]

\* \* \* \* \*

[FR Doc. 02-31666 Filed 12-17-02; 8:45 am]

BILLING CODE 6560-50-P

#### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 32

[CC Docket No. 02-269; FCC 02-309]

#### Federal-State Joint Conference on Accounting Issues

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** This order suspends the implementation of four previously adopted accounting and reporting rule changes until July 1, 2003 to allow the recently established Federal-State Joint Conference on Accounting Issues to review them because of the great interest in these changes by Joint Conference members.

**DATES:** The effective date for amendments to 47 CFR 32.5200, 32.6562 and 32.6620 published at 67 FR

5670, February 6, 2002, is further delayed until July 1, 2003.

**FOR FURTHER INFORMATION CONTACT:** Jane Jackson, Associate Chief, Wireline Competition Bureau, (202) 418-1500.

**SUPPLEMENTARY INFORMATION:** On November 5, 2001, the Commission released a Report and Order, 67 FR 5670, February 6, 2002, as part of its biennial review of accounting requirements and Automated Reporting Management Information System (ARMIS) reporting requirements. In the order, the Commission adopted a number of accounting and reporting requirement reforms. The reforms included the creation of several new part 32 Uniform System of Accounts subaccounts and the elimination or modification of other part 32 accounts and subaccounts and modification of ARMIS reporting requirements. Changes to the part 32 accounting rules are scheduled to take effect January 1, 2003. On March 8, 2002, BellSouth Corporation, SBC Communications Inc., and Verizon filed a joint petition for reconsideration asking that two newly-created subaccounts—the wholesale and retail subaccounts to Account 6620, Services—be eliminated. The petitioners also requested that the Commission

change the reporting of “Loop Sheath Kilometers” back to “Sheath Kilometers.” The petitioners argued that the Commission should delay implementation of the relevant rule changes pending review of the arguments raised in their earlier reconsideration petition. The petitioners asserted that implementation of the rule changes will be very costly and time-consuming, and requested that they not be required to undertake this work while the Commission considers their petition. AT&T Corp. opposed both the petition for reconsideration and the request to delay implementation. On September 5, 2002, the Commission convened the Federal-State Joint Conference on Accounting Issues, which is undertaking “a cooperative federal and state review of regulatory accounting and reporting requirements in order to determine their adequacy and effectiveness in the current market and make recommendations for improvements.” In preliminary discussions, members of the Joint Conference identified the following two part 32 accounting changes adopted earlier that they believe should be subject to further consideration before implementation: the consolidation of