

40 CFR citation	OMB control No.
Fuel Economy of Motor Vehicles	
600.005–87	2060–0104
600.006–89	2060–0104
600.206–93	2060–0104
600.207–93	2060–0104
600.305–77	2060–0104
600.307–95	2060–0104
600.310–86	2060–0104
600.313–01	2060–0104
600.314–01	2060–0104
600.510–93	2060–0104

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 134 & KY 136—200235(a); FRL–7381–2]

Approval and Promulgation of Implementation Plans for Kentucky: Vehicle Emissions Control Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving revisions to the State Implementation Plan (SIP) of the Commonwealth of Kentucky amending Kentucky rules 401 KAR 65:001 and 401 KAR 65:010. These changes affect military personnel with vehicles required to undergo vehicle emissions tests. The EPA also proposes to approve into the Kentucky SIP revisions to the Air Pollution Control District of Jefferson County's regulations 8.01 and 8.02, which affect vehicle emission test centers and owners of certain vehicles registered in the County.

DATES: This direct final rule is effective November 25, 2002 without further notice, unless EPA receives adverse comment by October 24, 2002. 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 (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)
Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (502/573–3382)

Air Pollution Control District of Jefferson County, 850 Barrett Avenue—Suite 200, Louisville, Kentucky 40204. (502/574–6000)

FOR FURTHER INFORMATION CONTACT: Michele Notarianni at address listed above or 404–562–9031 (phone) or notarianni.michele@epa.gov (e-mail).

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Today's Action
- II. Final Action
- III. Administrative Requirements

I. Today's Action

The EPA is approving revisions to rules 401 KAR 65:001, "Definitions for 401 KAR Chapter 65", and 401 KAR 65:010, "Vehicle emission control programs", into the Kentucky SIP. The Kentucky Natural Resources and Environmental Protection Cabinet submitted these revisions to EPA on September 5, 2001. The revisions establish guidelines for a fee exemption for vehicles belonging to military personnel during the applicable testing period, move the definitions for Kentucky's vehicle emissions control programs from 401 KAR 65:010 into 401 KAR 65:001, and make administrative clarifications to the definitions in 401 KAR 65:001. The effect of this action is that military personnel who reside in vehicle testing program areas will not have to pay the exemption certificate fee when their vehicle is outside the program area during the required testing

period. Vehicle testing programs in Kentucky exist in those areas which are designated one-hour ozone nonattainment (except marginal) areas or attainment areas that were previously designated nonattainment for the one-hour national ambient air quality standard and continue to operate a testing program to maintain attainment status or to meet other applicable mandates.

The EPA is also approving into the Kentucky SIP revisions to the Air Pollution Control District of Jefferson County's regulations 8.01, "Mobile Source Emissions Control Requirements," and 8.02, "Vehicle Emissions Testing Procedure." The Kentucky Natural Resources and Environmental Protection Cabinet submitted these revisions to EPA on January 24, 2002. These revisions include specific procedures for on-board diagnostics (OBD) testing and delay the implementation start date for OBD testing from the January 1, 2001, date currently in the Kentucky SIP until January 1, 2002. The new test procedures apply to model year 1996 and newer, light-duty vehicles and trucks and to model year 1997 and newer, light-duty diesel vehicles and trucks manufactured with certified OBD systems. The OBD test would replace the current tailpipe test emissions test, evaporative system test, and equipment visual inspection for these newer vehicles. As specifically provided for under the rules, the start date for OBD testing was delayed to July 1, 2002.

II. Final Action

EPA is approving into the Kentucky SIP revisions to Rules 401 KAR 65:001 and 401 KAR 65:010, and Air Pollution Control District of Jefferson County Regulations 8.01 and 8.02, because they are consistent with the requirements of the Clean Air Act and EPA policy.

EPA is approving the aforementioned changes to the SIP. 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 November 25, 2002 without further notice unless the Agency receives adverse comments by October 24, 2002.

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 November 25, 2002 and no further action will be taken on the proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. 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 (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 November 25, 2002. 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 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 paragraph (c) is amended:

a. Under Table "EPA—APPROVED KENTUCKY REGULATIONS FOR KENTUCKY", Chapter 65, by revising the entries for 401 KAR 65:001 and 401 KAR 65:010.

b. Under "EPA—APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY", Reg 8, by revising the entries for 8.01 and 8.02.

The revisions read as follows:

§ 52.920 Identification of plan.

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(c) * * *

EPA—APPROVED KENTUCKY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
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EPA—APPROVED KENTUCKY REGULATIONS FOR KENTUCKY—Continued

Regulation	Title/subject	State effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Chapter 65 Mobile Source Related Emissions				
401 KAR, 65:001	Definitions for 401, KAR Chapter 65	8/15/01	September 24, 2002	[Insert FR page citation]
*	*	*	*	*
401 KAR, 65:010	Vehicle emission control programs	8/15/01	September 24, 2002	[Insert FR page citation]

EPA—APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Regulation	Title/subject	District effective date	EPA approval date	Federal Register notice
*	*	*	*	*
Reg 8 Mobile Source Emissions Control				
8.01	Mobile Source Emissions Control Requirements	11/21/01	September 24, 2002	[Insert FR page citation]
8.02	Vehicle Emissions Testing Procedure	11/21/01	September 24, 2002	[Insert FR page citation]
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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 63**

[FRL-7382-4]

RIN 2060-AE78

National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On June 14, 2002, the EPA promulgated amendments to the national emission standards for secondary aluminum production as a direct final rule along with a parallel proposal to be used as a basis for final action in the event we received any adverse comments. On August 13, 2002, we withdrew the direct final rule amendments because one commenter submitted adverse comments on certain amendments. This action promulgates final amendments to the national emission standards for secondary aluminum production based on the June 14, 2002 proposal which accompanied the direct final rule.

EFFECTIVE DATE: November 25, 2002.

ADDRESSES: Docket A-2002-05, containing supporting information used in developing these final rule amendments, is available for public inspection and copying between 8:30 a.m. to 5:30 p.m., Monday through Friday, excluding Federal holidays, at the following address: U.S. EPA, Air and Radiation Docket and Information Center, Room B-108, 1301 Constitution Avenue, NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Schaefer, U.S. EPA, Minerals and Inorganic Chemicals Group (C504-05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-0296, facsimile number (919) 541-5600, electronic mail address: schaefer.john@epa.gov.

SUPPLEMENTARY INFORMATION: Docket.

The docket is an organized and complete file of the administrative record compiled by EPA in the development of these final rule amendments. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so they can effectively participate in the rulemaking process. Along with the proposed and promulgated rules and their preambles, the contents of the docket will serve as the record in the case of judicial review.

Other material related to this rulemaking is available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 260-7548. A reasonable fee may be charged for copying docket materials.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this action will also be available through the WWW. Following signature, a copy of this action will be posted on EPA's Technology Transfer Network (TTN) policy and guidance page for newly proposed or promulgated rules: <http://www.epa.gov/ttn/oarpg>. The TTN at EPA's web site provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN help line at (919) 541-5384.

Judicial Review. Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by November 25, 2002. Under section 307(d)(7)(B) of the CAA, only an objection to these final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rule amendments may not be challenged