



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0362; FRL-9943-29-Region 5]

Air Plan Approval; Ohio; Regional Haze Glatfelter BART SIP

Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to extend the compliance date for the Best Available Retrofit Technology (BART) emission limits for sulfur dioxide (SO₂) at the P.H. Glatfelter Company (Glatfelter) facility submitted as part of its State Implementation Plan (SIP) Revision on April 14, 2014. Specifically, EPA is extending the compliance date for the SO₂ emission limits applicable to Boilers No. 7 and No. 8 at Glatfelter by 25 months, from December 31, 2014, to January 31, 2017. We have reviewed this SIP revision and concluded that it meets the requirements of the Clean Air Act and the regional haze rule and because BART requirements continue to be met.

DATES: This final rule is effective on **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2014-0362. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Gilberto Alvarez, Environmental Engineer, at (312) 886-6143 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Gilberto Alvarez, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6143, alvarez.gilberto@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

I. What Is the Background for this Action?

II. What Action Is EPA Taking?

III. Final Action.

IV. Incorporation by Reference.

V. Statutory and Executive Order Reviews.

I. What Is the Background for this Action?

On July 2, 2012, EPA approved Ohio's Regional Haze SIP (77 FR 39177). Ohio's Regional Haze SIP included the applicability of BART to the State's only non-utility BART source, Glatfelter, in Chillicothe, Ohio. The BART requirement specified that two of the coal-fired boilers at this facility, No. 7 and No. 8, install control technology to limit the amount of SO₂ emissions from the boilers. The compliance date for BART emission reductions was scheduled to be December 31, 2014. The compliance date was aligned with Glatfelter's expected compliance date for the Industrial Boiler Maximum Achievable Control Technology (MACT) requirements finalized by EPA in May, 2011 (76 FR 28862).

On February 6, 2014, Ohio EPA received a request from Glatfelter to extend the original compliance date to January 31, 2017. The extension request is based on the litigation, revision and new compliance date associated with the Industrial Boiler MACT. Under EPA regulations (40 CFR 51.308(3)(1)(iv)), BART is to be implemented "as expeditiously as practicable, but in no event later than 5 years after approval of the implementation plan revision." The required compliance date is July 2, 2017.

This rulemaking addresses an April 14, 2014, submission supplemented on July 27, 2015, from the Ohio EPA to extend the compliance date from December 31, 2014, to January 31, 2017. One of the requests within the April 14, 2014, SIP revision includes "the requirement that P.H. Glatfelter submit an application for modification of the federally enforceable permit (that will include a compliance date outlining, at a minimum, the specific, selected control technologies and methods of compliance) from December 31, 2013, to requiring the submittal provide for sufficient time for Ohio EPA to include these requirements, along with any appropriate monitoring, record keeping and reporting requirements, in the federally enforceable permit by no later than January 31, 2017."

Ohio EPA supplemented its original submittal on July 27, 2015, with a revised federally enforceable permit for Glatfelter that included the new compliance date. Ohio EPA made the federally enforceable permit available for public comment on June 6, 2015, and comments were accepted through July 7, 2015. The Ohio EPA consulted the Federal Land Managers and included them in the public comment process. Two comments were received and those comments, along with Ohio EPA's responses were included in the July 27, 2015, submittal.

II. What Action Is EPA Taking?

The CAA and the Regional Haze Rule require BART controls to be installed as expeditiously as practicable, but in no event later than five years after approval of the Regional Haze implementation plan revision. The proposed rulemaking associated with this final action was published on December 9, 2015 (236 FR 76403), and EPA received no comments during the comment period, which ended on January 8, 2016. EPA is therefore taking final action to approve, as proposed, Ohio's submission.

III. Final Action.

EPA is approving a revision to the Ohio SIP submitted by the State of Ohio on April 14, 2014, supplemented on July 27,

2015, related to BART requirements for Glatfelter. Specifically, EPA is extending the compliance date for the SO₂ emission limits applicable to Boilers No. 7 and No. 8 at Glatfelter by 25 months from December 31, 2014, to January 31, 2017.

IV. Incorporation by Reference.

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio permit described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available electronically through www.regulations.gov and/or in hard copy at the appropriate EPA office (see the ADDRESSES section of this preamble for more information).

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 CAA and applicable Federal regulations. 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. Accordingly, this action merely approves state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this 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);
- 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 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in 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).

In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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,
Incorporation by reference, Intergovernmental relations, Sulfur
oxides.

Dated: February 22, 2016.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

2. In § 52.1870, the table in paragraph (d) is amended by revising the entry for “P.H. Glatfelter Co.-Chillicothe” to read as follows:

§ 52.1870 Identification of plan.

* * * *

(d) * * *

EPA--APPROVED OHIO SOURCE-SPECIFIC PROVISIONS

Name of source	Number	Ohio effective date	EPA Approval date	Comments
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P.H. Glatfelter Co.-Chillicothe	P0118907	07/20/15	<u>[insert the date of publication in the Federal Register]</u> , [Insert Federal Register citation]	Regional haze BART emissions limits.
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