



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2017-0164; FRL-9980-92-Region 5]

Air Plan Approval; Ohio; Ohio NSR PM_{2.5} Precursors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), revisions to Ohio's state implementation plan (SIP) as requested by the Ohio Environmental Protection Agency (OEPA) on March 10, 2017, and supplemented on July 18, 2017. The revisions to Ohio's SIP implement certain EPA regulations for particulate matter smaller than 2.5 micrometers (PM_{2.5}) for nonattainment areas by establishing definitions related to PM_{2.5} and defining PM_{2.5} precursors. The revisions also incorporate the findings of a comprehensive precursor demonstration performed by OEPA, which determined that volatile organic compounds (VOC) and ammonia (NH₃) are an insignificant source of PM_{2.5} for the purpose of new source review in nonattainment areas in Ohio.

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

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0164. 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 through www.regulations.gov or 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 Charmagne Ackerman, Environmental Engineer, at (312) 886-0448 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charmagne Ackerman, Environmental Engineer, Air Permits Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-0448, ackerman.charmagne@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. Background

II. What Action is EPA Taking?

III. Incorporation by Reference.

IV. Statutory and Executive Order Reviews.

I. Background

On March 10, 2017, OEPA submitted to EPA revisions to Ohio Administrative Code (OAC) chapter 3745-31-01. The revisions were made to implement the "Fine Particulate Matter National Ambient Air Quality Standards: State Implementation Plan Requirements." Subsequently, on July 18, 2017, OEPA submitted to EPA a letter clarifying the March 10, 2017 submittal. OEPA clarified that limited portions of OAC 3745-31-01 should be included as a SIP revision. The revisions to OAC 3745-31-01, specifically, subparagraph (LLL)(6), paragraph (NNN), paragraph (WWW), paragraph (NNNNN), paragraph (VVVVV), and subparagraph (LLLLL)(2)(ee) will make the rule consistent with 40 CFR 51.165 and 40 CFR 52.21.

On March 29, 2018 (83 FR 13457), EPA published a notice of proposed rulemaking (NPR) proposing approval of Ohio's March 10, 2017 SIP revision and clarification letter allowing for the approval of revisions to OAC 3745-31-01. The specific details of Ohio's March 10, 2017 SIP revision submittal, Ohio's clarifying letter, and the rationale for EPA's approval are discussed in the NPR and will not be restated here. EPA received three comments during the comment period on the proposed action. None of the comments were relevant to the

rulemaking.

II. What Action is EPA Taking?

EPA is approving the SIP revision submittal. Ohio's SIP revisions comply with regulations that EPA promulgated to address the PM_{2.5} NAAQS. EPA finds that these revisions implement the NNSR rules by defining precursors for PM_{2.5}, as required by EPA's regulations.

EPA is approving the revisions to OAC 3745-31-01, specifically subparagraph (LLL)(6), paragraph (NNN), paragraph (WWW), paragraph (NNNNN), paragraph (VVVVV), and subparagraph (LLLLLL)(2)(ee). EPA finds that the revisions are consistent with Federal requirements.

III. 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 Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have been

incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.

IV. 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);
- 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 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 after date of publication 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: July 9, 2018.

Cathy Stepp,
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 (c) is amended under “Chapter 3745-31 Permit-to Install New Sources and Permit-to-Install and Operate Program” by revising the entry for “3745-31-01” and adding an second entry for “3745-31-01” in numerical order to read as follows:

§ 52.1870 Identification of plan.

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(c) * * *

EPA--APPROVED OHIO REGULATIONS

Ohio citation	Title/Subject	Ohio effective date	EPA Approval date	Notes
* * * * *				
Chapter 3745-31 Permit-to Install New Sources and Permit-to-Install and Operate Program				
3745-31-01	Definitions	5/29/2014	6/2/2015, 80 FR 36477	Except for (I), (NNN), (SSS) (1) (b), (QQQQ), (WWWW), (JJJJJ), (NNNNN), (VVVVV), (BBBBBB) and (LLLLLL) (2) (y) .
3745-31-01	Definitions	3/20/2017	[insert date of publication in the Federal Register], [Insert Federal Register citation]	Only (LLL) (6), (NNN), (WWWW), (NNNNN), (VVVVV), and (LLLLLL) (2) (ee)
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