

(2) These temporary safety zones are closed to all vessel traffic, except as may be permitted by the Captain of the Port or his designated representatives. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the Captain of the Port or his designated representatives. Vessels that are granted permission by the Captain of the Port or designated representative to enter or remain within a safety zone may be required to be at anchor or moored to a waterfront facility such that the vessel's location will not interfere with the progress of the event. At all times when a vessel has been granted permission to enter within a safety zone, it shall endeavor to maintain at least 50 yards distance from any event participant unless otherwise directed.

(3) The "designated representative" is any Coast Guard commissioned, warrant, or petty officer who has been designated by the Captain of the Port to act on his behalf. The designated representative will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zones shall telephone the Captain of the Port at 207-767-0303, or his designated representative via VHF Channel 16 to obtain permission to do so.

(5) The Captain of the Port or his designated representative may delay or terminate any event listed in the events table in paragraph (a)(2) of this section to ensure safety. Such action may be required as a result of weather, vessel traffic density, spectator activities or participant behavior.

Dated: April 27, 2010.

**J.B. McPherson,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Northern New England.*

[FR Doc. 2010-10948 Filed 5-7-10; 8:45 am]

BILLING CODE 9110-04-P

17, 2009, to revise the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). The State has submitted revisions to rules for approval under Ohio Administrative Code (OAC) Chapter 3745-15, "General Provisions," which include the adoption of the Federal definition and citation of the CAA, and clarifications for exemptions and new requirements for sources regulated under the Title V permitting program. These revisions are included in OAC 3745-15-01 and OAC 3745-15-05, respectively.

**DATES:** This direct final rule will be effective July 9, 2010, unless EPA receives adverse comments by June 9, 2010. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2009-0290, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail:* [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).
3. *Fax:* (312) 692-2054.
4. *Mail:*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2009-0290; FRL-9142-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Ohio; General Provisions

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

**ACTION:** Direct final rule.

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**SUMMARY:** EPA is approving a request submitted by the Ohio Environmental Protection Agency (Ohio EPA) on March

## IV. Statutory and Executive Order Reviews

## I. Background

When did the state submit the requested rule revisions to EPA, and did the State satisfy the administrative requirements of 40 CFR part 51, Appendix V?

Ohio EPA submitted the requested revisions to EPA on March 17, 2009, and demonstrated through its submittal that the State satisfied all the requirements of 40 CFR part 51, Appendix V, "Criteria for Determining the Completeness of Plan Submissions." The administrative requirements are outlined in Section 2.1 of this appendix. Most notably, a public hearing was held on January 8, 2007, and the rules became effective State-wide on January 22, 2009.

## II. Analysis of the State's Requests

The State has requested that EPA approve revisions to rules under Chapter 3745-15, "General Provisions," of the OAC. These rules include 3745-15-01, "Definitions" and 3745-15-05, "De minimis" air contaminant source exemption." The revisions and EPA's responses are described in detail below.

## A. OAC 3745-15-01—Definitions

Ohio EPA has requested that the Federal definition and citation of "Clean Air Act," or "CAA," be incorporated into the SIP. As this request would align State and Federal definitions and eliminate any ambiguity related to the term, EPA finds the requested revision to be approvable. Furthermore, this is a revision that EPA has found to be approvable in other States and SIPs.

Additionally, the State has requested several other minor revisions for incorporation into the SIP, which include the addition of a "Comment" at the beginning of the rule to refer readers to the "Incorporation by Reference" section at the end of the rule, and small wording changes. The "Incorporation by Reference" section at the end of the rule contains a listing of the supplementary publications referenced through OAC Chapter 3745-15. References to these materials, as well as a list of these materials themselves, serve to assist any interested parties with obtaining these documents and do not detract value from the existing rules; therefore, EPA finds the corresponding requested revisions to be approvable. Lastly, Ohio EPA's requested wording changes are minor and ministerial, and they serve to clarify or disambiguate the existing rules; therefore, EPA finds the corresponding revisions to be approvable.

## B. OAC 3745-15-05—"De Minimis" Air Contaminant Source Exemption

Ohio EPA has requested that several revisions pertaining to the "de minimis" air contaminant source exemption be incorporated into the SIP. The requested revisions to introductory paragraph (E) of OAC 3745-15-05 specify that any one of the following seven record types outlined in OAC 3745-15-05(E)(1) to (7) are adequate to demonstrate the actual emissions from an eligible source. Previously, the last line of OAC 3745-15-05(E) read, "All the following information, if applicable, shall be adequate to make that demonstration." These requested revisions clarify the existing SIP; EPA therefore finds them to be approvable.

The revision requested by Ohio EPA to OAC 3745-15-05(E)(7) is meant to clarify ambiguity in the rule concerning the phrase, "certification under oath." The last part of this paragraph now reads, "\* \* \* and a written certification by the owner or operator that the applicable exemption levels were complied with," i.e. the notion of "certification under oath" has been replaced with "written certification" in the rule. As this revision not only clarifies the existing rule but specifies what type of certification is necessary to meet the records requirement, EPA finds the request to be approvable.

The State has revised paragraph (H) of OAC 3745-15-05 to require that insignificant emissions units (IEUs) be identified, and not merely listed. Ohio EPA has made this revision because an emissions activity category form must be included in the Title V application for each IEU that is subject to one or more applicable requirements. As this revision strengthens the State's authority to oversee sources regulated under the Title V program, EPA finds the revisions to OAC 3745-15-05 (H) to be approvable.

Paragraph (I) of OAC 3745-15-05 has been revised to state that if the owner or operator of a source exceeds the exempt emission levels provided in this rule, he or she may be required to submit an application for a permit to operate pursuant to OAC 3745-77, "General Title V Rules." As this revision strengthens the State's authority to oversee sources regulated under the Title V program, EPA finds the revision to OAC 3745-15-05 (I) to be approvable.

Ohio EPA communicated to EPA via electronic mail on December 2, 2009, attesting that the preceding changes to this rule were only clerical in nature, and that the rule did not include any changes that would affect how Ohio EPA determines if a source is exempt

due to "de minimis" air emissions. The State has therefore quantified the effect of the changes as having no effect on emissions.

Additionally, the State has requested several other minor revisions for incorporation into the SIP, which include the addition of a "Comment" at the beginning of the rule to refer readers to the "Incorporation by Reference" section at the end of the rule, and small wording changes. As discussed in the section addressing OAC 3745-15-01, references to the materials in the "Incorporation by Reference" section, as well as a list of these materials themselves, serve to assist any interested parties with obtaining these documents and do not detract value from the existing rules; therefore, EPA finds the corresponding requested revisions to be approvable. Lastly, Ohio EPA's requested wording changes are minor and ministerial, and they serve to clarify or disambiguate the existing rules; therefore, EPA finds the corresponding revisions to be approvable.

## III. What action is EPA taking?

EPA is approving revisions to the Ohio SIP; the State has submitted revisions to rules Chapter 3745-15, "General Provisions," of the OAC. These rules include OAC rule 3745-15-01 and OAC rule 3745-15-05. We are approving these rules because they are consistent with the regulatory framework which helps the State maintain healthy air quality levels. The revisions that the State has submitted are based on Federal definitions, requirements under Federal permitting laws, or amendments that aim to remove ambiguity from existing language in the SIP. The State's submittal meets the requirements of 40 CFR part 51, Appendix V, and strengthens OAC 3745-15-01 and OAC 3745-15-05.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the State plan if relevant adverse written comments are filed. This rule will be effective July 9, 2010 without further notice unless we receive relevant adverse written comments by June 9, 2010. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule

based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 9, 2010.

#### 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Pub. L. 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 Clean Air Act; 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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 July 9, 2010. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 19, 2010.

Walter W. Kovalick Jr.,

Acting Regional Administrator, Region 5.

■ 40 CFR part 52 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 KK—Ohio

■ 2. Section 52.1870 is amended by adding paragraph (c)(148) to read as follows:

#### § 52.1870 Identification of plan.

\* \* \* \* \*

(c) \* \* \*  
(148) On March 17, 2009, Ohio submitted revisions to Ohio Administrative Code Chapter 3745-15, Rules 3745-15-01 and 3745-15-05. The revisions pertain to general provisions of OAC Chapter 3745.

(i) Incorporation by reference.  
(A) Ohio Administrative Code Rule 3745-15-01 "Definitions." and Rule 3745-15-05 "'De minimis' air contaminant source exemption." The rules were adopted on January 12, 2009, and became effective on January 22, 2009.

(B) January 12, 2009, "Director's Final Findings and Orders", signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

[FR Doc. 2010-10836 Filed 5-7-10; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R08-OAR-2009-0790; FRL-9114-3]

### Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Regulation Number 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan revisions submitted by the State of Colorado on August 3, 2007 to Colorado's Regulation Number 1 (revisions to the performance testing requirements for air curtain destructors). Colorado adopted these rule revisions on October 2, 2006. All other actions submitted by the State of Colorado concurrent with Colorado's Regulation Number 1 revision request will be acted