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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2013-0163; FRL-9930-75-Region 4]**

### **Approval and Promulgation of Implementation Plans; Mississippi: Miscellaneous Changes**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve portions of a State Implementation Plan (SIP) revision submitted by the Mississippi Department of Environmental Quality (MDEQ), to EPA on July 25, 2010. The SIP revision includes multiple changes to Mississippi's SIP to add definitions in accordance with federal regulations and to implement clarifying language. EPA is not proposing to take action on the aspects of the SIP revision related to the Clean Air Interstate Rule (CAIR) or hazardous air pollutants at this time.

**DATES:** Written comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2013-0163, by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-ARMS@epa.gov](mailto:R4-ARMS@epa.gov).

3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2013-0163,” Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Air Regulatory Management Section (formerly Regulatory Development Section), Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2013-0163. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through

[www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information may not be publicly available, i.e., 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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Sean Lakeman, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Lakeman can be reached by phone at (404) 562-9043 or via electronic mail at [lakeman.sean@epa.gov](mailto:lakeman.sean@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On June 25, 2010, MDEQ submitted a SIP revision to EPA for approval into the Mississippi SIP. MDEQ's July 25, 2010, SIP revision includes multiple changes to Mississippi's air pollution control regulation APC-S-1, entitled "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants," to add and amend definitions in accordance with federal regulations and to implement clarifying language. Specifically, these changes include amendments to Section 2 – "Definitions" and Section 3 – "Specific Criteria for Sources of Particulate Matter." With the exception of the changes in Section 8 related to hazardous air pollutants and the changes in Section 14 related to Mississippi's CAIR provisions, EPA is proposing to approve Mississippi's July 25, 2010, SIP revision, which became state effective on February 6, 2009.<sup>1</sup> EPA will consider action on Mississippi's changes to its CAIR provisions and its hazardous air pollutants provisions in a separate action.

**II. Mississippi's July 25, 2010, SIP Revision**

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<sup>1</sup> MDEQ's submission includes a revision to APC-S-1, Section 8 – "Provisions for Hazardous Air Pollutants" that updates the incorporate by reference date to October 3, 2008, for relevant federal regulations related to National Emission Standard for Hazardous Air Pollutants (NESHAPS) and the Clean Air Mercury Rule (CAMR). However, EPA has not incorporated APC-S-1, Section 8 into the Mississippi SIP, and therefore, EPA is not proposing to approve these changes related to NESHAPS and CAMR into the SIP.

A. *Changes to APC-S-1, Section 2 – “Definitions”*

1. “Air Cleaning Device”

Mississippi is amending the definition of “Air Cleaning Device” by adding language to clarify that the term “air pollution control device” is synonymous with the term “air cleaning device.” The definition of “air cleaning device” includes “[a]ny method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.” Mississippi’s July 25, 2010, SIP revision, simply clarifies that the term “air pollution control device” has the same definition as “air cleaning device” by adding a phrase noting that these two terms are “synonymous.” Mississippi chose to link the two terms rather than provide a separate definition entry for “air pollution control device.” Mississippi is making this change to provide clarity to the regulated community regarding the definition for the term “air pollution control device.”

2. “Ozone Action Day”

Mississippi’s July 25, 2010, SIP submission amends the definition for “Ozone Action Day” by changing the dates from April 1 and September 30 to March 1 and October 30, respectively, to align with the time period for ozone monitoring in Mississippi as specified in 40 CFR part 58. See table in 40 CFR part 58 entitled, “Table D-3 of Appendix D to Part 58 – Ozone Monitoring Season by State.”

3. “PM<sub>2.5</sub>”

Mississippi added a definition of “PM<sub>2.5</sub>” as “[p]articulate matter with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers as measured by a reference method based on appendix L of 40 CFR part 50 and designated in accordance with 40 CFR part 53 or by an equivalent method designated in accordance with 40 CFR part 53.” This definition is consistent with EPA’s definition codified at 40 CFR part 53 as well as the agency’s longstanding characterization of fine particulate matter. This change, if approved, will result in a renumbering of definitions at APC-S-1.

4. “PM<sub>2.5</sub> emissions”

Mississippi added a definition of “PM<sub>2.5</sub> emissions” as “[f]inely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers, emitted to the ambient air as measured by an applicable EPA Test Method, an equivalent or alternative method specified by EPA, or by a test method specified in the approved State Implementation Plan.” This definition is consistent with EPA’s definition for “direct PM<sub>2.5</sub> emissions”<sup>2</sup> except that the State’s definition does not include a condensable PM<sub>2.5</sub> component.<sup>3</sup> However, EPA

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<sup>2</sup> Under the federal definition, “direct PM<sub>2.5</sub> emissions” means “solid particles emitted directly from an air emissions source or activity, or gaseous emissions or liquid droplets from an air emissions source or activity which condense to form particulate matter at ambient temperatures. Direct PM<sub>2.5</sub> emissions include elemental carbon, directly emitted organic carbon, directly emitted sulfate, directly emitted nitrate, and other inorganic particles (including but not limited to crustal material, metals, and sea salt).” 40 CFR 51.1000.

<sup>3</sup> The federal provisions for implementation of the PM<sub>2.5</sub> NAAQS require, after January 1, 2011, that states must consider the condensable fraction of direct PM<sub>2.5</sub> emissions when establishing limits under 40 CFR 51.1009 (Reasonable further progress requirements (RFP)) and 40 CFR 51.1010 (Requirements for reasonably available control technology (RACT) and reasonably available control measures (RACM)). *See* 40 CFR 51.1002(c). However, Mississippi’s adopted definition of “PM<sub>2.5</sub> emissions” does not explicitly include the condensable fraction of direct PM<sub>2.5</sub> emissions. EPA notes that if PM<sub>2.5</sub> nonattainment areas are designated within the State in the future, the State’s definition of “PM<sub>2.5</sub> emissions” may need to be revised to include condensable emissions to ensure that the RFP and RACT/RACM provisions are properly implemented. EPA also notes that Mississippi’s PSD permitting program at APC-S-5 already requires sources to account for PM<sub>2.5</sub> condensable

considers this definition acceptable because there are currently no PM<sub>2.5</sub> nonattainment areas in Mississippi and because the State's prevention of significant deterioration (PSD) program at APC-S-5 requires sources to consider the condensable portion of PM<sub>2.5</sub> emissions when determining PSD applicability. This change, if approved, will result in a renumbering of definitions at APC-S-1.

*B. Changes to APC-S-1, Section 3 - "Specific Criteria for Source of Particular Matter"*

1. Paragraph 4 – "Fuel Burning"

As it currently exists in the SIP, APC-S-1, Section 3.4(b) – "Combination Boilers" – states that particulate matter emissions from combination boilers involved in fuel burning operations that utilize a mixture of combustibles are allowed emission rates up to 0.30 grains per standard dry cubic foot. Mississippi's July 25, 2010, SIP submission added language to clarify that section 3.4(b) is only applicable to fuel burning operations that utilize a mixture of combustibles "to produce steam or heat water or any other heat transfer medium through indirect means."

2. Paragraph 6 – "Manufacturing Processes"

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emissions when determining PM<sub>2.5</sub> emission limitations and PSD applicability.

Mississippi is amending subparagraph (a) relating to particulate matter emission limits based on process weight rate to clarify that the emission limit listed in that subparagraph applies to the manufacturing process including any associated stacks, vents, outlets, or combination thereof.

3. Paragraph 7 – “Open Burning”

Mississippi is amending subparagraph (a)(1) to clarify that fires set for burning of agricultural wastes in the field and/or silvicultural wastes for forest management purposes must obtain a permit from the Mississippi Forestry Commission regardless of whether there is an available Forestry Commission tower servicing the area in which the burning occurs.

4. Paragraph 8 – “Incineration”

Mississippi is adding subparagraph (c) to clarify that the particulate matter emission limit for incinerators, 0.2 grains per standard dry cubic foot of flue gas, does not apply to “afterburners, flares, thermal oxidizers, and other similar devices used to reduce the emissions of air pollutants from processes.” EPA notes that all particulate matter emissions discharged from such control devices are part of the total emissions from the process unit and are not excluded from determinations of compliance with applicable emission limitations. Mississippi also amended the text of subparagraph (a) to reference subparagraph (c) to further clarify that devices listed at paragraph (c) are not required to apply the particulate matter emission limit for incinerators identified in subparagraph (a).

**III. Incorporation by Reference**

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference certain changes to Mississippi's air pollution control regulation APC-S-1, entitled "Air Emission Regulations for the Prevention, Abatement, and Control of Air Contaminants." Specifically, these changes include the amendments to Section 2 – "Definitions" and Section 3 – "Specific Criteria for Sources of Particulate Matter" described in section II, above. EPA has made, and will continue to make, these documents generally available electronically through [www.regulations.gov](http://www.regulations.gov) and/or in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

#### **IV. Proposed Action**

EPA is proposing to approve portions of Mississippi's July 25, 2010, SIP submission revising Rule APC-S-1 to add and amend definitions in accordance with federal regulations and to implement clarifying language. EPA has preliminarily determined that these changes to the Mississippi SIP are in accordance with the Clean Air Act (CAA or Act) and EPA policy and regulations. With the exception of changes in Section 8 related to hazardous air pollutants and the changes in Section 14 related to Mississippi's CAIR provisions, EPA is proposing to approve Mississippi's SIP revisions provided to EPA on July 25, 2010. EPA will consider action on Mississippi's changes to its CAIR provisions and its hazardous air pollutants provisions in a separate action.

#### **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 Act and applicable federal regulations. *See* 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 proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this proposed 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).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: July 9, 2015.

**Heather McTeer Toney,**

*Regional Administrator,*

*Region 4.*

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