



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2017-0022; FRL-9964-61-Region 4]

Air Plan Approval; Kentucky; Louisville Miscellaneous Rule Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On August 29, 2012, the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), submitted changes to the Kentucky State Implementation Plan (SIP) on behalf of the Louisville Metro Air Pollution Control District (District or Jefferson County). The Environmental Protection Agency (EPA) is proposing to approve several changes that modify the District's air quality regulations as incorporated into the SIP. The changes to the regulatory portion of the SIP that EPA is proposing to approve pertain to definitional changes, administrative amendments, open burning, standards of performance, and volatile organic compounds (VOCs). EPA is proposing to approve these changes because the Commonwealth and Jefferson County have demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

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-2017-0022 at <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

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. The telephone number is (404) 562-9043. Mr. Lakeman can be reached via electronic mail at lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What Action is EPA Taking?

On August 29, 2012, KDAQ submitted a SIP revision to EPA for approval that involves changes to Jefferson County regulations related to acronym additions, administrative amendments, open burning, standards of performance, and VOCs. EPA is proposing to approve the changes to Jefferson County Regulation 1.03 –*Abbreviations and Acronyms*; Regulation 1.08

– *Administrative Procedures*; Regulation 1.11 – *Control of Open Burning*; Regulation 1.19 – *Administrative Hearings*; Regulation 6.18 – *Standards of Performance for Solvent Metal Cleaning Equipment*; Regulation 6.43– *Volatile Organic Compound Emission Reduction Requirements*; and repeal Regulation 7.18– *Standards of Performance for New Solvent Metal Cleaning Equipment*.

II. Background

This proposed action will update Kentucky’s acronyms and make changes to other regulations approved into the SIP. The changes made to the regulations other than definitions are administrative in nature, including updating internal references. Kentucky’s August 29, 2012, SIP revision can be found in the docket for this proposed rulemaking at www.regulations.gov and are summarized below.

III. EPA’s Analysis of Kentucky’s August 29, 2012, SIP Revision

a. Regulations 1.03 Abbreviations and Acronyms

The August 29, 2012, SIP revision changes Regulation 1.03 by adding acronyms and abbreviations and is referred to as version 6 of this regulation. EPA is proposing to approve all of the changes to Regulation 1.03. Changes to Regulation 1.03 consist of adding acronyms to make them consistent with definitions used by EPA. Several acronyms were added to Regulation 1.03 for clarity. Some of the acronyms that were added are associated with various cancer terms. Other acronyms pertain to areas such as modeling, environmental acceptability, integrated risk, lethal concentrations, and toxics. Most of the acronyms were added due to the adoption of the Strategic Toxic Air Reduction Program (STAR) Program, which was adopted on June 21, 2005.

b. Regulation 1.08 Administrative Procedures

The August 29, 2012, SIP revision also makes changes to Regulation 1.08 by updating the regulation to be consistent with the state regulation in the Commonwealth of Kentucky's statutes. Versions 12 and 13 of this regulation have been submitted for approval in this submission. The changes to Regulation 1.08 mostly contain provisions for open records in Section 6 "*Confidentiality and Open Records Policy.*" The District's changes make the rule consistent with the Kentucky Open Records Act, Kentucky Revised Statutes (KRS) 61.870 to 61.884. The changes to the Open Records Act are to reflect the currently available technology options for delivering submissions. The District also is making some revisions to the public hearing section due to the adoption of the STAR Program. Section 3 "*Procedures at Public Hearings*" is being updated to: reflect the public hearing procedures that have been implemented for many years, which add "representative of the affective entity" to replace "the petitioner;" consolidate Regulation 3.13 and 3.14 to allow persons to submit evidence and make a statement in support of and in opposition to a proposed action; and make a few other non-substantive wording changes.

c. Regulation 1.11 Control of Open Burning

The August 29, 2012, submittal also makes changes to Regulation 1.11 which updates the restrictions on open burning. Versions 9 and 10 of this regulation have been submitted for approval in this submission. The proposed changes to Regulation 1.11 enhance the District's control over open burning activities that are exempt from the general prohibition of open burning by requiring written requests and/or notice, including information about the material to be burned, and District approval for various types of fires. Agricultural fires are further restricted

to occur at times when there is a maximum wind speed of 15 miles per hour.

The regulation has also been updated to recognize fire pits. Similar to the provision for personal cooking fires, personal fires from small fire pits, including chimineas and open-top fire chambers do not require the District's approval and are exempt from the general prohibition on open burning. The size restriction for personal fire pits is 3x3x3 feet. Ceremonial and commercial fires, regardless of whether they occur in fire pits, still require the District's approval and are restricted in size to 5x5x5 feet. The changes also removed reference to the flare stacks as open burning, added language about special case fires and how they would be treated on an individual basis, described accelerants that are prohibited, and prohibited barrel burning.

d. Regulation 1.19 Administrative Hearings

The August 29, 2012, SIP revision also makes changes to the language in Regulation 1.19 to make it consistent with KRS 77.310 *Proceedings for alleged violations of chapter or regulations and for petitions for a hearing on board orders or determination—Hearing officer*. The language in Regulation 1.19 was revised from applying solely to Board orders and expanded to include Board orders and “determinations.” Version 2 of this regulation has been submitted for approval in this SIP revision. The other amendments to this regulation ensure that there is not a conflict of interest between board members and anyone affiliated with the proceeding. It bars communication between any party affiliated with a proceeding and any member of the Board.

e. Regulation 6.18 Standards of Performance for Solvent Metal Cleaning Equipment

The August 29, 2012, SIP revision also makes changes to Regulation 6.18 which updates the restrictions on solvent cleaning. Version 7 of this regulation has been submitted for approval

in this SIP revision. Regulation 6.18 is being changed to reduce VOC emissions from cold cleaning equipment through adding work place standards and requirements for equipment use, including cover requirements, flushing, solvent flow, fan placement, solvent storage, and parts cleaning instructions. Changes also include requiring owners and operators of cold cleaning equipment to evaluate the possibility of using lower or non-VOC containing solvents whenever feasible. The changes to the regulation have to be implemented before the issuance of a permit pursuant to Regulations 2.16 *Title V Operating Permits* or Regulation 2.05 *Prevention of Significant Deterioration of Air Quality*. The update to this regulation will now supersede Regulation 7.18 and allow its repeal.

f. Regulation 6.43 Volatile Organic Compound Emission Reduction Requirements

The August 29, 2012, SIP revision, if approved, also makes changes to Regulation 6.43, which updates VOC emissions reduction strategy, including operational requirements for named stationary sources, each of which has voluntarily agreed to these requirements. Versions 4 and 5 of this regulation have been submitted for approval in this SIP revision. The changes to this regulation include: an emission reduction strategy for American Synthetic Rubber Company to allow the use of a new oxidizer or boiler to control emissions, an update to the names of four stationary sources that changed names, and a change to the emission inventory system number for Dupont Dow Elastomers L.L.C. in Section 11 to the current number. Also, two stationary sources that are no longer in operation are being removed from the emissions inventory. This SIP revision also replaced Carbide Industries' company specific VOC reduction process with an equivalent plant-wide VOC limit. Carbide Industries LLC requested a revision to the operating procedures while leaving the VOC emission limits in place. The previous operating procedures

of the regulation would not have permitted storage of acetylene onsite. Because Carbide Industries no longer has a buyer of acetylene, which is a byproduct of their process, they now have a need to store acetylene onsite. This change allows Carbide Industries to remain in compliance with Regulation 6.43 while achieving equivalent VOC reductions, which is the intended purpose of the regulation.

g. Regulation 7.18 Standards of Performance for New Solvent Metal Cleaning Equipment

The August 29, 2012, SIP revision also repeals Regulation 7.18 because it was superseded by Regulation 6.18 – *Standards of performance for Solvent Metal Cleaning Equipment*. In this SIP revision, the District combined Regulation 7.18 and 6.18 because the two regulations have identical requirements and standards, only differing in applicability. Originally, Regulation 7.18 - *Standards of Performance for New Solvent Metal Cleaning Equipment* was only for new facilities, and Regulation 6.18 – *Standards of Performance for Existing Solvent Metal Cleaning Equipment* was only for existing facilities. In the August 29, 2012, SIP revision, Regulation 6.18 has been updated with wording changes to incorporate the two regulations, and the new title is Regulation 6.18– *Standards of Performance for Solvent Metal Cleaning Equipment*, which applies to all facilities. By combining the two regulations, Regulation 7.18 is no longer needed and can be repealed. Regulation 6.18 is also revised to remove requirements that are no longer applicable. In 2000, Jefferson County prohibited the sale or use of solvents with vapor pressures greater than 1 mm Hg in cold cleaners. Regulation 6.18 was revised to remove requirements for solvents with higher vapor pressures, since they are no longer sold or

used in Jefferson County.

IV. 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 Jefferson County Regulation 1.03 – *Abbreviations and Acronyms*, which had a state effective date of January 16, 2008; Regulation 1.08 – *Administrative Procedures*, in which version 13 had an effective date of March 21, 2010; Regulation 1.11– *Control of Open Burning*; Regulation, in which version 10 has an effective date of January 16, 2008; 1.19 – *Administrative Hearings*, which has an effective date of January 16, 2008; Regulation 6.18– *Standards of Performance for Solvent Metal Cleaning Equipment*, which has an effective date of May 9, 2003; and Regulations 6.43 – *Volatile Organic Compound Emissions Reduction Requirements*, in which version 5 has an effective date of February 15, 2006. EPA has made, and will continue to make, these documents generally available electronically through <https://www.regulations.gov> and/or in hard copy at the Region 4 office (see the ADDRESSES section of this preamble for more information).

V. Proposed Action

EPA is proposing to approve Kentucky’s August 29, 2012, SIP revision, submitted on behalf of the District, because it is consistent with the CAA. EPA believes that all of these proposed changes are consistent with section 110 of the CAA and meet the regulatory requirements pertaining to SIPs, including CAA section 110(l), since these changes are administrative in nature and will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

VI. 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 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, Sulfur Dioxide, Reporting, Volatile organic compounds and recordkeeping requirements.

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

Dated: June 26, 2017.

V. Anne Heard

Acting Regional Administrator,

Region 4.

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