



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2017-0004; FRL-9966-94-Region 4]

### Air Plan Approval; Kentucky; Revisions to Jefferson County

### Emissions Monitoring and Reporting

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On March 22, 2011, and April 20, 2011, the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ), submitted revisions to the Kentucky State Implementation Plan (SIP) on behalf of the Louisville Metro Air Pollution Control District (District). The Environmental Protection Agency (EPA) is approving the April 20, 2011, submittal and the portions of the March 22, 2011, submittal concerning changes to the District's stationary source emissions monitoring and reporting requirements because the Commonwealth has demonstrated that these changes are consistent with the Clean Air Act (CAA or Act).

**DATES:** This rule will be effective **[insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2017-0004. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) web site. Although listed in the index, some information may not be publicly available, i.e., Confidential Business Information 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](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:** Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Mr. Wong can be reached by phone at (404) 562-8726 or via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

In this rulemaking, EPA is approving certain changes related to the District's stationary source emissions monitoring and reporting requirements in Regulation 1.06<sup>1</sup> in the March 22, 2011, and April 20, 2011, SIP revisions. This regulation provides the District with the authority to require emissions monitoring at stationary sources and requires certain sources to maintain

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<sup>1</sup> In 2003, the City of Louisville and Jefferson County governments merged and the "Jefferson County Air Pollution Control District" was renamed the "Louisville Metro Air Pollution Control District." However, each of the regulations in the Jefferson County portion of the Kentucky SIP still has the subheading "Air Pollution Control District of Jefferson County." Thus, to be consistent with the terminology used in the SIP, EPA refers throughout this notice to regulations contained in Jefferson County portion of the Kentucky SIP as the "Jefferson County" regulations.

emissions records and provide annual emissions statements to the District. It does not impose any emissions limits or control requirements on any emissions source. The March 22, 2011, submission also included changes to Jefferson County Regulation 1.02 – *Definitions*; Regulation 3.01 – *Ambient Air Quality Standards*; Regulation 3.02 – *Applicability of Ambient Air Quality Standards*; Regulation 3.03 – *Definitions*; Regulation 3.04 – *Ambient Air Quality Standards*; and Regulation 3.05 – *Methods of Measurement*. EPA approved these changes, with the exception of the requested addition of certain definitions in Regulation 1.02, on December 6, 2016 (81 FR 87815).<sup>2</sup> The March 22, 2011, submission also included changes to Regulation 1.07 – *Emissions During Startups, Shutdowns, Malfunctions and Emergencies*. EPA approved the changes to Regulation 1.07 on June 10, 2014 (79 FR 33101). The April 20, 2011, submission revises only Regulation 1.06.

## **II. EPA’s Analysis of Kentucky’s SIP Revisions**

### **A. March 22, 2011, Submittal**

The March 22, 2011, SIP submission contains a version of Regulation 1.06 adopted by the District on June 21, 2005 (referred to as “Version 7” by the District) and a version of Regulation 1.06 adopted by the District on September 21, 2005 (referred to as “Version 8”). The version currently incorporated into the SIP is referred to as “Version 6” (District effective on December 15, 1993). *See* 65 FR 53660 (October 23, 2001). Collectively, Versions 7 and 8 change the heading of Regulation 1.06 to “Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting” and change aspects of Section 1 – “In Stack Self-

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<sup>2</sup> EPA did not approve the addition of definitions for the terms “acute noncancer effect,” “cancer,” “carcinogen,” and “chronic noncancer effect,” because these definitions are not related to the National Ambient Air Quality Standards (NAAQS). *See* 81 FR 87815.

Monitoring and Reporting” (including a change in the title to “In-Stack Self-Monitoring and Reporting); Section 2 – “Ambient Air Monitoring”; and Section 3 – “Emissions and Related Data Reporting” (including a change in the title to “Provisions for Section 4 and Section 5 Emissions Data”). The submission adds four new sections: Section 4 – “Emissions Data for Criteria Pollutants, HAPs, and Ammonia”; Section 5 – “Enhanced Emissions Data for Toxic Air Contaminants”; Section 6 – “Certification by a Responsible Official”; and Section 7 – “Confidentiality and Open Records Requirements.” The changes to the heading of Regulation 1.06, the changes to Sections 1 and 2, and the addition of Sections 6 and 7 are administrative in nature. The changes to Section 3 modify and add provisions regarding emissions reporting data requirements, methods of emissions calculations, and stationary source emissions statements, and remove outdated reporting dates; the addition of Section 4 details requirements for submitting emissions statements on an annual basis for particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, ozone precursor emissions of volatile organic compounds and oxides of nitrogen, ammonia, and hazardous air pollutants; and Section 5 contains requirements for enhanced emissions statements for listed “toxic air contaminants.” Because the reporting of toxic air contaminants is not related to the National Ambient Air Quality Standards (NAAQS) for the criteria pollutants, EPA is not acting on Section 5.<sup>3</sup> EPA is approving the changes to Regulation 1.06 contained in the March 22, 2011, SIP revision, with the exception of Section 5 and references to Section 5 located in Section 3, to the extent that these changes are not superseded by the changes in the April 20, 2011, submittal discussed below.

*B. April 20, 2011, Submittal*

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<sup>3</sup> The criteria pollutants are particulate matter, sulfur dioxide, carbon monoxide, nitrogen dioxide, lead, and ground-level ozone.

The April 20, 2011, SIP submission contains a version of Regulation 1.06 adopted by the District on January 19, 2011 (referred to as “Version 9” by the District). After acknowledging that the District had sent Versions 7 and 8 to Kentucky for submittal to EPA, the District requests that EPA incorporate Version 9 into the SIP and identifies changes in Regulation 1.06 between Version 8 and Version 9. Version 9 revises Version 8 by changing aspects of Section 1 (including a change in the title to “Stack Monitoring and Reporting”); Section 2 (including a change in title to “Ambient Air Monitoring and Reporting”); Section 3 (including a change in the title to “Requirements for Section 4 and Section 5 Emissions Statements”); Section 4 (including a change in the title to “Emissions Statements for Criteria Pollutants, HAPs, and Ammonia”); Section 5 (including a change to the title to “Emissions Statements for Toxic Air Contaminants”); and Section 6. Version 9 also eliminates Section 7. The submitted changes clarify and streamline the monitoring, recordkeeping, and reporting requirements for stationary sources by deleting and combining redundant and outdated provisions. The changes to Section 4 also modify the emissions threshold for sources to submit annual emissions statements to the District. For the reasons discussed above, EPA is not acting on Section 5 or on the references to Section 5 located in Section 3.

EPA has determined that the changes to Regulation 1.06 in the March 22, 2011, and April 20, 2011, SIP submissions are consistent with the CAA. The text of the regulation in the SIP will reflect Version 9, with the exception of Section 5 and any references to Section 5 located in Section 3.

In a notice of proposed rulemaking (NPRM) published on June 29, 2017 (82 FR 29467),

EPA proposed to approve the changes to Regulation 1.06 in the March 22, 2011, and April 20, 2011, SIP submissions as described above. The rationale for EPA's actions are further explained in the NPRM. Comments on the proposed rulemaking were due on or before July 31, 2017. EPA received no adverse comment on the proposed action.

### **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 Jefferson County Regulation 1.06 – *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, District effective on January 19, 2011, with the exception of Section 5 and any references to Section 5 located in Section 3. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and/or at the EPA Region 4 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 SIP, 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 by the Director of the Federal Register in the next update to the SIP compilation.<sup>4</sup>

### **IV. Final Action**

EPA is taking final action to approve Kentucky's March 22, 2011, and April 20, 2011, SIP revisions as discussed in Section II, above. The text of Jefferson County Regulation 1.06 –

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<sup>4</sup> 62 FR 27968 (May 22, 1997).

*Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting* in the SIP will reflect the version of the rule effective on January 19, 2011 (Version 9) with the exception of changes to Section 5 and any references to Section 5 located in Section 3.

## **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 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 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).

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.

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, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Sulfur dioxide, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 16, 2017.

V. Anne Heard,  
Acting Regional Administrator,  
Region 4.

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.*

**Subpart S—Kentucky**

2. In §52.920, table 2 in paragraph (c) is amended by revising the entry “1.06” to read as follows:

**§52.920 Identification of plan.**

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(c) \* \* \*

**Table 2—EPA-Approved Jefferson County Regulations for Kentucky**

| <b>Reg</b> | <b>Title/subject</b>                                                              | <b>EPA approval date</b>                             | <b>Federal Register notice</b>     | <b>District effective date</b> | <b>Explanation</b>                                                                       |
|------------|-----------------------------------------------------------------------------------|------------------------------------------------------|------------------------------------|--------------------------------|------------------------------------------------------------------------------------------|
|            | <b>Reg 1—General</b>                                                              | <b>Provisions</b>                                    |                                    |                                |                                                                                          |
| **         | *                                                                                 | *                                                    | *                                  | *                              | *                                                                                        |
| 1.06       | Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting | [insert date of publication in the Federal Register] | [insert Federal Register citation] | 1/19/2011                      | Revision approved except section 5 and any references to section 5 located in section 3. |
| **         | *                                                                                 | *                                                    | *                                  | *                              | *                                                                                        |

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[FR Doc. 2017-18087 Filed: 8/25/2017 8:45 am; Publication Date: 8/28/2017]