



6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2018-0609; FRL-9990-30-Region 4]**

**Air Plan Approval; Kentucky: Jefferson County Process Operations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Energy and Environment Cabinet (Cabinet), through a letter dated March 15, 2018. The proposed SIP revision was submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District) and makes minor ministerial amendments to regulations regarding new and existing process operations.

**DATES:** 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-2018-0609 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:** Andres Febres, 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) 562-8966. Mr. Febres can also be reached via electronic mail at [febres-martinez.andres@epa.gov](mailto:febres-martinez.andres@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. What Action is EPA Proposing?**

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP that were provided to EPA through a letter dated March 15, 2018.<sup>1</sup> EPA is proposing to approve the portions of this SIP revision that make changes to the District's Regulation 6.09 – *Standards of Performance for Existing Process Operations*, and Regulation 7.08 – *Standards of Performance for New Process Operations*.<sup>2</sup> The March 15, 2018, SIP revision makes minor and ministerial changes that do not alter the meaning of these regulations but rather are intended to

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<sup>1</sup> EPA notes that the Agency received the SIP revision on March 23, 2018.

<sup>2</sup> EPA also notes that the Agency received several other revisions to the Jefferson County portion of the Kentucky SIP submitted with the same March 15, 2018, cover letter. EPA will be considering action on the remaining revisions in separate actions.

clarify the applicability of these regulations, as well as reduce redundancy in the particulate matter (PM) and opacity standards. The SIP revision updates the current SIP-approved versions of Regulation 6.09 (version 6) and Regulation 7.08 (version 3) to versions 7 and version 4, respectively. The changes that are being proposed for approval in this rulemaking and EPA's rationale for proposing approval are described in more detail below.

## **II. EPA's Analysis of the State Submittal**

As mentioned in Section I of this document, the portion of Jefferson County's March 15, 2018, SIP revision that EPA is proposing to approve makes changes to two Jefferson County Air Quality Regulations. Specifically, the SIP revision updates the SIP-approved version of Regulation 6.09 to version 7, and the SIP-approved version of Regulation 7.08 to version 4.

### ***(1) Regulation 6.09, Standards of Performance for Existing Process Operations***

Jefferson County's Regulation 6.09 provides for the control of emissions from existing process operations and includes standards for PM emissions, as well as nitrogen oxides (NOx) emissions. Jefferson County's March 15, 2018, SIP revision requests that EPA incorporate version 7 of Regulation 6.09 into the SIP. Version 7 amends two sections of Regulation 6.09: Section 1, *Applicability*, in order to clarify the applicability of this regulation through slightly modified language; and Section 3, *Standards for Particulate Matter*, in order to eliminate redundancies within that section.

Section 1.1 of the current SIP-approved version of Regulation 6.09 states that the provisions of this regulation apply to process operations that were either in existence or had an approved construction permit on or before September 1, 1976. With the amendments in version 7, Jefferson County makes minor edits to clarify that the provisions of this regulation apply to

process operations that not only were in existence on or before September 1, 1976, but also to those process operations that had either commenced construction, reconstruction, or a modification by that date. In addition, Jefferson County rewords, for clarification purposes, the part of Section 1.1 that specifies that Regulation 6.09 applies to those process operations not otherwise covered under any other portion of Regulation 6, but the scope, meaning, and applicability of Regulation 6.09 remain the same.

Section 3 of the current SIP-approved version of Regulation 6.09 includes specific standards for PM emissions from existing process operations. With the amendments in version 7, Jefferson County deletes Sections 3.3 and 3.4 of Regulation 6.09. Section 3.3 contains an opacity standard for PM that limits process operation emissions to 20 percent opacity; and Section 3.4 contains a Mass emission standard for PM that limits process operation emissions to emissions rates provided in Table 1 of Regulation 6.09. Both standards for PM emissions are unnecessary because they are already established under sections 3.1 and 3.2 of Regulation 6.09. By deleting Sections 3.3 and 3.4, Jefferson County is not removing any emissions limit for existing process operations, but is simply removing redundancy in the current SIP-approved version of the regulation.

The March 15, 2018, SIP revision does not change the scope or meaning of Regulation 6.09, nor does it modify how the regulation works. These changes are minor and ministerial in nature and help to clean up and clarify the regulation of existing process operations. EPA has made the preliminary determination that the aforementioned changes will not have a negative impact on air quality in the area and is therefore proposing to approve version 7 of Regulation 6.09 into the Jefferson County portion of the Kentucky SIP.

(2) ***Regulation 7.08, Standards of Performance for New Process Operations***

Like Jefferson County's Regulation 6.09, Regulation 7.08 provides for the control of emissions from process operations, but these provisions apply to new process operations rather than existing ones. Jefferson County's March 15, 2018, SIP revision requests that EPA adopt version 4 of Regulation 7.08 into the SIP. Version 4 of Regulation 7.08 makes changes similar to those in version 7 of Regulation 6.09 by amending the two corresponding sections: Section 1, *Applicability*, in order to clarify the applicability of this regulation through slightly modified language; and Section 3, *Standards for Particulate Matter*, in order to eliminate redundancies within that section.

Section 1 of the current SIP-approved version of Regulation 7.08 states that the provisions of this regulation apply to process operations that commenced construction after September 1, 1976. With the amendments in version 4, Jefferson County clarifies that the provisions of this regulation apply to process operations that not only had commenced construction after September 1, 1976, but also to those that had either commenced modification or reconstruction after this date. As with the changes in Regulation 6.09, Jefferson County also rewords, for clarification purposes, the provision in Section 1 that specifies that this regulation applies to those process operations not otherwise covered under any other portion of Regulation 7, but the scope, meaning, and applicability remain the same.

Section 3 of the current SIP-approved version of Regulation 7.08 includes specific standards for PM emissions of new process operations. With the amendments in version 4, Jefferson County deletes Section 3.2, which contains the 20 percent opacity limit for PM from process operation emissions. This opacity standard is unnecessary because it is already

established in section 3.1.1 of Regulation 7.08. By deleting Section 3.2, Jefferson County is not removing any emissions limitation for new process operations, but is simply removing a redundancy that exists in the current SIP-approved version of the regulation.

Just as with Regulation 6.09 above, the March 15, 2018, SIP revision does not change the meaning or scope of Regulation 7.08, nor does it modify how the regulation works. These changes are minor and ministerial in nature and help to clean up and clarify the regulation of new process operations. EPA has made the preliminary determination that the aforementioned changes will not have a negative impact on air quality in the area and is therefore proposing to approve version 4 of Regulation 7.08 into the Jefferson County portion of the Kentucky SIP.

### **III. Incorporation by Reference**

In this document, 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's Regulation 6.09, *Standards of Performance for Existing Process Operations*, Version 7, and Regulation 7.08, *Standards of Performance for New Process Operations*, Version 4, both State effective January 17, 2018. EPA has made, and will continue to make, these materials generally available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region 4 office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

### **IV. Proposed Action**

EPA is proposing to approve changes to the Jefferson County portion of the Kentucky SIP that were provided to EPA through a letter dated March 15, 2018. Specifically, EPA is proposing to approve the District's Regulation 6.09 version 7 and Regulation 7.08 version 4.

The March 15, 2018, SIP revision makes minor and ministerial changes and is intended to clarify the applicability of these regulations, as well as reduce redundancy in the PM and opacity standards. These rule adoptions do not contravene federal permitting requirements or existing EPA policy, nor will they impact the NAAQS or interfere with any other applicable requirement of the Act.

## **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. 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);
- 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).

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, Carbon monoxide, Incorporation by reference, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: February 20, 2019.

Mary S. Walker,  
Acting Regional Administrator,  
Region 4.

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