



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2018-0822; FRL-9992-58-Region 4]

#### **Air Plan Approval; KY; Jefferson County Existing and New Miscellaneous Metal Parts and Products Surface Coating Operations**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve two revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), provided by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (KDAQ), through a letter dated March 15, 2018. The revisions were submitted by KDAQ on behalf of the Louisville Metro Air Pollution Control District (LMAPCD) (also referred to herein as Jefferson County) and add a recordkeeping provision for certain sources of volatile organic compounds (VOC) along with other administrative changes. EPA is proposing to approve the changes because they are consistent with the Clean Air Act (CAA or Act).

**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-2018-0822 at <http://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 <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Evan Adams of 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. The telephone number is (404) 562-9009. Mr. Adams can also be reached via electronic mail at [adams.evan@epa.gov](mailto:adams.evan@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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

Through a letter dated March 15, 2018, KDAQ submitted SIP revisions to EPA for approval that include changes to the Jefferson County portion of the Kentucky SIP.<sup>1</sup> In this action EPA is proposing to approve the changes to Jefferson County Regulation 6.31, *Standards of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations*, and Regulation 7.59, *Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*. The SIP revisions update the current SIP-approved versions of Regulation 6.31 (Version 5) and Regulation 7.59 (Version 5) to Version 6 of each.

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<sup>1</sup> EPA notes that the Agency received these SIP revisions on March 23, 2018, along with other revisions to the Jefferson County portion of the Kentucky SIP. EPA will be considering action for those SIP revisions in a separate rulemaking.

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. Background

EPA has found that surface coatings of miscellaneous metal parts and products operations emit hazardous air pollutants (HAP). *See, e.g.*, 69 FR 129. Regulation of these sources protects air quality and promotes the public health by reducing emissions of HAP into the environment. The organic HAP emitted by surface coatings of miscellaneous metal parts and products operations are VOC as defined by 40 CFR 51.100(s).<sup>2</sup>

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides (NO<sub>x</sub>) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the VOC and NO<sub>x</sub> emissions that can be released into the atmosphere. VOC are compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, or carbonates, and ammonium carbonate, which participates in atmospheric photochemical reactions, including in the formation of ozone. The compounds of carbon (or organic compounds) have different levels of photochemical reactivity, therefore, they do not form ozone to the same extent.<sup>3</sup>

Jefferson County Air Quality Regulations 6.31 and 7.59 address VOC emitted by miscellaneous metal parts and products surface coating operations at existing and new facilities, respectively. Regulation 6.31, *Standards of Performance for Existing Miscellaneous Metal Parts*

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<sup>2</sup> Specifically, the organic HAP emitted by these operations include xylenes, toluene, methyl ethyl ketone (MEK), phenol, cresols/cresylic acid, glycol ethers (including ethylene glycol monobutyl ether (EGBE)), styrene, methyl isobutylketone (MIBK), and ethyl benzene. *See* 69 FR 129. The aforementioned compounds are identified as VOC in 40 CFR 51.100(s)(1).

<sup>3</sup> The Commonwealth of Kentucky has made similar changes to the Kentucky SIP defining VOC to be consistent with the Federal definitions in 40 CFR 51.100(s). *See* 72 FR 52282 for Kentucky.

*and Products Surface Coating Operations*, as amended in Version 6, applies to each affected facility “that was in being or commenced construction, modification, or reconstruction before May 20, 1981.” Regulation 7.59, *Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*, applies to newer affected facilities.

In this action, EPA is proposing to approve changes to Regulations 6.31 and 7.59. In Section 6, *Recordkeeping*, of each regulation, a recordkeeping requirement for otherwise-exempt facilities has been added. Previously, facilities that qualified for an exemption according to Paragraph 5.1 of Section 5, *Exemptions*, were not subject to the requirements of the regulation, and facilities that qualified for an exemption according to Paragraph 5.2 of Section 5 were not subject to the requirements in Section 3, *Standards for Volatile Organic Compounds*. The new recordkeeping provision improves the regulations by requiring facilities to maintain records on an annual basis that support their exemption status.

EPA is also proposing to approve a minor, administrative change to Regulation 6.31, Section 1, *Applicability*, that clarifies the regulation’s applicability based on the date that a facility was in existence or commenced construction, modification, or reconstruction.

### **III. Why Is EPA Proposing This Action?**

The March 15, 2018, SIP revisions that are the primary subject of this proposed rulemaking strengthen Regulations 6.31 and 7.59 by requiring facilities claiming an exemption to maintain records supporting that claim. In Section 6, *Recordkeeping*, a detailed description of the recordkeeping parameters is outlined in Paragraphs 6.1 through 6.4. Paragraph 6.5 is added and applies to any facility claiming an exemption pursuant to Section 5, *Exemptions*. Paragraph 6.5 requires the previously exempt facilities to keep records sufficient to demonstrate the applicability of the claimed exemption. For the facilities specifically claiming exemption

pursuant to Paragraph 5.2, the records shall include, but not be limited to, the potential VOC emissions from all processes or process operations subject to this regulation prior to any add-on controls on a rolling twelve-month basis. The additional provision will provide more detailed information to the State concerning the emissions of the exempt process. They are not required to be monitored like larger sources but must be able to prove their exemption yearly by following the criteria in Section 3, *Standards of Volatile Organic Compounds*. EPA is preliminarily determining that these changes strengthen the regulations for miscellaneous metal parts and products coating operations. EPA views these changes as being consistent with the CAA and does not believe that these changes will result in a change in emissions.

The change to Section 1, *Applicability*, of Regulation 6.31, clarifies the facilities to which the regulation applies based on when the facilities were “in being or commenced construction, modification, or reconstruction.” EPA views this minor, administrative change as consistent with the CAA and does not believe that these changes will result in a change in emissions.

#### **IV. Incorporation by Reference**

In this action, 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 Louisville Metro Air Pollution Control District portion of the Kentucky SIP at Regulation 6.31, *Standards of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations*, Version 6, and Regulation 7.59 *Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*, Version 6, 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).

## **V. Proposed Action**

EPA is proposing to approve the aforementioned changes to the Jefferson County portion of the Kentucky SIP because the changes are consistent with section 110 of the CAA and meet the regulatory requirements. The amendments include the addition of a recordkeeping provision in Section 5, *Recordkeeping*, of both Regulations 6.31 and 7.59, as well as the clarification of Section 1, *Applicability*, in Regulation 6.31.

## **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. 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, Incorporation by reference, Ozone, Volatile organic compounds.

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

Dated: April 11, 2019.

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

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