



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0224; FRL-10011-98-Region 4]

Air Plan Approval; KY; Jefferson County Administrative Procedures

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) on March 4, 2020. The changes were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District) and make minor changes for clarity, remove an exemption for public hearings for permitting actions, and amend the procedures for open records requests to maintain consistency with the Kentucky Open Records Act (KORA).

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-2020-0224 at 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 www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Gobeail McKinley, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9230. Ms. McKinley can also be reached via electronic mail at mckinley.gobeail@epa.gov. You can also contact Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsythe Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. LaRocca can also be reached via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

I. EPA's Proposed Action

EPA is proposing to approve changes to Regulation 1.08, *Administrative Procedures*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on March 4, 2020.¹ The March 4, 2020, SIP revision makes minor changes to Regulation 1.08 that do not alter the meaning of the regulation, for example, changes to clarify public hearing requirements, and relocation and reorganization of several sections. In addition, other changes strengthen the

¹ The submittal includes a courtesy copy of Regulation 2.08, *Fees*, Version 24 which was adopted by the Commonwealth at the same time, however, the Commonwealth did not request that EPA incorporate that regulation into the SIP.

SIP by removing language exempting certain permitting actions from public hearings. Last, the SIP revision contains changes to sections related to public records to maintain consistency with the KORA. The SIP revision updates the current SIP-approved version of Regulation 1.08 (Version 13) to Version 14. The changes to this rule and EPA's rationale for proposing approval are described in more detail in Section II of this notice of proposed rulemaking.

II. EPA's Analysis of the Kentucky's Submittal

The SIP revision includes changes to the District's Regulation 1.08, *Administrative Procedures*, to: (1) make minor changes for clarity; (2) remove an exemption for public hearings for permitting actions; and (3) amend the procedures for open records requests to maintain consistency with KORA.

There are minor revisions to Section 1, "Public Hearings," such as adding the titles for various regulations and updating references, correcting typographical errors, and adjusting language for consistency between various subsections. With respect to the section titled "Procedures at Public Hearings," this section is moved from Section 3 to Section 2, and the subsections are renumbered to reflect this move. Additional changes to "Procedures at Public Hearings" include minor changes to clarify procedures (for example, the staff provides an explanation of a proposed action at a hearing) and the removal of language excepting certain hearing requirements for permitting decisions. The "Compliance Plans and Schedules" section (previously Section 2) is now moved to Section 3, and the subsections within Section 3 are renumbered to reflect the organizational change.

Section 6, "Confidentiality and Opens Records Policy" is renumbered and revised for consistency with KORA. The changes remove language regarding the format of KORA requests and details of the District's office. In addition, Section 6 is revised to specify that physical

copies of any material not exempt will be provided to the requestor, to provide for reasonable fees, and to reference the Louisville Metro Air Pollution Control District Open Records Policy for hours, address of custodian, and other related information.

Section 7, “Procedures for the Adoption, Amendment, or Repeal of a Regulation,” is revised by renumbering and reorganizing to improve the readability of the provisions in that section.

These rule changes do not change any applicable emissions limitations or relax requirements for affected sources. EPA proposes to find that the changes serve to strengthen and clarify the SIP. Therefore, EPA has made the preliminary determination that the aforementioned changes will not have a negative impact on air quality and is therefore proposing to approve Version 14 of Regulation 1.08 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 the District’s Regulation 1.08, *Administrative Procedures*, Version 14, effective November 20, 2019, which provides clarity, revises provisions related to Board meetings, and maintains consistency with KORA. EPA has made, and will continue to make, these materials generally available through 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 the changes to Regulation 1.08, *Administrative Procedures*, Version 14, of the Louisville Metro Air Pollution Control District portion of the Kentucky SIP,

submitted by the Commonwealth on March 4, 2020. The March 4, 2020, SIP revision updates the current SIP-approved version of Regulation 1.08, Version 13 to Version 14. EPA is proposing to approve these changes because they are minor edits to clarify provisions related to public hearing requirements, SIP strengthening by removing an exemption from public hearings for certain permitting requirements, and maintaining consistency with KORA.

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 (Pub. L. 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, Incorporation by reference, Reposting and recordkeeping requirements.

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

Dated: July 13, 2020.

Mary Walker,

Regional Administrator,

Region 4.

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