



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2020-0103; FRL-10012-91-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: Final Rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the Jefferson County portion of the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky (Commonwealth), through the Energy and Environment Cabinet (Cabinet) on September 5, 2019. The revisions were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District and make a singular change to two regulations for clarity purposes regarding the applicability of exempt surface coating standards for existing and new miscellaneous metal parts and products operations. EPA is approving the change to both regulations as it is consistent with the Clean Air Act (CAA or Act).

DATES: This rule is 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-2020-0103. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not 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 or in hard copy at the 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. 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: Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth 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. Background

EPA is approving a change to Regulation 6.31, *Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations*, and Regulation 7.59, *Standard of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*, of the Jefferson County portion of the Kentucky SIP, submitted by the Commonwealth on September 5, 2019. The change clarifies the applicability of the surface coating standard exemptions as it pertains to Section 3 of Regulations 6.31 and 7.59. The SIP revisions ensure consistency across the regulations and update the current SIP-approved version of Regulation 6.31 (Version 6) and Regulation 7.59 (Version 6) to Version 7 of each.

EPA has found that surface coatings of miscellaneous metal parts and products operations emit hazardous air pollutants (HAP). *See* 69 FR 129 (January 2, 2004). Regulation of these sources protects air quality and promotes public health by reducing HAP emissions into the environment. The organic HAP emitted by surface coatings and miscellaneous metal parts and products operations are volatile organic compounds (VOC), as defined by 40 CFR 51.100(s).¹

Tropospheric ozone, commonly known as smog, occurs when VOC and nitrogen oxides (NO_x) react in the atmosphere. Because of the harmful health effects of ozone, EPA limits the VOC and NO_x emissions that can be released into the atmosphere. VOC are compounds of carbon excluding carbon monoxide, carbon dioxide, and carbonates, and ammonium carbonate, which participate 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.

II. Analysis of State Submission

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. In this action, EPA is approving a change to these two regulations. In Paragraph 5.1 of Section 5, *Exemptions*, of both regulations, clarifying text is being added to ensure consistency with Paragraph 5.2. In the SIP-approved versions of these regulations, Paragraph 5.1 lists the types of surface coatings that are “exempt from this regulation” and Paragraph 5.2 exempts any affected facility from Section 3 (Standards for Volatile Organic Compounds) if the

¹ 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 isobutyl ketone MIBK), and ethyl benzene. *See* 69 FR 129. The aforementioned compounds are identified as VOC in 40 CFR 51.100(s)(1).

total VOC emissions² from all affected facilities subject to this regulation are less than or equal to five tons per year. The SIP revisions create consistency between Paragraphs 5.1 and 5.2 by clarifying that the exemption in Paragraph 5.1 applies only to Section 3 (i.e., the phrase “exempt from this regulation” is replaced with “exempt from the standards in Section 3 of this regulation”). These revisions do not change how the regulation operates and solely serves as an update to clarify that the exemption only applies to emissions standards in each regulation, as recordkeeping requirements are still explicitly required.

In a notice of proposed rulemaking (NPRM) published on May 4, 2020 (85 FR 26418), EPA proposed to approve the revisions to the Jefferson County portion of the Kentucky SIP, provided on September 5, 2019. Comments on the NPRM were due on or before June 3, 2020. Only one comment was received in favor of the action.

III. Incorporation by Reference

In this document, 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 Louisville Metro Air Pollution Control District Regulation 6.31, *Standard of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations*, Version 7, and Regulation 7.59, *Standard of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations*, Version 7, state effective June 19, 2019. 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). Therefore, these materials have been approved by EPA for inclusion in the State implementation plan, have

² Potential emissions prior to any add-on controls.

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 in the next update to the SIP compilation.³

IV. Final Action

EPA is approving the Louisville Metro Air Pollution Control District's September 5, 2019, SIP submission, which clarifies the applicability of surface coating standard exemptions as it pertains to Section 3 of Regulation 6.13 and 7.59.

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 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);
- 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.*);

³ *See* 62 FR 27968 (May 22, 1997).

- 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.

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 of this document 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, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: July 31, 2020.

Mary Walker,
Regional Administrator,
Region 4.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 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 amend Table 2 in paragraph (c) by:

a. Under “Reg 6 – Standards of Performance for Existing Affected Facilities” revising the entry for “6.31”; and

b. Under “Reg 7 – Standards of Performance for New Affected Facilities” revising the entry for “7.59”.

The revisions read as follows:

§ 52.920 Identification of plan.

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(c) * * *

TABLE 2 – EPA-APPROVED JEFFERSON COUNTY REGULATIONS FOR KENTUCKY

Reg	Title/subject	EPA approval date	Federal Register notice	District effective date	Explanation
**	*	*	*	*	*
Reg 6–Standards of Performance for Existing Affected Facilities					
**	*	*	*	*	*
6.31	Standards of Performance for Existing Miscellaneous Metal Parts and Products Surface Coating Operations	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]	6/19/19	

**	*	*	*	*	*
Reg 7–Standards of Performance for New Affected Facilities					
**	*	*	*	*	*
7.59	Standards of Performance for New Miscellaneous Metal Parts and Products Surface Coating Operations	[Insert date of publication in <u>Federal Register</u>]	[Insert citation of publication]	6/19/19	
**	*	*	*	*	*

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[FR Doc. 2020-17229 Filed: 9/1/2020 8:45 am; Publication Date: 9/2/2020]