



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2020-0468; FRL-10021-22-Region 5]

Air Plan Approval; Ohio; Lead

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Ohio State Implementation Plan (SIP). Ohio removed its Ohio Administrative Code (OAC) rules that apply to a secondary lead smelter, which has permanently shut down. EPA is proposing approval of revisions that will remove those OAC rules from the Ohio SIP. The revisions will also remove air quality sampling requirements that are duplicative of another OAC provision in the Ohio SIP.

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-R05-OAR-2020-0468 at <http://www.regulations.gov>, or via email to blakley.pamela@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, 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, please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section. For 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: Matt Rau, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6524, rau.matthew@epa.gov. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background.

Ohio identified the Master Metals, Incorporated Facility (Master Metals), a former secondary lead smelter in Cleveland, Ohio, as the primary cause of high monitored lead concentrations in Cuyahoga County. On October 14, 1992, Ohio issued an order

to Master Metals requiring the facility to shut down unless specific improvements were made to the facility's pollution controls. On August 5, 1993, Ohio ordered an immediate shut down of the Master Metals facility and prohibited any activities to be conducted at the facility until required improvements were made. The facility did not reopen.

Effective August 26, 2011, Ohio rescinded OAC rules 3745-71-05 and 3745-71-06, as part of a 5-year review of its rules. OAC 3745-71-06, "Source specific emission limits," contained the lead and particulate matter emission limits plus operational limits only applicable to Master Metals. OAC 3745-71-05, "Emissions test methods and procedures and reporting requirements for new and existing sources," provided the test methods and other elements supporting OAC 3745-71-06. Ohio determined that these rules should be rescinded because they were facility-specific to Master Metals, which no longer exists, and has requested removal of these rules from the SIP.

Ohio also rescinded OAC rule 3745-71-01, "Definitions," effective on August 26, 2011. Ohio requests the removal of OAC 3745-71-01 from the SIP because its definitions and referenced documents are unnecessary given the other rules removed from OAC chapter 71.

Finally, Ohio requests the removal of OAC rule 3745-71-03, "Methods of ambient air measurement," effective on August 26, 2011. The air quality sampling requirements in OAC 3745-71-03 have been consolidated into OAC rule 3745-25-02, which was

approved into the SIP on October 26, 2010 (75 FR 65572). Thus, the lead monitoring requirements in OAC rule 3745-71-03 are duplicative since the air quality sampling requirements are also in the Ohio SIP at OAC rule 3745-25-02.

In the request to remove OAC rules 3745-71-01, 3745-71-03, 3745-71-05, and 3745-71-06 from Ohio SIP, Ohio provided an analysis pursuant to Clean Air Act (CAA) section 110(l). CAA section 110(l) prohibits EPA from approving a SIP revision if that revision would interfere with any applicable requirement concerning attainment, reasonable further progress, or any other CAA requirement.

Ohio states that removing the rules from its SIP will not result in increased emissions or risk National Ambient Air Quality Standard violations because the facility has been permanently shut down and thus has no emissions. Therefore, OAC rules 3745-71-05 and 3745-71-06 can be removed without an effect on emissions. The monitoring requirements in OAC rule 3745-71-03 are also approved into its SIP as OAC rule 3745-25-02, which will keep the requirements within the SIP. Ohio found that the definitions and references of OAC rule 3745-71-01 can be removed from its SIP because they are not necessary due to the removal of the other rules from the SIP.

II. What is EPA's Analysis of the Revisions?

The Master Metals facility has permanently shut down and the site has been remediated. Thus, the source of the lead and

particulate matter emissions controlled by the OAC Chapter 3745-71 rules is gone and there are no longer any emissions from it.

EPA concurs with Ohio on the removal of OAC rule 3745-71-06 from the SIP. The facility is shut down and the site has been put into new use. EPA also concurs with Ohio on the removal of OAC rules 3745-71-01 and 3745-71-05 from the SIP. OAC rule 3745-71-01 contains definitions and references to Federal rules. Those definitions are not needed with the removal of OAC rule 3745-71-06. OAC rule 3745-71-05 provides the lead emissions test procedures and reporting requirements. The shutdown of Master Metals and the removal of OAC rule 3745-71-06 results in no lead emissions to monitor or report.

EPA approved OAC rule 3745-25-02, which includes lead air quality sampling requirements, into the SIP on October 26, 2010 (75 FR 65572). The requirements of OAC rule 3745-71-03 are duplicated in OAC rule 3745-25-02 intro and (F)(2). The lead air quality sampling requirements are in the SIP with OAC rule 3745-25-02, which means OAC rule 3745-71-03 can be removed while those requirements will remain in the SIP. Thus, EPA agrees with Ohio that OAC rule 3745-71-03 can be removed from the SIP.

For the reasons set forth above EPA is proposing to approve Ohio's request.

III. What Action is EPA Taking?

EPA is proposing to approve the removal of OAC rules 3745-71-01, 3745-71-03, 3745-71-05, and 3745-71-06 from the Ohio SIP.

IV. Incorporation by Reference.

In this document, EPA is proposing to amend regulatory text that includes incorporation by reference. As described in the proposed amendments to 40 CFR part 52 set forth below, EPA is proposing to remove provisions of the EPA-Approved Ohio Regulations from the Ohio State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51. EPA has made, and will continue to make, the SIP generally available through www.regulations.gov and at the EPA Region 5 Office (please contact the person identified in the "FOR FURTHER INFORMATION CONTACT" section of this preamble for more information).

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 CAA and applicable Federal regulations. 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 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).

In addition, 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 and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Lead, Reporting and recordkeeping requirements.

Dated: March 8, 2021.

Cheryl Newton,
Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA proposes to amend 40 CFR part 52 as set forth below:

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 KK—Ohio

2. In § 52.1870, the table in paragraph (c) is amended by removing the undesignated heading "Chapter 3745-71 Lead Emissions" and the entries for "3745-71-01", "3745-71-03", "3745-71-05", and "3745-71-06".

[FR Doc. 2021-05159 Filed: 3/11/2021 8:45 am; Publication Date: 3/12/2021]