



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2023-0097; FRL-11564-03-R4]

Air Plan Approval; Kentucky; Revisions to Jefferson County Emissions Monitoring and Reporting

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), in a letter dated June 15, 2022. The changes were submitted by the Cabinet on behalf of the Louisville Metro Air Pollution Control District (District) and amend the District's stationary source emissions monitoring and reporting requirements. The 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-2023-0097 at www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The 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 www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Tiereny Bell, 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) 562-9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Overview

On June 15, 2022,¹ the Commonwealth of Kentucky submitted changes to the Jefferson County portion of the Kentucky SIP for EPA approval.^{2,3} In this rulemaking, EPA is proposing to approve changes to Regulation 1.06, *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, in the Jefferson County portion of the Kentucky SIP, submitted on June 15, 2022. This regulation provides the District with the authority to require emissions monitoring at stationary sources and requires certain sources to maintain emissions records and to provide annual emissions statements to the District. This regulation does not impose any emissions limits or control requirements on any emissions source.

II. EPA’s Analysis of Kentucky’s SIP Revision

¹ On June 15, 2022, Kentucky provided multiple SIP revisions that are not addressed in this rulemaking. One of the June 15, 2022, submittals contains changes to District Regulation 2.04, *Construction or Modification of Major Sources in or Impacting upon Non-Attainment Areas (Emission Offset Requirements)* in the Kentucky SIP. These changes are not addressed in this notice. EPA will act on these changes in a separate rulemaking. Another June 15, 2022, SIP revision contained changes to District Regulation 2.17, *Federally Enforceable District Origin Operating Permits*, in the Kentucky SIP. EPA finalized its approval of changes to Regulation 2.17 on March 1, 2023. See 88 FR 12831.

² EPA received this submission on June 13, 2022, via a letter dated June 15, 2022. Throughout this notice of proposed rulemaking, this submission will be referred to as the June 15, 2022, submission.

³ In 2003, the City of Louisville and Jefferson County governments merged, and the “Jefferson County Air Pollution Control District” was renamed the “Louisville Metro Air Pollution Control District.” However, to be consistent with the terminology used in the subheading in Table 2 of 40 CFR 52.920(c), throughout this notice we refer to the District regulations contained in the Jefferson County portion of the Kentucky SIP as the “Jefferson County” regulations.

The June 15, 2022, SIP submission contains a version of Regulation 1.06 adopted by the District on March 16, 2022 (referred to as “Version 11” by the District). District Regulation 1.06, *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, establishes requirements for stationary source monitoring, recordkeeping, and reporting. Section 6, *Emissions Statements for Ozone Precursors*, requires that on or before April 15 of each year, all stationary sources of oxides of nitrogen (NO_x) or volatile organic compounds (VOC) shall submit to the District a statement of actual emissions of those compounds. The District requests that EPA incorporate Version 11 into the SIP and identifies changes in Regulation 1.06 between Version 11 and Version 10, the version of the rule in the SIP. Version 10 of Regulation 1.06 at Section 6.2.1 states that facilities with less than 25 tons per year (tpy) of plant-wide actual VOC emissions or less than 25 tpy of plant-wide actual NO_x emissions are exempted from the emissions statement requirements in Section 6, unless emissions of the other pollutant (VOC or NO_x) are at or above 25 tpy. The SIP submission revises Section 6.2.1 to instead exempt facilities with less than 25 tpy of plant-wide *potential* VOC and less than 25 tpy of plant-wide *potential* NO_x emissions from the Section 6 emissions statement requirement.⁴

Section 6 continues to satisfy the emissions statement requirements in CAA section 182(a)(3)(B),⁵ and the changes do not reduce the number of facilities that must submit emissions statements. Therefore, this SIP revision will not interfere with any applicable requirement concerning attainment, reasonable further progress, or any other applicable requirement of the CAA.⁶ Version 11 does not change the information that reporting facilities must provide in their emissions statements.

⁴ Section 6.2.1 continues to allow the District to require sources claiming the exemption to provide adequate information to verify actual emissions for the previous year.

⁵ Jefferson County is subject to the requirements of CAA section 182(a) because it is part of the Louisville, KY-IN marginal nonattainment area for the 2015 8-Hour Ozone National Ambient Air Quality Standards (NAAQS).

⁶ See CAA section 110(l).

III. Incorporation by Reference

In this document, The 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, and as described in Section II of this preamble, the EPA is proposing to incorporate by reference Louisville Metro Air Pollution Control District Regulation 1.06, *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, District effective on March 16, 2022, except for Section 5 and any references to Section 5 in this regulation. The 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

The EPA is proposing to approve the aforementioned changes to Regulation 1.06, *Stationary Source Self-Monitoring, Emissions Inventory Development, and Reporting*, District effective on March 16, 2022, into the Jefferson County portion of the Kentucky SIP. The EPA is proposing to approve these changes because they are consistent with the CAA.

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. *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. Accordingly, this proposed 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 14094 (88 FR 21879, April 11, 2023);

- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address “disproportionately high and adverse human health or environmental effects” of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. The EPA defines environmental justice

(EJ) as “the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.” The EPA further defines the term fair treatment to mean that “no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies.”

The Cabinet nor the District did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. The EPA did not perform an EJ analysis and did not consider EJ in this proposed action. Due to the nature of the proposed action being taken here, this proposed action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this proposed action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: November 14, 2023.

Jeanne Gettle,
Acting Regional Administrator,
Region 4.