



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA-R05-OAR-2024-0282; FRL-12468-02-R5]

**Air Plan Approval; Ohio; Title V Operating Permit Rules
Revisions**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to Ohio EPA's title V rules. These revisions include revisions to the definition of hazardous air pollutants and requirements for a permit statement of basis that are consistent with recent Federal rulemaking actions. Other changes are insignificant and part of the state's five-year review of adopted regulations.

DATES: This direct final rule will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**, unless EPA receives adverse comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the *Federal Register* informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2024-0282 at <https://www.regulations.gov> or via email to damico.genevieve@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting

comments. Once submitted, comments cannot be edited or removed from the docket. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, Air Permits Section, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-3189, portanova.sam@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.

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

I. Background

On June 11, 2024, Ohio EPA submitted revisions to Ohio Administrative Code (OAC) chapters 3745-77-01, 3745-77-08, and 3745-77-09 to EPA for approval as a title V program revision. These revisions were made as part of Ohio's statutory five-year regulatory review process and include a change to the definition of hazardous air pollutant, additional requirements pertaining to a permit statement of basis and response to comments, a reordering of the definitions in OAC 3745-77-01, minor grammatical changes, and updates to test method, publication, and reference materials.

II. What Action is EPA Taking?

EPA is approving this submittal as part of Ohio's title V permit program. The revisions to Ohio's rules are consistent with 40 CFR part 70 and the Clean Air Act (CAA) as discussed below.

The definitions in OAC 3745-77-01 are reorganized such that the terms are listed and group in paragraphs alphabetically. These revisions do not substantively change the provisions of this chapter but provide for easier search of and subsequent updates to the listed definitions.

The definition of "hazardous air pollutant" in OAC 3745-77-01(H) has been revised to include "...as revised under 40 CFR Part 63, Subpart C." This change to the definition allows for the inclusion of 1-bromopropane, which EPA added to the CAA's list of hazardous air pollutants on January 5, 2022, and any

future additions to the CAA's hazardous air pollutants list. Consistent with this revision, this rulemaking action also adds a new item under "referenced materials" in OAC 3745-77-01(AA) (2) (k) for 40 CFR part 63, subpart C.

This rulemaking action includes revisions to several items under "referenced materials" in OAC 3745-77-01(AA) (2). These revisions update the rule language to include the most recent edition or publication date of the referenced material. This does not constitute a substantive change to the regulations.

On February 5, 2020 (85 FR 6431), EPA issued a final rule amending 40 CFR part 70 requiring permitting authorities to prepare a written response to comments document if significant comments are received during the public comment period of a draft permit. The final rule also specifies that a statement of basis must be included with a permit during the public comment period and EPA's 45-day review period. In addition, the final rule requires that the response to comments document be included in the proposed permit that is sent to EPA for 45-day review. In this submittal, Ohio EPA has revised OAC 3745-77-08(G) (2), (5), and (6) and OAC 3745-77-09(A) to be consistent with these changes to the Federal rule.

Included in this rulemaking action are grammatical changes throughout OAC 3745-77. These revisions are intended to apply consistent wording throughout state regulations and do not represent a substantive change to the meaning of the rule.

We are publishing this action without prior proposal

because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this *Federal Register* publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]** without further notice unless we receive relevant adverse written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**.

III. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a state title V program submission that complies with the provisions of the CAA and applicable Federal regulations. 40

CFR 70.4(i). Thus, in reviewing title V program submissions, EPA's role is to approve state choices provided they meet the criteria of the CAA and the criteria, standards, and procedures defined in 40 CFR part 70. Accordingly, this final action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 14094: Modernizing Regulatory Review

This action is not a significant regulatory action as defined in Executive Order 12866, as amended by Executive Order 14094, and was therefore not subject to a requirement for Executive Order 12866 review.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

C. Regulatory Flexibility Act

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as

described in UMRA, 2 U.S.C. 1531-1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by state law. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, will result from this action.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order

12866, and because EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children because it approves a state program.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

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 communities with environmental justice (EJ) concerns to the greatest extent practicable and permitted by law. Executive Order 14096 (Revitalizing Our Nation's Commitment to Environmental Justice for All, 88 FR 25251, April 26, 2023) builds on and supplements E.O. 12898 and defines EJ as, among other things, the just treatment and meaningful involvement of all people, regardless of income, race, color, national origin,

Tribal affiliation, or disability in agency decision-making and other Federal activities that affect human health and the environment.”

Ohio EPA did not evaluate EJ considerations as part of its program submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898/14096 of achieving EJ for communities with EJ concerns.

K. Congressional Review Act

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

L. Judicial Review

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 FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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 70

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: December 19, 2024.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 70 is amended as follows:

PART 70—[AMENDED]

1. The authority citation for part 70 continues to read as follows:

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

2. Appendix A to part 70 is amended under "Ohio" by adding paragraph (f) to read as follows:

Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs.

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Ohio

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(f) The Ohio Environmental Protection Agency submitted an operating permits program amendment on June 11, 2024. This submittal included revisions to the definition of hazardous air pollutants and requirements for a permit statement of basis. The state is hereby granted approval effective [**INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER***].

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