

reproduction of ephemeral recordings by preexisting satellite digital audio radio services in 37 CFR part 382, subpart B of this chapter, for the license period 2007–2012. For purposes of this section, the term “Collective” refers to the collection and distribution organization that is designated by the Copyright Royalty Judges. For the License Period through 2015, the sole Collective is SoundExchange, Inc.

(b) *Reporting of performances.*

Without prejudice to any applicable notice and recordkeeping provisions, statements of account shall not require reports of performances.

(c) *Applicable regulations.* To the extent not inconsistent with this part, all applicable regulations, including part 370 of this chapter, shall apply to activities subject to this part.

Dated: January 15, 2010.

**James Scott Sledge,**

Chief U.S. Copyright Royalty Judge.

[FR Doc. 2010–1172 Filed 1–21–10; 8:45 am]

BILLING CODE 1410–72–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2005–OH–0003; FRL–9105–7]

#### Conditional Approval and Promulgation of State Implementation Plans; Ohio; Carbon Monoxide and Volatile Organic Compounds

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a variety of actions regarding revisions to Ohio Administrative Code (OAC) 3745–21 (Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and related Materials Standards). EPA is proposing the following actions: To approve into the State Implementation Plan (SIP) certain regulation revisions within OAC 3745–21 which have been adopted by the State; to disapprove a regulation revision pertaining to high performance architectural coatings; to conditionally approve a revision of paragraph (BBB)(1) of OAC 3745–21–09, if the State gives EPA a letter that commits to address noted deficiencies no later than one year from the expected date of EPA’s conditional approval; to take no action on certain regulation revisions, and to provide notice that EPA and Ohio have created a path forward for facilities operating under previously issued alternate VOC limit

and emission control exemptions for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). This action addresses revisions to OAC 3745–21 in a set of submittals dated October 9, 2000, February 6, 2000, and August 3, 2001; and also addresses revisions to OAC 3745–21, submitted on June 24, 2003, as part of Ohio’s five-year rule review process.

**DATES:** Comments must be received on or before February 22, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2005–OH–003, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 886–5824.

4. *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2005–OH–003. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you

submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Anthony Maietta, Life Scientist, at (312) 353–8777 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Anthony J. Maietta, Life Scientist, U.S. Environmental Protection Agency, Region 5, Air and Radiation Division (AR–18J), Air Programs Branch, Criteria Pollutant Section, 77 West Jackson Boulevard, Chicago, Illinois 60604. (312) 353–8777; [maietta.anthony@epa.gov](mailto:maietta.anthony@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, wherever “we”, “us”, or “our” is used, we mean EPA.

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**I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

**II. 2000/2001 Submittals***A. Review of the State's Submittals*

1. What rule revisions does the State want approved into the SIP, and are these rule revisions approvable?

The State of Ohio has adopted a number of revisions to the State's organic material and volatile organic compounds (VOC)<sup>1</sup> emission control regulations, and has requested EPA to approve these rule revisions for incorporation into Ohio's SIP. Two

separate State submittals for the 2000/2001 period are addressed in this proposed rule. On October 9, 2000, Ohio submitted revisions to a number of Ohio's VOC and organic material emission control regulations covering multiple source facilities. On February 6, 2001, Ohio submitted a request for EPA to review a Permit-To-Install (PTI) for Adelphia, Incorporated. The source-specific PTI relies on certain VOC rule revisions documented in the State's October 9, 2000 submittal, and, therefore, the concurrence by EPA depends on the approval and SIP-incorporation of the specific State rule revisions.

On August 3, 2001, Ohio submitted a request for EPA to review a PTI for Honda of America Manufacturing, Incorporated. However, on December 4, 2002, Honda sent a letter to the Ohio Environmental Protection Agency (Ohio EPA) acknowledging concerns about whether the company had adequately reviewed the option of add-on controls and whether the company had justified a long-term limit on coating usage. As a result, Honda formally withdrew its request to Ohio EPA. On June 12, 2008, Ohio EPA submitted a formal withdrawal of the PTI request, and so this rulemaking does not address such request.

As noted below, the State's June 24, 2003 submittal includes rule paragraphs which have been amended and adopted by the State since the State's October 9, 2000 submittal. Because the June 24, 2003 submittal reflects current versions of these particular rule paragraphs and because the versions of these rule paragraphs contained in the October 9, 2000 submittal may now be outdated, we will address these rule paragraphs in the discussion of the 2003 submittal or in a separate rulemaking.

In addition, the State submitted a new version of OAC 3745-21-07 on April 7, 2008. This submittal is currently under review by EPA, so we are not taking action on these parts of the original submittal in this notice, and will instead address these rule paragraphs in a separate rulemaking.

Revisions to Ohio's VOC and Organic Material Rules Submitted on October 9, 2000

*Revisions to OAC 3745-21-01 (Definitions):*

*OAC 3745-21-01(B)(4):*

Ohio revised the definition of "organic compound" to match the definition of that term as used in paragraph (PP) of OAC 3745-31-01. Ohio now defines "organic compound" to mean any chemical compound containing carbon, excluding: Carbon monoxide, carbon

dioxide; carbonic acid; metallic carbides; metallic carbonates; ammonium carbonate; methane (except methane from landfill gases); and ethane. This rule revision is acceptable and we are proposing to approve it.

*OAC 3745-21-01(B)(6):*

Ohio revised the definition of "Volatile Organic Compounds" to exclude additional compounds considered to be negligibly reactive in the chemical formation of ozone. Since this definition is further amended in the June 24, 2003, five-year rule review submittal, we will address all of the relevant changes in the definition in Section III of this proposed rule.

*Revisions to OAC 3745-21-04 (Attainment Dates and Compliance Time Schedules):*

All amended rule paragraphs in this section are also covered in Section III of this proposed rule.

*Revisions to OAC 3745-21-09 (Control of Emissions of Volatile Organic Compounds from Stationary Sources):*

*OAC 3745-21-09(A)(4):*

Paragraph (A) addresses the applicability of the VOC emission control requirements contained in OAC 3745-21-09. Paragraph (A)(4) has been revised to remove the applicability of paragraph (DDD) (Stage II vapor control system requirements for gasoline dispensing facilities) for gasoline dispensing facilities located in the Toledo, Ohio area (Lucas and Wood Counties). Ohio revised this rule because the Toledo area was redesignated to attainment of the one-hour ozone standard before the Stage II vapor control requirements were required to be implemented in this area and because the need for Stage II vapor controls has been superseded by the implementation of vehicle onboard emission controls. Therefore, the revision to paragraph (A)(4) is acceptable and we are proposing to approve it.

*OAC 3745-21-09(B)(3):*

Paragraphs (B)(3)(d) and (B)(3)(e) address requirements for recordkeeping and notification of violation (exceedance of maximum daily coating usage limits) for coating lines exempted from the VOC emission limitations specified in OAC 3745-21-09(U)(1).

Because, as discussed below, the addition of paragraph (U)(2)(e)(ii) to OAC 3745-21-09 is acceptable, it is appropriate to also incorporate paragraphs (B)(3)(d) and (B)(3)(e) into the SIP. Exempted sources must continue to monitor coating usage and VOC emissions and must notify the State of exceedances of maximum daily coating usage limits.

<sup>1</sup> The State differentially defines "organic material" and "volatile organic compounds" in the State's rules. Volatile organic compounds, as defined, are a subset of organic material.

*OAC 3745-21-09(O)(1) and OAC 3745-21-09(O)(6):*

Paragraph (O) addresses requirements for solvent metal cleaning sources. Paragraph (O)(1) has been modified to reference new paragraph (O)(6), which exempts specified types of sources from the requirements of paragraphs (O)(2) (cold cleaner requirements), (O)(3) (open top vapor degreaser requirements), and (O)(4) (conveyORIZED degreaser requirements).

Paragraph (O)(6) is further revised in the June 24, 2003, submittal and is addressed in Section III of this proposed rule. Since Paragraph (O)(1) depends on paragraph (O)(6), we also propose action on the revision to paragraph (O)(1) in Section III of this proposed rule.

*OAC 3745-21-09(R)(4):*

Paragraph (R) contains VOC emission control requirements for filling of underground storage tanks at gasoline service stations. Paragraph (R)(4) specifies source exemption criteria for this State rule. Paragraph (R)(4)(a) has been modified to exempt two source types: (i) Any gasoline service station which has an annual gasoline throughput of less than 120,000 gallons; and (ii) gasoline transfers made to stationary storage tanks which are equipped with internal or external floating roofs. The uncorrected language of this paragraph would have exempted sources only if they met both of these conditions, which was not the intent of the State. We believe that the two exemptions are acceptable as independent exemptions. Therefore, the revision of paragraph (R)(4) is acceptable and we are proposing to approve it.

*OAC 3745-21-09(U)(1)(h):*

OAC 3745-21-09(U) specifies VOC emission control requirements for sources conducting surface coating of miscellaneous metal parts and products. Paragraph (U)(1) specifies VOC content limits for various coating operations or coating types. The State-adopted rule, in paragraph (U)(1)(h), contains a VOC content limit of 6.2 pounds per gallon of coating, or, if an emissions control system is employed, 39.2 pounds of VOC per gallon of solids, for high performance architectural aluminum coatings. (As a result of the difference between VOC content limits expressed per gallon of coating versus per gallon of coating solids, these are comparable limits.) Although the State has previously requested that these VOC content limits be placed into the SIP, EPA has not approved these VOC content limits. In its October 9, 2000, SIP revision request, Ohio EPA is again requesting the approval of these VOC content limits for high performance

architectural aluminum coatings as a SIP revision.

The VOC content limit for high performance architectural aluminum coatings of 6.2 pounds per gallon of coating, or, if an emissions control system is employed, 39.2 pounds of VOC per gallon of solids, was incorporated into the Control Techniques Guidelines (CTG) for miscellaneous metal and plastic parts coatings document in September, 2008. This limit is less stringent than the general limit that applied to this subcategory in previous guidance. For Ohio in particular, approval of OAC 3745-21-09(U)(1)(h) would allow more emissions than the Ohio SIP currently allows.

Under section 110(l) of the Clean Air Act (CAA), EPA "shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment [or other requirements]." The State has not demonstrated that the relaxation of the VOC content limit for high performance architectural aluminum coatings would not interfere with attainment of the ozone standard and other requirements. Therefore EPA believes it must continue to disapprove this requested relaxation.

*OAC 3745-21-09(U)(2):*

Paragraph (U)(2) specifies the types of sources that are exempted from the emission control requirements of paragraph (U)(1).

*OAC 3745-21-09(U)(2)(e):*

Paragraph (U)(2)(e), which exempts sources based on coating usage rate limits, has been amended to restrict the exemption of miscellaneous metal parts and products coating lines in Ashtabula, Butler, Clermont, Cuyahoga, Geauga, Hamilton, Lake, Lorain, Medina, Portage, Summit, and Warren Counties to coating lines that apply no more than three (3) gallons of coating per day. Other exemption clauses in this paragraph remain essentially unchanged, but have been grammatically modified to accommodate the revised exemption limit for the applicable counties.

Ohio EPA has submitted analyses for the Cincinnati and Cleveland areas assessing the allowable VOC emission rates for miscellaneous metal coating lines under the reasonably available control technology (RACT) based VOC content limit and under various coating usage rate limits (gallons per day per coating line). The analysis considered VOC emissions for all miscellaneous metal coating facilities in each area as contained in Ohio EPA's source permit files. The analysis determined daily allowable VOC emissions for each coating line at each facility. Based on

the coatings in use at the facilities, the analysis concluded that, in both areas, an exemption of coating lines using no more than three gallons per day per coating line would allow total VOC emissions within five percent of the allowable VOC emissions expected without the exemption.

Based on these results, we conclude that the State rule, as revised, will provide emission reductions that are suitably close to the emission control benefits that would be achieved with a regulation strictly following RACT requirements. Therefore, this rule revision is acceptable and we are proposing to approve it.

Please note that paragraph (U)(2)(e) is further revised in the State's June 24, 2003, submittal; we discuss this paragraph in more detail below. This section discusses paragraph (U)(2)(e) only to the extent that it is revised in the October 9, 2000, submittal.

*OAC 3745-21-09(U)(2)(f):*

Paragraph (U)(2)(f) authorizes the exemption of metal coating lines meeting certain criteria from the miscellaneous metal coating VOC content and emission control requirements of paragraph (U)(1). Effective January 24, 1983, Ohio EPA's rule stated that in order to qualify for this emission control exemption, a coating line must be subject to a state-issued permit to install (PTI) that specifies alternate emission control requirements constituting "best available technology." Sources qualify for an alternative to the limits of paragraph (U)(1) only if best available technology for the source is found to be less stringent than, or inconsistent with, the emission control requirements of paragraph (U)(1). The best available technology must provide, where an emission limitation is applicable, the lowest emission limitation that a subject emissions unit is capable of meeting by application of control technology that is reasonably available considering technological and economic feasibility.

On March 23, 1995, (60 FR 15235), EPA inadvertently approved a version of paragraph (U)(2)(f) which allowed the State to approve and issue PTIs for miscellaneous metal coating units without EPA review and concurrence, and without approval of source-specific SIP revisions for the applicable coating units. The particular version that EPA approved had a State effective date of January 17, 1995. Subsequently, EPA realized that it erred in approving this paragraph. In a September 24, 1999, letter to Ohio EPA, we informed the State of the erroneous approval of (U)(2)(f) and commented that, if the State did not adopt and submit an

acceptable revision to the paragraph, EPA intended to publish a correction rescinding the 1995 approval.

In an attempt to rectify the deficiencies in the 1995 version, the State submitted an October 9, 2000, SIP revision request that provided a revised version of (U)(2)(f) (which became effective at the State on June, 15, 1999) that required EPA review of, and concurrence with, the PTIs prior to their finalization and issuance by the State. This revised version of paragraph (U)(2)(f), however, did not provide a suitable process involving formal EPA review of prospective exemptions for inclusion in the Ohio SIP. Section 110 of the CAA dictates a process in which States adopt measures required under the CAA, States submit these measures to EPA, and then EPA conducts formal rulemaking to assess whether these measures are to be added to the SIP. From the State's effective date of their rule change (June 15, 1999), paragraph (U)(2)(f) remained deficient because it did not contain the necessary language to require exemptions to be submitted to EPA as SIP revisions.

On March 23, 2009, Ohio submitted a revised version of paragraph (U)(2)(f) which, upon review, was found to be approvable because it provides EPA its proper role in reviewing and incorporating exemption limits into Ohio's SIP. EPA approved this version of paragraph (U)(2)(f) on July 28, 2009,

at 74 FR 37171. Because this version supersedes previous versions, we propose to take no action on paragraph (U)(2)(f) from any submittal in this notice.

EPA and Ohio EPA have held discussions on how to best address future requests for exemptions from the miscellaneous metal coating limits in paragraph (U)(1). These discussions have reflected several premises:

1. Given the broad coverage of the miscellaneous metal coating rule, cases will arise where reasonably available control technology for a particular coating unit is less stringent or is inconsistent with the limits given in Ohio's rule 3745-21-09(U)(1), such that an alternative emissions limit is necessary;

2. Ohio has been applying exemption provisions of paragraph (U)(2)(f) in good faith. EPA does not intend to revisit the exemptions that Ohio granted during the time that Ohio had this unilateral authority. Discussions between EPA and Ohio EPA are intended instead to define a process for addressing future exemption requests;

3. EPA and Ohio EPA will seek to define an exemption review process that accommodates requirements within the State of Ohio for prompt permit review;

4. EPA and Ohio will seek to define an exemption review process that provides for joint review of exemption requests, that provides for Ohio to issue permits containing alternative emission

limits after any EPA comments are taken into account, but that also reflects standard provisions that the Federally enforceable limitations in the SIP are revised only after EPA formally approves source-specific revisions through formal EPA SIP revision rulemaking.

EPA and Ohio have taken steps to establish a process for review of alternate miscellaneous metal coating limits based on the above premises. As noted above, Ohio has adopted and submitted a rule which provides for formal EPA SIP review of such alternate limits, and EPA has approved this rule. EPA and Ohio have also prepared a MOU outlining a process for issuing those exemptions.

The following table lists the facilities and source units that have been granted source permits by the State before June 15, 1999, under paragraph (U)(2)(f), along with their associated emission/VOC content limits. EPA proposes to retain the effectiveness of (U)(2)(f) exemptions issued between May 5, 1995, and June, 15, 1999. The permits issued before that date are listed here but will be addressed in the future in a separate rulemaking. This table does not list any permits issued after June 15, 1999, because State rules starting on that date did not authorize the State to issue permits exempting sources from limits under paragraph (U)(1) without EPA concurrence.

Facility ID	Facility name	Short term limit (hr/day)	TPY limit	VOC content/other limit	PTI#	PTI issue date
1409000714 ..	Polymet Corporation.	25 lbs VOC/month	0.15 tons VOC/yr ..	None .....	14-4578	Wednesday, September 23, 1992.
1409000716 ..	Chase-Durus Industries.	55 lbs VOC/day; 10 gal/day for both metal and non-metal.	5.72 tons OC/yr from coating metal and 5.72 TPY from coating non-metal; PTO: 2.48 tons VOC/yr.	5.5 lbs OC/gal, as applied, including water and exempt solvents (PTO uses VOC/gal).	14-04268	Wednesday, June 24, 1998.
1409000842 ..	Ransohloff Inc .....	75 lbs VOC/day from coatings; 830 lbs VOC/mo from CU; 10 gal/day of coating.	10.55 tons VOC/yr	7.5 lbs VOC/gal coating, as applied; 8.3 lbs VOC/gal CU, as applied.	14-04268	Wednesday, March 5, 1997.
1409000842 ..	Ransohloff Inc .....	75 lbs VOC/day from coatings; 830 lbs VOC/mo from CU; 10 gal/day of coating.	10.55 tons VOC/yr	7.5 lbs VOC/gal coating, as applied; 8.3 lbs VOC/gal CU, as applied.	14-04612	Wednesday, March 5, 1997.
1409000892 ..	Phoenix Presentations Inc.	56.1 lbs OC/day ....	4.5 tons OC/yr .....	None .....	14-04612	Thursday, January 21, 1999.
1409000892 ..	Phoenix Presentations Inc.	56.1 lbs OC/day ....	4.5 tons OC/yr .....	None .....	14-04612	Thursday, January 21, 1999.
1409000892 ..	Phoenix Presentations Inc.	56.1 lbs OC/day ....	4.5 tons OC/yr .....	None .....	14-04014	Thursday, January 21, 1999.

Facility ID	Facility name	Short term limit (hr/day)	TPY limit	VOC content/other limit	PTI#	PTI issue date
1413080305 ..	Lt. Moses Willard Inc.	49.6 lbs/day w/ metal parts.	4.75 tons OC/yr from metal parts; 10.7 tons OC/yr from wood and metal and all CU.	7.3 lbs OC/gal, including water and exempt solvents for all coatings and all CU materials.	14-4220	Tuesday, December 23, 1997.
1413080305 ..	Lt. Moses Willard Inc.	49.6 lbs/day w/ metal parts.	4.75 tons OC/yr from metal parts; 10.7 tons OC/yr from wood and metal and all CU.	7.3 lbs OC/gal, including water and exempt solvents for all coatings and all CU materials.	14-4348	Tuesday, December 23, 1997.
1431072466 ..	Air Placement Equipment Co.	5.27 lbs VOC/hr; 1 gal/hr topcoat; 1 gal/hr primer.	1.36 TPY: PTO and a Summary limit in PTI.	5.27 lbs VOC/gal topcoat as an average; 5.22 lbs VOC/gal primer; 6.47 lbs VOC/gal CU.	14-4027	Wednesday, September 27, 1989.
1431403268 ..	Cincinnati Sub-Zero Products.	5.0 lbs VOC/gal, as a monthly volume weighted average.	6.46 tons VOC/yr ..	5.0 lbs VOC/gal, as a monthly volume weighted average.	14-1750	Wednesday, December 7, 1988.
1431403268 ..	Cincinnati Sub-Zero Products.	5.0 lbs VOC/gal, as a monthly volume weighted average.	1.28 tons VOC/yr ..	5.0 lbs VOC/gal, as a monthly volume weighted average.	14-1750	Wednesday, December 7, 1988.
1431403974 ..	WHM Equipment Co.	46.15 lbs VOC/day; 8 gals coating/day and 1 gal/day CU.	4.03 tons VOC/yr ..	5.0 lbs VOC/gal coatings; 6.15 lbs VOC/gal CU.	14-4610	Wednesday, May 28, 1997.
1431483908 ..	Panel Fab, Inc .....	56.05 lbs VOC/day; 8 gal/day coating; 1 gal/day CU.	5.56 tons VOC/yr ..	6.1 lbs VOC/gal of coating, as applied; 7.25 lbs/gal of CU.	01-6635	Wednesday, March 6, 1996.
1483060233 ..	Fujitec America, Inc.	2.89 lbs VOC/gal of prime coat.	11.7 tons/yr .....	2.89 lbs VOC/gal of prime coat.	01-08869	December 8, 1983.
1483060233 ..	Fujitec America, Inc.	5.383 lbs VOC/day; 0.801 gal coating/day.	0.864 ton VOC/yr including CU.	6.72 lbs VOC/gal coating, minus water (PTO: Excluding water and exempt solvents).; 7.2 lbs VOC/gal CU minus water (PTO: Excluding water and exempt solvents).	01-6743	October 15, 1990.
1483090326 ..	Cincinnati Fan & Ventilator.	102.4 lbs VOC/day	Summary limit: 16.54 tons VOC/yr.	5.7 lbs VOC/gal coating, excluding water and exempt solvents; 7.3 lbs VOC/gal for CU.	01-6743	Wednesday, April 26, 1995.
0180000130 ..	Honda MAP .....	6.5 lbs VOC/gal, as applied, when coating metal motorcycle parts and non-metal.	81.7 tons/rolling 12-mo.	6.5 lbs VOC/gal as applied, when coating metal auto parts; 4.3 lbs VOC/gal of clear coat, excluding water and exempt solvents, or if a control system is used 10.3 lbs VOC/gal of solids on metal non-motorcycle parts; 3.5 lbs VOC/gal coating, excluding water.	03-10256	01-2675, issued 9/18/90; 01-6642 mod 8/7/01; 01-8869 mod 12/02/04; mod 1/13/05, mod 9/20/07.

Facility ID	Facility name	Short term limit (hr/day)	TPY limit	VOC content/other limit	PTI#	PTI issue date
0180000130 ..	Honda MAP .....	4.7 lbs VOC/gal as a daily volume-weighted average.	55.3 tons/rolling 12 mo. from coatings.	4.7 lbs VOC/gal as a daily volume-weighted average.	03-10256	December 24, 1997.
0180000130 ..	Honda MAP .....	4.7 lbs VOC/gal as a daily volume-weighted average.	43.7 tons/rolling 12 mo. from coatings.	4.7 lbs VOC/gal as a daily volume-weighted average.	03-10256	December 24, 1997.
0278080612 ..	Ohio Trailer .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average); 60 gal coating/day for R001, R002, and R003 together.	None .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average).	03-10256	October 11, 1984.
0278080612 ..	Ohio Trailer .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average); 60 gal coating/day for R001, R002, and R003 together.	None .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average).	03-10256	October 11, 1984.
0278080612 ..	Ohio Trailer .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average); 60 gal coating/day for R001, R002, and R003 together.	None .....	4.0 lbs VOC/gal Zn primer, excluding water; 4.5 lbs VOC/gal topcoat, excluding water (PTO: Excluding water and exempt solvents, as applied on a daily volume-weighted average).	03-0257	October 11, 1984.
0306010138 ..	Goodyear Tire and Rubber, St. Marys.	202 lbs VOC/day ..	None .....	None, 202 lbs VOC/day; 416 gal primer/mo and 520 gal top coat/mo.	14-04268	October 2, 1991.
0306020025 ..	American Trim (Superior Metal Products: Plant #4).	basecoat: 1.53 lbs OC/hr; topcoat 1.72 lbs OC/hr; ink: 0.07 lb OC/hr.	basecoat: 6.69 tons OC/yr; topcoat 7.57 tons OC/yr; ink: 0.31 tons OC/yr; CU 6.00 tons/yr and 986 lbs OC/mo.	basecoat: 4.64 lbs VOC/gal; topcoat 4.92 lbs VOC/gal; ink: 3.43 lbs VOC/gal, all excluding water and exempt solvents.	14-04268	October 29, 1997.
0306020025 ..	American Trim (Superior Metal Products: Plant #4).	basecoat: 1.96 lbs OC/hr; topcoat: 1.96 lbs OC/hr.	basecoat: 8.56 tons OC/yr; topcoat 8.56 tons OC/yr; CU 6.00 tons/yr and 986 lbs OC/mo.	basecoat and topcoat: 3.00 lbs VOC/gal excluding water and exempt solvents.	14-04612	October 29, 1997.

Facility ID	Facility name	Short term limit (hr/day)	TPY limit	VOC content/other limit	PTI#	PTI issue date
0387020354 ..	Henry Filters .....	35.0 lbs OC/hr-K001.	19.0 ton OC/yr & 1.6 tons/mo from K001, K002, K003 together (K002 and K003 in different permit).	7.0 lbs VOC/gal, excluding H2O & exempt solvents, as applied.	14-04612	June 26, 1996; last as a modification on 8/22/2002.
0546000117 ..	Honda East Liberty	87.2 lbs VOC/hr ....	EU Group Limits: 11 EUs: 1,268.65 tons VOC/rolling 12-mo coating; 18 EUs: 103.3 tons per rolling 12 mo. and 38.44 tons/mo from CU.	5.32 lbs VOC/gal, excluding water and exempt solvents, as a monthly volume-weighted average.	14-04612	April 17, 1996.
0546000117 ..	Honda East Liberty	19.6 lbs VOC/hr from coatings; 5.8 lbs/hr from non-PRM solvents.	29.2 tons VOC per rolling 12-mo. from coatings; 9.98 tons VOC per rolling 12-mo for non-PRM solvents.	6.54 lbs VOC/gal, excluding water and exempt solvents, as a monthly volume-weighted average.	14-04014	April 17, 1996.
0575010106 ..	American Trim .....	5.36 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings.	18.895 tons VOC/rolling 12.	5.36 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings.	14-4822	June 30, 1994.
0575010106 ..	American Trim LLC	5.21 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings; 7.76 lbs VOC/gal cleanup.	18.874 tons VOC/rolling 12.	5.21 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings; 7.76 lbs VOC/gal cleanup.	14-4822	January 5, 1994.
0575010106 ..	American Trim .....	5.36 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings; 7.76 lbs VOC/gal cleanup.	22.8 tons VOC/rolling 12.	5.36 lbs VOC/gal coating as applied minus water and exempt solvents, for extreme performance coatings; 7.76 lbs VOC/gal cleanup.	14-4220	September 13, 1995.
0575010106 ..	American Trim .....	5.21 lbs VOC/gal, as applied minus water and exempt solvents for extreme performance coatings; 7.76 lbs VOC/gal CU.	27.8 tons VOC/rolling 12 mo.	5.21 lbs VOC/gal, as applied minus water and exempt solvents for extreme performance coatings; 7.76 lbs VOC/gal CU.	14-4220	December 3, 1998 (05-9516); 05-12030 mod issued final 7/30/02 and new mod draft issued 9/9/04.
0708000017 ..	Hawklane, LLC (formerly Trinity Industries).	2007.87 lbs VOC/day.	204.4 tons VOC/rolling 12.	3.5 lbs VOC/gal, excluding water as a monthly volume-weighted average.	14-4348	February 28, 1996.

As noted below, Ohio submitted requests for two source facilities, *i.e.*, Honda of America Manufacturing, Incorporated and Adelphia, Incorporated, for exemptions from RACT requirements through source permits based on paragraph (U)(2)(f), as

revised in 1999. These permits were issued at a time when the state's rules required EPA concurrence on the permit, and EPA intends to grant concurrence only through rulemaking on a formal SIP submittal. Ohio has not formally requested SIP approval of these

permits, and, in fact Ohio has withdrawn the submittal for Honda. Nevertheless, in this proposed rulemaking, we are providing a partial review of these permits to facilitate future review, presumably to occur if and when Ohio submits the provisions

of these permits as a formal SIP revision request.

*OAC 3745-21-09(Y):*

This paragraph addresses the VOC emissions control requirements for flexographic, packaging rotogravure, and publication rotogravure printing lines. Paragraph (Y)(1)(a) specifies the VOC content limits for coatings and inks used in these printing lines. The VOC content limit contained in paragraph (Y)(1)(a)(i) has been revised to add the exclusion of "exempt solvents." The revised VOC content limit becomes: Forty (40) percent VOC by volume of the coating/ink, excluding water and exempt solvents. This revision to Paragraph (Y) is acceptable and we are proposing to approve it.

*OAC 3745-21-09(KK):*

This paragraph contains source-specific non-control technique guideline (non-CTG) RACT requirements for the Morton Thiokol facility located at 2000 West Street, Cincinnati, Ohio. Paragraph (KK)(1) has been revised to change the method of calculating the emissions control efficiency of the vapor recovery system for this facility. The revised method requires the owner/operator to determine the amount of VOC vented to the vapor recovery system and the percentage of vented VOC captured by the vapor recovery system. The revised emissions monitoring requirement provides a more accurate determination of the emissions control efficiency of the vapor recovery system than the prior use of the assumption that all VOC used in the processes are emitted.

This revision to the rule is a technical improvement. Since the rule depends on the determination of the emission control efficiency of the VOC recovery system, this rule revision will allow a more accurate determination of compliance with the VOC emission control requirements. This rule revision is acceptable and we are proposing to approve it.

*OAC 3745-21-09(BBB):*

This paragraph contains source-specific non-CTG RACT requirements for the BF Goodrich Company Akron Chemical Plant located at 240 West Emerling Avenue, Akron, Ohio. Paragraph (BBB)(1) has been amended to delete a requirement that, for the agerite resin D process, the VOC emissions from the vapor recovery system vents and neutralization and distillation system vents (except wash kettle or still feed condenser vents, stills vacuum jet tailpipe vents, and process emergency safety relief devices) be vented to an emissions control device that is designed and operated to achieve an emissions control efficiency of at least 90 percent, by weight. In place of

this deleted emissions control efficiency requirement, the revised paragraph now specifies a total annual VOC emissions limit of 1.0 ton from the recovery system and neutralization and distillation system vents.

A 1994 compliance test showed that the facility's agerite resin D process unit emits a maximum of 0.146 pounds VOC per hour. In-process VOC reductions help to keep the annual VOC emissions from the agerite resin D process to under 1.0 ton per year. Because the BF Goodrich Company has claimed that a 90 percent VOC control efficiency requirement is not reasonable, the Company has sought an alternate emission requirement based on an annual emission limit.

Although EPA can approve alternative site-specific source emission requirements where warranted and this emission source is relatively small, constrained to VOC emissions of 1.0 ton per year or less, this revised rule is deficient from the standpoint that the revised rule does not specify or identify test procedures and recordkeeping requirements compatible with the revised emission limit. Therefore, this revised rule is not enforceable and is not approvable in its current form. EPA assumes that the State can correct this rule deficiency and submit a revision to the rule in a reasonable time of less than one year following final rulemaking on this rule revision. Therefore, we are proposing to conditionally approve this rule. EPA may approve the requested revision based on a commitment of the State to correct the erroneous content by a date certain, but not later than one year after the date of conditional approval of the plan revision. The State must submit such a commitment to EPA before EPA completes final rulemaking on this conditional approval. Any such conditional approval will be treated as a disapproval if the State fails to comply with such commitment. EPA is not required to propose the finding of disapproval. If Ohio submits revisions correcting the deficiencies, as discussed above, within one year from this conditional approval becoming final and effective, EPA will publish a subsequent notice in the **Federal Register** to acknowledge conversion of the conditional approval to a full approval.

*OAC 3745-21-09(DDD):*

This rule paragraph is further revised in the June 24, 2003 submittal. All revisions to this paragraph, including those in the October 9, 2000 submittal, are addressed in the discussion of the 2003 submittal.

*Summarized Revisions to OAC 3745-21-10 (Compliance Test Methods and Procedures):*

*OAC 3745-21-10(C):*

Paragraph (C)(3)(c) refers to the determination of the emissions capture efficiency of any vapor collection system used to collect and transport VOC from the point of origin to an emissions control system. This paragraph has been amended to require that capture efficiencies be determined in accordance with Methods 204 through 204F, as specified in the Code of Federal Regulations (CFR) at 40 CFR part 51, Appendix M or in accordance with the alternative capture efficiency testing protocols specified in the EPA Office of Air Quality Planning and Standards document titled "Guidelines for Determining Capture Efficiency," dated January 9, 1995. This revised capture efficiency test method requirement replaces a requirement that the capture efficiency be computed or measured in a manner based on accepted engineering practices and in a manner acceptable to Ohio EPA.

Ohio's requested SIP revision seeks to require that capture efficiency determinations either comply with the test procedures specified in the CFR or comply with alternative test procedures outlined in EPA's January 9, 1995, "Guideline for Determining Capture Efficiency." This requirement is acceptable and we are proposing to approve it.

*OAC 3745-21-10(O):*

Paragraph (O)(2)(c) allows the owner/operator of equipment at a petroleum refinery subject to paragraphs (T) or (DD) of OAC 3745-21-09 to use engineering judgment rather than more specific quantitative procedures specified in paragraph (O)(2)(b) to demonstrate that the VOC content of a process fluid does not exceed 10 percent by weight. In the event that Ohio EPA or EPA disagree with an engineering judgment, the specific quantitative procedures specified in paragraph (O)(2)(b) must be used to resolve the disagreement.

Paragraph (O)(2)(c) has been revised to correct prior typographical errors in this portion of the rule. These typographical error corrections do not significantly change this rule from the previously approved version contained in the SIP. Therefore, these error corrections are acceptable and we are proposing to approve them.

2. What is EPA's view of the source-specific miscellaneous metal coating submittal currently before EPA?

A February 6, 2001 state specific submittal from Ohio EPA with a VOC

emissions control exemption for Adelphia, Incorporated (Adelphia) in Cleveland, Ohio involves the source seeking alternative VOC emission limits through a State PTI under the provisions of revised OAC 3745–21–09(U)(2)(f). As noted above, this revised rule allows a miscellaneous metal coating source to seek a State PTI which would establish emission control requirements that are less stringent than, or are otherwise inconsistent with, RACT requirements without obtaining EPA approval of a source-specific SIP revision, but requiring EPA concurrence with the PTI.

As noted above, under the version of OAC 3745–21–09(U)(2)(f) applicable at the time this PTI was issued, this permit may only be issued after EPA concurrence, but EPA intends to provide concurrence only if Ohio satisfies the applicable public hearing requirements so we can process this PTI as a possible source-specific SIP revision. EPA does not have a formal SIP revision request, and so we are not proposing to act on the PTI in the context of this rule. Nevertheless, we interpret Ohio's submittal for Adelphia as a possible future source-specific SIP revision request. Although the PTI inherently depends on the approval of OAC 3745–21–09(U)(2)(f), which we are proposing to take no action on, the State could revert the PTI submittal to a SIP revision request, which is an acceptable approach under the CAA. To avoid further delay in addressing the possible needs of this source for special consideration under existing RACT requirements, we are addressing the merits of the submittal here as if the State had submitted it as a source-specific SIP revision request. Before any approval of this submittal as a source-specific SIP revision request could occur, the State would need to issue the PTI or otherwise adopt the limits and then formally request its approval by EPA as a SIP revision. The State would also have to address SIP procedure requirements, including addressing the public hearing requirement. The PTI submittal is addressed below.

Adelphia, Incorporated

Adelphia owns and operates a facility in Cleveland, Ohio that coats threads of metal fasteners used by several customers in the manufacture of automobiles. This facility has been in operation since 1974, and is located in the Cleveland ozone maintenance area, where miscellaneous metal parts and products coating facilities have been required to comply with RACT requirements.

Prior to submitting its request for a source control variance PTI under OAC 3745–21–09(U)(2)(f), Adelphia operated five coating lines at the Cleveland facility. These coating lines typically operated at rates below maximum capacities. Adelphia, however, realized that it would have to increase production rates to meet customer demands. This observation was coupled with the realization that Adelphia uses coatings with VOC contents exceeding the limits contained in OAC 3745–21–09(U)(1) and that compliant coatings were not currently available. These observations were the basis for Adelphia seeking the PTI. The requested PTI would provide for the use of six coating lines with limitations on coating usage rates and for increased VOC content limits.

To meet anticipated coating demands and to possibly comply with Ohio VOC control requirements, Adelphia considered a number of options, including: (1) Adding coating lines to keep per line coating usages rates below 3 gallons per day, in compliance with Ohio's VOC control requirements for the Cleveland area; (2) use of new VOC-compliant coatings; and (3) use of add-on VOC emission control systems.

Adelphia anticipated that coating usage rates in the near future would approach 40 gallons per day. To achieve a per line coating usage rate limit of 3 gallons per day, as allowed under OAC 3745–21–09(U)(2)(e)(ii), as amended in 1999 and as reviewed elsewhere in this proposed rule, Adelphia would have to add a significant number of coating lines. Adelphia determined that the economics of its coating operations would not support the use of so many coating lines applying limited amounts of coatings each day (no more than 3 gallons of coating per line per day).

Adelphia has documented that it has made serious attempts to obtain compliant coatings from a number of coating suppliers. Prior to requesting the PTI, Adelphia was able to obtain acceptable coatings (those coatings that meet customer specifications) from only one supplier. That coating supplier only provides acceptable coatings with VOC contents of 5.7 pounds per gallon of coating as applied, well above the VOC content limits of 3.5 and 3.0 pounds per gallon of coating, excluding water and exempt compounds, as applicable to Adelphia's operations as specified in OAC 3745–21–09(U)(1)(c) and (i). Adelphia is currently only licensed to apply the coatings from this single supplier. Adelphia's attempts to expand its license to additional suppliers with compliant coatings have been refused by those coating suppliers.

Adelphia documented its assessment of the technical and economic feasibility of using add-on VOC emission controls. Following Ohio's Guideline #46 to determine cost-effectiveness of alternative emission control systems, Adelphia investigated the use of add-on controls for each coating line singly and for all lines vented to a single add-on emissions control system. Adelphia investigated both regenerative VOC capture systems and thermal destruction systems. Adelphia determined that the most cost-effective VOC control systems would involve the use of a regenerative thermal oxidizer system. Use of such an emissions control system with appropriate VOC capture and ducting systems resulted in cost-effectiveness estimates ranging from \$18,868 per ton of VOC controlled for a single control system for all lines combined to \$21,642 per ton of VOC controlled for separate emission control systems on each coating line. Adelphia notes that the lowest cost-effectiveness estimate is double the highest value that Ohio has previously found to be cost-effective for miscellaneous metal coating operations. Adelphia also notes that such emission control costs would be a high percentage of Adelphia's annual operating costs, jeopardizing the continued existence of its coating operations.

Considering Adelphia's supporting documentation and best available technology determination, Ohio EPA issued a draft PTI to Adelphia on February 6, 2001. Besides standard PTI requirements, the PTI included the following source-specific VOC control requirements:

- (1) The VOC emissions from the coatings facility-wide are limited to 29.64 tons per rolling twelve month period, and the VOC emissions from each coating line are limited to 10.4 tons for each rolling twelve month period;
- (2) The application of coatings for each coating line is limited to 10 gallons per day, and all six permitted coating lines are limited to the application of no more than 40 gallons of coatings in total per day; and,
- (3) The VOC content of the coatings applied cannot exceed 5.7 pounds per gallon, excluding water and exempt solvents.

The PTI also specifies the monitoring and recordkeeping requirements needed to track and enforce these VOC emission control requirements for each coating line. The PTI specifies reporting requirements, which include requirements for notification of Ohio EPA in the event that monthly records show a violation of the VOC emission control requirements. Finally, the PTI

requires Adelphia to continue the pursuit to find suppliers of coatings meeting the requirements of OAC 3745–21–09(U)(1) and to periodically inform Ohio EPA of its progress in this effort.

We have determined that Adelphia has made reasonable efforts to comply with the requirements of OAC 3745–21–09(U)(1) and (U)(2)(e) and has successfully documented the need for a source-specific rule revision. The only issue of concern that we have found in the PTI is that the source-specific rule would provide for annual limits on VOC emissions, which deviate from short-term emission limits preferred by EPA. This problem, however, is mitigated by the inclusion of daily coating usage limits and a VOC content limit that together will constrain daily peak VOC emissions. We conclude that, if Ohio satisfies the applicable public hearing requirements to process this PTI as a possible source-specific SIP revision, we would expect that this SIP revision would be approvable.

### III. Five-Year Rule Review

#### A. Background

1. Why has the State requested revisions to this rule?

Every five years, Ohio EPA is required to review and revise its rules as necessary. Changes are generally minor, and clarification language is added to address rule comprehension problems.

2. When did the State submit the requested rule revisions to EPA?

On June 24, 2003, the Director of Ohio EPA submitted a request to approve the incorporated revisions to OAC 3745–21: Carbon Monoxide, Photochemically Reactive Materials, Hydrocarbons, and Related Materials Standards into the SIP.

On October 9, 2000, Ohio submitted prior revisions to OAC 3745–21. The previous section of this notice addresses revisions to OAC 3745–21 which were requested prior to the State's June 24, 2003, submittal. Some of the rule paragraphs with revisions contained in the State's October 9, 2000, submittal, however, include rule paragraphs further amended and adopted by the State and covered by the State's June 24, 2003, submittal. These paragraphs include: (1) 3745–21–01: (B)(6); (2) 3745–20–04: (B)(1), (B)(1)(a), (B)(5), (C)(16)(b), and (C)(27)(c); and, (3) 3745–21–09: (O)(1), (O)(6), and (DDD).

The June 24, 2003, submittal reflects current versions of these particular rule paragraphs, and since the versions of these rule paragraphs contained in the October 9, 2000, submittal may now be

outdated, we are also addressing those older rule paragraphs in this section.

3. When did the State adopt these rule revisions and have they become effective?

Ohio EPA adopted the revisions on October 25, 2002, and the revisions became effective on November 5, 2002.

4. When were public hearings held?

Ohio EPA held a public hearing on March 14, 2002, in Columbus, Ohio. Ohio EPA also submitted the draft rules to a list of interested parties.

5. What issues were raised at the public hearings and how did the State respond?

No comments were received concerning OAC 3745–21–02, 3745–21–03, 3745–21–04, 3745–21–06, 3745–21–08, and 3745–21–11. One comment was received for OAC 3745–21–01, in which the interested party requested the addition of a definition for “CARB certification”. Ohio EPA added the requested definition to the rule.

Ohio received multiple comments for OAC 3745–21–09. Honda of America requested clarification language for portions of this rule. In response to Honda of America's requests, Ohio EPA revised the portions of the rules which would not affect the rule's scope or definition. Ohio EPA denied revision requests that, in its opinion, did not provide further clarification. Ohio EPA also denied revision requests which would have changed the scope or definition of the rule.

One comment was received for OAC 3745–21–10, in which the interested parties requested revising the rule language to reflect the addition of the “CARB certification” definition to OAC 3745–21–01. Ohio EPA revised the rule.

#### B. What are the revisions that the State requests be incorporated into the SIP?

The State requests changes to OAC 3745–21–01 Definitions; 3745–21–02 Ambient air quality standards and guidelines; 3745–21–03 Methods of ambient air quality measurement; 3745–21–04 Attainment dates and compliance schedules; 3745–21–06 Classification of regions; 3745–21–08 Control of carbon monoxide emissions from stationary sources; 3745–21–09 Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities; and, 3745–21–10 Compliance test methods and procedures. The revisions are of the following nature:

#### 1. Grammar, Spelling, and Definitions

A number of the revisions to OAC 3745–21 correct improper grammar and spelling. Revisions of this nature have been made to the following: (1) OAC 3745–21–01: Paragraphs (B)(6), (M)(17); and, (2) OAC 3745–21–09: Paragraphs (O)(5)(b), (O)(6)(a), (FF)(1), (II)(3), (II)(4), (PP)(2), (UU)(3), Appendix A.

The phrases “CARB certified” and “CARB certification” have been added to OAC 3745–21–01(H)(4) which applies to rules that govern vapor recovery systems. Paragraphs (H)(4) to (H)(19) have been renumbered to allow for the addition of the new definition. Further additions of “CARB certification” references have been added to OAC 3745–21–09(DDD) and OAC 3745–21–10 Appendix A and Appendix B.

A definition which does not have a corresponding rule attached to it has been removed. The rule that referenced the definition for “Architectural coatings” in 3745–21–01(C)(1) was amended in a previous revision, and the definition is no longer necessary.

Spelling and grammar revisions to OAC 3745–21–01, 3745–21–02, 3745–21–09, and 3745–21–10 do not affect the scope or enforceability of these rules. The revisions have been made to make the rules easier to read and understand.

#### 2. Attainment Dates and Compliance Schedules

Because so many changes were made to OAC 3745–21–04, the entire rule was rescinded and rewritten. OAC 3745–21–04(A) defines attainment dates for counties that do not meet the National Ambient Air Quality Standards (NAAQS) for carbon monoxide (CO) and ozone. The dates of attainment for these counties have been revised to be consistent with the CAA, as amended.

OAC 3745–21–04(C) contains a lengthy list of interim and final compliance dates for categorized and site specific CO and VOC sources. All of the interim and final compliance dates for these sources passed prior to the November 5, 2002, adoption of these revisions into Ohio law. Ohio EPA removed the now defunct interim compliance dates and rewrote the following paragraphs of OAC 3745–21–04(C) to reflect only the final compliance dates: (C)(2), (C)(3)(c), (C)(4)(a), (C)(4)(b), (C)(5)(a), (C)(5)(b), (C)(6)(a), (C)(6)(b), (C)(7), (C)(8)(a), (C)(8)(b), (C)(8)(c), (C)(9)(a), (C)(9)(b), (C)(10)(a), (C)(10)(b), (C)(11), (C)(12), (C)(13), (C)(14), (C)(16)(a), (C)(17), (C)(18), (C)(19)(a), (C)(20), (C)(21), (C)(22), (C)(23), (C)(24), (C)(25), (C)(26), (C)(27), (C)(28)(a), (C)(28)(b), (C)(30), (C)(31), (C)(33), (C)(35), (C)(36), (C)(37),

(C)(38), (C)(39), (C)(40), (C)(41), (C)(46), (C)(48)(a), (C)(48)(b), (C)(51), (C)(54), (C)(55), (C)(58), (C)(59), (C)(60), (C)(62), (C)(65), and (C)(66).

The final compliance dates remain federally enforceable. Because the interim compliance dates have long passed, and because the final compliance dates are the only ones necessary for enforcement of the rule, removing the interim compliance dates is acceptable and we are proposing to approve it. It should be noted that we are taking no action on paragraph (C)(3)(a) because the paragraph has subsequently been amended by the State in a March 23, 2009, submittal and will be addressed in a separate rulemaking.

OAC 3745-21-04 contains two paragraphs which offer alternative compliance timelines for can coating lines and printing lines. These alternative compliance timelines were originally offered so that affected sources could take advantage of extra time for complying with the regulations, if necessary. Paragraphs (C)(3)(b) and (C)(32)(b) have been removed in the revision because the alternative dates (December 31, 1985, and December 31, 1987) have long since passed, and there is no longer any need to offer these alternative dates. Removal of these paragraphs is acceptable and we are proposing to approve it.

### 3. Clarifications

Many revisions to OAC 3745-21 have been made to make the rule easier to understand. These revisions resulted in part because of comments received from interested parties. The revisions allow the rules to be brief and clear as to what necessary steps should be taken to comply with the law.

Ohio EPA revised paragraphs (A) and (B) of OAC 3745-21-02 so that the concentration of CO and ozone will be measured solely in parts per million by volume (ppmv). The measurement definition of CO and ozone in milligrams per cubic meter was removed. This change is acceptable because the ppmv measurement already existed in the rule, because ppmv are the official units of these standards, and removal of the alternative measurement simplifies the sampling process. We are proposing to approve these revisions.

Paragraphs (B), (B)(1), and (B)(2) of OAC 3745-21-03 have been revised so that the reader gains a better understanding of what is considered valid equipment for monitoring CO and ozone. References to the CFR have been added to OAC 3745-21-03(C) which the reader can reference to determine the Federal standards for continuous ozone sampling equipment. Ohio EPA clarified

the language of final compliance dates for gasoline dispensing facilities and gasoline tank trucks in the following paragraphs of OAC 3745-21-04: (C)(19)(b), (C)(19)(c), (C)(19)(d), (C)(28)(e), (C)(29), (C)(64)(a)(i), (C)(64)(a)(ii), (C)(64)(a)(iii), (C)(64)(b)(i), (C)(64)(b)(ii), and (C)(64)(b)(iii).

The original compliance dates were stated in relation to a period of time after a specified date. The revised compliance dates now state the final date possible for compliance (for example, "by not later than six months after March 31, 1993" becomes, "September 30, 1993").

OAC 3745-21-08(A) states which areas in Ohio are subject to controls and measures contained in OAC 3745-21-08. Paragraph (A) states that only counties classified as "Priority I" are subject to this rule. This paragraph has been rescinded.

OAC 3745-21-08(B), which concerns best available control techniques (BACT) applicability to new sources of CO, has been rescinded. OAC 3745-31-05(A)(3) is now the rule that covers new source BACT.

OAC 3745-21-08(C), which allows the use of alternative means of emission control, has been rescinded. This does not decrease the effectiveness of OAC 3745-21-08, because with the revision, a new source must use federally enforceable, State-mandated control technology.

OAC 3745-21-08(D) has been reworded to apply the CO controls described within this paragraph to new sources of CO that are emitted during the operation of grey iron cupolas, blast furnaces, or basic oxygen steel furnaces. The additions clarify the fact that the paragraph applies to new sources of CO of the type described in this paragraph.

OAC 3745-21-08(E) has been reworded to apply described CO controls to new sources of CO emitted through the waste gas stream during the operation of petroleum cracking systems, petroleum fluid cokers, or other petroleum processes. The additions clarify the fact that the paragraph applies to new sources of CO of these types.

Various paragraphs in OAC 3745-21-09 have been revised to let the reader understand which specific rules apply. The revised paragraphs state various recordkeeping, recording, applicability, emissions, and emissions exceedances reports requirements for sources in Ohio in a clearer way. Revisions of this nature were made to the following paragraphs: (B)(3)(a), (B)(3)(f), (B)(3)(h), (B)(3)(j), (B)(3)(l), (B)(4)(a), (B)(4)(b), (C)(4), (H)(1)(a), (H)(1)(b), (H)(3), (O)(6)(b), (U)(1), (U)(2)(e), and (U)(2)(h).

Ohio EPA added references to the CFR in paragraphs (NN) and (VV) of OAC 3745-21-09. These revisions clarify the specifications for a continuous VOC emission control system (paragraph (NN)) and methods for continuous emissions monitoring (Paragraph (VV)).

The last type of clarification revisions deal with perchloroethylene's non-VOC status. Perchloroethylene is a widely used dry cleaning chemical which EPA removed from the list of VOC's (see 40 CFR 51.100(s)). As a result, portions of OAC 3745-21 were revised to clarify the status of perchloroethylene. The following paragraphs have been revised in this manner: OAC 3745-21-01(C)(5)(a); OAC 3745-21-09(AA)(1)(b) and (AA)(1)(c); and OAC 3745-21-10(J).

These clarification revisions were made in part because of comments received from interested parties. They allow the rules to be brief and clear as to what steps are necessary to comply with the law. The revisions do not change the scope or enforceability of the rule, and, therefore, are acceptable. We are proposing to approve these revisions.

### 4. Revised State Rule Applicability

OAC 3745-21-06, which classifies regions of the State for determining applicability to CO and VOC regulations, has been revised by eliminating an exemption for CO regulations. This revision does not reduce the scope or enforceability of CO regulations, and therefore, it is acceptable. We are proposing to approve this revision.

### 5. Site-Specific Emissions Limit Amendments

OAC 3745-21-09(II), which deals with site-specific non-CTG RACT emissions limits for the "International Paper Company" in Springdale, Ohio, has been revised to lower the acceptable amount of VOC in the fountain solution employed in any sheet-fed offset lithographic printing process while refrigerated in a cooling unit. The acceptable amount of VOC in the solution has been lowered from 10 percent to 8.5 percent. This revision increases the stringency of the rule, which is acceptable. We are proposing to approve this revision.

OAC 3745-21-09 paragraph (OO) was revised. This paragraph determines the allowable VOC content of materials used in the processes at "Armco Steel Company, L.P." located in Middletown, Ohio.

Paragraph (OO)(1) has been changed so that the maximum allowable VOC content of any rolling oil employed in

the temper mills of “Armco Steel Company, L.P.” or any subsequent owner of the facility at 1801 Crawford Street, Middletown, Ohio, is 6.9 pounds of VOC per gallon of oil, excluding water and exempt solvents. The previously allowed amount was 2.9 pounds of VOC per gallon of oil, excluding water and exempt solvents.

Paragraph (OO)(2) has been changed so that the maximum allowable VOC content of any rust preventive oil employed in the temper mills, shears, corrective rewinds, slitters, coating lines, and pickle lines of “Armco Steel Company, L.P.” or any subsequent owner of the facility at 1801 Crawford Street, Middletown, Ohio, is 3.3 pounds of VOC per gallon of oil, excluding water and exempt solvents. The previously allowed amount of VOC was 1.1 pounds per gallon of oil, excluding water and exempt solvents.

Paragraph (OO)(3) has been changed so that the maximum allowable VOC content of an anti-galling material employed in the aluminum coating operation of “Armco Steel Company, L.P.” or any subsequent owner of the facility at 1801 Crawford Street, Middletown, Ohio, is 1.2 pounds per gallon of oil, excluding water and exempt solvents. The previously allowed amount of VOC was 6.4 pounds per gallon of oil, excluding water and exempt solvents.

Paragraph (OO)(4) was added to OAC 3745-21-09(OO). This paragraph states that the VOC content of any prelube oil employed at the facility [“Armco Steel Company, L.P.” or any subsequent owner of the facility at 1801 Crawford Street, Middletown, Ohio] shall not exceed 0.8 pound of VOC per gallon of oil, excluding water and exempt solvents.

The revisions to the previously cited four paragraphs of 3745-21-09(OO) are acceptable because they are substantively equivalent to the Final Findings and Orders issued by the Director of Ohio EPA on August 21, 1995, which EPA approved on April 24, 1996, (81 FR 18257). The August 21, 1995, Director’s Final Findings and Orders state that the aforementioned four paragraphs of 3745-21-09(OO) constitute RACT for the “Armco Steel, L.P.” facility in Middletown, Ohio. These revisions are acceptable, and we are proposing to approve them.

#### 6. Site-Specific Source Removal

OAC 3745-21-04(C)(61) and 3745-21-09(AAA) have been reserved because of the closure of the facility “Reilly Industries, Inc.” located at 3201 Independence Road, Cleveland, Ohio. The facility closed on December 31,

2000, and its permit to emit was withdrawn. Any future owner or operator of this facility will have to apply for a new source permit to emit. Such permit would control future emissions from the facility. Information about the facility’s closure was received from the Cleveland Local Air Agency on November 4, 2003, and is available in the docket.

#### C. What are the environmental effects of these actions?

There are no adverse environmental results expected from any approval of these revisions. The majority of these rule revisions are editorial in nature. Such changes increase understanding of, and compliance with, the rules. Since a number of the rules require emissions reductions, approval of these revisions will improve air quality.

The revisions to OAC 3745-21-09(OO) relax some of these rules but do not relax the requirements applicable to the Armco Steel Company. This is because Ohio has simply revised these rules to match the limits already contained in a federally approved set of findings and orders. No other rule revisions in Ohio’s submittal increase any limits in these rules. Therefore, none of the revisions contained in today’s proposed rulemaking will allow for increases in air pollution within the state of Ohio.

### IV. Proposed Rulemaking Action

Proposed rulemaking action on Ohio’s various submittals is described below.

#### A. 2000/2001 Submittals

Based on the rule-by-rule review, we propose to approve and to incorporate into the Ohio SIP the following revised rule paragraphs as adopted by the State of Ohio and as defined in Ohio’s October 9, 2000, submittal:

Revisions to OAC 3745-21-01

Paragraph (B)(4)

Revisions to OAC 3745-21-09

Paragraph (A)(4)

Paragraph (B)(3)(d)

Paragraph (B)(3)(e)

Paragraph (R)(4)

Paragraph (U)(2)(e)

Paragraph (Y)(1)(a)(i)

Paragraph (KK)(1)

Revisions to OAC 3745-21-10

Paragraph (C)(3)(c)

Paragraph (O)(2)(c)

We propose to conditionally approve a revision of paragraph (BBB)(1) of OAC 3745-21-09, provided that, during the comment period of this proposed rule, the State commits to correct this rule

within one year of the conditional approval. If the State fails to correct this rule and confirm this correction within the allowed one year period, this conditional approval will revert to a disapproval.

We propose to disapprove the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of OAC 3745-21-09.

Finally, we are taking no action on revisions to 3745-21-09(U)(2)(f), from both the October 9, 2000, and June 7, 1993, submittals, because EPA approved a later version of this paragraph on July 28, 2009 (74 FR 37171). EPA will continue to honor exemptions granted by Ohio under this rule after May 5, 1995, but prior to June 15, 1999. EPA will address exemptions granted prior to May 5, 1995, in a separate rulemaking after we work with Ohio EPA to determine the proper course of action for dealing with these sources. Sources seeking alternate limits under this paragraph after June 15, 1999, will be subject to limits which result from the ongoing EPA and Ohio EPA resolution of this matter.

#### B. 2003 Submittal

We are proposing to approve certain portions of the June 24, 2003, submittal. These proposed rulemakings are listed below.

##### Proposed approval.

EPA proposes to approve all of the following sections of OAC 3745-21 as amended:

##### 3745-21-01 Definitions:

Paragraphs (B)(6), (C)(1), (C)(5)(a), (H)(4), (H)(4) to (H)(19), (M)(17).

##### 3745-21-02 Ambient air quality standards and guidelines:

Paragraphs (A) and (B).

##### 3745-21-03 Methods of ambient air quality measurement:

Paragraphs (B) and (C).

##### 3745-21-04 Attainment dates and compliance schedules:

Paragraphs: (A), (B), (B)(1), (B)(1)(a), (B)(1)(b), (B)(2), (B)(3), (B)(4), (B)(5), (B)(6), (B)(7), (C), (C)(1), (C)(2), (C)(2)(a), (C)(2)(b), (C)(2)(c), (C)(2)(e), (C)(3), (C)(3)(b), (C)(3)(c), (C)(3)(d), (C)(4), (C)(4)(a), (C)(4)(b), (C)(5), (C)(5)(a), (C)(5)(b), (C)(6), (C)(6)(a), (C)(6)(b), (C)(7), (C)(8), (C)(8)(a), (C)(8)(b), (C)(8)(c), (C)(9), (C)(9)(a), (C)(9)(b), (C)(10), (C)(10)(a), (C)(10)(b), (C)(11), (C)(12), (C)(13), (C)(14), (C)(15), (C)(15)(a), (C)(15)(b), (C)(16), (C)(16)(a), (C)(16)(b), (C)(17), (C)(18), (C)(19), (C)(19)(a), (C)(19)(b), (C)(19)(c), (C)(19)(d), (C)(20), (C)(20)(a), (C)(20)(b), (C)(21), (C)(21), (C)(22), (C)(23), (C)(24), (C)(25), (C)(26), (C)(27), (C)(28), (C)(28)(a), (C)(28)(b), (C)(28)(c),

(C)(28)(d), (C)(28)(e), (C)(29), (C)(30), (C)(31), (C)(32), (C)(33), (C)(34), (C)(35), (C)(36), (C)(37), (C)(38), (C)(39), (C)(40), (C)(41), (C)(42), (C)(43), (C)(44), (C)(45), (C)(46), (C)(47), (C)(48), (C)(48)(a), (C)(48)(b), (C)(49), (C)(50), (C)(51), (C)(52), (C)(53), (C)(54), (C)(55), (C)(56), (C)(57), (C)(58), (C)(59), (C)(60), (C)(61), (C)(62), (C)(63), (C)(64), (C)(64)(a), (C)(64)(a)(i), (C)(64)(a)(ii), (C)(64)(a)(iii), (C)(64)(b), (C)(64)(b)(i), (C)(64)(b)(ii), (C)(64)(b)(iii), (C)(65), (C)(66).

#### 3745-21-06 Classification of Regions:

Entire rule as revised including removal of paragraphs (A) and (B).

#### 3745-21-08 Control of carbon monoxide from stationary sources:

Paragraphs (A), (B), (C), (D), and (E).  
3745-21-09 Control of emissions of volatile organic compounds from stationary sources and perchloroethylene from dry cleaning facilities:

Title, Paragraphs (B)(3)(a), (B)(3)(f), (B)(3)(h), (B)(3)(j), (B)(3)(l), (B)(4)(a), (B)(4)(b), (C)(4), (H)(1)(a), (H)(1)(b), (H)(3), (O)(5)(b), (O)(6)(a), (O)(6)(b), the portion of paragraph (U)(1) which states, "If a miscellaneous metal parts or products coating is subject to two or more limits as listed in (U)(1)(a) through (U)(1)(i) above, the limit which is least restrictive shall apply", the portion of paragraph (U)(2)(e) which states, "Daily usage limitations included in (U)(2)(e)(i) through (U)(2)(e)(iii) above shall not apply to coatings employed by the metal parts or products coating line on parts or products which are not metal", (U)(2)(h), (AA)(1)(b), (AA)(1)(c), (FF)(1), (II)(2), (II)(3), (II)(4), (NN)(1), (NN)(2), (NN)(3), (NN)(4), (NN)(5), (OO), (OO)(1), (OO)(2), (OO)(3), (OO)(4), (PP)(2), (UU)(3), (AAA), (DDD), and Appendix A. EPA approved more recent versions of paragraphs (O)(6)(b) and (VV)(1)(e) on March 30, 2007, at 72 FR 15045, and so no rulemaking on the versions of these paragraphs submitted in 2003 is necessary.

#### 3745-21-10 Compliance test methods and procedures:

Title, Paragraphs (J), (J)(1), (J)(2), (J)(4), Appendix A, and Appendix B.

We are taking no action on revisions to 3745-21-04 (C)(3)(a) because the paragraph was subsequently revised in a March 23, 2009, submittal. EPA has approved this revision in separate rulemake published July 28, 2009, at 74 FR 37171.

### 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.

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 Order 12866 (58 FR 51735, October 4, 1993);
  - 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).
- In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Ozone,

Reporting and recordkeeping requirements.

Dated: January 13, 2010.

**Walter W. Kovalick Jr.,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2010-1223 Filed 1-21-10; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2009-0960; FRL-9105-8]

### Revisions to the California State Implementation Plan

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVAPCD) portion of the California State Implementation Plan (SIP). These revisions concern oxides of nitrogen (NO<sub>x</sub>) from residential water heaters. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by February 22, 2010.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2009-0960, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.
2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).
3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

*Instructions:* All comments will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. [Http://www.regulations.gov](http://www.regulations.gov) is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address