based on the proposed action. EPA will not institute a second comment period; therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective July 9, 2010.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves State law as meeting Federal requirements and does not impose additional requirements beyond those imposed by State law. For that reason, this action:

• Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive 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 Clean Air Act; 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.

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 9, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today’s Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.


Walter W. Kovalick Jr.,
Acting Regional Administrator, Region 5.

PART 52—[AMENDED]

§ 52.1870 Identification of plan.

(c) * * * *(148) On March 17, 2009, Ohio submitted revisions to Ohio Administrative Code Chapter 3745–15, Rules 3745–15–01 and 3745–15–05. The revisions pertain to general provisions of OAC Chapter 3745.

The rule was adopted on January 12, 2009, and became effective on January 22, 2009.

(B) January 12, 2009, “Director’s Final Findings and Orders”, signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

[FR Doc. 2010–10836 Filed 5–7–10; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52


Approval and Promulgation of Air Quality Implementation Plans; Colorado; Revisions to Regulation Number 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action approving State Implementation Plan revisions submitted by the State of Colorado on August 3, 2007 to Colorado’s Regulation Number 1 (revisions to the performance testing requirements for air curtain destructors). Colorado adopted these rule revisions on October 2, 2006. All other actions submitted by the State of Colorado concurrent with Colorado’s Regulation Number 1 revision request will be acted
on at a later date. This action is being taken under section 110 of the Clean Air Act.

DATES: This rule is effective on July 9, 2010 without further notice, unless EPA receives adverse comment by June 9, 2010. If adverse comment is 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–R08–OAR–2009–0790, by one of the following methods:
- E-mail: videtichill@epa.gov
- Fax: (303) 312–6064 (please alert the individual listed in the FOR FURTHER INFORMATION CONTACT if you are faxing comments).
- Mail: Callie A. Videtic, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129.
- Hand Delivery: Callie A. Videtic, Director, Air Program, Environmental Protection Agency (EPA), Region 8, Mailcode 8P–AR, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Such deliveries are only accepted Monday through Friday, 8 a.m. to 4:30 p.m., excluding Federal holidays. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–OAR–2009–0790. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at 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 www.regulations.gov or e-mail. The 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 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 information about EPA’s public docket visit the EPA Docket Center homepage at http://www.epa.gov/epahome/dockets.htm. For additional instructions on submitting comments, go to Section I. General Information of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the 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 www.regulations.gov or in hard copy at the Air Program, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kevin Leone, Air Program, Mailcode 8P–AR, Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, Colorado 80202–1129. EPA requests that if at all possible, you contact the individual listed in the FOR FURTHER INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

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Definitions
For the purpose of this document, we are giving meaning to certain words or initials as follows:
(i) The word Act or initialsCAA mean or refer to the Clean Air Act, unless the context indicates otherwise.
(ii) The words EPA, we, us or our mean or refer to the United States Environmental Protection Agency.
(iii) The initials SIP mean or refer to State Implementation Plan.
(iv) The words State or Colorado mean the State of Colorado, unless the context indicates otherwise.

II. What is being addressed in this document?
EPA is approving a revision to the Colorado State Implementation Plan...
has revised its regulations to exempt air curtain destructors from these requirements in order to ensure that air curtain destructors are subject to appropriate and reasonable performance test requirements. Accordingly, Regulation Number 1, Section III.B has been revised to clarify that air curtain destructors subject to 40 CFR part 60 are not subject to Section III.B. This revision will result in the requirement for air curtain destructors subject to NSPS to meet the standards and conduct performance testing as provided in 40 CFR part 60, subpart CCCC or 40 CFR part 60, subpart EEEE.  

IV. Final Action

EPA is approving this revision to Colorado’s SIP which would revise Regulation Number 1, Section III.B. This revision would exclude air curtain destructors that are subject to a NSPS from complying with infeasible performance testing requirements in Regulation Number 1, Section III.B. This revision maintains consistency between state and federal law.

EPA considers this change to be consistent with the provisions in CAA § 110(l). CAA Section 110(l) states: “Each revision to an implementation plan submitted by a State under this chapter shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 7501 of this title), or any other applicable requirement of this chapter.” Thus, under Section 110(l), this SIP revision must not interfere with attainment or reasonable further progress or any other applicable requirement of the Act. When Section III.B was approved into Colorado’s SIP, air curtain destructors were not subject to any 40 CFR part 60 requirements. Before EPA’s promulgation of 40 CFR part 60, subpart CCCC and 40 CFR part 60 subpart EEEE, air curtain destructors would not have been considered “incinerators” under the definition in the Common Provisions Regulation, 5 Colo. Code Regs. § 1001–2, and no air curtain destructors would have been regulated under Section III.B. Therefore, this revision exempting air curtain destructors from the requirements of Section III.B does not substantively change the requirements of Colorado’s SIP. Because EPA’s approval of this SIP revision would not interfere with reasonable further progress or any other applicable requirement of CAA, it is consistent with CAA § 110(l).

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the Proposed Rules section of today’s Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective July 9, 2010, without further notice unless the Agency receives adverse comments by June 9, 2010. If the EPA receives adverse comments, EPA will publish a timely withdrawal in the Federal Register informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must 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.

V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this direct final 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 direct final 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);
We proposed to disapprove this rule because some rule provisions do not satisfy the requirements of section 110 and part D of the Act. These provisions include the following:

A. The rule must require demonstration, through source testing approved in writing by the Executive Officer, that the systems and techniques in place at a facility achieve 93% collection and reduction of emissions for sources complying with paragraph (c)(4)(B)(iii).

B. The rule must clarify that all operational techniques and parameters needed to achieve 93% control to comply with paragraph (c)(4)(B)(iii) must be clearly defined and enforceable through a federally enforceable permit such as a Title V operating permit. \(^1\) Rule 1175 should also be revised where possible to identify these parameters.

\(^1\) SCAQMD implements a combined Title I preconstruction and Title V operating permit program.