

EPA-APPROVED MINNESOTA NONREGULATORY PROVISIONS—Continued

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Comments
*	*	*	*	*

**Subpart KK—Ohio**

■ 6. Section 52.1891 is added to read as follows:

**§ 52.1891 Section 110(a)(2) Infrastructure Requirements.**

(a) *Approval.* In a December 5, 2007 submittal, supplemented on April 7, 2011, Ohio certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (C), (D)(ii), (E) through (H), and (J) through (M) for the 1997 8-hour ozone NAAQS.

(b) *Approval.* In a December 5, 2007 submittal, supplemented on April 7, 2011, Ohio certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (C), (D)(ii), (E) through (H), and (J) through (M) for the 1997 PM<sub>2.5</sub> NAAQS.

**Subpart YY—Wisconsin**

■ 7. Section 52.2591 is added to read as follows:

**§ 52.2591 Section 110(a)(2) Infrastructure Requirements.**

(a) *Approval.* In a December 12, 2007 submittal, supplemented on January 24, 2011 and March 28, 2011, Wisconsin certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (C), (D)(ii), (E) through (H), and (J) through (M) for the 1997 8-hour ozone NAAQS. EPA is not finalizing its proposed approval of the submission from the State of Wisconsin with respect to two narrow issues that relate to section 110(a)(2)(C): The requirement for consideration of NO<sub>x</sub> as a precursor to ozone; and (ii) the definition of “major modification” related to fuel changes for certain sources. EPA will address these issues in a later action.

(b) *Approval.* In a December 12, 2007 submittal, supplemented on January 24, 2011 and March 28, 2011, Wisconsin certified that the State has satisfied the infrastructure SIP requirements of section 110(a)(2)(A) through (C), (D)(ii), (E) through (H), and (J) through (M) for the 1997 PM<sub>2.5</sub> NAAQS. EPA is not finalizing its proposed approval of the submission from the State of Wisconsin with respect to two narrow issues that relate to section 110(a)(2)(C): The

requirement for consideration of NO<sub>x</sub> as a precursor to ozone; and the definition of “major modification” related to fuel changes for certain sources. EPA will address these issues in a later action.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2010-0036; FRL-9430-9]**

**Approval and Promulgation of Air Quality Implementation Plans; Ohio; Volatile Organic Compound Reinforced Plastic Composites Production Operations Rule**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving into the Ohio State Implementation Plan (SIP) a new rule for the control of volatile organic compound (VOC) emissions from reinforced plastic composites production operations. This rule applies to any facility that has reinforced plastic composites production operations. This rule is approvable because it satisfies the requirements of the Clean Air Act (CAA). EPA proposed this rule for approval on January 27, 2011, and received three sets of comments.

**DATES:** This final rule is effective on August 12, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID EPA-R05-OAR-2010-0036. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <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 Federal holidays. We recommend that you telephone Steven Rosenthal, Environmental Engineer, at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Steven Rosenthal, Environmental Engineer, Air Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052.

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What public comments were received on the proposed approval and what is EPA’s response?
- II. What action is EPA taking today and what is the basis of this action?
- III. Statutory and Executive Order Reviews

**I. What public comments were received on the proposed approval and what is EPA’s response?**

EPA received three comments. A discussion of each follows:

(A) An anonymous comment was in support of EPA’s approval of Ohio’s rule.

(B) The Aquatic Company commented that it is concerned that the maximum achievable control technology (MACT) limits in subpart WWWW of 40 CFR part 63, for Reinforced Plastic Composites Production, underestimate emissions generated by tub/shower manufacturers and notes that EPA is currently working to correct these and other issues with subpart WWWW. The Aquatic Company opposes any rule which is tied to the subpart WWWW regulations. This comment is not directly relevant to this rulemaking because it is mainly a complaint against the MACT and provides no suggested revisions to Ohio’s rule.

(C) Premix, Inc. commented that it objects to the 25 tons VOC per year applicability cutoff for sheet mold compound (SMC) machines. Premix has successfully, and cost-effectively, controlled VOCs from its SMC machines using its Tight Wet Area Enclosures and a small Regenerative Thermal Oxidizer.

This control system has reduced VOC emissions from its two SMC machines at its facility in North Kingsville, Ohio by more than 95 percent for a period of 18 months. Premix submits that this new VOC control system can be cost-effectively implemented on a single, stand-alone SMC machine, and that therefore EPA should not approve the 25 tons VOC per year applicability cutoff in Ohio's rule.

EPA agrees that the Premix control system represents a technically and economically feasible control system that should be considered to represent reasonably available control (RACT), which is the level of control required by VOC sources in ozone nonattainment areas. However, all of Ohio is designated as attainment of the 1997 8-hour ozone standard and therefore RACT is not required. EPA notes that if and when portions of Ohio are designated to nonattainment of a new ozone standard, it is unlikely that Ohio's reinforced plastic composites rule will be considered to satisfy RACT for SMC machines.

## II. What action is EPA taking today and what is the basis of this action?

EPA is approving into Ohio's SIP new rule Ohio Administrative Code (OAC) 3745-21-25 "Control of VOC Emissions from Reinforced Plastic Composites Production Operations." This rule was submitted by the Ohio Environmental Protection Agency (Ohio EPA) to EPA on November 10, 2010, and contains enforceable requirements for VOC emissions from reinforced plastic composites production operations. This rule was adopted to establish VOC requirements for such operations to replace the requirements contained in OAC rule 3745-21-07 "Control of emissions of organic materials from stationary sources." 3745-21-07 is Ohio's general rule for the control of organic materials from stationary sources that are not controlled by a specific VOC RACT rule. 3745-21-07 has been revised by Ohio, and the revised rule (which is the subject of a separate **Federal Register** action) excludes reinforced plastic composites production operations.

In EPA's January 27, 2011 proposal (76 FR 4835), we present a detailed analysis of the State's submission. The reader is referred to that notice for additional background on the submission.

As discussed in the proposal, upon achieving compliance with this rule, the reinforced plastic composites production operations at a facility are not required to meet the requirements of 3745-21-07. This exemption from OAC

3745-21-07 is appropriate because OAC 3745-21-25 contains VOC requirements specific to reinforced plastic composites production operations, whereas OAC 3745-21-07 is a general rule that covers a number of source categories.

For facilities subject to OAC 3745-21-25, the control requirements are more stringent than the requirements for these facilities under OAC 3745-21-07. However, the applicability cutoff of OAC 3745-21-07 is 8 pounds/hour, or 40 pounds/day, as compared to a less stringent 25 tons VOC/year cutoff for the control requirements of OAC 3745-21-25 for SMC manufacturing operations. The main purpose of this rule is the control of such SMC operations because SMC machines were previously covered by OAC 3745-21-07. Because overall, considering both applicability and the control requirements for subject sources, OAC 3745-21-07 is more stringent than OAC 3745-21-25 for SMC machines, EPA must evaluate, according to section 110(l) of the CAA, whether the revision might interfere with attainment, maintenance, or any other CAA requirements.

Ohio EPA submitted an October 25, 2010 demonstration under section 110(l) of the CAA that the less stringent applicability cutoff in OAC 3745-21-25 does not interfere with attainment of the National Ambient Air Quality Standards (NAAQS), nor interfere with any other requirement of the CAA. Ohio documented that the actual emission increase from this change in applicability cutoffs would be 7.1 tons of VOC/year, and that the worst case maximum theoretical increase in uncontrolled emissions is 159 tons of VOC/year.

Most of the SMC production in Ohio is in the Cleveland area. In December 2007 Ohio EPA promulgated rules reducing emissions of nitrogen oxides (NO<sub>x</sub>) in the Cleveland area. These rules, in OAC Chapter 3745-110, entitled "NO<sub>x</sub> RACT," addressed NO<sub>x</sub> emissions from stationary sources such as boilers, combustion turbines, and stationary internal combustion engines. The rules were made applicable as an attainment strategy in the Cleveland-Akron-Lorain ozone moderate nonattainment area. On September 15, 2009, EPA redesignated the Cleveland-Akron-Lorain metropolitan area as attainment for the 1997 8-hour ozone NAAQS. At the same time, EPA approved a waiver for this area from the NO<sub>x</sub> RACT requirements of section 182(f) of the CAA, based on the area attaining the standard. Ohio's NO<sub>x</sub> RACT rules are, therefore, surplus and can be used to offset any increase in emissions from SMC machines in

Ohio. Ohio obtained 538 tons NO<sub>x</sub>/year actual (and surplus) emission reductions from the Arcelor-Mittal facility as a result of the installation of low NO<sub>x</sub> burners in its three reheat furnaces. The requirement for these low NO<sub>x</sub> burners is permanent and enforceable because they are needed to comply with OAC 3745-110, Ohio's NO<sub>x</sub> RACT rule. In the Cleveland-Akron-Lorain area, the ratio of NO<sub>x</sub> emissions to VOC emissions is approximately 1.36 pounds NO<sub>x</sub>/pound VOC. Applying this factor, the VOC offset potential for the Arcelor-Mittal facility NO<sub>x</sub> reductions is 396 tons VOC/year. Consequently, EPA concludes that the net effect of the relaxation of the applicability criterion plus the compensation from requiring NO<sub>x</sub> emission reductions at Arcelor-Mittal will be an environmental improvement in the Cleveland area and will not interfere with attainment, maintenance, or other CAA requirements.

In addition, two uncontrolled SMC machines are located at Continental Structural Plastics in Van Wert County, which are outside of the former Cleveland-Akron-Lorain ozone moderate nonattainment area. This rule relaxation is not contrary to the requirements of section 110(l) because the most recent three years of data (2008-2010) indicates that the nearest monitor, which is in Lima (in the Lima-Van Wert-Wapakoneta, Ohio Combined Statistical Area), has a 3-year ozone design value which is well under the 2008 8-hour ozone standard (70.0 parts per billion vs. the 75.0 parts per billion standard), such that removal of a requirement for controlling these SMC machines may be judged not to have the potential to cause violations of the standard. Furthermore, if any of its SMC machines exceeds 25 tons VOC per year, the facility is required to reduce their emissions by 95 percent.

In conclusion, OAC 3745-21-25 is approvable because all of Ohio is in attainment of the 1997 8-hour ozone standard and therefore a RACT level of control is not required and Ohio demonstrated that a relaxation of the applicability cutoff for SMC machines, from 8 pounds VOC per hour to 25 tons VOC per year, per machine, does not interfere with attainment of the National Ambient Air Quality Standards, or interfere with any other requirement of the CAA, as required by section 110(l) of the CAA.

## III. 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 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 September 12, 2011. 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. 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 24, 2011.

**Susan Hedman,**  
*Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

- 1. The authority citation for part 52 continues to read as follows:

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

**Subpart KK—Ohio**

- 2. Section 52.1870 is amended by adding paragraph (c)(153) to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(153) On November 10, 2010, the Ohio Environmental Protection Agency (Ohio EPA) submitted new rule OAC 3745-21-25 "Control of VOC Emissions from Reinforced Plastic Composites Production Operations" for approval into its state implementation plan.

(i) *Incorporation by reference.*

(A) Ohio Administrative Code Rule 3745-21-25 "Control of VOC Emissions

from Reinforced Plastic Composites Production Operations," effective November 11, 2010.

(B) November 1, 2010, "Director's Final Findings and Orders," signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

(ii) *Additional material.* (A) An October 25, 2010, letter from Robert F. Hodanbosi, Chief Division of Air Pollution Control of the Ohio Environmental Protection Agency to Susan Hedman, Regional Administrator, containing documentation of noninterference, under section 110(l) of the Clean Air Act, of the less stringent applicability cutoff for sheet mold compound machines.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2009-0426-201124 FRL-9436-5]**

**Approval and Promulgation of Implementation Plans; Kentucky; 110(a)(1) and (2) Infrastructure Requirements for the 1997 8-Hour Ozone National Ambient Air Quality Standards**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking final action to approve the December 13, 2007, submission by the Commonwealth of Kentucky, through the Kentucky Division of Air Quality (KDAQ) as demonstrating that the Commonwealth meets the state implementation plan (SIP) requirements of sections 110(a)(1) and (2) of the Clean Air Act (CAA or the Act) for the 1997 8-hour ozone national ambient air quality standards (NAAQS). Section 110(a) of the CAA requires that each state adopt and submit a SIP for the implementation, maintenance, and enforcement of each NAAQS promulgated by the EPA, which is commonly referred to as an "infrastructure" SIP. Kentucky certified that the Kentucky SIP contains provisions that ensure the 1997 8-hour ozone NAAQS is implemented, enforced, and maintained in Kentucky (hereafter referred to as "infrastructure submission"). Kentucky's infrastructure submission, provided to EPA on December 13, 2007, addressed all the required infrastructure elements for the 1997 8-hour ozone NAAQS. Additionally, EPA is responding to