

## 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 proposed 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 proposed action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- This action is not expected to be an Executive Order 13771 regulatory action because this action is not significant under Executive Order 12866.

- 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, the SIP is not approved to apply on any Indian reservation land

or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 17, 2018.

**Alexandra Dunn,**

*Regional Administrator, EPA Region 1.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2018-0103; FRL-9988-24-Region 5]

### Air Plan Approval; Ohio; Removal of Obsolete Gasoline Volatility Regulations

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a request submitted by the Ohio Environmental Protection Agency (Ohio EPA) on February 5, 2018, to revise the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). Ohio EPA is requesting to remove from the SIP the remaining provisions of the Ohio Administrative Code concerning the State's former 7.8 pounds per square inch (psi) Reid vapor pressure (RVP) fuel requirements for the Cincinnati and Dayton areas. In a previous action, EPA approved the removal of the 7.8 psi RVP fuel applicability requirements in the Cincinnati and Dayton areas as a component of the Ohio SIP, including the approval of a demonstration under section 110(l) of the Clean Air Act (CAA) that addressed emissions impacts associated with the removal of the program.

**DATES:** Comments must be received on or before January 25, 2019.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0103 at <http://www.regulations.gov>, or via email to [blakley.pamela@epa.gov](mailto:blakley.pamela@epa.gov). For comments

submitted at [Regulations.gov](http://Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://Regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

### FOR FURTHER INFORMATION CONTACT:

Francisco J. Acevedo, Mobile Source Program Manager, Control Strategies Section, Air Programs Branch (AR-18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6061, [acevedo.francisco@epa.gov](mailto:acevedo.francisco@epa.gov).

### 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 is the background for this action?
- II. What is EPA proposing to approve?
- III. What is EPA's analysis of the state's submittal?
- IV. What action is EPA proposing to take?
- V. Statutory and Executive Order Reviews

### I. What is the background for this action?

On April 15, 2004, EPA designated Hamilton, Butler, Clinton, Warren and Clermont counties (Cincinnati area) and Clark, Greene, Miami, and Montgomery counties (Dayton area) as nonattainment for the 8-hour ozone standard. As part of Ohio's efforts to bring these areas into attainment of the ozone standard, the State adopted and implemented a broad range of ozone control measures for the areas including the implementation of a 7.8 psi RVP fuel program that was more stringent than the Federal 9.0 psi RVP requirement. The Ohio EPA originally submitted a SIP revision to EPA (on

February 14, 2006 and October 6, 2006) establishing a gasoline RVP limit of 7.8 psi for gasoline sold in the Cincinnati and Dayton areas. The revision specifically applied to the Cincinnati and Dayton areas in Ohio. EPA approved Ohio's 7.8 psi RVP program on May 25, 2007 (72 FR 29269), including the program's legal authority and administrative requirements found in the Ohio Administrative Code (OAC) rules 3745–72–1 to 8.

On December 19, 2016, Ohio EPA submitted a SIP revision requesting that EPA approve the removal of the 7.8 psi RVP fuel applicability requirements from the Ohio SIP before the beginning of the 2017 ozone control period. The revision also included a section 110(l) demonstration addressing the emissions impacts associated with the removal of the program. On April 7, 2017 (82 FR 16932) EPA approved the removal of the 7.8 psi RVP fuel applicability requirements in the Cincinnati and Dayton areas from the Ohio SIP. In that action EPA determined that that removal of the 7.8 psi RVP fuel requirements would not interfere with attainment or maintenance of any of the National Ambient Air Quality Standards in the Cincinnati and Dayton areas and would not interfere with any other applicable requirement of the CAA, and thus, were approvable under CAA section 110(l).

## II. What is EPA proposing to approve?

On February 5, 2018, Ohio EPA submitted to EPA a revision to the Ohio SIP for approval. In this action EPA is proposing to approve the removal of all OAC Chapter 3745–72 provisions from the Ohio SIP, as requested. Ohio EPA conducted a public hearing on this matter in Columbus, Ohio on December 7, 2017.

## III. What is EPA's analysis of the state's submittal?

On January 20, 2018, Ohio EPA rescinded rules in OAC 3745–72 that formerly established low RVP fuel requirements for the Cincinnati and Dayton areas. These rules were rescinded by Ohio EPA as they are no longer necessary since on April 7, 2017 (82 FR 16932) EPA approved the removal of the 7.8 psi RVP fuel applicability requirements in the Cincinnati and Dayton areas from the Ohio ozone SIP. In that action EPA determined that that removal of the 7.8 psi RVP fuel requirements would not interfere with attainment or maintenance of any of the National Ambient Air Quality Standards in the Cincinnati and Dayton areas and would not interfere with any other applicable

requirement of the CAA, and thus, were approvable under CAA section 110(l). The removal of the remaining provisions in OAC Chapter 3745–72 from the SIP is only administrative in nature and does not have any negative impact on air quality in the Cincinnati and Dayton areas. No emissions increases will result from the removal of the OAC Chapter 3745–72 provisions from the Ohio SIP.

## IV. What action is EPA proposing to take?

EPA is proposing to approve the revision to the Ohio SIP submitted by the Ohio EPA on February 5, 2018, because the removal of remaining low RVP requirements in OAC Chapter 3745–72 from the SIP meets all applicable requirements and it would not interfere with reasonable further progress or attainment of any of the national ambient air quality standards.

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: December 6, 2018.

**Cathy Stepp,**

*Regional Administrator, Region 5.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2018–0393; FRL–9988–23–Region 5]

### Air Plan Approval; Ohio; Open Burning Rules

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve revisions to the open burning standards in the Ohio State Implementation Plan (SIP) under the Clean Air Act (CAA). On June 4, 2018, Ohio Environmental Protection Agency (Ohio) requested the approval of its revised open burning rules, which include adding requirements for air curtain burners,