

- 258-0240 Inspection and Sampling (10/14/99)
- 258-0250 Liability for Violation of a Prohibited Activity (10/14/99)
- 258-0260 Defenses for Prohibited Activities (10/14/99)
- 258-0270 Inability to Produce Conforming Gasoline Due to Extraordinary Circumstances (10/14/99)
- 258-0280 Quality Assurance Program (10/14/99)
- 258-0290 Attest Engagements Guidelines when Prohibited Activities Alleged (10/14/99)
- 258-0300 Dispenser Labeling (10/14/99)
- 258-0310 Contingency Provision for Carbon Monoxide Nonattainment Areas (10/14/99)

Standard for Automotive Gasoline

- 258-0400 Reid Vapor Pressure for Gasoline (10/14/99)

Division 262—Residential Woodheating

- 262-0010 Purpose (10/14/99)
- 262-0020 Definitions (10/14/99)

Woodstove Sales

- 262-0030 Requirements for Sale of Woodstoves (10/14/99)
- 262-0040 Exemptions (10/14/99)

Woodstove Certification Program

- 262-0100 Applicability (10/14/99)
- 262-0110 Emissions Performance Standards and Certification (10/14/99)
- 262-0120 General Certification Procedures (10/14/99)
- 262-0130 Labeling Requirements (10/14/99)

Woodburning Curtailment

- 262-0200 Applicability (10/14/99)
- 262-0210 Determination of Air Stagnation Conditions (10/14/99)
- 262-0220 Prohibition on Woodburning During Periods of Air Stagnation (10/14/99)
- 262-0230 Public Information Program (10/14/99)
- 262-0240 Enforcement (10/14/99)
- 262-0250 Suspension of Department Program (10/14/99)

Woodstove Removal Contingency Program

- 262-0300 Applicability (10/14/99)
- 262-0310 Removal and Destruction of Uncertified Stove Upon Sale of Home (10/14/99)
- 262-0320 Home Seller's Responsibility to Verify Stove Destruction (10/14/99)
- 262-0330 Home Seller's Responsibility to Disclose (10/14/99)

Division 266—Field Burning Rules (Willamette Valley)

- 266-0010 Introduction (10/14/99)

- 266-0020 Policy (10/14/99)
- 266-0030 Definitions (10/14/99)
- 266-0040 General Requirements (10/14/99)
- 266-0050 Registration, Permits, Fees, Records (10/14/99)
- 266-0060 Acreage Limitations, Allocations (10/14/99)
- 266-0070 Daily Burning Authorization Criteria (10/14/99)
- 266-0080 Burning by Public Agencies (Training Fires) (10/14/99)
- 266-0090 Preparatory Burning (10/14/99)
- 266-0100 Experimental Burning (10/14/99)
- 266-0110 Emergency Burning, Cessation (10/14/99)
- 266-0120 Propane Flaming (10/14/99)
- 266-0130 Stack Burning (10/14/99)

Division 268—Emission Reduction Credits

- 268-0010 Applicability (7/1/01)
- 268-0020 Definitions (10/14/99)
- 268-0030 Emission Reduction Credits (7/1/01)

* * * * *

4. Paragraph (a)(1)(ii) of § 52.1982 is revised to read as follows:

§ 52.1982 Control Strategy: Ozone.

- (a) * * * (1) * * *
- (ii) The phrase “in most cases” in rule OAR 340-232-0060(1) applies to approximately 1,200 gasoline service stations where compliance is determined by observing whether specific emission control equipment, selected from a specific list on file at DEQ, is in place and operating properly.

§ 52.1985 [Reserved]

- 5. Remove and reserve § 52.1985.
- 6. Paragraphs (a) and (c) of § 52.1987 are revised to read as follows:

§ 52.1987 Significant deterioration of air quality.

(a) The Oregon Department of Environmental Quality rules for the prevention of significant deterioration of air quality (provisions of OAR chapter 340, Divisions 200, 202, 209, 212, 216, 222, 224, 225, and 268), as in effect on October 8, 2002, are approved as meeting the requirements of title I, part C, subpart 1 of the Clean Air Act, as in effect on July 1, 2002, for preventing significant deterioration of air quality.

* * * * *

(c) The requirements of title I, part C, subpart 1 of the Clean Air Act are not met for Indian country in Oregon because Oregon has not demonstrated authority to implement and enforce under the Clean Air Act Oregon State rules in Indian country. Therefore, the

provisions of § 52.21 (b) through (w) are hereby incorporated and made part of the applicable plan for Indian country in the State of Oregon.

7. Paragraph (a) of § 52.1988 is revised to read as follows:

§ 52.1988 Air contaminant discharge permits.

(a) Except for compliance schedules under OAR 340-200-0050, emission limitations and other provisions contained in Air Contaminant Discharge Permits issued by the State in accordance with the provisions of the Federally-approved rules for Air Contaminant Discharge Permits (OAR chapter 340, Division 216), Plant Site Emission Limit (OAR chapter 340, Division 222), Alternative Emission Controls (OAR 340-226-0040) and Public Participation (OAR chapter 340, Division 209), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP. Plant site emission limits and alternative emission limits (bubbles) established in Federal Operating Permits issued by the State in accordance with the Federally-approved rules for Plant Site Emission Limit (OAR chapter 340, Division 222) and Alternative Emission Controls (OAR 340-226-0040), shall be applicable requirements of the Federally-approved Oregon SIP (in addition to any other provisions) for the purposes of section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

* * * * *

[FR Doc. 03-852 Filed 1-21-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH118-1a; FRL-7428-5]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving the remaining portions of the Ohio Environmental Protection Agency's (OEPA) SIP for Prevention of Significant Deterioration (PSD) provisions for attainment areas. EPA had previously

conditionally approved Ohio's prior SIP submission on October 10, 2001. Today's final approval is of OEPA's rule revisions submitted in response to EPA's July 18, 2002, conditional approval. In its July 2002 submittal, Ohio also made additional revisions to the OAC that were not addressed in EPA's October 10, 2001 conditional approval.

Recently, EPA announced new regulations regarding changes to the preconstruction permit program under EPA's efforts regarding "New Source Review Reform." Today's approval of Ohio's SIP submission does not address EPA's new rules but is limited to portions of Ohio's preconstruction permit program under the existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any requirements that EPA may promulgate as part of New Source Review Reform.

DATES: This rule is effective on March 10, 2003, unless EPA receives comments by February 21, 2003. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours at the following location: Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Please contact Genevieve Damico at (312) 353-4761 before visiting the Region 5 office.

Written comments should be sent to: Pamela Blakley, Chief, Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Genevieve Damico, Environmental Engineer, Permits and Grants Section, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-4761.

SUPPLEMENTARY INFORMATION: This supplementary information section is organized as follows:

- A. What Is the Purpose of This Document?
- B. Who Is Affected by This Action?
- C. What Is the History of Ohio's PSD Program?
- D. How Are OEPA's PSD Rules Structured?
- E. Why Are We Granting Approval?
- F. How Is This Action Related to EPA's Current Review of Ohio's programs?

G. How Is This Action Related to EPA's New Preconstruction Permit Program?

H. How Does This Rulemaking Affect EPA's Preconstruction Permit Program?

A. What Is the Purpose of This Document?

We are approving the remaining portions of Ohio's SIP for PSD provisions for attainment areas which was conditionally approved by EPA on October 10, 2001 (66 FR 51570).

B. Who Is Affected by This Action?

The PSD program applies to facilities constructing major sources of air pollution. Since the PSD program that we are approving today is similar to the conditionally approved PSD program that OEPA currently operates, these facilities will generally not be affected by EPA's approval of these changes to Ohio's PSD SIP.

C. What Is the History of Ohio's PSD Program?

OEPA submitted its first permitting SIP to EPA on January 31, 1972, and submitted replacement regulations on June 6, 1973. These regulations provided requirements, such as best available technology, that were meant to be uniformly applied throughout the State.

The Clean Air Act Amendments of 1977 (Amendments) required states to go further than uniformly applied regulations. The Amendments provided for the designation of areas within a state as "attainment" or "nonattainment." An "attainment" area meets the national ambient air quality standards (NAAQS). A "nonattainment" area does not meet the NAAQS.

OEPA requested delegation of the federal PSD attainment preconstruction permitting program on February 8, 1980, and received delegation on January 29, 1981.

OEPA submitted a request for approval of Ohio Administrative code (OAC) sections 3745-31-01 to 3745-31-20 into the SIP on March 1, 1996 as its construction permit program. Ohio subsequently submitted revisions dated March 1, 1996, April 16, 1997, September 5, 1997, December 4, 1997, and April 21, 1998. OEPA's PSD program was conditionally approved on October 10, 2001 (66 FR 51570). On July 18, 2002, OEPA submitted revisions to OAC 3745-31. Today we are acting on those revisions by approving them.

D. How Are OEPA's PSD Rules Structured?

Part C of Title I of the Clean Air Act (CAA) requires a SIP for PSD rules for attainment areas. 40 CFR 51.165 and

51.166 contain the requirements for a PSD permitting program. OEPA submitted this SIP in the form of OAC sections 3745-31-11 to 3745-31-20. OEPA also submitted general provisions applying to both attainment and nonattainment areas in the form of OAC sections 3745-31-01 to 3745-31-10.

E. Why Are We Granting Approval?

The October 10, 2001, conditional approval required OAC section 3745-31-01(OOO) to include a 25 tons per year significance level for particulate matter, and a 50 ton per year significance level for municipal solid waste landfill emissions, as required by 40 CFR 51.166(b)(23)(i). Furthermore, total reduced sulfur and reduced sulfur compounds must be defined to include hydrogen sulfide. The OAC now reflects these requirements.

Ohio also made additional revisions to OAC 3745-31-01, -02, -03, -05, and -07 that were not reflected in the October 10, 2001 conditional approval. The July 18, 2002 SIP submittal from Ohio incorporated definitions for municipal solid waste landfill, non-methane organic compound, non-road engine, reduced sulfur compound, soil-liquid extraction remediation activities, soil-vapor extraction remediation activities and total reduced sulfur in OAC 3745-31-01. We find the additional definitions to be acceptable in the context of Ohio's permit to install program.

Ohio added regulatory language in OAC 3745-31-02(A)(1) that requires the transferee of any permit to install to assume the responsibilities of the original permit. The permittee must also notify OEPA of the transfer. EPA finds these changes to the rule acceptable.

The SIP submittal adds permanent exemptions in OAC 3745-31-03 for non-road engines, crushing and screening plants that are exempt from 40 CFR part 60, subpart OOO, soil-vapor and soil-liquid extraction remediation activities. The exemption for a permit to install for non-road engines that has been added to the rule builds upon the exemption from the previously approved definition of stationary source in 3745-31-01. This exemption is consistent with section 216 of the Clean Air Act. The rule further clarifies that these units are not exempt from the permit to install program if the opacity is greater than twenty percent. The exemption for a permit to install that has been added for crushing and screening plants is consistent with the 40 CFR part 60, subpart OOO exemptions. The exemption for a permit to install for soil-vapor and soil-liquid remediation activities is limited to

activities that have total combined emission rates less than 15 pounds of organic compounds per day and last no longer than 18 months. EPA finds that the sources exempted by this rule will not have a significant impact on air quality. EPA therefore finds this rule acceptable.

OAC 3745-31-07 has been amended to allow the Director of OEPA to revoke a permit to install if the permittee requests revocation for cause and the Director determines that the revocation will not result in the violation of any applicable laws. EPA finds this rule acceptable.

The rule also makes non-substantive administrative changes to 3745-31-01, 3745-31-03(A)(1)(p) and (ee), 3745-31-03(A)(4) and (4)(a), 3745-31-05(A)(2)(d) and (A)(3), and 3745-31-05(E)(3). EPA finds these changes to the rule acceptable.

F. How Is This Action Related to EPA's Current Review of Ohio's Programs?

EPA is currently reviewing OEPA's implementation of the delegated PSD program in response to a petition submitted by D. David Altman on behalf of Ohio Citizen Action, the Ohio Environmental Council, Rivers Unlimited, and the Ohio Sierra Club. Any concerns that EPA finds as a result of this review will be addressed through the process of responding to the petition. Today's approval only addresses whether or not specific provisions of Ohio's Administrative Code meet the Federal criteria for a PSD program, as set forth in 40 CFR part 51, and does not address any issues regarding how the code is being applied or enforced by Ohio. We believe the OAC revisions meet the criteria for approval. No particular findings or conclusions in or from the EPA petition review should be inferred from today's approval.

G. How Is This Action Related to EPA's New Preconstruction Permit Program?

Recently, EPA announced new regulations regarding changes to the preconstruction permit program under EPA's efforts regarding "New Source Review Reform." See <http://www.epa.gov/nsr/>. Today's approval of Ohio's SIP submission does not address EPA's new rules but is limited to portions of Ohio's preconstruction permit program under the existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any requirements that EPA may promulgate as part of New Source Review Reform.

H. How Does This Rulemaking Affect EPA's Preconstruction Permit Program?

In addition, while EPA is approving Ohio's PSD SIP, EPA recognizes that it has a responsibility to insure that all States properly implement their preconstruction permitting programs. EPA's approval of Ohio's PSD program does not divest the Agency of the duty to continue appropriate oversight to insure that PSD determinations made by Ohio are consistent with the requirements of the CAA, EPA regulations, and the SIP.

EPA's authority to oversee PSD program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds that a State "is not acting in compliance with" any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

Enactment of Title V of the CAA and the EPA objection opportunity provided therein has added new tools for addressing deficient new source review decisions by states. Section 505(b) requires EPA to object to the issuance of a permit issued pursuant to Title V whenever the Administrator finds during the applicable review period, either on her own initiative or in response to a citizen petition, that the permit is "not in compliance with the requirements of an applicable requirement of this Act, including the requirements of an applicable implementation plan."

Regardless of whether EPA addresses deficient permits using objection authorities or enforcement authorities or both, EPA cannot intervene unless the state decision fails to comply with applicable requirements. Thus, EPA may not intrude upon the significant discretion granted to states under new source review programs, and will not "second guess" state decisions. Rather, in determining whether a Title V permit incorporating PSD provisions calls for EPA objection under section 505(b) or use of enforcement authorities under sections 113 and 167, EPA will consider whether the applicable substantive and

procedural requirements for public review and development of supporting documentation were followed. In particular, EPA will review the process followed by the permitting authority in determining best available control technology, assessing air quality impacts, meeting Class I area requirements, and other PSD requirements, to ensure that the required SIP procedures (including public participation and Federal Land Manager consultation opportunities) were met. EPA will also review whether any determination by the permitting authority was made on reasonable grounds properly supported on the record, described in enforceable terms, and consistent with all applicable requirements. Finally, EPA will review whether the terms of the PSD permit were properly incorporated into the operating permit.

EPA Action

In this rulemaking action, we are approving the sections addressed above as a revision to the Ohio SIP for PSD. The sections discussed in this notice were conditionally approved on October 10, 2001, and EPA is approving them based on the State's July 18, 2002 submittal.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State Plan should adverse written comments be filed. This rule will be effective without further notice unless the Agency receives relevant adverse written comment by February 21, 2003. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 10, 2003.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state regulation as meeting federal requirements and imposes no additional requirements beyond those imposed by the State. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial

number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this proposed rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This proposed rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an

information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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, Sulfur oxides, Volatile organic compounds.

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

Dated: December 13, 2002.

Bharat Mathur,

Acting Regional Administrator, Region 9.

For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations 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.*

2. Section 52.1870 is amended by adding paragraph (c)(127) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(127) On July 18, 2002, Ohio submitted revisions to its Permit to Install rules as a revision to the State implementation plan.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rules 3745-31-01, 3745-31-02, 3745-31-03, 3745-31-05, and 3745-31-07 effective November 30, 2001.

[FR Doc. 03-1235 Filed 1-21-03; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 106-0064; FRL-7418-8]

Approval and Promulgation of Implementation Plans; Arizona; Motor Vehicle Inspection and Maintenance Programs

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving two State Implementation Plan (SIP) revisions submitted by the Arizona Department of Environmental Quality (ADEQ). These revisions consist of several changes that have been made to Arizona's Basic and Enhanced Vehicle Emissions Inspection

and Maintenance Programs after the programs were approved by EPA in 1995. Arizona's Basic Vehicle Emissions Inspection (VEI) Program is implemented in the Tucson Air Planning Area carbon monoxide (CO) nonattainment area (Area B). The Enhanced VEI Program is implemented in the Maricopa County ozone and CO nonattainment area (the Phoenix area or Area A).

EFFECTIVE DATE: February 21, 2003.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the EPA's Region 9 office at 75 Hawthorne Street, San Francisco, California 94105.

This document and the Technical Support Document (TSD) for this rulemaking are also available as electronic files on EPA's Region 9 Web page at <http://www.epa.gov/region09/air>.

FOR FURTHER INFORMATION CONTACT:

Sylvia Dugré, Office of Air Planning (AIR-2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Phone: (415) 947-4149; e-mail: dugre.sylvia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 12, 2002 (67 FR 52433), EPA published a notice of proposed rulemaking for the State of Arizona. The notice proposed approval of revisions to the SIP for Arizona's Basic and Enhanced VEI programs.

ADEQ submitted the changes to its Basic and Enhanced VEI Programs as a revision to its SIP on July 6, 2001. The July 6, 2001 SIP revision package includes, among various other program changes, ADEQ's revised rule which extends the exemption for newer model year vehicles from the current model year to the first five model year vehicles and the revised rules incorporating legislative changes to the provisions for issuing a waiver. Also included in the SIP revision is State legislation that discontinues the remote sensing program that had been implemented in Area A and authorizes a study to determine the most effective on-road testing program for Arizona.

A SIP revision supplementing the July 6, 2001 SIP revision was submitted by ADEQ on April 10, 2002. This submittal contains the ADEQ rule revisions incorporating on-board diagnostics (OBD) testing and, in accordance with the State legislation, deleting the previously approved remote sensing program from the ADEQ regulations. It also contains a modeling demonstration, with adjustments for the IM147