

Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: August 5, 2010.

**Bharat Mathur,**

*Acting 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 P—Indiana**

■ 2. Part 52 is amended by adding a new § 52.799 to read as follows:

#### **§ 52.799 Transportation conformity.**

On June 4, 2010, Indiana submitted the Transportation Conformity Consultation SIP consisting of Metropolitan Planning Organization resolutions and Memorandums of Understanding to address interagency consultation and enforceability of certain transportation related control measures and mitigation measures. EPA is approving the Transportation Conformity SIP from Indiana.

[FR Doc. 2010–20180 Filed 8–16–10; 8:45 am]

**BILLING CODE 6560–50–P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 52**

[EPA–R05–OAR–2005–OH–0003; FRL–9187–4]

#### **Approval and Promulgation of Air Quality Implementation Plans; Ohio; Final Approval and Promulgation of State Implementation Plans; Carbon Monoxide and Volatile Organic Compounds**

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

**ACTION:** Final rule.

**SUMMARY:** Under section 110(k)(3) of the Clean Air Act (CAA), EPA is disapproving an Ohio regulation revision pertaining to volatile organic compound (VOC) limits for high performance architectural coatings contained in Ohio Administrative Code (OAC) 3745–21–09(U)(1)(h). Under section 110(k)(4) of the CAA, we are also conditionally approving a revision of paragraph (BBB)(1) of OAC 3745–21–09, based on a State commitment to provide for enforceability of a pertinent

limit no later than one year from the date of EPA's conditional approval.

**DATES:** This final rule is effective on September 16, 2010.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2005–OH–0003. All documents in the docket are listed on the [www.regulations.gov](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 [www.regulations.gov](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 Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777 before visiting the Region 5 office.

#### **FOR FURTHER INFORMATION CONTACT:**

Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, [maietta.anthony@epa.gov](mailto:maietta.anthony@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 Were EPA's Proposed Actions?
- II. Public Comments and EPA Responses
- III. What Actions is EPA Taking?
- IV. Statutory and Executive Order Reviews

#### **I. What Were EPA's Proposed Actions?**

On January 22, 2010 (75 FR 3668), EPA proposed a variety of actions regarding revisions to OAC 3745–21, from submittals dated October 9, 2000, February 6, 2001, August 3, 2001, and June 24, 2003. We proposed to (1) approve into the State Implementation Plan (SIP) certain revisions in OAC 3745–21 which have been adopted by the State; (2) disapprove a revision pertaining to high performance architectural coatings; (3) conditionally approve a revision of paragraph (BBB)(1) of OAC 3745–21–09, if the State gives EPA a letter that commits to provide for enforceability of the 1 ton per year limit no later than one year from the expected date of EPA's

conditional approval; (4) take no action on certain regulation revisions, and, (5) provide notice that EPA and Ohio have created a mechanism to incorporate into the Ohio SIP permits to 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). For administrative convenience, in a separate rulemaking published June 21, 2010, at 75 FR 34939, we approved certain submitted regulation revisions, took no action on others, and recognized various emission control exemptions that have been granted for miscellaneous metal coating operations under OAC 3745–21–09(U)(2)(f). Today's action makes final our disapproval and conditional approval of portions of OAC rule 3745–21–09. You can learn more information about the rule revisions submitted and our evaluation of them in our proposed action.

#### **II. Public Comments and EPA Responses**

EPA's proposed action provided a 30-day public comment period. We did not receive any comments on the proposed action. On March 1, and July 2, 2010, Ohio EPA committed to remedy deficiencies in OAC 3745–21–09(BBB)(1).

#### **III. What Actions is EPA Taking?**

EPA is disapproving the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of OAC 3745–21–09 because 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. EPA is conditionally approving a revision to OAC 3745–21–09(BBB)(1) provided that the State is able to, within one year of our final rulemaking, further revise the paragraph to include test procedures and recordkeeping requirements compatible with the paragraph's revised emission limit. On March 1, and July 2, 2010, Ohio EPA committed to remedy the deficiencies in this revision. If the State fails to correct this rule and confirm this correction within the allowed one year period, this conditional approval will revert to disapproval.

#### IV. Statutory and Executive Order Reviews

##### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a “significant regulatory action” and, therefore, is not subject to review by the Office of Management and Budget.

##### *Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a “significant regulatory action” under Executive Order 12866 or a “significant energy action,” this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001).

##### *Regulatory Flexibility Act*

This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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.*).

##### *Unfunded Mandates Reform Act*

Because this rule approves 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 (Pub. L. 104–4).

##### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

##### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does 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). This action 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 (CAA).

##### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal Standard.

##### *National Technology Transfer Advancement Act*

In reviewing state submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. 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 state submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state submission, to use VCS in place of a state submission that otherwise satisfies the provisions of the CAA. 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.

##### *Paperwork Reduction Act*

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.*).

##### *Congressional Review Act*

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 rule 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. section 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 October 18, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Volatile organic compounds.

Dated: August 3, 2010.

**Bharat Mathur,**

*Acting 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 52.1885 is amended by adding paragraph (kk) to read as follows:

##### **§ 52.1885 Control strategy: Ozone.**

\* \* \* \* \*

(kk) *Disapproval.* EPA is disapproving the coating VOC content limit for high performance architectural aluminum coatings contained in paragraph (U)(1)(h) of chapter 3745–21–09 of the Ohio Administrative Code.

■ 3. Section 52.1919 is amended by adding paragraph (b) to read as follows:

##### **§ 52.1919 Identification of plan—conditional approval.**

\* \* \* \* \*

(b) On October 9, 2000, the Ohio Environmental Protection Agency submitted a revision to Ohio Administrative Code (OAC) 3745–21–09(BBB). The revision removed 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. The revision lacked test procedures and record keeping requirements compatible with the revised emission limit. On March 1, 2010, Ohio submitted a commitment to revise OAC 3745-21-09(BBB) to include the necessary test procedures and record keeping requirements by September 16, 2011. When EPA determines the state has met its commitment, OAC 3745-21-09(BBB) will be incorporated by reference into the SIP.

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## DEPARTMENT OF HOMELAND SECURITY

### Federal Emergency Management Agency

#### 44 CFR Part 204

[Docket ID FEMA-2010-0036]

RIN-1660-AA72

#### Procedural Changes to the Fire Management Assistance Declaration Process

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** By this final rule, the Federal Emergency Management Agency (FEMA) is updating its Fire Management Assistance Grant Program regulations to reflect a change in the internal delegation of authority for fire management assistance declarations, and resulting internal procedural changes that are impacted by the change in authority. FEMA is also making nomenclature changes to update names and titles to reflect recent changes to FEMA's organizational structure.

**DATES:** This final rule is effective August 17, 2010.

**ADDRESSES:** A copy of this rule is available electronically on the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). (In the Keyword Search or ID box, type FEMA-2010-0036.)

The rule is also available for inspection at the Office of Chief Counsel, DHS/FEMA, 500 C Street, SW., Room 835, Washington, DC 20472-3100.

#### FOR FURTHER INFORMATION CONTACT:

James A. Walke, Director, Public Assistance Division, Recovery Directorate, DHS/FEMA, 500 C Street, SW., Washington, DC 20472-3300. *Phone:* 202-646-2751. *E-mail:* [James.Walke@dhs.gov](mailto:James.Walke@dhs.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Fire Management Assistance Grant (FMAG) Program assists State, local, and Tribal governments with the mitigation, management, and control of fires on publicly or privately owned forests or grasslands, which threaten such destruction as would constitute a major disaster. The FMAG declaration process may be initiated when a fire is burning uncontrolled and threatens such destruction as would constitute a major disaster. The FMAG declaration process is initiated by a State submitting a request for assistance to the Regional Administrator. The request addresses the threat to lives and improved property, the availability of State and local firefighting resources, high fire danger conditions, and the potential for major economic impact. Those criteria are supported with documentation that contains factual data and professional estimates. The Regional Administrator then coordinates with the Principal Advisor and forwards the request to the Assistant Administrator for the Disaster Assistance Directorate. The Assistant Administrator for the Disaster Assistance Directorate then makes a determination whether the fire or fire complex threatens such destruction as would constitute a major disaster. The entire process is accomplished on an expedited basis.

##### II. Discussion of the Rule

In December 2009, FEMA underwent a reorganization to streamline and improve FEMA's programs and, consistent with the reorganization, is now revising the delegation of authority under the FMAG program regarding determinations that a fire or fire complex threatens such destruction as would constitute a major disaster. This final rule therefore updates title 44, part 204 of the Code of Federal Regulations (CFR) to reflect those organizational and procedural changes. This final rule does not change the substantive eligibility requirements, contained in FEMA's existing regulations.

On March 3, 2004, the Secretary for Homeland Security delegated the authority to make FMAG determinations to the Administrator (then called the Under Secretary for Emergency Preparedness and Response) in

Homeland Security Delegation Number 9001. This delegation to the Administrator explicitly authorizes redelegation of this authority. This procedural rule removes the redelegation of authority to the Assistant Administrator for the Disaster Assistance Directorate (now the Assistant Administrator for Recovery per the 2009 internal reorganization) and reverts the authority to issue FMAG declarations and decide appeals back to the Administrator.

Although the Administrator is rescinding his redelegation of this authority to the Assistant Administrator for the Disaster Assistance Directorate, at any time the Administrator may redelegate this authority at his discretion, in writing. Such delegations are not required to be made through regulation, or published in the **Federal Register**. Pursuant to the Federal Register Act (44 U.S.C. 1505), the only documents that are required to be published in the **Federal Register** are Presidential proclamations, Executive Orders, and those documents that either the President has determined to have general applicability and legal effect or are required to be published in the **Federal Register** by Act of Congress. The delegation of the FEMA Administrator's authority to make determinations regarding the FMAG program does not trigger those criteria.

States that seek a declaration under the FMAG program will continue to submit their requests for declarations to FEMA through the Regional Administrator. The Regional Administrator will forward the request to the Administrator for a determination on the declaration. This change in redelegation will affect the procedural requirements associated with applying for fire management assistance declarations by changing who reviews requests for FMAG declarations. This rule only changes the internal processing procedures that occur after a State submits a request. The application requirements remain the same, as do the requirements for eligibility.

##### III. Regulatory Information

###### A. Administrative Procedure Act

FEMA did not publish a notice of proposed rulemaking (NPRM) for this regulation. FEMA finds that this rule is exempt from the Administrative Procedure Act's (5 U.S.C. 553(b)) notice and comment rulemaking requirements because it is purely procedural in nature. *See* 5 U.S.C. 553(b)(3)(A). This rule updates FEMA's regulations to reflect a change in the internal delegation of authority for fire