

## Regulatory Flexibility Act

The Secretary hereby certifies that final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

## Executive Orders 12866, 13563, and 13771

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” which requires review by the Office of Management and Budget (OMB), as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

VA has examined the economic, interagency, budgetary, legal, and policy implications of this regulatory action and determined that the action is not a significant regulatory action under Executive Order 12866. VA’s impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the

rulemaking and its impact analysis are available on VA’s website at <http://www.va.gov/orpm> by following the link for VA Regulations Published from FY 2004 through FYTD. This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

## Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

## Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.012—Veterans Prescription Service; 64.029—Purchase Care Program; 64.040—VHA Inpatient Medicine; 64.041—VHA Outpatient Specialty Care; 64.042—VHA Inpatient Surgery; 64.045—VHA Outpatient Ancillary Services; 64.047—VHA Primary Care; 64.050—VHA Diagnostic Care.

## List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Robert L. Wilkie, Secretary, Department of Veterans Affairs, approved this document on January 11, 2019, for publication.

Dated: March 3, 2019.

**Michael P. Shores,**

*Director, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.*

For the reasons set forth in the preamble, the VA amends 38 CFR part 17 as follows:

## PART 17—MEDICAL

■ 1. The authority citation for part 17 is amended in the entry for §§ 17.380, 17.390 and 17.412 by adding “, and sec. 236, div. J, Pub. L 115–141, 132 Stat. 348” immediately after “857” to read in part as follows:

**Authority:** 38 U.S.C. 501, and as noted in specific sections.

\* \* \* \* \*

■ 2. Amend § 17.380 by revising paragraph (b) to read as follows:

### § 17.380 *In vitro* fertilization treatment.

\* \* \* \* \*

(b) The time periods regarding embryo cryopreservation and storage set forth in part III(G) and in part IV(H) of the memorandum referenced in paragraph (a)(3) of this section do not apply. Embryo cryopreservation and storage may be provided to an individual described in paragraph (a)(1) of this section without limitation on the duration of such cryopreservation and storage.

■ 3. Amend § 17.412 by revising paragraph (b) to read as follows:

### § 17.412 *Fertility counseling and treatment for certain spouses.*

\* \* \* \* \*

(b) The time periods regarding embryo cryopreservation and storage set forth in part III(G) and in part IV(H) of the memorandum referenced in paragraph (a) of this section do not apply. Embryo cryopreservation and storage may be provided to a spouse of a covered veteran without limitation on the duration of such cryopreservation and storage.

[FR Doc. 2019–04096 Filed 3–6–19; 8:45 am]

BILLING CODE 8320–01–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R05–OAR–2018–0121; FRL–9990–44–Region 5]

### Air Plan Approval; Ohio; Ohio Permit Rules Revisions

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving revisions to Ohio air permitting rules at Ohio Administrative Code (OAC) 3745–31 into the State Implementation Plan (SIP) under the Clean Air Act (CAA). These revisions represent minor changes to the air permitting rules the Ohio Environmental Protection Agency (OEPA) adopted on April 21, 2016, which became effective at the state level on May 1, 2016.

**DATES:** This final rule is effective on April 8, 2019.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2018–0121. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) website. 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 through [www.regulations.gov](http://www.regulations.gov) or 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 Sam Portanova, Environmental Engineer, at (312) 886–3189 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Sam Portanova, Environmental Engineer, Air Permits Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–3189, [portanova.sam@epa.gov](mailto:portanova.sam@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. Background
- II. What action is EPA taking?
- III. Incorporation by Reference
- IV. Statutory and Executive Order Reviews

**I. Background**

On January 2, 2018, OEPA submitted revisions to rules in OAC chapters 3745–31–01, 3745–31–03, 3745–31–05, 3745–31–06, 3745–31–11, 3745–31–13, and 3745–31–14 to EPA for approval into the SIP. These revisions pertain to

air permitting rules which update definitions, provisions for exemptions and permits-by-rule, criteria for permits-to-install and permits-to-install-and-operate, and attainment provisions. Ohio adopted revisions to these rules on April 21, 2016. In the January 2, 2018, submittal, OEPA requested that the following paragraphs be excluded from approval into the SIP: OAC 3745–31–01(I), (NN)(2)(b) and (c), (SSS)(1)(b), (CCCC)(2)(d) through (h), (QQQQ), (JJJJ), and (BBBBB); 3745–31–03(B)(1)(p) and (C)(2)(c)(iii); 3745–31–05(A)(3)(a)(ii) and (E); and 3745–31–13(H)(1)(c). On July 27, 2018, OEPA submitted a supplement to the January 2, 2018, SIP submittal to address requirements of Section 110(l) of the CAA.

On October 25, 2018 (83 FR 53832), EPA published a proposed approval of the rule revisions included in the January 2, 2018, submittal from OEPA. The specific details of OEPA’s January 2, 2018, SIP submittal and the rationale for EPA’s approval were discussed in the October 25, 2018 proposed approval and will not be restated here. EPA received no comments during the comment period of the proposed approval.

**II. What action is EPA taking?**

EPA is approving rule revisions to 3745–31–01, 3745–31–03, 3745–31–05, 3745–31–06, 3745–31–11, 3745–31–13, and 3745–31–14 that OEPA submitted on January 2, 2018, into the SIP. EPA finds that the revisions are consistent with Federal requirements. As requested by OEPA, the following provisions are not included in this approval: OAC 3745–31–01(I), (NN)(2)(b) and (c), (SSS)(1)(b), (CCCC)(2)(d) through (h), (QQQQ), (JJJJ), and (BBBBB); 3745–31–03(B)(1)(p) and (C)(2)(c)(iii); 3745–31–05(A)(3)(a)(ii) and (E); and 3745–31–13(H)(1)(c).

**III. Incorporation by Reference**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio Regulations described in the amendments to 40 CFR part 52 set forth below. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by

reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA’s approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

**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 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

<sup>1</sup> 62 FR 27968 (May 22, 1997).

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).

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 May 6, 2019. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: February 25, 2019.

**Cheryl L. Newton,**

*Acting Regional Administrator, Region 5.*

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

■ 2. In § 52.1870, the table in paragraph (c) is amended by removing the first entry for 3745–31–01 and revising the entries for the remaining 3745–31–01 and 3745–31–03, 3745–31–05, 3745–31–06, 3745–31–11, 3745–31–13, and 3745–31–14 under “Chapter 3745–31 Permit-to Install New Sources and Permit-to-Install and Operate Program” to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED OHIO REGULATIONS**

Ohio citation	Title/Subject	Ohio effective date	EPA Approval date	Notes
* * *	* * *	* * *	* * *	* * *
<b>Chapter 3745–31 Permit-to Install New Sources and Permit-to-Install and Operate Program</b>				
3745–31–01 .....	Definitions .....	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	Except for (l), (NN)(2)(b) and (c), (SSS)(1)(b), (CCCC)(2)(d) through (h), (QQQQ), (JJJJ), and (BBBBB).
* * *	* * *	* * *	* * *	* * *
3745–31–03 .....	Exemptions and Permits-by-Rule .....	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	Except for (B)(1)(p) and (C)(2)(c)(iii).
* * *	* * *	* * *	* * *	* * *
3745–31–05 .....	Criteria for Decision by the Director .....	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	Except for (A)(3)(a)(ii) and (E).
3745–31–06 .....	Completeness Determinations, Processing Requirements, Public Participation, Public Notice and Issuance.	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
3745–31–11 .....	Attainment Provisions—Ambient Air Increments, Ceilings and Classifications.	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	
* * *	* * *	* * *	* * *	* * *
3745–31–13 .....	Attainment Provisions—Review of Major Stationary Sources and Major Modifications, Stationary Source Applicability and Exemptions.	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	Except for (H)(1)(c).
3745–31–14 .....	Attainment Provisions—Pre-application Analysis	5/1/2016	3/7/2019, [Insert <b>Federal Register</b> citation].	
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 [FR Doc. 2019-04065 Filed 3-6-19; 8:45 am]  
 BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52, 60, 61, 63, 70, 271, and 281**

[EPA-R08-OAR-2018-0616 EPA-R08-OAR-2018-0299 EPA-R08-RCRA-2018-0084 and EPA-R08-UST-2018-0728; FRL9990-24]

**Approvals Concerning Revisions to North Dakota’s Environmental Protection Programs; Delay of Effective Dates**

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

**ACTION:** Final rule; delay of effective dates.

**SUMMARY:** Due to unforeseen delays resulting from the lapse in appropriations for the Environmental Protection Agency (EPA), the EPA’s final approvals concerning revisions to North Dakota’s environmental protection programs that have the effect of transferring authority from the North Dakota Department of Health (NDDH) to the newly-created North Dakota Department of Environmental Quality (NDDEQ) are delayed until April 30, 2019. This action delays the effective dates of the four relevant rules, published in the **Federal Register** between December 19, 2018 and February 11, 2019.

**DATES:** The rule is effective April 30, 2019. The effective dates of the rules published at 83 FR 65101 (December 19, 2018), 83 FR 65104 (December 19, 2018), 84 FR 1610 (February 5, 2019), and 84 FR 3108 (February 11, 2019), are delayed until April 30, 2019. See **SUPPLEMENTARY INFORMATION** for details.

**FOR FURTHER INFORMATION CONTACT:** Mai Denawa, Office of Regional Counsel, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129; telephone number: 303-312-6514; email address: *denawa.mai@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Due to unforeseen delays that the lapse in appropriations has caused, the effective dates for the rules listed in the table below are revised to April 30, 2019. These actions relate to the EPA’s final approvals concerning revisions to North Dakota’s environmental protection programs that have the effect of transferring authority to implement and enforce previously EPA-authorized/ approved/delegated/codified environmental protection programs from the North Dakota Department of Health (NDDH) to the newly-created North Dakota Department of Environmental Quality (NDDEQ). However, because EPA has not issued final approvals for all the relevant environmental programs to the NDDEQ, EPA is delaying the effective dates of the approvals that have been finalized to allow for the transfer of all the programs to be synchronized, allowing them to become effective without creating uncertainty in the State entity that has EPA approval to implement North Dakota’s environmental programs.

The North Dakota legislature enacted North Dakota Senate Bill 2327 (S.L. 2017, ch. 199, Section 1) in 2017 to create the new NDDEQ. This law requires that the transfer of authority from NDDH to NDDEQ will only occur if the State has obtained all approvals from EPA to ensure that the State will continue to meet federal requirements for the respective environmental programs. For the programs described in the below table (as well as the underground injection control program under the Safe Drinking Water Act) that require notice and comment in the **Federal Register** as part of the approval

process for the revision, the State is relying on the date that EPA signs the final notice as the required “approval” under S.L. 2017, ch. 1. 199, Section 1. Once EPA approves revisions to all relevant environmental programs, the State intends to take the necessary additional steps as specified in S.L. 2017, ch. 199, Section 1, to ensure that the transfer in authority would be effective under State law. EPA sought to ensure that NDDEQ rules and the NDDEQ would become effective under State law prior to the effective date of EPA’s approvals. Otherwise, EPA would in effect approve an agency that did not yet exist. Additionally, to prevent a gap in an EPA-approved program while the transfer occurs for the programs in the below table, our final notices noted that unless and until the NDDEQ rules and agency become fully effective under federal law, for purposes of federal law the EPA recognizes the State’s program as currently approved under NDDH. See 84 FR 1610 (February 5, 2019); 84 FR 3108 (February 11, 2019); 83 FR 65101 (December 19, 2018); 83 FR 65104 (December 19, 2018). Based on this process and our subsequent conversations with the State, EPA had initially determined that our approval of the revised programs in the below table should become fully effective under federal law on March 15, 2019.

However, the lapse in appropriations has caused unforeseen delays in completing issuance of the remaining necessary approvals. Specifically, the underground injection control (UIC) program under the SDWA is still pending final rule signature and review, though a proposed rule has been published and the comment period has closed. (83 FR 62536, December 4, 2018). EPA is delaying the effective date of the approvals in the below table because the March 15 effective date is no longer feasible.

Federal Register citation	CFR part affected	Title	Original effective date	New effective date
84 FR 1610, February 5, 2019 9.	Part 52 .....	Approval and Promulgation of Implementation Plans; North Dakota; Revisions to Infrastructure Requirements for All National Ambient Air Quality Standards; Carbon Monoxide (CO); Lead (Pb); Nitrogen Dioxide (NO <sub>2</sub> ); Ozone (O <sub>3</sub> ); Particle Pollution (PM <sub>2.5</sub> , PM <sub>10</sub> ); Sulfur Dioxide (SO <sub>2</sub> ); Recodification.	3/15/2019	4/30/2019
84 FR 3108, February 11, 2019.	Parts 60, 61, 63, 70 .....	Approval of Recodification and Revisions to State Air Pollution Control Rules; North Dakota; Interim Approval of Title V Program Recodification and Revisions; Approval of Recodification and Revisions to State Programs and Delegation of Authority To Implement and Enforce Clean Air Act Sections 111 and 112 Standards and Requirements.	3/15/2019	4/30/2019