

written permission, unless there is an emergency. Upon return to the institution, the inmate must notify institution staff if he/she received any prescribed medication or treatment in the community for an emergency;

(6) Possess any firearm or other dangerous weapon;

(7) Get married, sign any legal papers, contracts, loan applications, or conduct any business without staff's written permission;

(8) Associate with persons having a criminal record or with persons who the inmate knows to be engaged in illegal activities without staff's written permission;

(9) Drive a motor vehicle without staff's written permission, which can only be obtained if the inmate has proof of a currently valid drivers license and proof of appropriate insurance;

(10) Return from furlough with anything the inmate did not take out with him/her (for example, clothing, jewelry, or books); or

(11) Comply with any other special instructions given by the institution.

[FR Doc. E6-20612 Filed 12-5-06; 8:45 am]

BILLING CODE 4410-05-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0545; FRL-8251-6]

#### Approval and Promulgation of Implementation Plans; Ohio; Volatile Organic Compound Emission Control Measures for Cincinnati and Dayton

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

**ACTION:** Proposed rule.

**SUMMARY:** On May 9, 2006, the Ohio Environmental Protection Agency (Ohio EPA) submitted several volatile organic compound (VOC) rules for approval into the State Implementation Plan (SIP). The primary purpose of the rules is to partially replace the VOC reductions from Ohio's vehicle inspection and maintenance (E-Check) program (which ended on December 31, 2005) in the Cincinnati and Dayton areas. These replacement rules include a provision requiring the use of lower emitting solvents in cold cleaner degreasers, the use of more efficient auto refinishing painting application techniques and a rule requiring the use of lower emitting portable fuel containers. These rules are approvable because they contain more stringent requirements than Ohio's existing rules and they are enforceable.

Ohio has correctly calculated their VOC emission reduction impact. EPA is also approving several other rule revisions, all of which meet EPA requirements, including an exemption for its printing rules, a site-specific rule for an aerosol can filling facility, elimination of the fluid catalytic cracking unit limitations for a Marathon Petroleum LLC facility, and an alternative leak detection and repair program for the Premcor Lima Refinery.

**DATES:** Comments must be received on or before January 5, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0545, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the online instructions for submitting comments.
- E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
- Fax: (312) 886-5824.
- Mail: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- Hand Delivery: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2006-0545. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your e-mail address will be automatically captured and included as part of the comment that is placed in the

public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <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 legal holidays. We recommend that you telephone Steven Rosenthal at (312) 886-6052 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. 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 Should I Consider as I Prepare My Comments for EPA?
- II. What Action Is EPA Taking Today?
- III. What Is the Purpose of This Action?
- IV. What Is EPA's Analysis of Ohio's Submitted VOC Rules?
- V. Statutory and Executive Order Reviews

#### I. What Should I Consider as I Prepare My Comments for EPA?

*When submitting comments, remember to:*

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions

or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

## II. What Action Is EPA Taking Today?

EPA is proposing to approve several VOC rules into the OhioSIP. These include more stringent solvent degreasing rules, an exemption for its printing rules, a site-specific rule for an aerosol can filling facility, elimination of the fluid catalytic cracking unit limitations for a Marathon Petroleum Company LLC facility, an alternative leak detection and repair program for the Premcor Lima Refinery, a rule requiring the marketing and sale of only low-emitting portable fuel containers, and a rule including the use of high efficiency paint application equipment at auto body refinishing operations.

## III. What Is the Purpose of This Action?

The primary purpose of the rules that Ohio submitted is to obtain VOC emission reductions to partially offset the increase in VOC emissions resulting from elimination of its E-Check program in the Cincinnati and Dayton areas. Ohio EPA has submitted additional VOC and nitrogen oxide emission reduction measures to fully compensate for this increase in emissions. These additional emission reduction measures, as well as other demonstrations needed to remove the E-Check program from the Ohio SIP, will be the subject of future rulemaking actions. Ohio has also submitted several site-specific rule revisions that have been requested by emission sources in Ohio. These rule revisions are also addressed in this notice.

## IV. What Is EPA's Analysis of Ohio's Submitted VOC Rules?

### A. New VOC Rules and Rule Revisions

#### (1) 3745-21-09(O)—Solvent Metal Cleaning

A new paragraph (3745-21-09(O)(2)(e)(i)) restricts owners and operators of cold cleaners located in the Cincinnati and Dayton ozone nonattainment areas to the use of solvents with a maximum vapor pressure of 1.0 mmHg, which results in a 67 percent emission reduction, after a compliance date of May 1, 2006 (as specified in 3745-21-04(C)(16)(c)). This vapor pressure limitation was chosen to further reduce VOC emissions from cold cleaners. An exemption was added for the cleaning of paint gun parts. This exemption, in 3745-21-09(O)(2)(e)(iv), is approvable because the requirement to use less volatile paint cleaners would probably require the use of higher emitting processes and because the removal of paint and coatings from paint gun parts is not generally considered, and regulated, by cold cleaning regulations. In addition, 3745-21-(6)(b) clarifies that regardless of whether or not a solvent metal cleaning operation is exempt from the requirements in 3745-21-09(O)(2)-(O)(5), because it is subject to the halogenated solvent cleaning rule in subpart T of 40 CFR Part 63, the solvent in a cold cleaner cannot exceed 1.0 mmHg. These revisions to the Ohio's solvent metal cleaning rule are approvable because they make the rule more stringent and are enforceable.

#### (2) 3745-21-09(T)—Leaks From Petroleum Refinery Equipment

OAC 3745-21-09(T)(4) allows the director of Ohio EPA to accept an alternative petroleum refinery monitoring, recordkeeping and reporting program to that required by (T)(1) of this rule if the alternative program is at least as effective in identifying, documenting and reporting leaks as the program in (T)(1). A new paragraph (T)(4)(a) approves the November 19, 2002 alternative monitoring, recordkeeping and reporting program entitled "Premcor Lima Refinery, LDAR Plan" by the director of Ohio EPA. The alternative monitoring, recordkeeping and reporting program is approved in the SIP. EPA is hereby approving OAC 3745-21-09(T)(4), and the November 19, 2002, alternative monitoring, recordkeeping and reporting program entitled "Premcor Lima Refinery, LDAR Plan," because EPA agrees that this alternative program is at least as

effective as the existing program in (T)(1) in detecting and reducing emissions from leaks.

#### (3) 3745-21-09(Y)—Flexographic, Packaging Rotogravure and Publication Rotogravure Printing Lines

A new paragraph, 3745-21-09(Y)(2)(d), was added to exempt any printing line at a facility in which the total maximum usage of VOC in all coatings and inks employed in all lines is less than or equal to one hundred tons per year. This exemption is consistent with EPA reasonably available control technology (RACT) guidance. New paragraph 3745-21-09(Y)(3) adds a "once in, always in" provision which clarifies that a facility is not eligible for a facility exemption once the control requirements of this rule apply to a facility. This "once in, always in" provision is also consistent with EPA RACT policy. These new paragraphs are approvable.

#### (4) 3745-21-09(RR)—Sherwin Williams Diversified Brands

This new paragraph contains site-specific RACT requirements for the Sherwin Williams facility in Bedford Heights that fills aerosol cans. The primary source of emissions from this facility is filling aerosol cans with VOC propellant. The numerical emission limit is 0.75 pounds of VOC per 1,000 aerosol cans produced, which also includes, for each rolling 12-month period, the emissions from Sherwin Williams' liquid mixing tanks, can liquid filling operations, gashouse operations, can brushing operations and can piercing operations. The RACT requirements specify a minimum 90% control efficiency for the required thermal incinerator, and specify that VOC emissions from non-emergency safety diversions of a thermal incinerator are to be included in determining compliance with the VOC emission rate limitation. This rule is approvable because (1) it requires that, when operating, a gashouse (the largest emission source where the propellant is added) thermal incinerator meets a minimum 90% destruction efficiency and (2) clarifies safety diversions, the emissions which are included in the 0.75 lbs VOC/1000 cans limit, as well as emergency events (during which the line is shut down), which are not included. The safety diversion and emergency event provisions are necessary because of the potential for an explosion in using an incinerator to control gashouse emissions.

## (5) 3745-21-09(VV)—Marathon Petroleum Company

The control requirements for the Marathon facility's fluid catalytic cracking unit, previously contained in 3745-21-09(VV)(1), have been deleted in order to reduce overlapping and conflicting requirements with the National Emission Standard for Hazardous Air Pollutants from Petroleum Refineries (Refinery MACT). Deletion of 3745-21-09(VV)(1) is approvable because the control requirements in 40 CFR Part 63, Subpart UUU of the Refinery MACT are at least as stringent as the control requirements in 3745-21-09(VV)(1), and will achieve equivalent or greater emission reductions from the Marathon facility's fluid catalytic cracking unit.

## (6) 3745-21-17—Portable Fuel Container and Spouts

This new rule, containing the standards for portable fuel containers (PFCs), was added as an additional control strategy to lower future VOC emissions throughout Ohio. PFCs are used to transport and store fuel (gasoline, kerosene and diesel fuel) from a retail distribution point to a point of use and eventually dispense fuel into equipment (e.g., a lawnmower). These containers come in a variety of shapes and sizes with nominal capacities ranging from 1 to over 6 gallons. This rule is based upon the rule by the California Air Resources Board (CARB), which is the leader in PFC technology. This rule is enforceable, and, based upon CARB test data, PFCs meeting these limits will achieve a 75 percent emission reduction. This rule is therefore approvable.

## (7) 3745-21-18—Commercial Motor Vehicle and Mobile Equipment Refinishing Operations

This new rule was added to lower VOC emissions from auto body refinishing operations, most of which are at small body shops that repair and refinish automobiles. This rule eliminates the use of air spray, which has a low transfer efficiency resulting in higher emissions, requires proper training in the use of paint application equipment, specifies proper spray gun cleaning techniques and requires that VOC containing materials be stored in nonabsorbent, non-leaking containers and that the containers be closed when not in use. This rule also requires that auto body refinishing facilities provide documentation of the above cited control measures. This rule is approvable because it eliminates air spray and adds additional control

measures that must be properly documented.

*B. Revisions That Correct Errors in Previously Adopted and Effective (On May 27, 2005) VOC RACT Rules*

## (1) 3745-21-01(V)(9)—Control Device Definition

This definition of a control device for SOxMI Reactors and Distillation Units was amended to eliminate a reference to a rule section that had been removed. This revised definition is approvable because it properly defines a control device and clarifies that a recovery device is not considered a control device.

## (2) 3745-21-12(H)(4)—Bakeries

This section requires any uncontrolled bakery oven exempted under paragraph (D)(2), and not (D)(2)(a) which does not exist, to keep records to determine whether the applicability cutoffs in (D)(2) have been exceeded. This section also requires that Ohio EPA or its delegated local air agency be notified if the applicability cutoff in (D)(2) has been exceeded. This section is therefore approvable.

## (3) 3745-21-01(AA)—Incorporation by Reference

The revisions to the incorporation by reference section include both minor changes to properly format citations and new references to materials referenced in Ohio's VOC regulations. These revisions include the addition of the "Standard Specification for Portable Kerosene Containers for Consumer Use," "Standard Specification for Portable Gasoline Containers for Consumer Use," "Code for the Manufacture and Storage of Aerosol Products," and "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations," and are approvable.

*C. Analysis of VOC Emission Reductions From Individual Control Measures Analyses (Please note that these rules have been previously described in section IV. (A))*

## (1) 3745-21-09(O)—Solvent Metal Cleaning

Reducing the vapor pressure in cold cleaners to no greater than 1.0 mmHg has been documented to result in a 67 percent reduction in VOC emissions. Such reduction is based upon a survey of existing solvent vapor pressures. This regulation is based on similar regulations previously promulgated in the Chicago/Metro East areas of Illinois,

which was also used as a basis for the Ozone Transport Commission (OTC) model rule as discussed in "Industrial Cleaning", Midwest RPO (LADCO) white paper dated March 14, 2005. EPA's default 80 percent rule effectiveness was also applied. Using 2002 baseline emissions for VOC (tons/day), a growth factor of 1.199, a 67 percent reduction and an 80 percent rule effectiveness resulted in Cincinnati area estimated reductions of 2.57 tons per day (TPD) for 2006. Dayton area estimated reductions were determined to be 1.75 TPD for 2006.

## (2) 3745-21-18—Commercial Motor Vehicle and Mobile Equipment Refinishing Operations

This rule requires the use of higher transfer efficiency paint application equipment, which has been documented to achieve a 35 percent reduction, according to the OTC Pechan Report, dated March 2001, and in the LADCO white paper "Auto Body Refinishing," dated March 28, 2005. EPA's default 80 percent rule effectiveness was also applied. Using 2002 baseline emissions for VOC (tons/day), a 1.175 growth factor, a 35 percent reduction and an 80 percent rule effectiveness resulted in Cincinnati area estimated reductions of 0.44 TPD for 2006. Dayton area estimated reductions were determined to be 0.30 TPD for 2006.

## (3) 3745-21-17—Portable Fuel Container and Spouts

A February 9, 2005 LADCO white paper estimates that 12,694 tons of VOCs are emitted yearly in Ohio from PFCs. Ohio has adopted this rule based on CARB's PFC rule, which has been documented by CARB to achieve a 75 percent VOC reduction. Emission reductions are estimated by considering a 75 percent control efficiency, a 10 percent annual turnover rate, and an 80 percent rule effectiveness. These reductions will begin to occur in 2007, when this rule goes into effect.

**V. Statutory and Executive Order Reviews***Executive Order 12866; Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

*Paperwork Reduction Act*

This proposed 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.).

*Regulatory Flexibility Act*

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. 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.*).

*Unfunded Mandates Reform Act*

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 (Pub. L. 104-4).

*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 proposes to approve 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.

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

This proposed 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 (65 FR 67249, November 9, 2000).

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

This proposed 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 is not economically significant.

*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 regulatory 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).

**National Technology Transfer Advancement Act**

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 21, 2006.

**Mary A. Gade,**

*Regional Administrator, Region 5.*

[FR Doc. E6-20638 Filed 12-5-06; 8:45 am]

**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 70**

**[FDMS Docket No. EPA-R03-OAR-2006-0933; FRL-8252-4]**

**State Operating Permit Programs; Delaware; Amendments to the Definition of "a major source"**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve an amendment to the State of Delaware's operating permit program to correct the definition of "a major source." This amendment would change the definition of "a major source" by removing the phrase "but only with respect to those air pollutants that have been regulated for that category" from the Regulation No. 30 (Title V) definition of a major source, as it applies to these Federal standards. This would require all fugitive emissions to be included in major source determination for sources subject to Federal New Source Performance Standards (NSPS) or the National Emissions Standards for Hazardous Air Pollutants standards (NESHAPs), not just the pollutants regulated by the particular NSPS or NESHAP. This amendment is necessary to make the current definition as stringent as the corresponding provision of the Title V regulations, which went into effect on November 27, 2001. This change will make this aspect of Regulation No. 30 consistent with Federal rule. In the Final Rules section of this **Federal Register**, EPA is approving the State's amendment to its operating permit program as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by January 5, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2006-0933 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [campbell.dave@epa.gov](mailto:campbell.dave@epa.gov).

C. *Mail:* EPA-R03-OAR-2006-0933, David Campbell, Chief, Permits and Technical Assessment Branch, Mailcode 3AP11, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such