

If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### *E. Unfunded Mandates Reform Act*

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### *F. Environment*

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves an intermittently enforced safety zone lasting 6.5 hours per day that would prohibit entry into the boundaries created by points starting at position 42°52′21″ N. and 078°53′14″ W. then West to 42°52′15″ N. and 078°53′32″ W. then South to 42°51′41″ N. and 078°53′02″ W. then East to 42°51′46″ N. and 078°52′45″ W. (NAD 83) then returning to the point of origin. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.ID. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

#### *G. Protest Activities*

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without

jeopardizing the safety or security of people, places, or vessels.

#### **V. Public Participation and Request for Comments**

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

#### **List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

#### **PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS**

■ 1. The authority citation for part 165 continues to read as follows:

**Authority:** Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0331 to read as follows:

#### **§ 165.T09–0331 Safety Zone; Thunder on the Outer Harbor; Buffalo Outer Harbor, Buffalo, NY.**

(a) *Location.* The safety zone will encompass all waters of the Outer Harbor, Buffalo, NY starting at position 42°52′21″ N. and 078°53′14″ W. then West to 42°52′15″ N. and 078°53′32″ W. then South to 42°51′41″ N. and 078°53′02″ W. then East to 42°51′46″ N. and 078°52′45″ W. (NAD 83) then returning to the point of origin.

(b) *Enforcement Period.* This rule is effective from 9:45 a.m. until 4:15 p.m. on July 22, 2017, and from 9:45 a.m. until 4:15 p.m. on July 23, 2017.

#### (c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The “on-scene representative” of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone must contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: May 2, 2017.

**J.S. DuFresne,**

*Captain, U.S. Coast Guard, Captain of the Port Buffalo.*

[FR Doc. 2017–09563 Filed 5–10–17; 8:45 am]

**BILLING CODE 9110–04–P**

#### **ENVIRONMENTAL PROTECTION AGENCY**

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

**[EPA–R05–OAR–2015–0802; FRL–9962–07–Region 5]**

#### **Air Plan Approval; Ohio; Volatile Organic Compound Control Rules**

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) proposes to approve, under the Clean Air Act (CAA), a November 18, 2015, State Implementation Plan (SIP) submittal from the Ohio Environmental Protection Agency consisting of adjustments and additions to volatile organic compound (VOC) rules in the Ohio Administrative Code (OAC). The changes to these rules are based on an Ohio-initiated five-year periodic review of its VOC rules and a new rule to update the VOC reasonably available control technology (RACT) requirements for the miscellaneous metal and plastic parts coatings source category for the Cleveland-Akron-Lorain area (“Cleveland area”) consisting of Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties. Additionally, EPA proposes to approve into the Ohio SIP an oxides of nitrogen (NO<sub>x</sub>) emission limit for Arcelor-Mittal Cleveland that Ohio is using as an offset in its CAA section 110(l) anti-backsliding demonstration for architectural aluminum coatings.

**DATES:** Comments must be received on or before June 12, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2015–0802 at <http://www.regulations.gov> or via email to [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov). For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (e.g., on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:**

Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6832, [liljegren.jennifer@epa.gov](mailto:liljegren.jennifer@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

- I. What is the purpose of this action?
- II. What is EPA’s analysis of Ohio’s submitted VOC rules?
  - A. Catalytic Incinerator Requirements
  - B. References to Operating Permits
  - C. VOC Recordkeeping Requirements
  - D. Solvent Cleaning Operations
  - E. OAC Rule 3745–21–24 Flat Wood Paneling Coatings
  - F. OAC Rule 3745–21–26 Surface Coating of Miscellaneous Metal and Plastic Parts
  - G. OAC Rule 3745–21–28 Miscellaneous Industrial Adhesives and Sealants
- III. What action is EPA taking?
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

**I. What is the purpose of this action?**

EPA proposes to approve a November 18, 2015, Ohio SIP submittal consisting of adjustments and additions to OAC Chapter 3745–21. Specifically, this includes amended OAC rules 3745–21–01, 3745–21–03, 3745–21–04, 3745–21–08, 3745–21–09, 3745–21–10, 3745–21–12, 3745–21–13, 3745–21–14, 3745–21–15, 3745–21–16, 3745–21–17, 3745–21–18, 3745–21–19, 3745–21–20, 3745–21–21, 3745–21–22, 3745–21–23, 3745–21–25, 3745–21–27, 3745–21–28, 3745–21–29; rescission of existing OAC rule 3745–21–24, and adoption of new OAC rules 3745–21–24 and 3745–21–26.

Except for OAC rule 3745–21–26, the changes to the Chapter 3745–21 rules are based on an Ohio-initiated five-year periodic review of its VOC rules. When Ohio reviews a rule and amends greater than fifty percent of that rule, Ohio issues the entire rule as a new replacement rule. This is the case with OAC 3745–21–24. OAC rule 3745–21–26 is an entirely new rule, the purpose of which is to update the VOC RACT requirements for the Cleveland area for the miscellaneous metal and plastic parts coatings source category. Additionally, EPA proposes to approve OAC 3745–110–03(N) into the Ohio SIP; this rule includes an emission limit that Ohio is using as an offset in its CAA 110(l) demonstration for architectural coatings, which is discussed in detail later in this proposed rulemaking.

**II. What is EPA’s analysis of Ohio’s submitted VOC rules?**

Many of Ohio’s amendments to the rules in Chapter 3745–21 are not significant. These amendments include: Updates to items incorporated by reference; minor typographical changes to conform to new state preferences on style and formatting; updates to correct typographical and format errors; updates to reflect source name and/or address changes; the removal of references to sources which have been permanently shut down; updates to replace deadlines associated with previous rule effective dates with actual dates (e.g. “sixty days from the effective date of this rule” replaced with an actual date); and language updates to provide clarification and to avoid confusion. EPA reviewed these and other non-significant and/or non-substantive amendments and proposes to approve them since they do not constitute significant and/or substantive changes to Ohio’s rules. More significant amendments, those amendments requiring more explanation, and the addition of OAC rule 3745–21–26 are discussed below.

*A. Catalytic Incinerator Requirements*

Ohio amended catalytic incinerator requirements where rules require monitoring, recordkeeping, and reporting of both the catalytic incinerator inlet temperature and the temperature difference across the catalyst bed. Ohio updated these requirements for catalytic incinerators to include catalytic incinerator inspection and maintenance requirements in addition to monitoring the temperature at the inlet to the catalyst bed as an alternative to monitoring the temperature difference across the catalyst bed. Monitoring of the temperature difference across the catalyst bed may not necessarily be a useful indicator of destruction efficiency when there is a low concentration of VOC at the inlet to the catalyst bed. In these cases, Ohio recommends implementing a catalytic incinerator inspection and maintenance program as a compliance alternative to using catalyst bed temperature difference data. Ohio made catalytic incinerator requirement amendments to rules 3745–21–09, 3745–21–10, 3745–21–12, 3745–21–13, 3745–21–14, 3745–21–15, 3745–21–16, 3745–21–23, 3745–21–27, 3745–21–28. Ohio has similar provisions that are already included in OAC rules 3745–21–22 and 3745–21–24.

EPA has implemented a similar alternative for a site-specific inspection

and maintenance plan to be implemented as an alternative to monitoring the temperature difference across the catalyst bed under the following rules: 40 CFR part 63, subpart JJJJ (Paper and Other Web Coating) at 63.3360(e)(3)(ii)(C); 40 CFR part 63, subpart OOOO (Printing, Coating, and Dyeing of Fabrics and Other Textiles) at 63.4363(b)(3); 40 CFR part 63, subpart SSSS (Surface Coating of Metal Coil) at 63.5160(d)(3)(ii)(C); and 40 CFR part 63, subpart PPPP (Engine Test Cells/ Stands) at 63.9324(b)(3). Therefore, EPA proposes to approve these catalytic incinerator requirement amendments to Ohio's rules 3745-21-09, 3745-21-10, 3745-21-12, 3745-21-13, 3745-21-14, 3745-21-15, 3745-21-16, 3745-21-23, 3745-21-27, 3745-21-28.

#### B. References to Operating Permits

Ohio replaced references to "operating permits" and "permits-to-operate" with "permits-to-install and operate" for Chapter 3745-31 sources (non-Title V sources), since "operating permits" under Chapter 3745-35 have been replaced with "permits-to-install and operate" under Chapter 3745-31 for non-Title V sources. Ohio made this amendment for the following rules 3745-21-12, 3745-21-13, 3745-21-14, 3745-21-15, 3745-21-16, 3745-21-19, 3745-21-20, 3745-21-21, 3745-21-22, 3745-21-23, 3745-21-24, 3745-21-25, 3745-21-27, 3745-21-28, and 3745-21-29. EPA proposes to approve this amendment in each instance since it results in increased clarity and consistency in the Ohio rules.

#### C. VOC Recordkeeping Requirements

Ohio amended VOC recordkeeping language as it relates to source applicability. Ohio changed the requirement to maintain records of VOC content in percent by weight and pounds per gallon to percent by weight or pounds per gallon depending upon whether total pounds or total gallons of each adhesive or solvent is recorded. Ohio no longer requires records in both units of measurement as long as the units of measurement chosen to be recorded match and can be used to establish whether monthly or daily applicability cutoffs are exceeded. Ohio made these VOC recordkeeping amendments for rules 3745-21-23 and 3745-21-28. Similarly, for rule 3745-21-29, Ohio added the option to record VOC content in pounds per gallon (or percent by weight) and the option to record coating and cleaning solvent usage in pounds (or gallons) as long as the units of measurement for these two parameters match and can be used to establish whether monthly or daily

applicability cutoffs are exceeded. EPA proposes to approve these amendments to rules 3745-21-23, 3745-21-28, and 3745-21-29, since compliance can be determined with either VOC content record as long as the units of measurement are consistent with the associated coating and/or solvent usage records.

#### D. Solvent Cleaning Operations

Ohio amended rule 3745-21-23 paragraph (C)(6)(b) to allow resin manufacturers to use the alternative cleaning operations compliance option. Prior to this revision, the rule only allowed manufacturers of coatings, inks, or adhesives to use the alternative cleaning operations compliance option. The alternative solvent cleaning and storage option in (C)(6)(b) is based on the California Bay Area Air Quality Management District's rules which are referenced in EPA's solvent cleaning CTG and have been established by EPA as RACT for cleaning coatings, inks, and resins from storage tanks and grinding mills. EPA, therefore, proposes to approve this amendment.

#### E. OAC Rule 3745-21-24 Flat Wood Paneling Coatings

When Ohio reviews a rule and amends greater than fifty percent of that rule, Ohio issues the entire rule as a new replacement rule. This is the case with OAC 3745-21-24. EPA proposes to approve the revisions to OAC rule 3745-21-24, since they provide increased clarity and consistency.

#### F. OAC Rule 3745-21-26 Surface Coating of Miscellaneous Metal and Plastic Parts

OAC rule 3745-21-26 is a new rule updating the VOC RACT requirements for the Cleveland area for the miscellaneous metal and plastic parts coatings source category as outlined in EPA's September 2008, "Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings."<sup>1</sup> Pursuant to CAA section 182(b)(2), the Cleveland area was subject to VOC RACT requirements since it was classified as moderate nonattainment under the 1997 ozone National Ambient Air Quality Standard (NAAQS). Section 182(b)(2) requires states with moderate nonattainment areas to implement RACT under section 172(c)(1) with respect to each of the

following: (1) All sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. EPA's 2008 CTG is a revised CTG that is a strengthening of previous CTGs covering these categories that were addressed by rules adopted and updated by Ohio during previous rulemakings (61 FR 18255; 74 FR 37171) prior to the Cleveland area being redesignated to attainment of the 1997 ozone NAAQS in September 2009 (74 FR 47414).

Prior to Ohio's adoption of OAC rule 3745-21-26, OAC rule 3745-21-09(U) regulated the surface coating of miscellaneous metal parts and OAC rule 3745-21-09(HH) regulated the surface coating of automotive/transportation plastic parts and business machine plastic parts. OAC rule 3745-21-26 applies to such sources located in the Cleveland area. The requirements of paragraphs (U) and (HH) of OAC rule 3745-21-09 will no longer apply to these sources after the compliance date for facilities subject to the requirements of OAC rule 3745-21-26. Prior to this action, EPA has not approved into the Ohio SIP 3745-21-09(U)(1)(h) pertaining to VOC content limits for architectural coatings. In this rulemaking, however, EPA proposes to approve 3745-21-09(U)(1)(h) into the Ohio SIP, since Ohio's anti-backsliding demonstration for architectural coatings shows, as discussed below, that our approval of this rule in conjunction with our approval of 3745-110-03(N) into the Ohio SIP will not interfere with CAA section 110(l).

#### i. Ohio's CAA Section 110(l) Demonstration Regarding Architectural Aluminum Coatings

Ohio established a 6.2 pounds per gallon (lbs/gal) VOC content limit for high-performance architectural aluminum coatings effective May 9, 1986, at OAC rule 3745-21-09(U)(1)(h). Prior to this, high-performance architectural aluminum coatings in Ohio were subject to a VOC content limit of 3.5 lbs/gal under a general SIP-approved coating category of extreme performance coatings. EPA disapproved Ohio's 1986 rule, since Ohio did not demonstrate that the relaxation from 3.5 lbs/gal to 6.2 lbs/gal represented RACT and would not interfere with attainment of the 1997 ozone NAAQS (75 FR 50711). Since EPA's CTG, updated in 2008, recommends a VOC content limit of 6.2 lbs/gal for high performance architectural coatings and Ohio has adopted OAC rule 3745-21-26 to

<sup>1</sup> Control Techniques Guidelines for Miscellaneous Metal and Plastic Parts Coatings. U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Research Triangle Park, North Carolina. EPA-453/R-08-003. September 2008.

supersede OAC rule 3745–21–09(U) for sources in the Cleveland area, Ohio, as part of this submittal, requested that EPA approve into the Ohio SIP OAC rule 3745–21–26 including the relaxation of the high-performance architectural aluminum coatings VOC content limit.

Ohio also requested that EPA approve a NO<sub>x</sub> emission limit contained in paragraph (N) of OAC rule 3745–110–03 for unit P046 at Arcelor-Mittal Cleveland. EPA's approval of the emission limit for unit P046 into the Ohio SIP will make this emission limit federally enforceable and available to use as an emission offset for the purposes of Ohio's demonstration to show that the relaxation of the high-performance architectural coatings VOC content limit from 3.5 lbs/gal to 6.2 lbs/gal will not result in a net increase in ozone precursor emissions in the Cleveland area.

Section 110(l), known as the anti-backsliding provision of the CAA, states:

The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

Ohio performed a CAA section 110(l) demonstration for the VOC content limits in paragraph (C)(1) Tables 1 and 6 of OAC rule 3745–21–26 for high performance architectural coatings.

In the absence of an attainment demonstration, to demonstrate no interference with any applicable NAAQS or requirement of the CAA under section 110(l), states may substitute equivalent emissions reductions to compensate for any change to a SIP-approved program, as long as actual emissions are not increased. "Equivalent" emissions reductions mean reductions which are equal to or greater than those reductions achieved by the control measure approved in the SIP. To show that compensating emissions reductions are equivalent, modeling or adequate justification must be provided. The compensating, equivalent reductions must represent actual, new emissions reductions achieved in a contemporaneous time frame to the change of the existing SIP control measure, in order to preserve the status quo level of emissions in the air. As described in EPA's memorandum "Improving Air Quality with Economic Incentive Programs" published in January 2001 (EPA–452/R–01–001), the equivalent emissions reductions must also be permanent, enforceable,

quantifiable, and surplus to be approved into the SIP.

Ohio completed a demonstration that indicates that the prerequisite for approval under section 110(l) of the CAA will be satisfied despite the VOC content limit relaxation for high-performance architectural coatings. Ohio's methodology involved identifying actual emissions from all operating permitted architectural aluminum coating processes in the state, of which there are five emission units among three permitted facilities. This includes one emission unit at the American Warming and Ventilation facility, one unit at the Thermo Fisher Scientific facility, and three units at the American Japanning facility, which is the only facility of the three operating permitted facilities that is located in the Cleveland area.

For the five emission units with architectural aluminum coating processes, Ohio converted the unit-specific facility-reported actual VOC emissions in tons per year (TPY) to gallons per year assuming an average solvent density of 7.36 lbs VOC/gal VOC. Then, using the full VOC content limit of 6.2 lbs/gal under OAC rule 3745–21–09(U)(1)(h) as listed in each facility's permit, Ohio estimated actual gallons of coating utilized per year at each unit at each facility for the 2010–2012 time period. Next, Ohio used the gallons of coating per year to estimate the 2010–2012 emissions from each unit using a VOC content limit of 3.5 lbs/gal rather than 6.2 lbs/gal. Ohio's calculations show that, in going from 3.5 lbs/gal to 6.2 lbs/gal, the estimated VOC emissions increase averaged over the 2010–2012 time period is 2.02 TPY in the Cleveland area and 10.5 TPY statewide. Ohio's calculations are provided in its SIP submittal, which is included in the docket to this proposed rulemaking.

In order to make a satisfactory 110(l) demonstration and render this SIP revision approvable by EPA under the requirements of the CAA, Ohio needs a comparable emission reduction to offset this estimated VOC emissions increase. VOCs and NO<sub>x</sub> contribute to the formation of ground-level ozone. Thus, the potential increase in VOC needs to be offset with equivalent (or greater) emissions reductions from another VOC control measure or proportionally equivalent (or greater) emissions reductions from a NO<sub>x</sub> control measure in order to demonstrate anti-backsliding.

For its offset, Ohio requested to use a NO<sub>x</sub> emission limit contained in paragraph (N) of OAC rule 3745–110–03 for unit P046 at Arcelor-Mittal

Cleveland. Since only a portion of this emission limit has been used for a previous 110(l) demonstration, the remaining portion is available for use as an offset for the purposes of this demonstration. In December 2007, Ohio promulgated OAC Chapter 3745–110, "Nitrogen Oxides—Reasonably Available Control Technology" to address NO<sub>x</sub> emissions from stationary combustion sources as a potential attainment strategy in the Cleveland area. In September 2009 (74 FR 47414), EPA redesignated the Cleveland area to attainment of the 1997 ozone NAAQS and approved a waiver for the Cleveland area from the NO<sub>x</sub> RACT requirements of section 182(f). Ohio's NO<sub>x</sub> RACT rules are therefore surplus and are available to be used to offset the potential increase in emissions from a higher VOC content limit for high performance architectural aluminum coatings in Ohio. For the purposes of this 110(l) demonstration, Ohio is requesting to use an emission limit on one specific emission unit at one specific facility for its offset.

Prior to Ohio's promulgation of OAC Chapter 3745–110, Arcelor-Mittal Cleveland operated with an emission factor of 0.55 lbs NO<sub>x</sub>/million British thermal units (MMBTU) established via a stack test in 2003. To meet the requirements of OAC Chapter 3745–110, Arcelor-Mittal installed low-NO<sub>x</sub> burners in the facility's three reheat furnaces (Ohio emission unit IDs P046, P047, and P048) and reduced its emission factor to 0.29 lbs NO<sub>x</sub>/MMBTU established via a stack test in 2010 to comply with the OAC 3745–110–03(N) NO<sub>x</sub> emission limit of 0.35 lbs/MMBTU. Based on actual natural gas usage reported for 2010–2012 and going from an emission factor of 0.55 lbs NO<sub>x</sub>/MMBTU to an emission factor of 0.29 lbs NO<sub>x</sub>/MMBTU, Ohio calculated an average NO<sub>x</sub> emission reduction for this facility of 571.6 TPY and an average NO<sub>x</sub> emission reduction specifically from unit P046 of 193.8 TPY.

Using the 2011 National Emissions Inventory (NEI), Ohio calculated the ratio of NO<sub>x</sub> emissions to VOC emissions in the Cleveland area at approximately 1.30 lbs NO<sub>x</sub> per lb of VOC. Ohio applied this factor to the Arcelor-Mittal Cleveland NO<sub>x</sub> reductions to show that the average VOC emissions offset theoretically available for the time period of 2010–2012 is 438.2 TPY of VOC for the facility and 148.6 TPY of VOC from unit P046.

Not all emission reductions from Arcelor-Mittal Cleveland are available for use as offsets. On October 25, 2010, Ohio submitted a similar 110(l)

demonstration for emissions from sheet molding compound (SMC) machines in Ohio regulated by OAC rule 3745–21–07. Ohio used the same reductions from Arcelor-Mittal Cleveland to demonstrate sufficient offsets to justify an emissions increase for SMC machines. The offset needed for SMC machines was 7.1 TPY of VOC, meaning the quantity of VOC offsets available for this 110(l) demonstration is 431.1 TPY of VOC from Arcelor-Mittal Cleveland and 141.5 TPY of VOC from EU P046. Therefore, there is enough of an emission offset remaining from EU P046 for Ohio to offset the estimated increase in VOC emissions (10.5 TPY for all five units and 2.02 TPY for the three Cleveland area units) as a result of relaxing its high-performance architectural coatings VOC content limit from 3.5 lbs/gal to 6.2 lbs/gal in the Ohio SIP.

EPA proposes to approve into the Ohio SIP the NO<sub>x</sub> limit on emission unit P046 at Arcelor-Mittal Cleveland, which will make this emissions limit federally enforceable. In combination with Ohio's use of an offset in the form of a permanent, enforceable, contemporaneous, surplus emission reduction achieved through the NO<sub>x</sub> limit on unit P046 at Arcelor-Mittal Cleveland, EPA proposes that our SIP approval of Ohio's relaxation of the high-performance architectural coatings VOC content limit from 3.5 lbs/gal to 6.2 lbs/gal would not interfere with section 110(l) of the CAA. Furthermore, this VOC content limit satisfies RACT for high-performance architectural coatings as recommended in EPA's 2008 CTG. Therefore, EPA proposes to approve into the Ohio SIP, OAC rule 3745–21–26 including the VOC content limits in paragraph (C)(1) Tables 1 and 6 for high performance architectural coatings.

ii. Ohio's 5% VOC RACT Equivalency Analysis for a 3-Gallon per Day Coating Usage Exemption

Ohio performed a 5% RACT equivalency analysis to justify the OAC rule 3745–21–26 paragraph (A)(3)(f)(i) exemption from the VOC content limits of metal coating lines that use less than three gallons per day. Ohio demonstrated that the increase in emissions from this exemption would be no more than 5% compared to adopting the CTG exactly as EPA issued it. EPA guidance entitled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations" also referred to as "the Bluebook"<sup>2</sup> contains

an example 5% equivalency analysis calculation.

Ohio performed its 5% RACT equivalency analysis consistent with EPA's Bluebook and determined that the increase in emissions resulting from a three gallons per day exemption would be approximately 4%. Since the emissions increase is less than 5%, Ohio may incorporate this exemption into its VOC RACT rule for the control of emissions from surface coating of miscellaneous metal parts and products for the Cleveland area.

To conduct its 5% RACT equivalency analysis, Ohio listed all of the current metal parts and products surface coating sources in the Cleveland area and each source's actual 2008 VOC emissions or, where 2008 actual emissions data were unavailable, used information based on current operation to determine representative 2008 actual emissions from metal coating lines. Ohio identified each emission unit at each facility that would be subject to the new OAC rule 3745–21–26 and converted TPY of VOC to gallons per year of VOC using an average solvent density of 7.36 lbs VOC/gal VOC. Ohio used source-specific information to obtain gallons of coating used in 2008 or, where such data were unavailable, used an average mix density of 10.0 lbs VOC/gal coating. Ohio also subtracted gallons of VOC per year from total gallons of coating used per year to obtain gallons of solids per year, since some limits in the 2008 CTG are expressed in lbs of VOC per gallon of coating and some are expressed in lbs of VOC per gallon of solids. Ohio used these 2008 baseline data to find the difference in the two options: The option to include a three gallons per line per day exemption and the option that specifies an applicability cutoff of 15 lbs of VOC per day across all lines as specified in EPA's 2008 CTG. Ohio's analysis shows that the difference between allowing and disallowing the three gallons per day exemption is less than 5%. Ohio's analysis is provided in its SIP submittal, which is included in the docket to this proposed rulemaking. Since the result of Ohio's RACT equivalency analysis to support the exemption in its rule is less than 5%, and since Ohio's general methodology for conducting the equivalency analysis is consistent with EPA's Bluebook, which indicates that for the purposes of VOC RACT regulation a difference of no more than 5% between EPA's CTG and the state's rules is not a significant emissions differential, EPA proposes to approve into the Ohio SIP the OAC rule

3745–21–26 exemption from the VOC content limits of metal coating lines that use less than three gallons per day.

iii. EPA's Evaluation of Ohio's VOC RACT Requirements for Pleasure Craft Coatings

EPA's 2008 CTG includes VOC content limits for pleasure craft coatings, which Ohio has not historically regulated. Ohio systematically analyzed existing permitted facilities which may become subject to its new pleasure craft coating rules. Ohio's analysis is important, because, theoretically, a facility could go from being subject to an existing VOC content limit under a different coating category to being subject to a less stringent VOC content limit under Ohio's new pleasure craft coating rules. If that were the case, the potential for interference with CAA section 110(l) would need to be addressed. Ohio's analysis indicates that there are 12 sources in the state with the potential to be subject to the new OAC rule 3745–21–26. Ohio determined six of these sources are not subject to OAC rule 3745–21–26, because they are not located in the Cleveland area, and four of the remaining sources are not subject to OAC rule 3745–21–26, since they are marinas that only contain gasoline dispensing facilities. The remaining two sources are the Duramax Marine facility in Geauga County and the Hanover Marine facility in Lake County. The Duramax facility operates spray booths that only apply adhesives and are therefore exempt from OAC rule 3745–21–26. Rather, this facility may be subject to the OAC rule 3745–21–28; "Miscellaneous Industrial Adhesives" requirements. The Hanover facility builds fiberglass boats. It operates one small spray booth for painting stripes only and historically has had emissions under the applicability levels. Mostly this facility performs resin/gel work and may be subject to New Source Review requirements and the requirements of OAC rule 3745–21–27; "Fiberglass Boat Manufacturing." Ohio's analysis shows that our approval into the Ohio SIP of these pleasure craft coating VOC content limits will have no or minimal effect to reduce emissions, but, of course, the adoption of these limits will not cause any increase in emissions and, therefore, not interfere with section 110(l) of the CAA.

Table 1, below, shows a comparison of the differences between EPA's 2008 CTG and Ohio's OAC rule 3745–21–26 VOC content limits for pleasure craft coatings. The portion of Ohio's OAC rule 3745–21–26 pertaining to pleasure craft coatings differs from EPA's 2008

<sup>2</sup> Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations Clarification to Appendix D of November 24, 1987 **Federal Register**. Ozone/Carbon Monoxide Program Branch,

CTG in several ways. Ohio's VOC content limits for the "extreme high gloss topcoat" and "other substrate antifoulant" coating categories are greater than those recommended in

EPA's 2008 CTG, and Ohio's rule contains a "antifouling sealer/tie coat" coating category that is not included in EPA's 2008 CTG. Additionally, Ohio's OAC rule 3745-21-26 defines extreme

high gloss coating for the pleasure craft coating industry as that which achieves greater than 90% reflectance, as opposed to greater than 95% reflectance recommended in EPA's 2008 CTG.

TABLE 1—DIFFERENCES BETWEEN EPA'S 2008 CTG AND OHIO'S OAC RULE 3745-21-26 VOC CONTENT LIMITS FOR PLEASURE CRAFT COATINGS

Coating category	Pound VOC per gallon coating	
	2008 CTG	Ohio's rule
Extreme High Gloss Topcoat .....	4.1	5.0
High Gloss Topcoat .....	3.5	
Pretreatment Wash Primer .....	6.5	
Finish Primer/Surfacer .....	3.5	
High-Build Primer/Surfacer .....	2.8	
Antifouling Sealer/Tie Coat .....	Not a category in the 2008 CTG	3.5
Aluminum Substrate Antifoulant .....	4.7	
Other Substrate Antifoulant .....	2.8	3.3
All Other Pleasure Craft Surface Coatings for Metal or Plastic .....	3.5	

The differences shown in Table 1, above, between EPA's original recommendations in the 2008 CTG and Ohio's VOC content limits for pleasure craft coatings in OAC rule 3745-21-26 are consistent with those requested by the pleasure craft coating industry. When EPA released the 2008 CTG, the pleasure craft coating industry requested that EPA reconsider the 2008 CTG recommended VOC content limits for extreme high gloss, high gloss, and antifoulant coatings citing what the industry deemed to be technological and feasibility challenges to meeting the VOC content limits recommended in the CTG. EPA responded in a June 1, 2010, memorandum entitled "Control Technique Guidelines for Miscellaneous Metal and Plastic Part Coatings—Industry Request for Reconsideration." While EPA did not formally revise the 2008 CTG to reflect the changes requested by the pleasure craft coating industry, in the June 1, 2010, memo, EPA encouraged the pleasure craft industry to work together with state agencies in the RACT rule development process to assess what is reasonable for the specific sources regulated under each state's rules. EPA's CTGs are intended to provide state and local air pollution control authorities with information to assist them in determining RACT for VOC, but CTGs impose no legally binding requirements on any entity, including pleasure craft coating facilities. Regardless of whether a state chooses to implement the recommendations contained in the CTG

through state rules, or to issue state rules that adopt different approaches, states must submit their RACT rules to EPA for review and approval as part of the SIP process. In the June 1, 2010, memo, EPA stated its intent to evaluate the state's RACT rules and determine, through notice and comment rulemaking in the SIP approval process, whether the submitted rules meet the RACT requirements of the CAA and EPA's regulations.

EPA proposes to approve into the Ohio SIP these OAC rule 3745-21-26 VOC content limits for pleasure craft coatings as RACT since this rule, in most respects, is consistent with EPA's 2008 CTG, and, where it differs from EPA's 2008 CTG as explained above, EPA proposes to find these differences to be reasonable in terms of available control technology for the pleasure craft coating industry.

*G. OAC Rule 3745-21-28 Miscellaneous Industrial Adhesives and Sealants*

Ohio made two amendments to Table 1 of OAC rule 3745-21-28; the first amendment was to indicate that the VOC content limit excludes water and exempt solvents, and the second amendment was to change the category "tire retread" to "tire repair." EPA proposes to approve these amendments, since these changes result in language that is consistent with EPA's CTG for miscellaneous industrial adhesives, which is the basis for OAC rule 3745-21-28.

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

EPA proposes to approve into the Ohio SIP adjustments and additions to VOC RACT rules in OAC Chapter 3745-21. Additionally, EPA proposes to incorporate OAC 3745-110-03(N) into the Ohio SIP; this rule includes an emission limit that Ohio is using as an offset in its CAA 110(l) demonstration for the OAC rule 3745-21-26 VOC content limit for architectural coatings.

**IV. Incorporation by Reference**

In this rule, EPA proposes to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA proposes to incorporate by reference Ohio's updated VOC rules including 3745-21-01, 3745-21-03, 3745-21-04, 3745-21-08, 3745-21-09, 3745-21-10, 3745-21-12, 3745-21-13, 3745-21-14, 3745-21-15, 3745-21-16, 3745-21-17, 3745-21-18, 3745-21-19, 3745-21-20, 3745-21-21, 3745-21-22, 3745-21-23, 3745-21-24, 3745-21-25, 3745-21-26, 3745-21-27, 3745-21-28, 3745-21-29, effective October 15, 2015, and the NO<sub>x</sub> emission limit on unit P046 at Arcelor-Mittal Cleveland contained in paragraph (N) of OAC rule 3745-110-03. EPA has made, and will continue to make, these documents generally available through [www.regulations.gov](http://www.regulations.gov), and/or at the EPA Region 5 Office (please contact the person identified in the "For Further Information Contact" section of this preamble for more information).

## V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the. 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);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal

governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

### List of Subjects in 40 CFR Part 52

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

Dated: April 21, 2017.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 2017-09506 Filed 5-10-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R06-OAR-2015-0585; FRL-9960-21-Region 6]

### Approval and Promulgation of Implementation Plans; Texas; Revisions to Emissions Banking and Trading Programs and Compliance Flexibility

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve revisions to the Texas State Implementation Plan (SIP) Emissions Banking and Trading Programs submitted on July 15, 2002; December 22, 2008; April 6, 2010; May 14, 2013; and August 14, 2015.

Specifically, we are proposing to approve revisions to the Texas Emission Credit, Mass Emissions Cap and Trade, Discrete Emission Credit, and Highly Reactive Volatile Organic Compound Emissions Cap and Trade Programs such that the Texas SIP will include the current state program regulations promulgated and implemented in Texas. We are also proposing to approve compliance flexibility provisions for stationary sources using the Texas Emission Reduction Plan submitted on July 15, 2002; May 30, 2007; and July 10, 2015.

**DATES:** Written comments should be received on or before June 12, 2017.

**ADDRESSES:** Submit your comments, identified by EPA-R06-OAR-2015-0585, at <http://www.regulations.gov> or via email to [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov). For additional information on how to submit comments see the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Adina Wiley, 214-665-2115, [wiley.adina@epa.gov](mailto:wiley.adina@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the final rules section of this **Federal Register**, the EPA is approving the State's SIP submittal as a direct rule without prior proposal because the Agency views this as noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action no further activity is contemplated. If the EPA receives relevant 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.

For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: April 27, 2017.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

[FR Doc. 2017-09471 Filed 5-10-17; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2017-0136; FRL-9961-88-Region 4]

### Air Plan Approval; TN: Non-Interference Demonstration for Federal Low-Reid Vapor Pressure Requirement in Shelby County

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a noninterference demonstration that evaluates whether the change for the Federal Reid Vapor Pressure (RVP) requirements in Shelby County (hereinafter referred to as the "Area") would interfere with the Area's ability to meet the requirements of the Clean Air Act (CAA or Act). Tennessee submitted through the Tennessee Department of Environment and Conservation (TDEC), on April 12, 2017, a noninterference demonstration on behalf of the Shelby County Health Department requesting that EPA change the RVP requirements for Shelby County. Specifically, Tennessee's