



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAY 10 2013

REPLY TO THE ATTENTION OF:

Jenny Avellana
Ohio Environmental Protection Agency
Department of Air Pollution Control
Lazarus Government Center
P.O. Box 1049
Columbus, Ohio 43216-1049

Dear Ms. Avellana:

The U.S. Environmental Protection Agency has reviewed the draft changes to the Ohio Administrative Code (OAC) related to fine particulate matter (PM_{2.5}), available for interested party review since April 9, 2013, and has the following comments:

1. The definition of "net emissions increase" in OAC 3745-31-01 (VVV) is being changed so that the 5-year contemporaneous time period is based on when an initial complete application is received and when the application projects operation to commence. 40 C.F.R. 51.166(b)(3)(ii) allows a State to define a reasonable period within which an increase or decrease in actual emissions is deemed contemporaneous with a particular change. However, the revised definition may allow the applicant to unreasonably extend the contemporaneous time period by amending the application to postpone the date of operation. Therefore, before submitting this rule as a revision of Ohio's State Implementation Plan (SIP), we recommend amending it so that the beginning of the 5-year contemporaneous time period is reset whenever the application is modified.
2. OAC 3745-31-26 establishes offset ratios in nonattainment areas. According to the July 11, 2011 Revised Policy to Address Reconsideration of Interpollutant Trading Provisions for Fine Particles (PM_{2.5}), "any ratio involving PM_{2.5} precursors adopted by the state for use in the interpollutant offset program for PM_{2.5} nonattainment areas must be accompanied by a technical demonstration that shows the net air quality benefits of such ratio for the PM_{2.5} nonattainment area in which it will be applied." Therefore, if this rule will be submitted as a revision of Ohio's SIP, it should be accompanied by such a technical demonstration.
3. On January 22, 2013, the United States Court of Appeals for the District of Columbia Circuit granted a request from EPA to vacate and remand to EPA the portions of two Prevention of Significant Deterioration (PSD) PM_{2.5} rules (40 C.F.R. §§51.166 and 52.21) addressing the Significant Impact Levels (SILs) for

PM_{2.5}. The Court also vacated the parts of these two PSD rules establishing a PM_{2.5} Significant Monitoring Concentration (SMC). OAC 3745-31-13 and 3745-31-16(C) incorporate the SILs and SMCs which were vacated. EPA has advised States to avoid incorporating language in State regulations that is the same as or has a similar effect as the paragraph (k)(2) language in 40 C.F.R. §§51.166 and 52.21. As a result of the Court's decision, the EPA does not believe it can approve the portion of any SIP submission that is identical, or substantially similar, to the vacated (k)(2) regulatory text, but EPA may approve the remainder of the SIP submission where it is appropriate to do so. Similarly, any rules submitted for approval into the SIP should not include the PM_{2.5} SMC, which the Court's decision found inconsistent with the Clean Air Act.

4. OAC 3745-31-19(D) is being amended to include maximum allowable increases for PM_{2.5} and to revise the maximum allowable increase for particulate matter of diameter less than or equal to ten microns (PM₁₀). The chart incorrectly lists the twenty-four hour maximum allowable increase for PM₁₀ as 20 micrograms per cubic meter. The chart should be corrected to 30 micrograms per cubic meter, consistent with 40 C.F.R. §52.166(p)(4).

Thank you for the opportunity to provide input as you develop your PM_{2.5} regulations. If you have any questions about this letter, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Genevieve Damico". To the right of the signature, the initials "GDR" are written in a smaller, less legible hand.

Genevieve Damico
Chief
Air Permits Section