

activities that have total combined emission rates less than 15 pounds of organic compounds per day and last no longer than 18 months. EPA finds that the sources exempted by this rule will not have a significant impact on air quality. EPA therefore finds this rule acceptable.

OAC 3745-31-07 has been amended to allow the Director of OEPA to revoke a permit to install if the permittee requests revocation for cause and the Director determines that the revocation will not result in the violation of any applicable laws. EPA finds this rule acceptable.

The rule also makes non-substantive administrative changes to 3745-31-01, 3745-31-03(A)(1)(p) and (ee), 3745-31-03(A)(4) and (4)(a), 3745-31-05(A)(2)(d) and (A)(3), and 3745-31-05(E)(3). EPA finds these changes to the rule acceptable.

F. How Is This Action Related to EPA's Current Review of Ohio's Programs?

EPA is currently reviewing OEPA's implementation of the delegated PSD program in response to a petition submitted by D. David Altman on behalf of Ohio Citizen Action, the Ohio Environmental Council, Rivers Unlimited, and the Ohio Sierra Club. Any concerns that EPA finds as a result of this review will be addressed through the process of responding to the petition. Today's approval only addresses whether or not specific provisions of Ohio's Administrative Code meet the Federal criteria for a PSD program, as set forth in 40 CFR part 51, and does not address any issues regarding how the code is being applied or enforced by Ohio. We believe the OAC revisions meet the criteria for approval. No particular findings or conclusions in or from the EPA petition review should be inferred from today's approval.

G. How Is This Action Related to EPA's New Preconstruction Permit Program?

Recently, EPA announced new regulations regarding changes to the preconstruction permit program under EPA's efforts regarding "New Source Review Reform." See <http://www.epa.gov/nsr/>. Today's approval of Ohio's SIP submission does not address EPA's new rules but is limited to portions of Ohio's preconstruction permit program under the existing rules. EPA is taking no position today on whether Ohio will need to make changes to its SIP to meet any requirements that EPA may promulgate as part of New Source Review Reform.

H. How Does This Rulemaking Affect EPA's Preconstruction Permit Program?

In addition, while EPA is approving Ohio's PSD SIP, EPA recognizes that it has a responsibility to insure that all States properly implement their preconstruction permitting programs. EPA's approval of Ohio's PSD program does not divest the Agency of the duty to continue appropriate oversight to insure that PSD determinations made by Ohio are consistent with the requirements of the CAA, EPA regulations, and the SIP.

EPA's authority to oversee PSD program implementation is set forth in sections 113, 167, and 505(b) of the Act. For example, section 167 provides that EPA shall issue administrative orders, initiate civil actions, or take whatever other enforcement action may be necessary to prevent construction of a major stationary source that does not "conform to the requirements of" the PSD program. Similarly, section 113(a)(5) provides for administrative orders and civil actions whenever EPA finds that a State "is not acting in compliance with" any requirement or prohibition of the Act regarding construction of new or modified sources. Likewise, section 113(a)(1) provides for a range of enforcement remedies whenever EPA finds that a person is in violation of an applicable implementation plan.

Enactment of Title V of the CAA and the EPA objection opportunity provided therein has added new tools for addressing deficient new source review decisions by states. Section 505(b) requires EPA to object to the issuance of a permit issued pursuant to Title V whenever the Administrator finds during the applicable review period, either on her own initiative or in response to a citizen petition, that the permit is "not in compliance with the requirements of an applicable requirement of this Act, including the requirements of an applicable implementation plan."

Regardless of whether EPA addresses deficient permits using objection authorities or enforcement authorities or both, EPA cannot intervene unless the state decision fails to comply with applicable requirements. Thus, EPA may not intrude upon the significant discretion granted to states under new source review programs, and will not "second guess" state decisions. Rather, in determining whether a Title V permit incorporating PSD provisions calls for EPA objection under section 505(b) or use of enforcement authorities under sections 113 and 167, EPA will consider whether the applicable substantive and

procedural requirements for public review and development of supporting documentation were followed. In particular, EPA will review the process followed by the permitting authority in determining best available control technology, assessing air quality impacts, meeting Class I area requirements, and other PSD requirements, to ensure that the required SIP procedures (including public participation and Federal Land Manager consultation opportunities) were met. EPA will also review whether any determination by the permitting authority was made on reasonable grounds properly supported on the record, described in enforceable terms, and consistent with all applicable requirements. Finally, EPA will review whether the terms of the PSD permit were properly incorporated into the operating permit.

EPA Action

In this rulemaking action, we are approving the sections addressed above as a revision to the Ohio SIP for PSD. The sections discussed in this notice were conditionally approved on October 10, 2001, and EPA is approving them based on the State's July 18, 2002 submittal.

EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the State Plan should adverse written comments be filed. This rule will be effective without further notice unless the Agency receives relevant adverse written comment by February 21, 2003. Should the Agency receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on March 10, 2003.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. This proposed action merely approves state regulation as meeting federal requirements and imposes no additional requirements beyond those imposed by the State. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial