

would continue to be required for “off-permit” changes involving non-IEUs.)

Finally, Ohio proposed to revise OAC 3745-77-08(C)(3)(a) to clarify that significant permit modification procedures do not apply to IEUs. In particular, proposed OAC 3745-77-08(C)(3)(a) would provide that the minor permit modification procedures of OAC 3745-77-08(C)(1), rather than the significant permit modification procedures of OAC 3745-77-08(C)(3), would apply to the relaxation of reporting or recordkeeping permit terms or conditions relating to best available technology emission limitations, operational restrictions or other standards for IEUs.

Under Ohio’s proposed regulations, any change to an IEU may use the minor permit modification procedures of OAC 3745-77-08(C)(1) if it meets the criteria applicable to all permit modifications. OAC 3745-77-08(C)(1)(a); *see* 40 CFR 70.7(e)(2)(i)(A). OEPA expressed concern that allowing changes to IEU’s to utilize the minor permit modification procedures only if they meet the minor permit modification criteria set out in subparagraphs (i) through (vi) of OAC 3745-77-08(C) could mean that some changes to IEU’s would be required to use the significant permit modification process. Specifically, Ohio is concerned that a change to the monitoring, recordkeeping or reporting for an IEU could be considered “significant” and therefore would require use of the significant permit modification process. Ohio is also concerned that a change to a best available technology (BAT) emission limit for an IEU created in a permit to install could require use of the significant permit modification process. Ohio has requested clarification from EPA on both of these outcomes. EPA believes that these two outcomes are not required under the revised Ohio rule that EPA is proposing to approve in this action.

EPA believes that 40 CFR part 70 does not require that all changes to the monitoring, recordkeeping or reporting for an IEU use the significant permit modification process for two reasons. First, while Part 70 does require “significant changes to existing monitoring, reporting, or recordkeeping requirements in the permit” to use the significant modification process, it also gives Ohio flexibility to determine its own criteria governing which changes to monitoring are significant. *See* 40 CFR 70.7(e)(2)(i)(A)(2), 70.7(e)(4)(i). Section 70.7(e)(4)(i) provides that a “State program shall contain criteria for determining whether a change is significant. At a minimum, every significant change in existing

monitoring permit terms or conditions * * * shall be considered significant.” Accordingly, Ohio has determined that the environmental consequences of monitoring changes is an important criterion and that monitoring changes to units smaller than 5 tons per year would not have significant environmental consequences. Therefore, Ohio has submitted proposed changes to its part 70 program providing that all changes to monitoring at IEUs are not significant because IEUs are limited to units less than 5 tons per year. Because of the size limitation, EPA believes that Part 70 allows Ohio to conclude that the environmental consequences of a change to monitoring at an IEU would be quite small, and to determine that such changes are not significant and therefore are eligible for minor modification procedures.

Second, EPA believes that Ohio may interpret its rules such that changes to recordkeeping and reporting for IEUs do not require use of the significant modification process, because under that interpretation, Ohio’s permit modification procedures for IEUs would be “substantially equivalent” to those in section 70.7(e).¹ Section 70.7(e)(4)(i) provides that “[a]t a minimum, * * * every relaxation of reporting or recordkeeping permit terms or conditions shall be considered significant.” Unlike § 70.7(e)(4)(i)’s reference to changes in existing monitoring (discussed above), this phrase is not modified by the word “significant” and § 70.7(e)(4)(i) contains no express authority for permitting authorities to exempt relaxations of recordkeeping and reporting permit terms or conditions from use of the significant permit modification process based on their significance or any other grounds. Nonetheless, EPA believes that Ohio’s rules, as interpreted by the State, are substantially equivalent to the permit revision process set forth in § 70.7(e). First, the relaxations allowed to use minor permit modification procedures are limited to the smallest units, and given their small size, EPA believes that a full, significant permit modification process is not warranted or practical. Ohio’s rules define IEUs as units with a potential to emit no larger than 5 tons per year for nonhazardous

air pollutants and no larger than 2 tons per year for hazardous air pollutants. Second, Ohio’s rules allow minor permit modification procedures only for relaxations of recordkeeping or reporting permit terms for Ohio’s BAT emission limits issued under the state minor new source review program. Relaxations of recordkeeping and reporting for other applicable requirements would require use of the significant permit modification process. EPA believes these limitations mean that any relaxations would be environmentally inconsequential. An example of a relaxation of recordkeeping or reporting provided by Ohio would be a change in the frequency of reporting for a BAT limit from semi-annual to annual. EPA is also relying on Ohio, as the creator of the BAT limits, to be in the best position to determine whether relaxations to recordkeeping or reporting for those limits would affect its ability to determine a source’s compliance with the BAT limit. Accordingly, EPA finds the procedures under Ohio’s rules, as interpreted by the State so as not to require relaxations in existing recordkeeping or reporting for IEUs to use the significant permit modification process, to be substantially equivalent to those required by Part 70. Ohio also sought clarification that changes to BAT emission limits that apply to IEUs will not require use of the significant permit modification process. EPA concurs that under Ohio’s revised rules, for IEUs that are subject to BAT emission limits, changes to such limits that are accomplished through revisions to permits to install will not require use of the significant permit modification process.

EPA believes that the proposed revisions to OAC 3745-77-02(E), 3745-77-07(A)(13), 3745-77-07(I)(2), and 3745-77-08(C) meet the requirements of the CAA and Part 70. *See White Paper Number 2 for Improved Implementation of the Part 70 Operating Permits Program*, pp. 30–31 (March 5, 1996). Therefore, EPA proposes to approve these changes as revisions to Ohio’s Title V program if Ohio adopts the proposed changes as final regulations consistent with this notice. Final adoption of these changes by Ohio would adequately address the deficiencies identified in the Notice of Deficiency regarding Ohio’s regulations for IEUs.

¹ Section 70.7(e)(1) authorizes EPA to approve Part 70 programs that include permit modification procedures that are “substantially equivalent” to those in § 70.7(e). Specifically, Section 70.7(e)(1) provides: “The State shall provide adequate, streamlined, and reasonable procedures for expeditiously processing permit modifications. The State may meet this obligation by adopting the procedures set forth below or ones *substantially equivalent*” (emphasis added).