



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2011-0672; FRL-9902-03-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; Ohio SO₂ Air Quality Rule Revisions**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On June 24, 2011, Ohio Environmental Protection Agency (Ohio EPA) submitted for Clean Air Act (CAA) State Implementation Plan (SIP) approval, revisions to Ohio Administrative Code (OAC) rules: 3745-18-01, 3745-18-03 to 3745-18-52, 3745-18-54 to 3745-18-77, 3745-18-79, 3745-18-81 to 3745-18-89, and 3745-18-91 to 3745-18-94. The rule revisions primarily update facility information and remove SO₂ requirements for shutdown facilities throughout the SIP. EPA believes that the revisions improve the clarity of the rule without affecting the stringency and therefore is approving all of the submitted revisions except for specific paragraphs in OAC 3745-18-04.

DATES: This rule is effective [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless EPA receives adverse comments by [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If adverse comments are received, EPA will publish a timely withdrawal of the direct

final rule in the Federal Register informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0672, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: aburano.douglas@epa.gov.
3. Fax: (312) 408-2279.
4. Mail: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Douglas Aburano, Chief, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office 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 AM to 4:30 PM, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No.

EPA-R05-OAR-2011-0672. 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, 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 or e-mail. The www.regulations.gov website 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 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.

Docket: All documents in the docket are listed in the

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 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 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Sarah Arra, Environmental Scientist, at (312) 886-9401 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Sarah Arra, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-9401, Arra.Sarah@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. Background
- II. Review of Ohio's Submittal

III. What Action is EPA Taking?

IV. Statutory and Executive Order Reviews.

I. Background.

Ohio law requires a five year review of all regulations. Ohio conducted a review on OAC 3745-18 and made revisions throughout the rules. The rule revisions are primarily updating facility information and removing requirements that apply to shutdown facilities. Ohio EPA submitted the rule revisions to EPA on June 24, 2011. EPA's most recent approval for revisions to OAC 3745-18 was published in the Federal Register on March 21, 2008 at 73 FR 15083. For a full history of the federally approved revisions to OAC 3745-18, see the Background section of rulemaking published in the Federal Register on May 1, 2007 at 72 FR 23783.

II. Review of Ohio's Submittal

During Ohio's five year review, Ohio made revisions to rules: 3745-18-01, 3745-18-03 to 3745-18-52, 3745-18-54 to 3745-18-77, 3745-18-79, 3745-18-81 to 3745-18-89, and 3745-18-91 to 3745-18-94.

Numerous revisions to OAC 3745-18 were updates of existing facility information. Several facilities had changes in premise numbers. Several other facilities were updated with name changes. An emissions limit was updated for the Sunoco, Inc.,

Toledo Refinery. This limit is consistent with EPA's consent order 05CV2866. The updates to these facilities allow for consistent recordkeeping and easier compliance tracking.

Most of the substantial rule revisions were the removal of requirements for shutdown facilities from the SIP. Ohio's criteria for removing requirements for a facility from the SIP is that the facility has been permanently and enforceably shutdown for at least five years. EPA and Ohio EPA are confident that all the facilities for which requirements are being removed from the SIP are permanently and enforceably shut down. When confirming a shutdown facility, EPA relies on the State's database. EPA confirmed that all of the shutdown facilities are in Ohio EPA's database. Table 1 in EPA's September 2013 Technical Support Document (TSD), available in the docket for this rulemaking, shows the facilities that have been shut down with their shutdown dates. For the last third of Table 1, EPA was not able to confirm a shutdown date for the facilities. Ohio EPA confirmed that these facilities were shut down before the existence of the database and supplied information on the shutdown of these facilities in the last column of Table 1.

The last eight facilities in Table 1 of the TSD are still operating. However, Ohio EPA and EPA agree that it is

appropriate to remove the SO₂ requirements from the SIP because all SO₂ applicable emissions units are shut down and would require a new permit for restart.

Table 2 in the TSD is a list of facilities that are still operating emission units applicable to the SIP, but have units that have shut down. Therefore, for clarity of the rule, it is appropriate to remove the SO₂ requirements for the shutdown units from the SIP.

For the few cases where the facility still operates, but the emissions units are shut down, the permits have been revoked and new permits would need to be issued if the units ever restarted. EPA is confident that all facilities where SO₂ requirements have been removed from the SIP are permanently and enforceably shutdown. Therefore, removing SO₂ requirements for these facilities from OAC 3745-18 does not have any negative impact on the environment, but instead, improves the clarity of the rules.

EPA is not taking action on selected paragraphs in OAC 3745-18-04. Paragraph OAC 37-18-04(D)(9), contains a typographical error that changes the testing method required in the paragraph. EPA is not taking action on this paragraph, so the version that was state effective on March 21, 2000 will remain in effect for the Federally approved SIP. Ohio sent an

email on September 20, 2013 acknowledging this error. EPA is also not taking action on paragraphs OAC 37-18-04(D)(2), (D)(3), (D)(5), (D)(6), (E)(2), (E)(3), and (E)(4). These paragraphs have not been previously approved by EPA and are outside the cleanup intent of these SIP revisions.

III. What Action is EPA Taking?

EPA is approving OAC 3745-18-01, 3745-18-03, 3745-18-05 to 3745-18-52, 3745-18-54 to 3745-18-77, 3745-18-79, 3745-18-81 to 3745-18-89, 3745-18-91 to 3745-18-94, and parts of 3745-18-04. The revisions mainly remove the SO₂ requirements for permanently shutdown facilities from the SIP. EPA believes the revisions improve the clarity of the rule without affecting the stringency of the SIP. EPA is not taking action on OAC 3745-18-04(D)(2)to(3), (D)(5)to(6), (D)(9), and (E)(2)to(4).

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice unless we receive relevant adverse written comments by [INSERT

DATE 30 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [INSERT DATE 60 DAYS FROM THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

IV. Statutory and Executive Order Reviews.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CCAA 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 CAA. 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 Order 12866 (58 FR 51735, October 4, 1993);
- 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 (Public Law 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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of

Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [INSERT DATE 60 DAYS FROM DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Intergovernmental relations,
Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 26, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

2. Section 52.1870 is amended by adding paragraph (c) (160) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(160) On June 24, 2011, Ohio submitted numerous revisions to their SO₂ rules in Ohio Administrative Code Chapter 3745-18. These revisions mainly update facility information and remove shutdown facilities from the rule.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rules 3745-18-03 "Attainment dates and compliance time schedules.", 3745-18-04 "Measurement methods and procedures." except (D) (2), (D) (3), (D) (5), (D) (6), (D) (9), (E) (2), (E) (3), and (E) (4), 3745-18-05 "Ambient and meteorological monitoring requirements.", 3745-18-06 "General emission limit provisions.", 3745-18-07 "Adams County emission limits.", 3745-18-08 "Allen County emissions limits.", 3745-18-09 "Ashland County emission limits.", 3745-18-10 "Ashtabula

County emissions limits.", 3745-18-11 "Athens County emission limits.", 3745-18-12 "Auglaize County emission limits.", 3745-18-13 "Belmont County emission limits.", 3745-18-14 "Brown County emission limits.", 3745-18-15 "Butler County emission limits.", 3745-18-16 "Carroll County emission limits.", 3745-18-17 "Champaign County emission limits.", 3745-18-18 "Clark County emission limits.", 3745-18-19 "Clermont County emission limits.", 3745-18-20 "Clinton County emission limits.", 3745-18-21 "Columbiana County emission limits.", 3745-18-22 "Coshocton County emission limits.", 3745-18-23 "Crawford County emission limits.", 3745-18-24 "Cuyahoga County emission limits.", 3745-18-25 "Darke County emission limits.", 3745-18-26 "Defiance County emission limits.", 3745-18-27 "Delaware County emission limits.", 3745-18-28 "Erie County emission limits.", 3745-18-29 "Fairfield County emission limits.", 3745-18-30 "Fayette County emission limits.", 3745-18-31 "Franklin County emission limits.", 3745-18-32 "Fulton County emission limits.", 3745-18-33 "Gallia County emission limits.", 3745-18-34 "Geauga County emission limits.", 3745-18-35 "Greene County emission limits.", 3745-18-36 "Guernsey County emission limits.", 3745-18-37 "Hamilton County emission limits.", 3745-18-38 "Hancock County emission limits.", 3745-18-39 "Hardin County emission limits.", 3745-18-40 "Harrison County emission limits.", 3745-18-41 "Henry

County emission limits.", 3745-18-42 "Highland County emission limits.", 3745-18-43 "Hocking County emission limits.", 3745-18-44 "Holmes County emission limits.", 3745-18-45 "Huron County emission limits.", 3745-18-46 "Jackson County emission limits.", 3745-18-47 "Jefferson County emission limits.", 3745-18-48 "Knox County emission limits.", 3745-18-49 "Lake County emission limits.", 3745-18-50 "Lawrence County emission limits.", 3745-18-51 "Licking County emission limits.", 3745-18-52 "Logan County emission limits.", 3745-18-55 "Madison County emission limits.", 3745-18-56 "Mahoning County emission limits.", 3745-18-57 "Marion County emission limits.", 3745-18-58 "Medina County emission limits.", 3745-18-59 "Meigs County emission limits.", 3745-18-60 "Mercer County emission limits.", 3745-18-61 "Miami County emission limits.", 3745-18-62 "Monroe County emission limits.", 3745-18-63 "Montgomery County emission limits.", 3745-18-64 "Morgan County emission limits.", 3745-18-65 "Morrow County emission limits.", 3745-18-66 "Muskingum County emission limits.", 3745-18-67 "Noble County emission limits.", 3745-18-68 "Ottawa County emission limits.", 3745-18-69 "Paulding County emission limits.", 3745-18-70 "Perry County emission limits.", 3745-18-71 "Pickaway County emission limits.", 3745-18-72 "Pike County emission limits.", 3745-18-73 "Portage County emission limits.", 3745-18-74 "Preble County

emission limits.", 3745-18-75 "Putnam County emission limits.", 3745-18-76 "Richland County emission limits.", 3745-18-77 "Ross County emission limits.", 3745-18-79 "Scioto County emission limits.", 3745-18-81 "Shelby County emission limits.", 3745-18-83 "Summit County emission limits.", 3745-18-84 "Trumbull County emission limits.", 3745-18-85 "Tuscarawas County emission limits.", 3745-18-86 "Union County emission limits.", 3745-18-87 "Van Wert County emission limits.", 3745-18-88 "Vinton County emission limits.", 3745-18-89 "Warren County emission limits.", 3745-18-91 "Wayne County emission limits.", 3745-18-92 "Williams County emission limits.", 3745-18-93 "Wood County emission limits.", 3745-18-94 "Wyandot County emission limits.", adopted on February 7, 2011, effective February 17, 2011.

(B) February 7, 2011, "Director's Final Findings and Orders", signed by Scott J. Nally, Director, Ohio Environmental Protection Agency, adopting the rules identified in paragraph (160)(i)(A) of this section.

(C) Ohio Administrative Code Rules 3745-18-01 "Definitions and incorporation by reference.", 3745-18-54 "Lucas County emission limits.", 3745-18-82 "Stark County emission limits.", adopted on March 24, 2011, effective April 3, 2011.

(D) March 24, 2011, "Director's Final Findings and Orders", signed by Scott J. Nally, Director, Ohio Environmental

Protection Agency, adopting the rules identified in paragraph (160) (i) (C) of this section.

3. Section 52.1881 is amended by revising paragraph (a) (4) to read as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

(a) * * *

(4) Notwithstanding the portions of this section that EPA has either disapproved or taken no action on, EPA has approved a complete plan addressing all counties in the State of Ohio. In addition, specific approved rules are listed in § 52.1870.

* * * * *

[FR Doc. 2013-27561 Filed 11/18/2013 at 8:45 am; Publication Date: 11/19/2013]