



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2022-0477; FRL-10516-02-R5]**

**Air Plan Approval; Ohio; Sulfur Dioxide Regulations**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving, under the Clean Air Act (CAA), revised sulfur dioxide (SO<sub>2</sub>) regulations submitted by Ohio on May 23, 2022. Ohio updated its regulations to make changes to facility information, remove requirements for shutdown facilities and units, consolidate county-wide requirements, and revise requirements for the Veolia Fort Hill plant in Miami, Ohio and the DTE St. Bernard facility in Cincinnati, Ohio. EPA believes that the revisions improve the clarity of the rules without affecting the stringency, and therefore is approving the submitted revisions with the exception of selected paragraphs in Ohio Administrative Code (OAC) Chapter 3745-18. EPA proposed to approve this action on January 26, 2023 and received no adverse comments.

**DATES:** This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2022-0477. All documents in the docket are listed on the [www.regulations.gov](https://www.regulations.gov) web site. Although listed in the index, some information is not publicly available,

i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or 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 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19. We recommend that you telephone Tyler Salamasick, at (312)886-6206 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Tyler Salamasick, Control Strategies Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6206, *salamasick.tyler@epa.gov*.

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

## **I. Background Information.**

On January 26, 2023 (88 FR 4935), EPA proposed to approve revisions to Ohio's SO<sub>2</sub> regulations contained in Ohio OAC Chapter 3745-18 "Sulfur Dioxide Regulations." An explanation of the CAA requirements, a detailed analysis of the revisions, and EPA's reasons for proposing approval were provided in the notice of proposed rulemaking and will not be restated here. The public comment period for the proposed rule ended on February 27, 2023.

EPA received one supportive comment which stated that Ohio's changes add increased clarity within the regulations. EPA received no adverse comments on the proposal. Therefore, EPA is finalizing this action as proposed.

## **II. Final Action.**

EPA is approving revisions and rescissions to OAC 3745-18 submitted by Ohio on May 23, 2022, with the exception of selected paragraphs in OAC 3745-18-04. Specifically, EPA is approving Ohio rules OAC 3745-18-01 through OAC 3745-18-06 [with the exception of OAC 3745-18-04(D)(2), (D)(3), (D)(5), (D)(6), (E)(2), (E)(3), and (E)(4)], OAC 3745-18-08, OAC 3745-18-10, OAC 3745-18-11, OAC 3745-18-15, OAC 3745-18-23, OAC 3745-18-24, OAC 3745-18-26, OAC 3745-18-28, OAC 3745-18-31, OAC 3745-18-33, OAC 3745-18-35, OAC 3745-18-37, OAC 3745-18-47, OAC 3745-18-49, OAC 3745-18-53, OAC 3745-18-54, OAC 3745-18-56, OAC 3745-18-61, OAC 3745-18-63, OAC 3745-18-68, OAC 3745-18-69, OAC 3745-18-77, OAC 3745-18-78, OAC 3745-18-80, OAC 3745-18-82 through OAC 3745-18-85, OAC 3745-18-91, and OAC 3745-18-92, as effective on February 2, 2022. EPA is removing Ohio rules OAC 3745-18-07, OAC 3745-18-09, OAC 3745-18-12 through OAC 3745-18-14, OAC 3745-18-16 through OAC 3745-18-22, OAC 3745-18-25, OAC 3745-18-27, OAC 3745-18-29, OAC 3745-18-30, OAC 3745-18-32, OAC 3745-18-34, OAC 3745-18-36, OAC 3745-18-38 through OAC 3745-18-46, OAC 3745-18-48, OAC 3745-18-50 through OAC 3745-18-52, OAC 3745-18-55, OAC 3745-18-57 through OAC 3745-18-60, OAC 3745-18-62, OAC 3745-18-64, OAC 3745-18-65, OAC 3745-18-67, OAC 3745-18-70 through OAC

3745-18-76, OAC 3745-18-79, OAC 3745-18-81, OAC 3745-18-86 through OAC 3745-18-89, OAC 3745-18-93, and OAC 3745-18-94. EPA is taking no action on 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 this final SIP revision.

### **III. Incorporation by Reference.**

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of the Ohio Sulfur Dioxide Regulations described in section II of this preamble and set forth in the amendments to 40 CFR part 52 below. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov*, and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information). Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.<sup>1</sup>

Also in this document, as described in section II of this preamble and set forth in the amendments to 40 CFR part 52

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<sup>1</sup> 62 FR 27968 (May 22, 1997).

below, EPA is removing provisions of the EPA-Approved Ohio Regulations and Statutes from the Ohio State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

#### **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 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 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 Orders 12866 (58 FR 51735, October 4, 1993), and 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful

involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The Ohio EPA did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Due to the nature of the action being taken here, this action is expected to have a neutral to positive impact on the air quality of the affected area. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. 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 AFTER DATE OF PUBLICATION 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. 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, Sulfur oxides.

Dated: May 23, 2023.

Debra Shore,  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, title 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. In § 52.1870, the table in paragraph (c) is amended by revising the section entitled “Chapter 3745-18 Sulfur Dioxide Regulations” to read as follows:

## EPA-APPROVED OHIO REGULATIONS

Ohio citation	Title/Subject	Ohio effective date	EPA Approval date	Notes
* * *	* * *	* * *	* * *	
<b>Chapter 3745-18 Sulfur Dioxide Regulations</b>				
3745-18-01	Definitions and incorporation by reference	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-02	General countywide emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-03	Compliance Time Schedules	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-04	Measurement Methods and Procedures	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Except (D) (2), (D) (3), (D) (5), (D) (6), (E) (2), (E) (3), and (E) (4)
3745-18-05	Ambient and Meteorological Monitoring Requirements	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-06	General Emission Limit Provisions	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-08	Allen county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-10	Ashtabula county emissions limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-11	Athens county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-15	Butler county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-23	Crawford county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],	

			[INSERT FEDERAL REGISTER CITATION]	
3745-18-24	Cuyahoga county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-26	Defiance county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-28	Erie county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-31	Franklin county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-33	Gallia county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-35	Greene county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-37	Hamilton county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-47	Jefferson county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-49	Lake county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-53	Lorain county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-54	Lucas county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-56	Mahoning county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	

3745-18-61	Miami county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-63	Montgomery county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-66	Muskingum County Emission Limits	2/16/2017	10/11/2018, 83 FR 51361	
3745-18-68	Ottawa county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-69	Paulding county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-77	Ross county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-78	Sandusky county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-80	Seneca county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-82	Stark County Emission Limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-83	Summit County Emission Limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-84	Trumbull County Emission Limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-85	Tuscarawas County Emission Limits	2/3/2022	PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-90	Washington County Emission Limits	2/3/2022	PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-91	Wayne county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE	

			FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
3745-18-92	Williams county emission limits	2/3/2022	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	
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[FR Doc. 2023-11355 Filed: 5/26/2023 8:45 am; Publication Date: 5/30/2023]