



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2025-0165; FRL-12974-02-R5]

**Air Plan Approval; Ohio; Muskingum River 2010 Sulfur Dioxide
Redesignation and Maintenance Plan**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) finds that the Muskingum River sulfur dioxide (SO₂) nonattainment area, located in Center Township in Morgan County and Waterford Township in Washington County, Ohio, (hereafter referred to as "Muskingum River area") is attaining the 2010 SO₂ National Ambient Air Quality Standard (NAAQS). The EPA is acting in accordance with Ohio's March 31, 2025, request to redesignate the Muskingum River area from nonattainment to attainment for the 2010 SO₂ NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The EPA is also approving Ohio's maintenance plan for the area and Ohio's Director's Final Findings and Orders (DFFOs) issued to Globe Metallurgical, Inc. (Globe Metallurgical) on March 26, 2025, as part of Ohio's federally enforceable State Implementation plan (SIP).

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

ADDRESSES: The EPA has established a docket for this action

under Docket ID No. EPA-R05-OAR-2025-0165. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI), Proprietary Business Information (PBI), 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 <https://www.regulations.gov> or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional information.

FOR FURTHER INFORMATION CONTACT: Gina Harrison, Air and Radiation Division (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, telephone number: (312) 353-6956, email address: harrison.gina@epa.gov.

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

I. Background

On June 3, 2011, Ohio submitted its recommendations to the EPA to designate certain areas of the State as attainment, nonattainment, or unclassifiable for the 2010 SO₂ NAAQS. Ohio recommended that the area located in southeastern Ohio that includes Center Township in Morgan County and Waterford Township in Washington County, the Muskingum River area, be designated as

nonattainment for the 2010 SO₂ NAAQS. The EPA concurred with Ohio's analysis and, on August 15, 2013 (78 FR 47191), published a final action designating the Muskingum River area as nonattainment of the 2010 SO₂ NAAQS, effective October 4, 2013.

Under section 192(a) of the CAA, States are also required to submit attainment plans to demonstrate that the respective areas will attain the NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation. Ohio submitted statewide nonattainment area SIPs to the EPA on April 3, 2015, and October 13, 2015, and submitted supplemental attainment plans for the Muskingum River area on June 24, 2020, July 28, 2022, and May 23, 2023. The EPA approved Ohio's attainment plan for the Muskingum River area on September 8, 2023 (88 FR 61969).

On October 2, 2025 (90 FR 47686), the EPA proposed to redesignate the Muskingum River area from nonattainment to attainment for the 2010 SO₂ NAAQS in accordance with Ohio's March 31, 2025, request. The EPA determined that the area is attaining the 2010 SO₂ NAAQS and that the improvement in air quality is due to permanent and enforceable SO₂ emission reductions in the area. The EPA also proposed to approve Ohio's maintenance plan, which is designed to ensure continued attainment of the 2010 SO₂ NAAQS. Finally, the EPA proposed to approve and incorporate by reference Ohio's DFFOs issued to Globe Metallurgical on March 26, 2025, which set forth emission limits and other requirements that will provide for attainment

of the 2010 SO₂ NAAQS in this area.

II. Response to Public Comments

The EPA received two adverse comments on this action. Summaries of the adverse comments and the EPA's responses are provided below. All comments submitted during the public comment period are available in the docket of this action.

Comment: One commenter stated that the docket materials available to the public did not include the complete, machine-readable AERMOD/AERMET/BPIPPRM input and output files, the meteorological data files used, or the underlying spreadsheets for the base-year and projected inventories used in the maintenance demonstration.

Response: The EPA notes the modeling report was provided in both the attainment plan (88 FR 61969) and the docket for this action. All supporting modeling and meteorological data files are available for public viewing via the Freedom of Information Act process, but typically aren't included in the dockets for these actions due to the large sizes of the files. Therefore, the EPA does not find the comment to warrant any changes to this action.

Comment: Commenter states that the enforceability of the SO₂ reductions attributed to the retirement of the Muskingum River Power Plant requires documentation of the binding, federally enforceable instruments (e.g., enforceable permanent shutdown permits or SIP-approved rules/consent orders) that preclude restart without full New Source Review (NSR) and applicable

limits. Commenter also states that if the maintenance demonstration relies on retirements or voluntary limits that are not yet codified as SIP provisions, that reliance cannot satisfy the "permanent and enforceable" requirement.

Response: Unrelated to this present rulemaking, the Muskingum River Power Plant notified Ohio EPA of the permanent shutdown of all coal-fired boilers effective May 31, 2015. Ohio's rule at Ohio Administrative Code (OAC) 3745-31-02 prohibits the installation or modification of new sources without obtaining appropriate permits. A new source is defined in Ohio's SIP at OAC rule 3745-31-01(N) (3) as any air contaminant source for which an owner or operator undertakes a continuing program of installation or modification. Modification is defined in Ohio's SIP at 3745-31-01(M) (10) as any physical change in, or change in the method of operation of any air contaminant source that results in an increase in the allowable emissions. The resumption of operations at the facility would constitute a change in the method of operation that qualified as a "modification." The facility's title V permit-to-operate P0090944 was revoked effective May 31, 2015, and therefore, these reductions are permanent and enforceable.

Regarding the comments related to the maintenance plan, the EPA finds that Ohio has appropriately fulfilled its maintenance plan obligations as required under CAA section 175A, 42 U.S.C. 7505A. To further clarify, the docket of this action contains Ohio's redesignation request, which outlines Ohio's requirements

for verification of continued attainment and the requirements for maintenance demonstration under section 175A. The EPA determines that Ohio adequately fulfilled these requirements through commitments to annual emissions submittals that verify continued attainment of the 2010 SO₂ NAAQS and review of the projected emissions inventory for the Muskingum River area.¹

Comment: Commenter asserts this action does not provide adequate factual basis to certify compliance with the Regulatory Flexibility Act (RFA). Commenter requests that the Agency perform an Initial Regulatory Flexibility Analysis (IRFA) or supply a revised 605(b) certification with a factual basis to support the conclusion that the action will not have a significant economic impact on small entities.

Response: The RFA does not apply to this rulemaking because the EPA has certified that this rule will not have a significant economic impact on a substantial number of small entities. The regulatory analysis provisions of the RFA are only triggered by a threshold determination by the Agency that this rule will have a significant economic impact on a substantial number of small entities. This rulemaking does not impose any regulatory requirements beyond those imposed by State law. Because the Agency has certified this rule will not have a significant economic impact, section 603 and 604 of the RFA do not apply to this rulemaking. 5 U.S.C. 605(b).

Comment: Commenter contends that the Agency did not provide

¹ See 88 FR 61969.

sufficient explanation for how this action complies with the Unfunded Mandates Reform Act (UMRA). Commenter requests that the EPA provide analysis showing the absence of a qualifying Federal mandate.

Response: With regard to the UMRA, the EPA has complied by making its own determination that this rule will not result in expenditures of \$100M+, and therefore the Agency does not need to complete a statement under 2 U.S.C. 1532.

Comment: Commenter requests that the Agency amend the record to explain the Executive Order 12866 significance determination in light of the redesignation's permitting and compliance implications.

Response: The EPA has complied with E.O. 12866 by determining that this rulemaking is not a significant regulatory action as defined in E.O. 12866.

Comment: Commenter asserts that the modeling analysis used to establish the area's background concentrations does not align with the most recent data available, thereby undermining the model's ability to demonstrate future attainment under current conditions.

Response: Globe Metallurgical's October 2024 modeling report notes that the attainment demonstration modeling (May 2022) used the three-year period of 2018-2020 of ambient air quality monitoring data for background concentrations from the Hackney, OH monitor (AQS Monitor ID 39-115-0004). For the modeling presented in the October 2024 modeling report, the years of air

monitoring data used for the background concentration were updated to the most recent three-year period of 2021-2023 for the Hackney monitor at the time the modeling was conducted, which is the most recent period of data available prior to submittal of the modeling report.

Comment: Commenter asserts that the period used to represent the facility's actual emission profile for the compliance demonstration is insufficient and potentially unrepresentative of current operations.

Response: The EPA disagrees with commenter's statement. Modeled emissions used both allowable emissions as well as the most recently available actual emissions. Allowable emissions are determined by the source's design capacity as well as any controls and enforceable operating factors and are required for use as emissions inputs for dispersion modeling to determine attainment with a NAAQS.² Modeled results were provided for both the allowable emissions and actual emissions scenarios, and both modeled emissions scenarios demonstrated that emissions would not exceed the 2010 SO₂ NAAQS. The use of allowable emissions in the modeling analysis is more conservative than the use of actual emissions data and indicates that with the more conservative emissions inputs the 2010 SO₂ NAAQS is still being maintained in the area. The ambient air monitoring data from the Globe monitor supports that the area is below the 2010 SO₂

² EPA's *Guidance for 1-Hour Sulfur Dioxide (SO₂) Nonattainment Area State Implementation Plans (SIP) Submissions* can be found at <https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip>.

NAAQS. Further, the April 2014 SO₂ Guidance also notes that a separate actuals-based modeling to support a redesignation request is not necessary if an attainment determination was made based on allowables-based modeling and a demonstration of a fully implemented control strategy has been provided.³

The actual emissions scenario used emission testing data from April 2021 to April 2022. While this was not on a traditional calendar year basis (January 1-December 31), this is still a full year of data and would capture seasonal operational variability as well as peak seasonal demand. More recent emissions testing data was not available for use in the modeling analysis as testing is typically conducted in association with state title V permit renewals. Annual emissions inventory data that is reported to both the state and the EPA on an annual basis are not used for air dispersion modeling analysis.

Comment: Commenter asserts that the record is currently incomplete regarding the approval of the non-default downwash modeling technique employed.

Response: The Equivalent Building Downwash (EBD) parameters are not a non-default modeling approach; it is a source characterization study which does not require explicit regulatory pre-approval from the Model Clearinghouse and is not subject to requirements of section 3.2 of 40 CFR part 41, appendix W: Guideline on Air Quality Models. Non-default modeling methodologies involve using non-regulatory models or

³ April 2014 Guidance, pg. 63.

non-default (ALPHA or BETA) AERMOD options to conduct the modeling analysis as outlined in Section 3.2 of appendix W. In this case, the need to use refined building downwash parameters for the wind direction sectors between 240-290 degrees within AERMOD was due to the building downwash processor, BPIP-PRIME, calculating unrepresentative building downwash parameters for Shop 1.

Furthermore, a protocol for the wind tunnel testing was reviewed and approved by both the Ohio EPA and the EPA. Ohio EPA reviewed the final EBD report and considered the inclusion of the source characterization of the building downwash parameters resulting from the wind tunnel testing within the redesignation package their final approval of the source characterization study and report. Similarly, the EPA reviewed the final EBD report included with Ohio EPA's redesignation package and considered the inclusion of the modeling analysis within the redesignation rule, which included the final EBD report and EBD parameters for the wind direction sectors 240-290 degrees for Shop 1, the final approval of the EBD report for the source characterization study.

As noted above, air modeling files were not included within the docket due to the large file sizes. All modeling input and output files, including meteorological input files, are available by request.

III. What Action is the EPA Taking?

The EPA is redesignating the Muskingum River area from

nonattainment to attainment for the 2010 SO₂ NAAQS in accordance with Ohio's March 31, 2025, request. The EPA determined the area is attaining the 2010 SO₂ NAAQS and that the improvement is due to permanent and enforceable SO₂ emission reductions in the area. The EPA is also approving Ohio's maintenance plan as part of Ohio's federally enforceable SIP to ensure the Muskingum River area will continue to maintain attainment of the 2010 SO₂ NAAQS. Finally, the EPA is approving and incorporating by reference Ohio's DFFOs issued to Globe on March 26, 2025, which set forth emission limits and other requirements that will provide for attainment of the 2010 SO₂ NAAQS in this area.

In accordance with 5 U.S.C. 553(d) of the APA, this action shall become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d)(1).

Section 553(d)(1) of the APA provides that final rules shall not become effective until 30 days after publication in the *Federal Register* "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. Fed. Commc'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not

need a reasonable time to adjust because the effect is not adverse. The EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment NSR permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive Prevention of Significant Deterioration permitting requirements. For this reason, the EPA finds that under 5 U.S.C. 553(d)(1) it is appropriate for this action to become effective on the date of publication of this action.

IV. Incorporation by Reference.

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Ohio's DFFOs issued to Globe described in section I of this preamble and set forth in the amendments to 40 CFR part 52 below. The EPA has made, and will continue to make, these documents generally available through <https://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 the EPA for inclusion in the SIP, have been incorporated by reference by the 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 the EPA's approval, and will be incorporated by reference in the next update to the

SIP compilation.⁴

V. 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, the 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 these reasons, 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);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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

⁴ 62 FR 27968 (May 22, 1997).

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 the 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).

This action is subject to the Congressional Review Act, and the 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 CAA section 307(b)(2).42 U.S.C. 7607(b)(2).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: March 26, 2026.

Cheryl Newton,
Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR parts 52 and 81 are 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. Amend § 52.1870 by:

a. In the table in paragraph (d) revising the entry for “Globe Metallurgical, Inc.”.

b. In the table in paragraph (e) under “Summary of Criteria Pollutant Maintenance Plan” adding an entry for “SO₂ (2010)” before the entry for “CO (1979)”.

The revision and addition read as follows:

§ 52.1870 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED OHIO SOURCE-SPECIFIC PROVISIONS

Name of source	Number	Ohio effective date	EPA Approval date	Comments
* * *	* * *	* * *	* * *	* * *
Globe Metallurgical Inc.	DFFOs	3/26/2025	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], 91 FR [INSERT FEDERAL REGISTER PAGE WHERE THE DOCUMENT BEGINS]	
* * *	* * *	* * *	* * *	* * *

(e) * * *

EPA-APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
* * *	* * *	* * *	* * *	* * *
Summary of Criteria Pollutant Maintenance Plan				
* * *	* * *	* * *	* * *	* * *

SO ₂ (2010)	Muskingum River	3/31/2025	[INSERT DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>], 91 FR [INSERT <i>FEDERAL REGISTER</i> PAGE WHERE THE DOCUMENT BEGINS]
*	*	*	*

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PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

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

4. In § 81.336 amend the table entitled "Ohio-2010 Sulfur Dioxide NAAQS [Primary]" by revising the entry for "Muskingum River, OH" to read as follows:

§ 81.336 Ohio.

* * * * *

**OHIO—2010 SULFUR DIOXIDE NAAQS
[PRIMARY]**

Designated Area ¹	Designation	
	Date ²	Type
Muskingum River, OH Morgan County (part) Center Township Washington County (part) Waterford Township	[INSERT DATE OF PUBLICATION IN THE <i>FEDERAL REGISTER</i>]	Attainment
*	*	*

¹ Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

² This date is April 9, 2018, unless otherwise noted.

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