

Dated: February 5, 2004.

Robert W. Varney,

Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart U—Maine

■ 2. Section 52.1020 is amended by adding paragraph (c)(52) to read as follows:

§ 52.1020 Identification of plan.

* * * * *

(c) * * *

(52) Revisions to the State Implementation Plan submitted by the Maine Department of Environmental Protection on August 23, 1996.

(i) Incorporation by reference.

(A) Chapter 110 of the Maine Department of Environmental Protection regulations, “Ambient Air Quality Standards,” adopted by the Board of Environmental Protection on July 24, 1996, and effective August 6, 1996.

■ 3. In § 52.1031, Table 52.1031 is amended by adding a new entry to existing State citations for Chapter 110, “Ambient Air Quality Standards,” to read as follows:

§ 52.1031 EPA-approved Maine regulations.

* * * * *

TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

| State citation | Title/Subject | Date adopted by State | Date approved by EPA | Federal Register citation | 52.1020 |
|-------------------|--------------------------------|-----------------------|----------------------|--|--|
| * * * | * * * | * * * | * * * | * * * | * * * |
| Chapter 110 | Ambient Air Quality Standards. | 7/24/96 | 3/22/04 | [Insert <i>FR</i> citation from published date]. | (c)(52) Adopts PSD increments based on PM10, in place of increments based on TSP |
| * * * | * * * | * * * | * * * | * * * | * * * |

Note.—1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. 04–6209 Filed 3–19–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH160–1a; FRL–7632–4]

Approval and Promulgation of State Implementation Plans; Ohio; Approval of Revision to Oxides of Nitrogen Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This document approves the change to the start date of flow control from 2006 to 2005 in the Ohio Oxides of Nitrogen (NO_x) State Implementation Plan (SIP) Call rule in the Ohio Administrative Code (OAC). Flow control is a limitation on the use of banked allowances for compliance with the requirement to hold allowances which cover emissions from affected units. The limitation would apply in the second year of operation of the budget trading program. EPA is approving the change in the flow control date submitted by Ohio.

DATES: This rule is effective on May 21, 2004, unless EPA receives relevant adverse written comments by April 21,

2004. If such adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You may obtain a copy of the plan revisions at the address below. Please telephone John Paskevicz at (312) 886–6084 if you intend to visit the Region 5 office.

You may inspect copies of the submittal at: Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Comments may also be submitted electronically or through hand delivery/courier, please follow the detailed instructions described in subsection (B)(1)(i) through (iii) of the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Chicago, Illinois 60604. E-Mail address: paskevicz.john@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, the terms “you” refer to the reader of this rule and/or to sources subject to the State rule, and the terms “we,” “us,” or “our” refers to EPA.

This **SUPPLEMENTARY INFORMATION** section is organized as follows:

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I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. *The Regional Office has established an official public rulemaking file available for inspection at the Regional Office.* EPA has established an official public rulemaking file for this action under “Region 5 Air Docket OH160.” The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public

viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register** and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public review at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

B. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on Direct Final rulemaking Region 5 Air Docket OH160" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the

comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket. 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.

i. *E-mail.* Comments may be sent by electronic mail (e-mail) to bortzer.jay@epa.gov. Please include the text "Public Comment on Direct Final Rulemaking Region 5 Air Docket OH160" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket.

ii. *Regulations.gov.* Your use of Regulations.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov> then click on the button "TO SEARCH FOR REGULATIONS CLICK HERE," and select Environmental Protection Agency as the Agency name to search on. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iii. *Disk or CD ROM.* You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By Mail.* Send your comments to: J. Elmer Bortzer, Acting Chief, Air Programs Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please include the text "Public comment on Direct Final Rulemaking Regional Air Docket OH160" in the subject line on the first page of your comment.

3. *By Hand Delivery or Courier.* Deliver your comments to: J. Elmer Bortzer, Acting Chief, Air Programs

Branch, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30 excluding Federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public regional rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

II. Background

On August 5, 2003, EPA gave conditional approval of the Ohio plan to control oxides of nitrogen from major sources in the State (68 FR 46089). The conditional approval requires Ohio to revise the date of the start of flow control in OAC rule 3745-14-06 from 2006 to 2005. This makes the date consistent with both the requirements in EPA's model rule, and also with the start date of flow control for all other states subject to the NO_x SIP Call. Further information on the subject of flow control in the Ohio rule is available in the direct final rule at 68 FR 46089, dated August 5, 2003.

III. Summary of the State Submittal

A. What Sources Are Affected by This Rule Change?

All sources in Ohio subject to the State NO_x SIP Call rules in OAC

Chapter 3745–14, are affected by this rule revision.

B. What Criterion Did EPA Use To Judge the Acceptability of This Change?

EPA's Part 51, Requirements for Preparation, Adoption, and Submittal of Implementation Plans enumerates the requirements of the trading program. Included in these requirements is the date by which the trading program is to be fully implemented, and also a date by which the provision limiting banked emissions (flow control) is to be triggered. These requirements specify that flow control is to be implemented in the second year of the trading program, if necessary. The requirement for flow control is to be implemented in the second year is applicable to all States involved in the NO_x Budget Trading Program. Flow control is a limitation on the use of banked allowances for compliance with the requirement to hold allowances which cover emissions from affected units. The limitation would apply in the second year of operation of the budget trading program. The limitation on banked allowances would be applied if the total number of emission reduction credits or banked allowances held by a source subject to the program exceeds ten percent of the sum of the allowable NO_x emissions during the ozone season for all sources in the State subject to the trading program. 40 CFR 51.121(b)(1)(ii) and (2)(ii)(E).

At the time of compliance determination for each ozone season, if the total number of banked emission reduction credits or emission allowances held by a source subject to the trading program exceeds ten percent of the source's allowable NO_x emissions, the source's total banked emission reduction credits used for compliance during the ozone season shall be subject to the reduction technique described in the Ohio rule. The Ohio NO_x trading program begins in 2004, so therefore, the second year of the program is 2005. EPA conditioned the approval of the Ohio program on the change to the flow control date from 2006 to 2005.

C. What Rule Change Did Ohio Make?

To satisfy the conditional approval of the Ohio NO_x Budget Trading Program, the State changed the flow control date from 2006 to 2005, found at OAC 3745–14–06(E)(6). Ohio EPA submitted the change as a revision to the SIP on November 26, 2003. This date change is the subject of this action.

D. Did the Ohio Rule Change Satisfy the Requirement of the Conditional Approval?

The change in the date for flow control conforms to the requirement of the NO_x Budget Trading Program provision noted above that flow control shall begin, if needed, in the second year of the trading program. Ohio satisfied the condition, and we are approving the change in this action.

E. What Public Review Opportunities Did Ohio Provide?

Notice was given and public hearing announced regarding revision to OAC rule 3745–14–06, which regulates the NO_x allowance tracking system. A public hearing was held on September 24, 2003, at 2 p.m. at Ohio EPA offices in Columbus, Ohio. Interested parties were invited to make oral comment and/or provide written comments on the rule revision. The rule was also available for review on the Ohio EPA Web site. Comments were also invited electronically to an address on the Ohio Web site. A transcript of the public hearing was submitted with the revised rule package. There were no comments made at the public hearing, and there were no comments submitted electronically or subsequently in writing.

IV. EPA Action

EPA is approving the revision submitted by Ohio EPA which changes the application of flow control from 2006 to 2005. In the event we receive written adverse comment, this direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on a proposal published elsewhere in today's **Federal Register**.

V. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

Executive Order 13175: Coordination With Indian Tribal Governments

This rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer and Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority

to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 *note*) do not apply.

Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Congressional Review Act

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 rule 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). This rule will be effective May 21, 2004.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 21, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: February 19, 2004.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—Ohio

■ 2. Section 52.1870 is amended by adding paragraph (c)(130) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *
(130) On November 26, 2003, the Ohio Environmental Protection Agency submitted revisions to OAC rule 3745–14–06 (NO_x Allowance Tracking System) that changes the flow control date to 2005.

(i) Incorporation by reference.

(A) Amended OAC rule 3745–14–06. Adopted by the Ohio Environmental Protection Agency on November 12, 2003. Effective November 24, 2003.

■ 3. Section 52.1876 is added to read as follows:

§ 52.1876 Control strategy: Nitrogen dioxide.

(a) The condition to EPA's approval of the oxides of nitrogen State Implementation Plan (SIP) codified at 40 CFR 52.1870(c)(128) is satisfied by Ohio's November 26, 2003, submittal of the change to the flow control date in the oxides of nitrogen budget trading SIP.

(b) [Reserved]

[FR Doc. 04–6303 Filed 3–19–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 287–0416a; FRL–7636–7]

Revisions to the California State Implementation Plan, Yolo-Solano Air Quality Management District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Yolo-Solano Air Quality Management District (YSAQMD) portion of the California

State Implementation Plan (SIP). These revisions concern general provisions and definitions and volatile organic compound (VOC) emissions from adhesive operations. We are approving local rules that clarify other YSAQMD regulations and that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on May 21, 2004, without further notice, unless EPA receives adverse comments by April 21, 2004. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** to notify the public that this rule will not take effect.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR–4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, Room B–102, 1301 Constitution Avenue, NW., (Mail Code 6102T), Washington, DC 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814.

Yolo-Solano Air Quality Management District, 1947 Galileo Court, Suite 103, Davis, CA 95616.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA website and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT: Yvonne Fong, EPA Region IX, (415) 947–4117, fong.yvonne@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us" and "our" refer to EPA.

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