

a.m. to 8:40 a.m. on January 30, 2005. Public vessels of the United States and vessels in distress shall be passed at any time.

■ 4. From 6:25 a.m. until 10 a.m. on Sunday, January 30, 2005, in § 117.305, paragraphs (c) and (d) are suspended and new paragraphs (e) and (f) are added to read as follows:

§ 117.305 Miami River.

* * * * *

(e) The draw of each bridge from the mouth of the Miami River, to and including the NW. 27th Avenue bridge, mile 3.7 at Miami, except the Miami Avenue and Brickell Avenue bridges, shall open on signal.

(f) The Miami Avenue bridge, across the Miami River, need not open from 6:25 a.m. to 10 a.m. on Sunday, January 30, 2005, and the Brickell Avenue bridge, across the Miami River, need not open 7:10 a.m. to 12:05 p.m. on Sunday, January 30, 2005. Public vessels of the United States and vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: January 11, 2005.

D. Brian Peterman,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District

[FR Doc. 05-1659 Filed 1-27-05; 8:45 am]

BILLING CODE 4910-15-M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01-05-004]

Drawbridge Operation Regulations: Newtown Creek, Dutch Kills, English Kills, and Their Tributaries, NY

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations for the Metropolitan Avenue Bridge, mile 3.4, across English Kills at New York City, New York. Under this temporary deviation the bridge may remain closed on the following days: February 14 through February 15; February 24 through February 25; March 3 through March 4; March 10 through March 11; March 17 through March 18; and March 24 through March 25, 2005. This temporary deviation is necessary to facilitate bridge maintenance.

DATES: This deviation is effective from February 14, 2005, through March 25, 2005.

FOR FURTHER INFORMATION CONTACT: Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7195.

SUPPLEMENTARY INFORMATION: The Metropolitan Avenue Bridge has a vertical clearance in the closed position of 10 feet at mean high water and 15 feet at mean low water. The existing drawbridge operation regulations are listed at 33 CFR 117.801(e).

The owner of the bridge, New York City Department of Transportation (NYCDOT), requested a temporary deviation from the drawbridge operation regulations to facilitate rehabilitation repairs at the bridge. The bridge must remain in the closed position to perform these repairs.

Under this temporary deviation the NYCDOT Metropolitan Avenue Bridge may remain in the closed position on the following days: February 14 through February 15; February 24 through February 25; March 3 through March 4; March 10 through March 11; March 17 through March 18; and March 24 through March 25, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: January 21, 2005.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 05-1658 Filed 1-27-05; 8:45 am]

BILLING CODE 4910-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R05-OAR-2004-MI-0003; FRL-7865-2]

Approval and Promulgation of Maintenance Plan Revisions; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a December 19, 2003 request from Michigan for a State Implementation Plan (SIP) revision of the Southeast Michigan carbon monoxide (CO) maintenance plan. The CO maintenance plan revision establishes a new on-road emissions inventory for the years 1996 and 2010. The revision also establishes a new transportation conformity motor vehicle emissions budget (MVEB) for the year

2010. The emission inventory and MVEB updates are designed to maintain the National Ambient Air Quality Standards (NAAQS) for CO as required by the Clean Air Act (CAA).

DATES: This rule is effective on March 29, 2005, unless EPA receives adverse written comments by February 28, 2005. If EPA receives adverse comments, 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: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2004-MI-0003, by one of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: mooney.john@epa.gov.

Fax: (312)886-5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (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 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05-OAR-2004-MI-0003. EPA's policy is that all comments received will be included in the public docket without change, 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 RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are "anonymous access" systems, 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 RME or *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. For additional instructions on submitting comments, see "How and to whom do I submit comments?" of the **SUPPLEMENTARY INFORMATION** section of this rule.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at 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 legal holidays. Please contact Anthony Maietta at (312) 353-8777 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Anthony J. Maietta, Life Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, maietta.anthony@epa.gov.

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

I. General Information

- A. Does This Action Apply to Me?
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- III. Did the State Properly Approve the Underlying State Rule?
- IV. What Is Transportation Conformity?
- V. What Is an On-Road Emissions Inventory?
- VI. What Is an Emissions Budget?

VII. How Does This Action Change the Southeast Michigan CO Maintenance Plan?

VIII. Why Is This Request Approvable?

IX. Statutory and Executive Order Reviews

I. General Information

A. Does This Action Apply to Me?

Approval of the requested revision will mainly affect the entities responsible for transportation planning in the Southeast Michigan CO maintenance area. Those entities include, but are not limited to, the Southeast Michigan Council of Governments (SEMCOG), and the Michigan Department of Transportation. This action is approving non-regulatory changes to the state's CO maintenance plan.

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

The Regional Office has established an electronic public rulemaking file available for inspection at RME under RME ID No. R05-OAR-2004-MI-0003, and a hard copy file which is available for inspection at the Regional Office. 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 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, if at all possible, you contact the person 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 a.m. to 4:30 p.m. excluding Federal holidays.

Electronic Access. You may access this **Federal Register** document electronically through the [regulations.gov](http://www.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**, the Government's legal newspaper, and that 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 viewing 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.

C. 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 proposed rulemaking Region 5 Air Docket R05-OAR-2004-MI-0003" 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.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I(B) of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

II. What Action Is EPA Taking Today?

EPA is approving a December 19, 2003 request from the State of Michigan to revise the Southeast Michigan CO maintenance plan. The Southeast Michigan CO maintenance area consists of portions of Oakland, Macomb, and Wayne Counties. EPA designated Southeast Michigan as attainment in a June 30, 1999 **Federal Register** notice (64 FR 35017). At that time, an on-road CO emissions inventory was created for Southeast Michigan for the years 1996 and 2010. A 2010 MVEB was also created at that time. As a result of today's action, the 1996 base year on-road emissions inventory, forecast year, 2010, emissions inventory, and the 2010 MVEB will be updated to meet EPA's requirement to use the Mobile6 emissions factor model to determine mobile source emissions and conformity to the CO maintenance SIP. EPA required use of the Mobile6 model as of January 29, 2004. By approving the revision, EPA ensures that future emission forecasts for conformity

analyses in the Southeast Michigan CO maintenance area will be compared to budgets that are based on similar inputs and the same version of the Mobile model.

EPA is publishing this action without prior proposal because we view this as a noncontroversial SIP revision and anticipate no adverse comments. However, in the proposed rules of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan revision if we receive relevant adverse comments and, therefore, withdraw this direct final rule. This rule will be effective March 29, 2005 without further notice unless we receive relevant adverse comments by February 28, 2005. If we receive such comments, we will withdraw this action before the effective date by publishing a document withdrawing the direct final approval action. EPA will not provide a second comment period on this action. Any person interested in commenting on this action should do so at this time.

III. Did the State Properly Approve the Underlying State Rule?

On December 19, 2003, Michigan submitted to EPA for approval, a SIP revision for the Southeast Michigan CO maintenance area. The Michigan Department of Environmental Quality (MDEQ) held a public hearing on the matter on September 9, 2003. Four people attended the hearing. MDEQ did not receive any comments on the proposed revision.

In the submittal, the State requests that the 1996 base year on-road CO emissions inventory be changed to 3,866.2 tons/day, and that the 2010 MVEB be changed to 3,842.7 tons/day. The State also added the forecast year 2010 emissions inventory of 1,942.5 tons/day. The MVEB, which is partly determined by using the base year on-road emissions inventory, is used for purposes of transportation conformity.

IV. What Is Transportation Conformity?

Transportation conformity is a mechanism for determining the amount of emissions created by a transportation project, plan, or program in a nonattainment or maintenance area, making sure that such emissions do not cause or contribute to violations of the NAAQS, or impede the rate of progress toward attaining or maintaining the NAAQS. Because the SIP contains measures that will help an area attain or maintain the NAAQS, transportation activities must "conform" to the goals outlined in the SIP. On November 24, 1993, EPA published a final rule establishing criteria and procedures for determining whether transportation plans, programs and projects funded or approved under Title 23 of the United States Code or the Federal Transit Act conform to the SIPs.

The transportation conformity rules require a CO maintenance area, like Southeast Michigan, to compare the actual projected emissions from cars, trucks and buses on the highway network, to the MVEB established by a maintenance plan. The Southeast Michigan area has an approved CO maintenance plan (see 64 FR 35017). Our approval of the original maintenance plan established the Southeast Michigan MVEB for transportation conformity purposes. At the time of approval, Mobile5 was the required computer model for estimating the amount of on-road emissions in an area. As of January 29, 2004, Mobile6 is the required model for estimating on-road emissions. By taking into account revised techniques for estimating motor vehicle emissions, Mobile6 provides a more accurate estimate of emissions than Mobile5.

V. What Is an On-Road Emissions Inventory?

General SIP provisions for nonattainment areas call for an

inventory of all known emissions sources in that area to determine where emissions come from, and to provide a tool for evaluating potential emission control strategies. In a maintenance area, the emissions inventory shows the amount of a pollutant, in this case, CO, that an area can emit while still maintaining the CO air quality standards. Emissions from point, area, and mobile sources are estimated as part of this process. Forecasts of emissions in future years can then be calculated. These forecasts take into account emissions reductions from federal and state measures, as well as growth in emissions resulting from population growth and economic development. For purposes of transportation conformity, the emissions inventory and emissions forecast are used to determine the amount of on-road mobile source emissions an area can emit while still maintaining the NAAQS for that pollutant.

In the original CO maintenance plan, an emissions inventory was calculated for the base year 1986 and a forecast year of 1996. Point, area, off-road, and on-road sources were estimated. The on-road portions of the original inventory and forecast were created using the Mobile5 model. Michigan updated the on-road emissions inventory and forecast year inventory in June 1999. In the current submittal, Mobile6 is used to determine the on-road portions of the inventory and forecast. EPA policy requires this switch as of January 29, 2004 because EPA believes that the Mobile6 model more accurately predicts emissions levels. The State's action is simply an update of its original estimates of the on-road portion of the 1996 base year emissions inventory, using the newer model. The following Table shows the revised CO emissions inventory and forecast for Southeast Michigan.

TABLE 1.—SOUTHEAST MICHIGAN CO EMISSIONS INVENTORY
[Tons/day]

Source type	1996	2010	1996–2010 change	Percent change 1996–2010
Point	128.7	140.0	11.3	8.8
Area	129.7	137.6	7.9	6.0
Off-road Mobile	233.0	237.1	4.1	1.8
On-road Mobile	3,866.2	1942.5	– 1923.7	– 49.8
Total	4,357.6	2457.2	– 1900.4	– 43.6

VI. What Is an Emissions Budget?

A motor vehicle emissions budget (also known as a conformity budget) is the projected level of controlled emissions from the transportation sector (on-road mobile sources) that is estimated in the SIP. The SIP includes emissions control programs at the state and federal level, examples include requirements on motor vehicle fuels and exhaust standards for cars and trucks. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the emissions budget. The transportation conformity rule provides for updates to the MVEB, and the revised MVEB is acceptable so long as the level of projected emissions from all sources (point, mobile, and area) remains at or below the level necessary to attain the NAAQS. Because that level of projected emissions will change as a result of today's actions, a new MVEB must be created. The following Table contains the new MVEB for Southeast Michigan.

TABLE 2.—2010 CO MOTOR VEHICLE EMISSIONS BUDGET (MVEB) FOR SOUTHEAST MICHIGAN
[Tons/day]

Total reductions from 1996 to 2010	1,900.4
2010 On-road Mobile Source Emissions	1,942.5
Total	3,842.9

VII. How Does This Action Change the Southeast Michigan CO Maintenance Plan?

When the budget was reassessed using Mobile6, the on-road CO estimates increased from earlier estimates. However, it is important to note that there is no actual increase of CO emissions in Southeast Michigan. The perceived increase is caused by changes in the estimation techniques, not by relaxation of control requirements.

VIII. Why Is This Request Approvable?

As noted above, the State's submittal is consistent with EPA policies and requirements, and is therefore approvable. EPA believes the revised emissions inventory and MVEB budgets are adequate for conformity purposes and are approvable as part of the maintenance plan.

IX. 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

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," 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 regulations as meeting Federal requirements and imposes no additional requirements beyond those imposed by state regulations. 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 Consultation and Coordination With Indian Tribal Governments

This rule also does not have tribal implications because it will 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 (59 FR 22951, 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 and Safety Risks

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

Civil Justice Reform

As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct.

Governmental Interference With Constitutionally Protected Property Rights

EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order, and has determined

that the rule's requirements do not constitute a taking.

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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability. 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 June 15, 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, Carbon monoxide, Intergovernmental relations.

Dated: January 14, 2005.

Norman Neidergang,

Acting Regional Administrator, Region 5.

■ 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 X—Michigan

■ 2. Section 52.1179 is revised to read as follows:

§ 52.1179 Control strategy: Carbon monoxide.

(a) Approval—On March 18, 1999, the Michigan Department of Environmental Quality submitted a request to redesignate the Detroit CO nonattainment area (consisting of portions of Wayne, Oakland and Macomb Counties) to attainment for CO. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year (1996 attainment year) emission inventory for CO, a demonstration of maintenance of the ozone NAAQS with projected emission inventories to the year 2010, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the CO NAAQS (which must be confirmed by the State), Michigan will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measures includes enforceable emission limitations for stationary sources, transportation control measures, or a vehicle inspection and maintenance program. The redesignation request and maintenance plan meet the redesignation requirements in sections 107(d)(3)(E) and 175A of the Act as amended in 1990.

(b) Approval—On December 19, 2003, Michigan submitted a request to revise its plan for the Southeast Michigan CO maintenance area (consisting of portions of Wayne, Oakland and Macomb Counties). The submittal contains updated emission inventories for 1996 and 2010, and an update to the 2010 motor vehicle emissions budget (MVEB). The 2010 MVEB is 3,842.9 tons of CO per day.

[FR Doc. 05-1633 Filed 1-27-05; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[OH 159-2; FRL-7862-8]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On September 27, 2003, Ohio requested revisions to the State

Implementation Plan (SIP) for sulfur dioxide (SO₂) for several counties in Ohio, along with a request for redesignation of Cuyahoga County to attainment for SO₂. On July 8, 2004, at 69 FR 41344, EPA proposed to approve the requested revisions and to redesignate Cuyahoga County as requested. EPA also published a corresponding direct final rule on the same date, at 69 FR 41336, but EPA withdrew this direct final rule because it received an adverse comment. A citizen from New Jersey expressed concern about air pollution coming east from Ohio and urged EPA to require Ohio power plants to upgrade their pollution controls. EPA is satisfied that the SO₂ emission limits submitted by Ohio suffice to assure attainment of the SO₂ air quality standard. EPA notes further that a separate action proposed on January 30, 2004, at 69 FR 4566, known as the Clean Air Interstate Rule, would require significant reduction in the emissions of SO₂ and nitrogen oxides (NO_x) of power plants in Ohio and elsewhere for purposes of reducing their long-range transported contributions to fine particulate matter and ozone exposures. EPA also received a comment from an affected company clarifying the operational status of boilers affected by the relevant rule. EPA affirms this clarification. Thus, as proposed, EPA is approving the SO₂ rules Ohio submitted, removing the Federal Implementation Plan rules that these State rules supersede, and redesignating Cuyahoga County to attainment for SO₂.

DATES: This final rule is effective on February 28, 2005.

ADDRESSES: Copies of the Ohio's submittals and other information are available for inspection during normal business hours at the following address: (We recommend that you telephone John Summerhays at (312) 886-6067, before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air Programs Branch (AR-18J), Criteria Pollutant Section, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Summerhays at (312) 886-6067.

SUPPLEMENTARY INFORMATION: This supplemental information section is organized as follows:

- I. Synopsis of Ohio's Submittal
- II. Review of Comments
- III. EPA Action
- IV. Statutory and Executive Order Reviews

I. Synopsis of Ohio's Submittal

On September 27, 2003, Ohio requested numerous revisions to its