(please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

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 Act 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 proposes to approve 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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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 proposed 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: October 25, 2019.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2019–23676 Filed 11–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2019–0522; FRL–10001–07–Region 5]

Air Plan Approval; Ohio; Revisions to NO_X SIP Call Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve under the Clean Air Act (CAA) a request from the Ohio Environmental Protection Agency (Ohio EPA) to revise the Ohio State Implementation Plan (SIP) to incorporate revisions to Ohio Administrative Code (OAC) Chapter 3745–14 regarding the Nitrogen Oxides (NO_X) SIP Call. This SIP revision would approve alternative monitoring requirements for certain covered sources.

DATES: Comments must be received on or before December 4, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2019–0522 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information section is arranged as follows:

I. What is the background of this SIP submission?

Under CAA section 110(a)(2)(D)(i)(I), called the good neighbor provision, states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state from contributing significantly to nonattainment of the National Ambient Air Quality Standards (NAAQS), or interfering with maintenance of the NAAQS, in any other state.

On October 27, 1998, EPA published the NO_X SIP Call, which required eastern states, including Ohio, to submit SIPs that prohibit excessive emissions of ozone season NO_X by implementing statewide emissions budgets (63 FR 57356). The NO_X SIP Call addressed the

good neighbor provision for the 1979 ozone NAAQS and was designed to mitigate the impact of transported NO_X emissions, one of the precursors of ozone. EPA developed the NO_X Budget Trading Program, an allowance trading program that states could adopt to meet their obligations under the NO_X SIP Call. This trading program allowed certain sources to participate in a regional cap and trade program: Electric Generating Units (EGUs) with capacity greater than 25 megawatts; and large non-EGUs, such as boilers and turbines, with a rated heat input greater than 250 million British thermal units per hour (MMBtu/hr). The NO_X SIP Call also identified potential reductions from Portland cement kilns and stationary internal combustion engines.

In fulfillment of the requirements of the NO_X SIP Call, Ohio EPA promulgated OAC Chapter 3745–14 which, among other things, required EGUs and large non-EGUs in the state to participate in the NO_X Budget Trading Program. On August 5, 2003, EPA published an action approving this initial version of OAC Chapter 3745–14 into the Ohio SIP (68 FR 46089).

On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR), which required eastern states, including Ohio, to submit SIPs that prohibited emissions consistent with annual and ozone season NO_X budgets and annual sulfur dioxide (SO_2) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter ($PM_{2.5}$) NAAQS and was designed to mitigate the impact of transported NO_X emissions, a precursor of ozone as well as $PM_{2.5}$, as well as transported SO_2 emissions, another precursor of $PM_{2.5}$. Like the NO_X SIP Call, CAIR also established several trading programs that states could use as mechanisms to comply with the budgets. When the CAIR trading program for ozone season NO_X was implemented beginning in 2009, EPA discontinued administration of the NO_X Budget Trading Program, but the requirements of the NO_X SIP Call continued to apply.

To meet the requirements of CAIR, Ohio EPA promulgated OAC Chapter 3745–109, which required EGUs to participate in the CAIR annual SO_2 and annual and ozone season NO_X trading programs. Participation by EGUs in the CAIR trading program for ozone season NO_X addressed the state's obligation under the NO_X SIP Call for those units. Ohio EPA also opted to incorporate large non-EGUs previously regulated under OAC Chapter 3745–14 into OAC Chapter 3745–109, to meet the obligations of the NO_X SIP Call with respect to those units through the CAIR trading program as well. On September 25, 2009, EPA published an action approving OAC Chapter 3745–109 into the Ohio SIP (74 FR 48857).

The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in 2008, but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR. *North Carolina* v. *EPA,* 531 F.3d 896, modified, 550 F.3d 1176 (D.C. Cir. 2008). The ruling allowed CAIR to remain in effect temporarily until a replacement rule consistent with the court's opinion was developed. While EPA worked on developing a replacement rule, the CAIR program continued as planned with the NO_X annual and ozone season programs beginning in 2009 and the SO_2 annual program beginning in 2010.

On August 8, 2011, acting on the D.C. Circuit's remand, EPA published the Cross-State Air Pollution Rule (CSAPR) to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 $PM_{2.5}$ NAAQS, and the 2006 $PM_{2.5}$ NAAQS (76 FR 48208). Through Federal Implementation Plans (FIPs), CSAPR required EGUs in eastern states, including Ohio, to meet annual and ozone season NO_X budgets and annual SO_2 budgets implemented through new trading programs. CSAPR also contained provisions that would sunset CAIR-related obligations on a schedule coordinated with the implementation of the CSAPR compliance requirements. Participation by a state's EGUs in the CSAPR trading program for ozone season NO_X generally addressed the state's obligation under the NO_X SIP Call for EGUs. However, CSAPR did not initially contain provisions allowing states to incorporate large non-EGUs into that trading program to meet the requirements of the NO_X SIP Call for non-EGUs.

CSAPR was intended to become effective January 1, 2012; however, the timing of CSAPR's implementation was impacted by subsequent litigation in which the D.C. Circuit stayed implementation of the rule pending judicial review. After subsequent litigation,[1] the court granted EPA's motion to lift the stay [2] and, on December 3, 2014, EPA issued an interim final rule, setting the updated effective date of CSAPR as January 1, 2015 (79 FR 71663). In accordance with the interim final rule, EPA stopped administering the CAIR trading programs with respect to emissions occurring after December 31, 2014, and EPA began implementing CSAPR on January 1, 2015.[3]

On October 26, 2016, EPA published the CSAPR Update, which established a new ozone season NO_X trading program for EGUs in eastern states, including Ohio, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). As under CSAPR, participation by a state's EGUs in the new CSAPR trading program for ozone season NO_X generally addressed the state's obligation under the NO_X SIP Call for EGUs. The CSAPR Update also expanded options available to states for meeting NO_X SIP Call requirements for large non-EGUs by allowing states to incorporate those units into the new trading program.

After evaluating the various options available following the CSAPR Update, Ohio EPA chose to meet the ongoing NO_X SIP Call requirements for existing and new large non-EGUs by modifying its existing regulations at OAC Chapter 3745–14 to make the portion of the budget assigned to large non-EGUs under that program enforceable without an allowance trading mechanism. Ohio also rescinded its CAIR trading program rules in OAC Chapter 3745–109 in full. On September 17, 2019, EPA published an action approving Ohio EPA's request to modify its SIP to include the revisions at OAC Chapter 3745–14 and to remove OAC Chapter 3745–109 (84 FR 48789).

Under 40 CFR 51.121(i)(4) of the NO_X SIP Call regulations as originally promulgated, where a state's SIP contains control measures for EGUs and large non-EGUs, the SIP must also require these sources to monitor emissions according to the provisions of 40 CFR part 75, which generally entails the use of continuous emission monitoring systems (CEMS). Ohio triggered this requirement by including control measures in their SIP for these types of sources, and the requirement has remained in effect despite the discontinuation of the NO_X Budget Trading Program after the 2008 ozone season. On March 8, 2019, EPA

[1] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 31 (D.C. Cir. 2012) (*EME Homer City I*) (vacating and remanding CSAPR); *EPA* v. *EME Homer City Generation, L.P.,* 572 U.S. 489 (2014) (reversing the D.C. Circuit decision and remanding for further proceedings).

[2] The D.C. Circuit subsequently issued its decision on remand from the Supreme Court, largely affirming CSAPR but remanding certain states budgets to EPA for reconsideration. *EME Homer City Generation, L.P.,* v. *EPA,* 795 F.3d 118 (*EME Homer City II*).

[3] EPA solicited comment on the interim final rule and subsequently issued a final rule affirming the amended compliance schedule after consideration of comments received. 81 FR 13275 (March 14, 2016).

finalized updates to the provision at 40 CFR 51.121(i)(4) to make the inclusion of 40 CFR part 75 monitoring requirements for these sources in SIPs optional rather than mandatory for NO_X SIP Call purposes (84 FR 8422). Under the updated provision, a state's SIP would still need to include some form of emissions monitoring requirements for these types of sources, consistent with the NO_X SIP Call's general enforceability and monitoring requirements at § 51.121(f)(1) and (i)(1), respectively, but states would no longer be required to satisfy these general NO_X SIP Call requirements specifically through the adoption of 40 CFR part 75 monitoring requirements.

After evaluating the various options available following EPA's March 8, 2019, amendments to the NO_X SIP Call regulations, Ohio EPA chose to further revise its rules at OAC Chapter 3745–14 to include alternate monitoring requirements for certain covered sources. These revisions provide a process by which the designated representative for certain NO_X budget units may submit to the Ohio EPA director an application for an installation or operating permit requesting alternative monitoring and reporting requirements, either in the form of 40 CFR part 60 monitoring or in the form of monitoring of heat input and fuel use combined with use of an approved emission factor.

II. What is EPA's analysis of this SIP submission?

Ohio's August 26, 2019, submission requests that EPA update Ohio's SIP to reflect the revised rules at OAC Chapter 3745–14. Additionally, this submission includes a demonstration under Section 110(l) of the CAA intended to show that this SIP revision does not interfere with any applicable CAA requirement.

A. Revised State Rules

Given EPA's revision to the NO_X SIP Call's emissions monitoring requirements, Ohio updated its NO_X SIP Call rules at OAC Chapter 3745–14 to establish emissions monitoring requirements for certain units other than requirements to monitor according to 40 CFR part 75. Specifically, Ohio adopted revisions to OAC rules 3745–14–01, 3745–14–04, and 3745–14–08 with a state-effective date of August 22, 2019. Ohio's August 26, 2019, submission includes a request that EPA approve these updated rules into its SIP.

The state regulations addressing the NO_X SIP Call are established at OAC rules 3745–14–01, 3745–14–03, 3745–14–04, 3745–14–08, 3745–14–11, and 3745–14–12. On September 17, 2019, EPA approved revisions to OAC rule 3745–14–03 concerning NO_X budget permit requirements, and Ohio has not further amended OAC rule 3745–14–03 subsequent to EPA's approval (84 FR 48789). Ohio has also retained OAC rules 3745–14–11 and 3745–14–12 regarding cement kilns and stationary internal combustion engines outside the former trading program. EPA's September 17, 2019, rulemaking also included approval of revisions to OAC rules 3745–14–01, 3745–14–04, and 3745–14–08 pertaining to applicability, the statewide emissions budgets for EGUs and large non-EGUs, and monitoring and reporting under the former trading program. Subsequent to the revisions approved in EPA's September 17, 2019, rulemaking, Ohio further revised OAC rules 3745–14–01, 3745–14–04, and 3745–14–08 to establish alternative monitoring requirements for certain sources, and Ohio's August 26, 2019 submission requests that EPA approve these further revised rules into its SIP.

Specifically, a new provision at OAC rule 3745–14–08 paragraph (H) provides that the Ohio EPA director may approve alternative monitoring and reporting requirements in lieu of the existing requirements at OAC rule 3745–14–08 paragraphs (A) through (G). These alternative requirements shall be based on the best available data, provide for reporting the nature and amount of emissions of a NO_X budget unit, and shall be sufficient to determine compliance with the requirements of OAC Chapter 3745–14. Per OAC rule 3745–14–01 paragraph (C) as approved into Ohio's SIP in EPA's September 17, 2019, rulemaking, the monitoring requirements at OAC rule 3745–14–08 apply only to units that would have been subject to the former NO_X Budget Trading Program and that are not subject to a CSAPR trading program for NO_X emissions pursuant to 40 CFR 52.38, and the revised provisions authorizing alternative monitoring requirements therefore would also apply only to units that are not subject to a CSAPR trading program for NO_X emissions.

The alternative requirements may take one of two forms: Either monitoring and reporting in accordance with 40 CFR part 60, combined with a methodology for determining NO_X mass emissions from 40 CFR part 60 NO_X emission rate data, or monitoring of heat input and fuel use combined with use of an approved emission factor for current operating conditions.

A request under OAC rule 3745–14–08 paragraph (H) for alternative monitoring and reporting requirements must be made by the designated representative of a NO_X budget unit via application for an installation or operating permit. The request must specify which of the two forms is requested. If 40 CFR part 60 monitoring is requested, the application must describe how the amount of NO_X emissions in tons will be determined from the 40 CFR part 60 NO_X emission rate data. If monitoring of heat input and fuel use combined with use of an approved emission factor is requested, then the request must include an analysis evaluating potential emission factors for each fuel type. The analysis of potential emission factors must include an analysis of any historical CEMS data representative of current operating conditions as well as the results of a valid stack test conducted within the two years preceding the application, if available. The application must also describe how monitoring data will be obtained, recorded, and quality-assured and how NO_X emissions will be accounted for during periods of missing or inaccurate data.

If alternative monitoring and reporting is requested to begin within a control period, the application must include a description of the transition process ensuring there will not be gaps in data monitoring and reporting.

The alternative monitoring and reporting requirements must be approved, prior to use, in the applicable installation or operating permit. By April 15 of each year, a report must be made to the Ohio EPA director of actual NO_X emissions for the previous control period, as determined using the approved alternative monitoring procedures. Records must be maintained in accordance with the terms and condition in the installation or operating permit and shall be made available to the Ohio EPA director.

Units using approved emissions factors must conduct stack testing according to an approved test method at least once every five years to demonstrate that the approved emission factors continue to be representative. If an initial application did not include stack test data, an initial stack test must be conducted within 90 days of permit issuance. The results of each stack test must be submitted to Ohio EPA within 30 days of the test. Based on the results of any stack test, Ohio EPA may require submission of a new application to establish more representative emission factors.

Ohio's revisions provide that the rule does not authorize exemptions or alternatives to any 40 CFR part 75 monitoring requirements that might apply to a source under a different legal

authority. The revised rule further states that Ohio EPA will transmit annually to EPA a report of NO_X emissions reported under OAC rule 3745–14–08 paragraph (H), in accordance with the requirements of 40 CFR 51.122(c)(1)(i).

Given the addition of paragraph (H) to OAC rule 3745–14–08, Ohio's revisions also include changes throughout the remainder of OAC rule 3745–14–08 which clarify that sources not adopting approved alternative monitoring and reporting requirements are only subject to the requirements of paragraphs (A) through (G). In OAC rule 3745–14–01, Ohio's revisions clarify references to the revised OAC rule 3745–14–08, and additionally provide updated definitions regarding emissions and emission factors. Ohio's revisions to OAC rule 3745–14–04 provide for a compliance certification process for sources subject to approved alternative monitoring and reporting requirements.

EPA proposes to find that Ohio's revisions to OAC rules 3745–14–01, 3745–14–04, and 3745–14–08 are consistent with Ohio's obligation to demonstrate continued compliance with NO_X SIP Call requirements for large non-EGUs. Under the ongoing requirements of the NO_X SIP Call, the Ohio SIP must: (1) Include enforceable control measures for ozone season NO_X mass emissions from existing and new large EGUs and large non-EGUs and (2) require those sources to monitor and report ozone season NO_X emissions. The emissions monitoring and reporting requirements must be sufficient to ensure compliance with the control measures but there is no mandatory specific methodology; use of 40 CFR part 75 is allowed but not required. See 40 CFR 51.121(f)(2) and (i).

With respect to the NO_X SIP Call requirement that the state have enforceable control measures to limit ozone season NO_X, Ohio is currently subject to the Federal CSAPR Update trading program for ozone season NO_X that addresses these requirements for existing and new EGUs. Because Ohio's non-EGUs are not subject to that CSAPR trading program, the state must meet this requirement for non-EGUs through other SIP provisions. In our September 17, 2019, action, EPA previously approved provisions at OAC rule 3745–14–01 intended to satisfy this requirement for non-EGUs that prohibit ozone season NO_X emissions from existing and new large non-EGUs from exceeding 4,028 tons, the portion of the state's NO_X SIP Call budget assigned to large non-EGUs. Ohio's revisions do not substantively alter the existing provisions at OAC rule 3745–14–01 that address the requirement for enforceable control measures for non-EGUs.[4] Emissions reported to EPA from the state's large non-EGUs for the 2018 ozone season were 543 tons, well below this limit.

As to the requirement for sources to monitor and report ozone season NO_X emissions under the NO_X SIP Call, these SIP revisions would continue to require emissions monitoring from all covered sources, consistent with the NO_X SIP Call's enforceability and monitoring requirements, but certain NO_X budget units would no longer be required to satisfy these requirements specifically through part 75 monitoring requirements. Instead, these revisions would allow large non-EGUs that follow the application process described above to monitor and report their NO_X mass emissions for each ozone season using alternative monitoring requirements.

In EPA's March 8, 2019, rulemaking amending the NO_X SIP Call's monitoring requirements at 40 CFR 51.121(i)(4), EPA observed that, under 40 CFR 51.121(i), the principal criterion for approval of monitoring and reporting requirements for purposes of the NO_X SIP Call following the amendments would be that the requirements must be sufficient to determine whether sources are in compliance with the control measures adopted to achieve the required emissions reductions.[5] EPA noted that for purposes of demonstrating the sufficiency of the monitoring and reporting requirements, a state generally would be able to cite the same types of data (*e.g.,* data indicating substantial compliance margins) that EPA cited to support finalizing the amendments to the NO_X SIP Call regulations.[6] In addition, EPA pointed out the need to consider whether the regulation contains provisions to avoid gaps in required monitoring and whether any monitoring approach that uses emissions factors is designed to avoid any bias toward understatement of emissions.[7]

In Ohio's case, the relevant control measure is the collective cap of 4,028 tons of ozone seasons NO_X emissions established for the set of existing and new non-EGUs in OAC rule 3745–14–01 paragraph (D). As noted above, for the 2018 ozone season, Ohio's large non-EGUs subject to this cap reported collective NO_X emissions of 543 tons, indicating a compliance margin of more than six times recent emissions levels.

While the alternative monitoring requirements available under Ohio's regulation would not provide the same degree of detailed reporting or quality assurance as part 75 monitoring data, and may therefore be more likely to overstate or understate actual emissions to some degree, there is nothing in Ohio's regulation that suggests the data obtained using the alternative monitoring methodologies would be biased toward understatement of emissions. The regulation expressly requires the use of the best available data, it calls for consideration of both historical CEMS data and stack test results when establishing source-specific emission factors, it requires periodic stack testing to verify the continued representativeness of the approved emission factors, and it includes provisions to address cases where an emission factor is found to no longer be representative. Further, the regulation requires procedures to account for emissions during periods of missing or inaccurate data and procedures to avoid data gaps during the transition from 40 CFR part 75 monitoring to alternative monitoring. Given the substantial compliance margin in this instance, EPA believes that the data monitored and reported under Ohio's alternative monitoring requirements would be sufficient to determine whether the state's large non-EGUs are in compliance with their collective emissions cap.

EPA proposes to find that, as revised, OAC rules 3745–14–01, 3745–14–04 and 3745–14–08 meet the state's ongoing obligations under the NO_X SIP Call with respect to existing and new large non-EGUs. Specifically, we propose to find that the revised rules meet the requirement under 40 CFR 51.121(f)(2) for enforceable limits on the units' collective emissions of ozone season NO_X mass emissions and the requirement under 40 CFR 51.121(i)(1) for monitoring sufficient to ensure compliance with those limits. The state's EGUs are currently complying with their analogous NO_X SIP Call requirements through participation in the CSAPR Update trading program for ozone season NO_X.

EPA is proposing to find that Ohio EPA's revisions at OAC Chapter 3745–14 are consistent with applicable requirements under the CAA and the NO_X SIP Call, and EPA is therefore proposing to approve these changes into the Ohio SIP.

[4] As EPA previously determined that the state adequately addressed the NO_X SIP Call requirement that states include enforceable control measures for ozone season NO_X mass emissions from existing and new large EGUs and large non-EGUs, EPA is not reopening for comment the determination made in our September 17, 2019, action.

[5] *See* 84 FR at 8428–29.

[6] *Id.* n.30.

[7] *Id.*

B. Section 110(l) Demonstration

In this action, EPA is proposing to approve Ohio's request to approve updated rules related to the NO_X SIP Call into its SIP. Ohio EPA's submission includes a noninterference demonstration intended to show that its SIP revision is approvable under Section 110(l) of the CAA; such a demonstration is sometimes called an anti-backsliding demonstration. Section 110(l) provides that EPA cannot approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment or reasonable further progress (RFP), or any other applicable requirement of the CAA. Additionally, section 110(l) makes clear that each SIP revision is subject to the requirements of section 110(l). As such, EPA will only approve a SIP revision that removes or modifies control measures in the SIP if the state has demonstrated that such removal or modification would not interfere with attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA. EPA generally considers whether the SIP revision would worsen, preserve, or improve the status quo in air quality.

For the reasons explained below, we find that EPA's proposed action to update the provisions relating to the NO_X SIP Call satisfies the requirements of CAA section 110(l). As explained above, this action would not alter the NO_X SIP Call emission budgets that limit emissions in the state. The alternate monitoring requirements at OAC Chapter 3745–14 are permanent, enforceable and sufficient to determine whether Ohio's sources are in compliance with the control measures adopted to meet the NO_X SIP Call's emissions requirements. Given continued implementation of SIP requirements governing the unchanged amounts of allowable emissions, accompanied by replacement monitoring requirements sufficient to ensure compliance with the unchanged emissions requirements, this SIP revision is not expected to result in increases in emissions that could interfere with other statutory or regulatory requirements. Importantly, the substitute measure ensures compliance with the existing NO_X SIP Call budgets and thus will preserve the status quo in air quality. For these reasons, we conclude that the revisions will not interfere with attainment and maintenance of the NAAQS, RFP, or any other applicable requirement of the CAA.

For the reasons explained above, EPA is proposing to approve Ohio EPA's SIP submission under section 110(l) of the CAA.

III. What action is EPA taking?

EPA is proposing to approve Ohio EPA's request to modify its SIP to include the revisions at OAC Chapter 3745–14.

IV. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference OAC rules 3745–14–01, 3745–14–04, and 3745–14–08, with a state-effective date of August 22, 2019. 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).

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, 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 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted 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 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: October 17, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

[FR Doc. 2019–23704 Filed 11–1–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2019–0528; FRL–10001–68–Region 9]

Air Plan Approval; California; Northern Sierra Air Quality Management District; Reasonably Available Control Technology

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the Northern Sierra Air Quality Management District (NSAQMD or ''District'') portion of the California