

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA-R05-OAR-2006-0544; FRL-8470-7]

Approval and Promulgation of Air Quality Implementation Plans; Ohio**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

SUMMARY: EPA is approving a request from Ohio to amend its State Implementation Plan (SIP) emission statement reporting regulation. The request to revise Ohio's SIP was submitted by the Division of Air Pollution Control on May 1, 2006, and supplemented on May 22, 2007. Ohio held a public hearing on these revisions on September 8, 2005. The SIP revision concurrently rescinds and revises portions of Ohio Administrative Code Chapter 3745-24 to be consistent with the Clean Air Act (CAA) emission statement program reporting requirements for stationary sources. The revision makes the rule more general to apply to all counties designated nonattainment for ozone, and not to a specific list of counties. The rationale for approval and other information are provided in this rulemaking action.

DATES: This direct final rule will be effective November 26, 2007, unless EPA receives adverse comments by October 29, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0544, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: mooney.john@epa.gov.
3. *Fax*: (312) 886-5824.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office 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 Docket ID No. EPA-R05-OAR-2006-0544. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, 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 www.regulations.gov or e-mail. The www.regulations.gov Web site is an "anonymous access" system, 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 www.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, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT:

Charles Hatten, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6031, Hatten.Charles@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. General Information
- II. What Is Required by the Clean Air Act and How Does It Apply to Ohio?
- III. What Change Is Ohio Requesting?
- IV. What Action Is EPA Taking?
- V. Statutory and Executive Order Reviews

I. General Information*A. Does This Action Apply to Me?*

This action applies to all stationary sources located in areas designated nonattainment for ozone.

II. What Is Required by the Clean Air Act and How Does It Apply to Ohio?*Emission Statements (Annual Reporting)*

Section 182(a)(3)(B) of the CAA requires each state to submit revisions to its SIP to require that the owner or operator of each stationary source of volatile organic compounds (VOCs) and oxides of nitrogen (NO_x), in areas designated nonattainment of the National Ambient Air Quality Standard (NAAQS) for ozone, prepare and submit emission statements each year showing actual emissions of those pollutants. This requirement applies to all ozone nonattainment areas covered under subpart 2 of part D of Title I of the Act, regardless of classification (marginal, moderate, etc.) In such nonattainment areas, facilities which emit VOCs or NO_x (on a plant-wide basis) in amounts of 25 tons per year or more into the ambient air must submit an emission statement to the State.

On April 30, 2004, EPA published its Phase 1 rule to implement the 8-hour ozone NAAQS (69 FR 23951). On this same date, EPA set forth nonattainment and attainment designations for the 8-hour ozone NAAQS (69 FR 23858).

EPA has determined that the emission statement program requirements previously applicable for the 1-hour ozone NAAQS apply in the same manner for the 8-hour NAAQS. See May 3, 2006, memorandum from Thomas C. Curran, Director, Air Quality Assessment Division, to Regional Air Division Directors, entitled "Emission Statement Requirement Under 8-hour Ozone NAAQS implementation." Thus,

the requirement for emission statements under section 182(a)(3)(B) applies to newly-designated subpart 2 nonattainment areas. Also, those areas designated nonattainment for ozone under the 1-hour ozone NAAQS and then designated nonattainment under the 8-hour ozone NAAQS, regardless of classification under subpart 2 of part D of Title I of the Act, remain subject to the emission statement requirement of section 182(a)(3)(B).

Ohio's Current SIP

On October 13, 1994, EPA approved several rules in Chapter 3745-24 of the Ohio Administrative Code (OAC) as meeting the "Emission Statement" program requirements of section 182(a)(3)(B) of the CAA. Chapter 3745-24 of the OAC included rules 3745-24-01 to 3745-24-04.

Rule 3745-24-01 (Definitions)

The first section of the rule, 3745-24-01, is entitled "Definitions." Unless otherwise provided in this rule, definitions in rule 3745-24-01 apply.

Rule 3745-24-02 (Applicability)

The second section of the rule, 3745-24-02, which is entitled "Applicability," states that the requirements of this chapter apply to stationary sources, specifically, located in the Cincinnati-Hamilton (Butler, Clermont, Hamilton and Warren Counties) area designated ozone nonattainment. Facilities emitting 25 tons per year VOCs or NO_x (on a plant-wide basis) during any calendar year are required to submit an emission statement. This requirement started with calendar year 1992. Sources in counties redesignated to attainment for ozone are exempt from reporting.

Under 3745-24-02, stationary sources located in a total of 24 counties designated nonattainment for ozone covered under subpart 2 of part D of Title I of the Act were required to submit emission statements. See 59 FR 51863. Subsequently, EPA redesignated a number of counties subject to the emission statement program to attainment for the 1-hour ozone standard. See, e.g., 60 FR 22289 (Dayton-Springfield Area), 60 FR 39115 (Toledo Area), 61 FR 3319 (Canton, and Youngstown-Warren-Sharon Areas), 61 FR 3591, and 61 FR 20458 (Cleveland-Akron-Lorain Area). On March 23, 1998, EPA approved a revision to rule 3745-24-02 to reflect these changes. See 63 FR 13787. As a result, the emission statement program requirements applied to stationary sources only in the Cincinnati-Hamilton (Butler, Clermont,

Hamilton and Warren Counties) ozone nonattainment area.

Rule 3745-24-03 (Deadlines for the Submission of the Emissions Statements)

Section 3745-24-03, which is entitled "Deadlines for the submission of the emissions statements," requires that the 1992 emissions statements be submitted by July 1, 1994. For calendar year 1993 and beyond, emission statements are due by November 15th of the following calendar year.

Rule 3745-24-04 (Emission Statement Requirements)

Rule 3745-24-04, entitled "Emission statement requirements," requires affected owners that meet the applicability requirements specified in rule 3745-24-02 to submit emissions statements to Ohio EPA by the required deadline specified in rule 3745-24-03, and certification of accuracy of the statement. The certification of accuracy of the information must be submitted by an appropriate facility official.

III. What Change Is Ohio Requesting?

Ohio is requesting that EPA approve several revisions to its existing emission reporting rules contained in Chapter 3745-24 of the OAC to be consistent with the emission statement program requirements for stationary sources in section 182(a)(3)(B) of the CAA. Because the revisions to OAC 3745-24 are necessary, and change or eliminate over half of each rule, to satisfy the requirements of section 119.032 of the Ohio Revised Code (5-Year Rule Review), Ohio EPA rescinded OAC rule 3745-24-01 (Definitions), 3745-24-02 (Applicability), and 3745-24-03 (Deadline for the submission of the emission statements), and promulgated them as new rules. The rule revisions are as follows:

3745-24-01 (Definitions)

In section 3745-24-01 (Definitions), Ohio EPA is requesting approval of the removal of several definitions. Certain definitions are provided in the instructions accompanying the emission statement form to be filed as prescribed by the Director of Ohio EPA. Thus, the revision to this rule would allow enough flexibility for the emission statement form to change so long as the data needed is collected. The emission statement requirements are outlined in OAC rule 3745-24-04.

3745-24-02 (Applicability)

In section 3745-24-02 (Applicability), Ohio EPA is requesting approval to make the applicability of the rule more

general, rather than area specific, to include any county designated nonattainment of the NAAQS for ozone. Currently, the rule specifies that the emission statement requirements apply to stationary sources located in the Cincinnati-Hamilton (Butler, Clermont, Hamilton and Warren Counties) ozone nonattainment area. The revision would provide Ohio EPA more flexibility to apply the emission statement program to develop a complete and accurate emission inventory for air quality planning purposes at the State, and also meet EPA's emission reporting requirements for all counties designated nonattainment of the NAAQS for ozone.

3745-24-03 (Deadlines for the Submission of the Emissions Statements)

In section 3745-24-03 (Deadlines for the submission of the emissions statements), Ohio EPA is requesting approval to change the due date for the emission statements to be the same as for Ohio's emission fee report, April 15, following the year covered by the reporting period. Thus, to align the reporting due dates for both the emission statement and fee emission, the rule revision would streamline reporting of emissions and provide more timely reporting than the previous SIP-approved rules.

IV. What Action Is EPA Taking?

EPA is approving the State's request that concurrently rescinds and revises portions of the Ohio Administrative Code Chapter 3745-24 [rule 3745-24-01 (Definitions), 3745-24-02 (Applicability), and 3745-24-03 (Deadline for the submission of the emission statements)] to be consistent with the CAA emission statement program reporting requirements for stationary sources. EPA has determined that the Ohio emission statement program contains the necessary applicability, and reporting provisions to meet the requirements for an emission statement program as part of the SIP. The revision makes the rule more general to apply to all counties designated nonattainment for ozone, and not to a specific list of counties.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective November 26, 2007 without further notice unless we receive relevant

adverse written comments by October 29, 2007. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective November 26, 2007.

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

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 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: 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

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).

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 November 26, 2007. 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: September 4, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, of 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)(139) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(139) On May 1, 2006, and supplemented on May 22, 2007, Ohio submitted final adopted state implementation plan revisions which concurrently rescinds and revises portions of the Ohio Administrative Code Chapter 3745–24 to be consistent with the Clean Air Act emission

statement program reporting requirements for stationary sources. This revision includes amendments to the emission reporting regulation approved on October 13, 1994, and March 23, 1998, codified in paragraphs (c)(100) and (c)(117) of this section. The revision makes the rule more general to apply to all counties designated nonattainment for ozone, and not to a specific list of counties.

(i) *Incorporation by reference.* The following sections of the Ohio Administrative Code (OAC) are incorporated by reference.

(A) OAC Rule Chapter 3745-24-01: "Definitions", effective on December 16, 2005.

(B) OAC Rule Chapter 3745-24-02: "Applicability", effective on December 16, 2005.

(C) OAC Rule Chapter 3745-24-03: "Deadlines for the submission of the emission statements", effective on December 16, 2005.

[FR Doc. E7-18894 Filed 9-26-07; 8:45 am]

BILLING CODE 6560-50-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 90

[WT Docket No. 02-55, ET Docket No. 00-258; ET Docket No. 95-18; RM-9498; RM-10024-FCC 07-102]

Improving Public Safety Communications in the 800 MHz Band, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of July 20, 2007 (72 FR 39756), a summary of the Commission's Second Memorandum Opinion and Order resolving various petitions for reconsideration in the 800 MHz rebanding proceeding, WT Docket 02-55. The summary contained inconsistent language concerning the deadline for the submission of the proposed Puerto Rico band plan that the 800 MHz Transition Administrator must file with the Commission. This document corrects that inconsistency.

DATES: Effective on August 20, 2007.

FOR FURTHER INFORMATION CONTACT: John Evanoff, Public Safety and Homeland Security Bureau, (202) 418-0848, or via the Internet at John.Evanoff@fcc.gov.

SUPPLEMENTARY INFORMATION: The Commission published a document in the **Federal Register** of July 20, 2007,

(72 FR 39756). That document summarized the Second Memorandum Opinion and Order in WT Docket No. 02-55, adopted on May 24, 2007, and released on May 30, 2007. The Second Memorandum Opinion and Order included inconsistent language regarding the deadline for the submission of the Puerto Rico band plan that the 800 MHz Transition Administrator must file with the Commission. This inconsistency was reflected in the summary of the order published in the **Federal Register** on July 20, 2007. On July 26, 2007, the Commission published an erratum correcting the inconsistency, and confirming that the deadline for submission of the Puerto Rico band plan is 60 days from the effective date of the Second Memorandum Opinion and Order. Today's document corrects the inconsistency contained in the **Federal Register** summary of the Second Memorandum Opinion and Order published on July 20, 2007. In rule FR Doc. E7-14099 published on July 20, 2007 (72 FR 39756) make the following correction on page 39758, in the first column paragraph number 8, fifth sentence correct to read as follows:

Accordingly we provide the 800 MHz Transition Administrator (TA) with specific criteria and direct the TA to propose an alternative band plan within 60 days of the effective date of this order, including, if necessary, a pro rata distribution of ESMR spectrum.

Federal Communications Commission.

Marlene H. Dortch,
Secretary.

[FR Doc. E7-18868 Filed 9-26-07; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 593

[Docket No. NHTSA-2007-29271]

List of Nonconforming Vehicles Decided To Be Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document revises the list of vehicles not originally manufactured to conform to the Federal motor vehicle safety standards (FMVSS) that NHTSA has decided to be eligible for importation. This list is contained in an appendix to the agency's regulations that prescribe procedures for import

eligibility decisions. The list has been revised to add all vehicles that NHTSA has decided to be eligible for importation since October 1, 2006, and to remove all previously listed vehicles that are now more than 25 years old and need no longer comply with all applicable FMVSS to be lawfully imported. NHTSA is required by statute to publish this list annually in the **Federal Register**.

DATES: The revised list of import eligible vehicles is effective on September 27, 2007.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA, (202) 366-3151.

SUPPLEMENTARY INFORMATION: Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as the Secretary of Transportation decides to be adequate. Under 49 U.S.C. 30141(a)(1), import eligibility decisions may be made "on the initiative of the Secretary of Transportation or on petition of a manufacturer or importer registered under [49 U.S.C. 30141(c)]." The Secretary's authority to make these decisions has been delegated to NHTSA. The agency publishes notice of eligibility decisions as they are made.

Under 49 U.S.C. 30141(b)(2), a list of all vehicles for which import eligibility decisions have been made must be published annually in the **Federal Register**. On October 1, 1996, NHTSA added the list as an appendix to 49 CFR Part 593, the regulations that establish procedures for import eligibility decisions (61 FR 51242). As described in the notice, NHTSA took that action to ensure that the list is more widely disseminated to government personnel who oversee vehicle imports and to interested members of the public. See 61 FR 51242-43. In the notice, NHTSA expressed its intention to annually