

(c) *Special local regulations.* Non-participant vessels are prohibited from entering the regulated area unless authorized by the Coast Guard Patrol Commander. Spectator craft may remain in the designated viewing area.

(d) *Dates:* This section is effective from 11 a.m. to 4 p.m. on September 21, 2003.

Dated: July 28, 2003.

**F.M. Rosa,**

*Captain, U.S. Coast Guard, Acting  
Commander, Seventh Coast Guard District.*  
[FR Doc. 03-19901 Filed 8-4-03; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[OH155-3; FRL-7539-4]

### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Oxides of Nitrogen Regulations

**AGENCY:** Environmental Protection  
Agency (USEPA).

**ACTION:** Final rule.

**SUMMARY:** This action is the conditional approval of the Ohio oxides of nitrogen (NO<sub>x</sub>) State Implementation Plan (SIP). This document also contains USEPA's response to the adverse comment from American Electric Power Services Corporation (AEP) sent to USEPA following publication of the original direct final approval of the Ohio NO<sub>x</sub> plan on January 16, 2003, which was subsequently withdrawn because of receipt of an adverse comment. USEPA is conditionally approving the Ohio NO<sub>x</sub> plan following the receipt of a commitment from the Director of Ohio EPA to change the flow control date in the State plan from 2006 to 2005. On June 25, 2003, Ohio sent a letter to USEPA containing a commitment to take specific enforceable measures by which the flow control date will be changed. These enforceable measures include: timing by which Ohio will begin the public process; timing when the amended rule will be filed with the Joint Committee on Administrative Rule Review; timing of the public hearing; and time span when the amended rule process will be complete. Ohio EPA expects the flow control date in the rule to be changed approximately six months from the date of the commitment letter. USEPA found that the commitment is acceptable and, therefore, USEPA is taking action to conditionally approve the Ohio plan based on the commitment from Ohio to submit the revised rule by

December 26, 2003. We will populate the compliance accounts of units listed in the State's rule after September 4, 2003, so that respective Ohio sources can participate in the NO<sub>x</sub> trading program.

**DATES:** This rule is effective on September 4, 2003.

**ADDRESSES:** You may obtain a copy of the State Implementation Plan revision request at the address below. Please telephone John Paskevicz at (312) 886-6084 if you intend to visit the Region 5 office.

You may inspect copies of Ohio's NO<sub>x</sub> submittal and subsequent commitment letter at: Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Chicago, Illinois, 60604. E-Mail Address: [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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

#### Table of Contents

- I. Background
  - A. What requirements led to the State's submittal of the NO<sub>x</sub> emission control plan?
  - B. What requirements must Ohio meet?
  - C. What have been the Court rulings regarding USEPA's NO<sub>x</sub> emission control rule?
- II. Summary of the State Submittal
  - A. When was the Ohio EPA NO<sub>x</sub> plan submitted to the USEPA?
  - B. What are the basic components of the Ohio EPA NO<sub>x</sub> plan?
  - C. Does the Ohio EPA NO<sub>x</sub> plan meet the Federal NO<sub>x</sub> statewide emissions budget?
  - D. What public review opportunities were provided?
  - E. What guidance did USEPA use to evaluate Ohio's NO<sub>x</sub> control program?
  - F. Does the Ohio plan meet Federal NO<sub>x</sub> SIP Call requirements?
  - G. What deficiencies were noted in the Ohio EPA NO<sub>x</sub> plan?
  - H. What was USEPA's initial action regarding the Ohio plan?
  - I. What comments were received on Ohio's plan?
- III. Response to Public Comment
- IV. USEPA Action
- V. Statutory and Executive Order Reviews

## I. Background

### A. What Requirements Led to the State's Submittal of the NO<sub>x</sub> Emission Control Plan?

On October 27, 1998, the USEPA promulgated a regulation known as the NO<sub>x</sub> SIP Call for numerous States, including the State of Ohio. The NO<sub>x</sub> SIP Call requires the subject States to develop NO<sub>x</sub> emission control regulations sufficient to provide for a prescribed NO<sub>x</sub> emission budget in 2007.

Preceding the promulgation of USEPA's NO<sub>x</sub> SIP Call, there had been extensive discussions by federal, state, and local environmental agencies, industry, and environmental groups regarding the transport of ozone in the Eastern United States. The Environmental Council of States (ECOS) recommended the formation of a national workgroup to assess the problem and to develop a consensus approach to addressing the transport problem. As a result of ECOS' recommendation and in response to a March 2, 1995 USEPA memorandum, the Ozone Transport Assessment Group (OTAG) was formed to conduct regional ozone transport analyses and to develop a recommended ozone transport control strategy. OTAG was a partnership among USEPA, the 37 eastern States and the District of Columbia, and industrial, academic, and environmental groups. OTAG was given the responsibility of conducting the two years of analyses envisioned in the March 2, 1995 USEPA memorandum.

OTAG conducted a number of regional ozone data analyses and regional ozone modeling analyses using photochemical grid modeling. In July 1997, OTAG completed its work and made recommendations to the USEPA concerning the regional emissions reductions needed to reduce transported ozone as an obstacle to attainment in downwind areas. OTAG recommended a possible range of regional NO<sub>x</sub> emission reductions to support the control of transported ozone. Based on OTAG's recommendations and other information, USEPA issued the NO<sub>x</sub> SIP Call rule on October 27, 1998. 63 FR 57356.

In the NO<sub>x</sub> SIP Call, USEPA determined that sources and emitting activities in 23 jurisdictions<sup>1</sup> emit NO<sub>x</sub> in amounts that "significantly contribute" to ozone nonattainment or

<sup>1</sup> Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.