

Call and denied petitioner's motions for rehearing and rehearing en banc. In removing the stay, the court provided that USEPA should allow 128 days for States to submit SIPs to the USEPA, *i.e.*, by October 30, 2000. Shortly after removing the stay, petitioners requested that the court adjust the NO_x SIP Call compliance date. In an action related to *Michigan v. EPA*, 213 F.3d 663 (D.C. Cir 2000) the court then determined that the compliance date for the SIP Call would be May 31, 2004. Although the court's action affected only the compliance deadline, other dates in the rule for related requirements (such as flow control) were also extended because they were established relative to the original compliance deadline.

II. Summary of the State Submittal

A. When Was the Ohio EPA NO_x Plan Submitted to the USEPA?

Ohio EPA submitted the NO_x plan on July 11, 2002. USEPA had an opportunity to review and comment on earlier draft versions of the rules during the stakeholder review process. USEPA made both formal and informal comments, and these comments are available in the Docket. The plan was submitted in sufficient time for the USEPA to make a finding of completeness, which terminated the imposition of sanctions which were scheduled to go into effect on July 25,

2002, due to Ohio's failure to submit a plan. The Region 5 Regional Administrator signed the completeness finding on July 24, 2002. (see 67 FR 50600)

B. What Are the Basic Components of the Ohio EPA NO_x Plan?

The Ohio EPA plan includes the following documents: (1) A letter from the Director of Ohio EPA requesting a revision to the Ohio EPA plan; (2) A copy of the rules containing the provisions and requirements to implement a NO_x budget trading program to control and reduce emissions of NO_x in Ohio; (3) A copy of the Ohio code indicating the authority of the Ohio EPA Director to develop and submit the revision; (4) A notice of the proposed rulemaking and public hearing; (5) A transcript of the public hearing on the rules containing comments and testimony; (6) The Ohio Director's Findings and Orders announcing the adoption of rules controlling NO_x from sources in Ohio; (7) A list of Ohio's "interested parties" or stakeholders to whom draft rules were distributed for comment; (8) Summary of comments submitted into Ohio's formal hearing record regarding the proposed rules which establish a NO_x budget trading program in Ohio; and, (9) Ohio's budget demonstration including a list of units (operating or

under construction) subject to the State's NO_x rules.

Ohio's NO_x plan and rules apply to, and establish, a trading program for EGUs, non-EGUs, and portland cement kilns. The rules contained in Chapter 3745-14, establish the provisions and requirements to implement a NO_x budget trading program in Ohio. The net effect of the rules is to cap emissions from major emitters and provide allowances to units to operate within the State's budget during the control period. Allowance allocations are made for five year periods with the exception of the first period, which is for a four-year period.

The State's market-based program which follows the model NO_x budget trading rule is the method selected by Ohio to meet its NO_x emissions reduction obligations under the NO_x SIP Call. The trading program caps total emissions in order to ensure that emissions reductions are achieved and maintained. Also, the flexibility in the State's program allows sources to reduce emissions and where possible, and if desired, generate allowances for trading.

The Ohio EPA plan includes Ohio Rule 3745-14. This trading rule contains eleven separate rule elements, listed in Table 1, which correspond with part 96 model rule of the NO_x SIP Call.

TABLE 1.—COMPARISON OF STATE RULE TO MODEL RULE

Ohio rule 3745-14—	Corresponds with USEPA rule . . .
01, General provisions	Subpart A, Sections 96.1, 96.2, and 96.3 Purpose, Definitions and Abbreviations. 96.4, Applicability. 96.5, Retired unit exemptions. 96.6, Standard requirements. 96.7, Computation of time.
02, NO _x authorized account representative	Subpart B, Section 96.10 . . . the NO _x authorized account representative. 96.11, Alternate NO _x authorized account representative. 96.12, Changing the account representative. 96.13, Account certificate of representation. 96.14, Objections re: NO _x account representative.
03, NO _x budget permit	Subpart C, Section 96.20, NO _x budget permit requirements. 96.21, Submission of NO _x budget permit application. 96.22, Information requirements for NO _x budget permit applications. 96.23, content. 96.25, revisions.
04, Compliance certification	Subpart D, Section 96.30, Compliance certification report. 96.31, State and USEPA's action on compliance certification.
05, NO _x allowance allocations (and Appendix A and B, for EGUs and non-EGUs, for the period from 2004 through 2007).	Subpart E, Section 96.40, NO _x allowance allocations. 96.41, Timing requirements. 96.42 NO _x allowance allocations. 96.55 Banking (Early reduction credit and non-portion of this section).
06, NO _x allowance tracking system	Subpart F, Section 96.50, NO _x allowance tracking system (ATS) accounts. 96.51, Establishment of accounts. 96.52, NO _x ATS responsibilities of NO _x authorized account rep. 96.53, Recordation of NO _x allowance allocations. 96.54, Compliance. 96.55, Banking. 96.56, Account error. 96.57, Closing of general accounts.
07, NO _x allowance transfers	Subpart G, Section 96.60, Submission of NO _x allowance transfers. 96.61, EPA recordation. 96.62, Notification.
08, Monitoring and reporting	Subpart H, Monitoring and Reporting. 96.70, General requirements. 96.71, Initial certification and recertification procedures. 96.72, Out of control periods. 96.73, Notifications. 96.74, Recordkeeping and reporting. 96.75, Petitions. 96.76, Additional requirements to provide heat input data for allocations.