

comment was filed) published in the **Federal Register**. The public is advised that this action will be effective September 4, 2003.

Ohio EPA submitted a letter to USEPA on June 25, 2003, which commits to revising the State rule (3745-14-06(E)(6)) which addresses the flow control date. The State committed to change this rule to reflect the year 2005 for flow control. USEPA is, therefore, conditionally approving the NO_x SIP for the State of Ohio. As soon as practicable after September 4, 2003, compliance accounts for the sources subject to the rule will be populated and allowance trading may commence. Within one year of the effective date of the conditional approval Ohio must submit an approved State rule which establishes the flow control date as 2005.

If the State fails to submit the required rule and any supporting documents to USEPA by December 26, 2003, the final conditional approval will automatically convert to a disapproval and USEPA will notify the State to this effect. If the SIP is disapproved, this commitment will no longer be a part of the NO_x SIP. The USEPA will subsequently publish a notice in the notice section of the **Federal Register** indicating that the commitment has been disapproved and removed from the SIP. If the State adopts and submits the final rule amendment as a SIP revision to USEPA, within the six-month period it committed to in the commitment letter (and by December 26, 2003, as noted in this rule), the conditionally approved commitments will remain part of the SIP until USEPA takes final action approving or disapproving the new submittal. If USEPA approves the subsequent submittal, the newly approved rule and supporting documentation will become part of the Ohio NO_x SIP.

If after considering the comments on the subsequent submittal, the USEPA issues a final disapproval or if the conditional approval portion is converted to a disapproval, the sanctions clock under section 179(a) will begin. If the State does not submit and USEPA does not approve the rule on which the disapproval is based within 18-months of the disapproval, the USEPA must impose one of the sanctions under 179(b)—highway funding restrictions or the offset sanction. In addition any final disapproval would start the 24-month clock for the imposition of section 110(c) Federal Implementation Plan.

USEPA is making this conditional approval effective September 4, 2003 and source compliance accounts will be

populated shortly thereafter in order to allow sources subject to the Ohio plan to begin to participate in the trading program.

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

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: Coordination With Indian Tribal Governments

This rule also does 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 (65 FR 67249, 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 Risks and Safety Risks

This rule is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer and Advancement Act

In reviewing SIP submissions, USEPA'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 USEPA, 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. USEPA 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). This rule will be effective September 4, 2003.

Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of