

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[OH121-1a; FRL-6239-3]

Approval and Promulgation of Implementations; Ohio; Designation of Areas for Air Quality Planning Purposes; Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving two redesignation requests submitted by the State of Ohio. This action, which was requested on October 26, 1995, redesignates Lake and Jefferson Counties to attainment of National Ambient Air Quality Standard (NAAQS) for sulfur dioxide (SO₂). EPA is also approving the maintenance plans for Lake and Jefferson Counties, to ensure maintenance of the NAAQS, which were submitted with the redesignation requests. In conjunction with these actions, EPA is also approving State-adopted emission limits for the Eastlake Plant (currently operated by First Energy, formerly operated by Cleveland Electric Illuminating), and the Ohio Rubber Company Plant, replacing equivalent limits in the Federal Implementation Plan (FIP) for Lake County. In the proposed rules section of this **Federal Register**, EPA is proposing approval of, and soliciting comments on, this approval. If adverse written comments are received on this action, EPA will withdraw this final rule and address the comments received in response to this action in a final rule based on the related proposed rule. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time.

DATES: This "direct final" rule is effective on May 17, 1999, unless EPA receives adverse written comments by April 16, 1999. If an adverse written comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that rule will not take effect.

ADDRESSES: Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Program Branch (AR-18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Copies of the revision request are available for inspection at the following address: Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson

Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Phuong Nguyen at (312) 886-6708 before visiting the Region 5 office.)

FOR FURTHER INFORMATION CONTACT: Phuong Nguyen at (312) 886-6701.

SUPPLEMENTARY INFORMATION:**I. Background**

The NAAQS for SO₂ consists of three standards: Two primary standards for the protection of public health and a secondary standard for protection of public welfare. The primary SO₂ standards address 24-hour average and annual average ambient SO₂ concentrations. The secondary standard addresses 3-hr average ambient SO₂ concentrations (See 40 CFR 50.2-50.5).

EPA promulgated the FIP regulations in 1976. These regulations required significant emission reductions at specific facilities throughout the State in order to attain and maintain the NAAQS for SO₂. On October 5, 1978, Lake and Jefferson Counties (among others) were designated nonattainment for the primary standards. The State adopted its own regulations in 1979, generally imposing limits similar to those promulgated in the FIP. The State submitted these regulations for EPA approval in 1980, including regulations for Jefferson and Lake Counties. The State withdrew its submittal with respect to specified Lake County sources, namely the Eastlake Plant (formerly operated by Cleveland Electric Illuminating company), the Ohio Rubber Company Plant, and the Painesville Municipal Plant boiler number 5. EPA approved these regulations on January 27, 1981 (for Jefferson County, 46 FR 8481) and on April 20, 1982 (for Lake County, 47 FR 16784). Revised regulations for Jefferson County were approved on December 9, 1996 (61 FR 52882). However, the federally promulgated FIP regulations have remained in effect for the above sources in Lake County.

On October 26, 1995, Governor Voinovich requested that EPA move forward with redesignation to attainment for all remaining SO₂ nonattainment areas within the State of Ohio including Lake and Jefferson Counties. On May 28, 1996, EPA Administrator Browner sent a letter to Governor Voinovich informing him that the redesignation request depended on approval of State adopted rules in place of FIP rules. On July 30, 1996, the Director of the Ohio Environmental Protection Agency replied by objecting to EPA's position that such further materials are a prerequisite for these redesignations and requesting that EPA

reconsider its position regarding the need for Ohio to adopt State rules to replace Federal rules, prior to redesignating several areas in Ohio to attainment for sulfur dioxide. In a September 25, 1996 letter to the State, EPA reaffirmed its position. On August 20, 1998, Ohio submitted material requested by EPA, including State adopted limits, to support the State's requests to redesignate Lake and Jefferson Counties to attainment with respect to SO₂.

The criteria for redesignation to attainment are given in section 107 (d)(3)(E) of the Clean Air Act (Act). Of particular note is section 107 (d)(3)(E)(ii), requiring that EPA has fully approved the applicable plan. These criteria will be discussed in more detail below.

The sulfur dioxide nonattainment area in Lake County is described as the cities of Eastlake, Lakeline, Mentor (north of US 20 and west of SR 306), Timberlake and Willoughby (north of US 20). The only major sulfur dioxide source located within this area is the Eastlake Plant. The State adopted emission limits for sources at this facility are equivalent to those found in the FIP. Compliance with these limits was determined by examining information submitted in the facility's Title V permit application. The Ohio Rubber Company plant and Painesville Municipal Plant are located in the sulfur dioxide attainment portion of Lake county, and emissions of these sources are not expected to have a significant impact on air quality in the nonattainment portion of the county.

The sulfur dioxide nonattainment area in Jefferson county is described as the cities of Steubenville and Mingo Junction, and the townships of Steubenville, Island Creek, Cross Creek, Knox and Wells. The largest sulfur dioxide sources located within this area are the American Electric Power, Cardinal Power Plant and Tidd Plant, both in Brilliant; The First Energy, W.H. Sammis Plant in Stratton; The First Energy, Toronto Plant, in Toronto; The Wheeling-Pittsburgh Steel, Steubenville South Plant, in Mingo Junction; and the Wheeling-Pittsburgh Steel, Steubenville North Plant, in Steubenville. The state emission limits for sources at these facilities were approved by EPA as part of the State Implementation Plan (SIP), effective January 27, 1981. Revised limits for these sources were approved on December 9, 1996. Compliance with these limits was determined by examining information submitted in the sources' title V permit applications.

II. SIP Approval

On August 20, 1998, Ohio submitted material including State adopted limits for sources in Lake County. The State requested approval of SIP limits for the First Energy Eastlake Plant and the Ohio Rubber Plant in place of federally promulgated FIP limits.

Guidance relevant to the request at issue is provided in a September 28, 1994 memorandum from the Director, Air Quality Management Division, Office of Air Quality Planning and Standards, EPA, to the Director, Air and Radiation Division, Region 5, entitled, "Response to Request for Guidance on Issues with Ohio Sulfur Dioxide Federal Implementation Plan". This memo set forth three criteria to be met for the approval of State limits that are equivalent to existing FIP limits without new modeling. Under the first two criteria, there must be no known inadequacy in the original attainment demonstration. Under the third criteria, the State limits must reflect no relaxation of existing emission limits. All three of these criteria are met by the State promulgated SIP limits. Therefore, the revised limits can be considered to be adequate to assure attainment without further modeling. Consequently, EPA approves adopted revisions to rule OAC 3745-18-49(G) (the emission limitations for the First Energy, Eastlake plant) and rule OAC 3745-18-49(H) (the emission limitations for the Ohio Rubber Company plant). These emission limits are equivalent to the FIP limits for Lake County.

As a result of the limits just discussed, attainment in Lake County is assured on the basis of State-adopted, EPA-approved limits. Consequently, there is no further need for a federally promulgated limit, and the corresponding FIP limits for these sources in Lake County can be rescinded.

III. Maintenance Plan Approval

Ohio's attainment plan for sulfur dioxide provides for attainment even with major sources emitting their maximum allowable emissions. Therefore, maintenance is provided by assuring that minor source impacts do not increase significantly. The principal minor sources are distant point sources and diesel vehicles. Title IV reductions and the required national conversion to low sulfur diesel fuel were the identified maintenance provisions contained in the approved redesignation for Washington and Morgan counties in 1994 (59 FR 48403). These reductions will also be realized in the other

nonattainment counties; therefore, this maintenance plan can also be applied for these counties. These reductions in minor source emissions, in combination with the limits on major source emissions, are expected to provide for continued attainment in Jefferson and Lake Counties. Therefore, EPA approves the maintenance plan for these two counties.

IV. Redesignation Evaluation Criteria

Section 107(d)(3)(E) of the Act, as amended in 1990, establishes requirements to be met before an area may be redesignated from nonattainment to attainment. The criteria used to review redesignation requests are derived from the Act. An area can be redesignated to attainment if the following conditions are met: (A) The area has attained the applicable NAAQS; (B) The area has a fully approved SIP under section 110(k) of the Act; (C) The EPA has determined that the improvement in air quality in the area is due to permanent and enforceable emission reductions; (D) EPA has determined that the maintenance plan for the area has met all of the requirements of the section 175A of the Act; and, (E) The state has met all requirements applicable to the area under section 110 and part D of the Act.

A. Demonstrated Attainment of the NAAQS

As explained in an April 21, 1983, memorandum "Section 107 Designation Policy Summary" from the Director of the Office of Air Quality Planning and Standards, eight consecutive quarters of data showing SO₂ NAAQS attainment are required for redesignation. A violation of NAAQS occurs when more than one exceedance of the SO₂ NAAQS is recorded in any year (40 CFR 50.4). Ohio's August 3, 1998, submittal provided ambient monitoring data showing that Lake and Jefferson Counties have met the NAAQS for the years 1992-1998, the most recent consecutive years with quality-assured monitoring data. There has not been a monitored violation of the NAAQS for sulfur dioxide within the state for over 15 years.

Dispersion modeling is commonly used to demonstrate attainment of the SO₂ NAAQS. A September 4, 1992 EPA policy memorandum on "procedures for processing requests to redesignate areas to attainment" explains that additional dispersion modeling is not required in support of an SO₂ redesignation request if an adequate modeled attainment demonstration is submitted and approved as part of the implemented

SIP, and no indication of an existing air quality deficiency exists. Modeling was performed in 1976 to show that, under all allowed operating scenarios, the emission limit in these two counties' SO₂ SIPs would lead to attainment and maintenance of the SO₂ standards.

These approvals were based on modeling showing that compliance with the submitted limits would assure attainment of the standards. Therefore, an important part of Ohio's August 20, 1998 submittal was evidence that sources are complying with applicable limits. This evidence is in the form of certifications of compliance by the affected sources, pursuant to certification requirements of Title V. Based on this evidence, EPA concludes that emissions are sufficiently low as to assure attainment throughout the areas currently designated nonattainment.

B. Fully Approved SIP

The SIP for the area at issue must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply to the area. EPA's guidance for implementing section 110 of the Act is discussed in the General Preamble to Title I (44 FR 20372, April 14, 1979, and 57 FR 13498, April 16, 1992). The SO₂ SIP for Jefferson County and for most of Lake County met the requirements of section 110 of the Act and were approved by EPA on January 27, 1981 (46 FR 8481) and on April 20, 1982 (47 FR 16784), respectively. Also on December 9, 1996, EPA approved a SIP revision submitted by State of Ohio which amends the SO₂ regulations applying to First Energy's Sammis and Toronto Plants in Jefferson County. This revision involves reverting to an emission limit option presented in the FIP for Jefferson County. State limits for the remainder of Lake County (except for the Painesville Municipal Plant) are being approved in this rulemaking. The SIP supplemented a set of general Statewide SO₂ limitations with a set of individual emission limits for specific sources in the respective counties.

C. Permanent and Enforceable Reductions in Emissions

Lake and Jefferson Counties' attainment of the SO₂ standards can be attributed to the implementation of the SO₂ SIP controls and other permanent emission reductions. On January 27, 1981 and also on April 20, 1982, EPA approved the control strategies and emissions limits in Ohio's SO₂ SIP for Jefferson and for Lake (except for Eastlake plant, Ohio Rubber Company plant, and Painesville Municipal plant boiler number 5) Counties respectively,

which rendered them federally enforceable. The regulations are permanent, and any future revisions to the rules must be submitted to and approved by EPA.

The major emissions of SO₂ in Jefferson County are due to power plants and steelmaking operations and the major emissions of SO₂ in Lake County are due to power plant and combustion sources. The reductions in SO₂ emissions are due primarily to the conversion of some fuel-burning sources to lower sulfur content fuels, and to the shutdown of various types of sources. The use of lower-sulfur "cleaner" fuels is reflected in the facilities' air permits and federally enforceable SIP regulations.

D. Fully Approved Maintenance Plan

As discussed above, EPA has concluded that the combination of limitations on maximum allowable emissions from major point sources and implementation of programs that will yield reductions in minor source emissions will assure maintenance of the standards.

E. Part D and Other Section 110 Requirements

EPA approved the SO₂ SIPs for Jefferson County on January 27, 1981, and later on December 9, 1996, and for Lake County on April 20, 1982. Several of the section 110 requirements were revised in the 1990 amendments to the Act. These existing SIPs conform with the new provisions of the Act. The plans provide for the implementation of reasonably available control measures for SO₂ under Ohio's SIP rule. As required by part D of the Act, Ohio has a fully approved and implemented New Source Review Plan. The existing Prevention of Significant Deterioration program, which was federally delegated for all attainment areas, will apply in all of Lake and Jefferson Counties subsequent to redesignation.

V. Final Rulemaking Action

EPA has completed an analysis of the SIP revision request based on a review of material presented, and has determined that the revisions for the First Energy Eastlake plant and Ohio Rubber Company Plant are approvable. In addition, EPA is also approving the SO₂ maintenance plan for Lake and Jefferson Counties, which were submitted with the redesignation request, as adequately ensuring that attainment will be maintained. Finally, EPA is approving redesignation requests from the State of Ohio which were submitted on October 26, 1995 and is redesignating those portions of Lake and

Jefferson counties currently designated nonattainment to attainment for SO₂.

EPA is publishing this action without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the State Plan should adverse written comments be filed. This action will be effective without further notice unless EPA receives relevant adverse written comment by April 16, 1999. Should EPA receive such comments, it will publish a final rule informing the public that this action will not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 17, 1999.

VI. Administration Requirements

A. Executive Order 12866

The office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled "Regulatory Planning and Review."

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance cost incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elective official and other representatives of State, local and tribal governments "to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates." Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on these communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities." Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternative considered by the Agency. EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5-501 of the Order has the potential to influence the regulation. This action is not subject to E.O. 13045 because it approves a state rule implementing a previously promulgated health or safety-based Federal standard, and preserves the existing level of pollution control for the affected areas.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because plan approvals under section 110 do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-state relationship under the CAA preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255-66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual cost to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual cost of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 the 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 rule is not a "major rule" as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 17, 1999. 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

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: February 26, 1999.

Jo Lynn Traub,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, chapter I, 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.

2. Section 52.1870 is amended by adding (c)(118) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(118) On October 26, 1995, and August 20, 1998, Ohio submitted material including State adopted limits for Lake County, and requested approval of limits for the Ohio First Energy Eastlake Plant and the Ohio Rubber Company Plant.

(i) Incorporation by reference

(A) Rule 3745-18-49 (G) and (H) of the Ohio Administrative Code, effective May 11, 1987.

3. Section 52.1881 is amended by revising paragraphs (a)(4) and (a)(8) and adding paragraph (a)(13) to read as follows:

§ 52.1881 Control strategy; Sulfur oxide (sulfur dioxide).

(a) * * *

(4) Approval-EPA approves the sulfur dioxide emission limits for the following counties: Adams County (except Dayton Power & Light-Stuart), Allen County (except Cairo Chemical), Ashland County, Ashtabula County, Athens County, Auglaize County, Belmont County, Brown County, Carroll County, Champaign County, Clark County, Clermont County, (except Cincinnati Gas & Electric-Beckjord), Clinton County, Columbiana County, Coshocton County, (except Columbus & Southern Ohio Electric-Conesville), Crawford County, Darke County, Defiance County, Delaware County, Erie County, Fairfield County, Fayette County, Fulton County, Gallia County (except Ohio Valley Electric Company-Kyger Creek and Ohio Power-Gavin), Geauga County, Greene County, Guernsey County, Hamilton County, Hancock County, Hardin County, Harrison County, Henry County, Highland County, Hocking County, Holmes County, Huron County, Jackson County, Jefferson County, Knox County, Lake County (except Painesville Municipal Plant boiler number 5) , Lawrence County (except Allied Chemical-South Point), Licking County, Logan County, Lorain County (except Ohio Edison-Edgewater, Cleveland Electric Illuminating-Avon Lake, U.S. Steel-Lorain, and B.F. Goodrich), Lucas County (except Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company), Madison County, Marion County, Medina County, Meigs County, Mercer County, Miami County, Monroe County, Morgan County, Montgomery County (except Bergstrom Paper, Miami Paper, Bergstrom Paper, Morrow County, Muskingum County, Noble County, Ottawa County, Paulding County, Perry County, Pickaway

County, Pike County (except Portsmouth Gaseous Diffusion Plant), Portage County, Preble County, Putnam County, Richland County, Ross County (except Mead Corporation), Sandusky County (except Martin Marietta Chemicals), Scioto County, Seneca County, Shelby County, Trumbull County, Tuscarawas County, Union County, Van Wert County, Vinton County, Warren County, Washington County (except Shell Chemical), Wayne County, Williams County, Wood County (except Libbey-Owens-Ford Plants Nos. 4 and 8 and No. 6), and Wyandot County.

* * * * *

(8) No Action-EPA is neither approving nor disapproving the emission limitations for the following counties on sources pending further review: Adams County (Dayton Power &

Light-Stuart), Allen County (Cairo Chemical), Butler County, Clermont County (Cincinnati Gas & Electric-Beckjord), Coshocton County (Columbus & Southern Ohio Electric-Conesville), Cuyahoga County, Franklin County, Gallia County (Ohio Valley Electric Company-Kyger Creek, and Ohio Power-Gavin), Lake County (Painesville Municipal Plant boiler number 5), Lawrence County (Allied Chemical-South Point), Lorain County (Ohio Edison-Edgewater Plant, Cleveland Electric Illuminating Avon Lake, U.S. Steel-Lorain, and B.F. Goodrich), Lucas County (Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company), Mahoning County, Montgomery County (Bergstrom Paper and Miami Paper), Pike County (Portsmouth Gaseous Diffusion Plant), Stark County, Washington County (Shell Chemical

Company), and Wood County (Libbey-Owens-Ford Plants Nos. 4 and 8 and No. 6).

* * * * *

(13) In a letter dated October 26, 1995, Ohio submitted a maintenance plan for sulfur dioxide in Lake and Jefferson Counties.

* * * * *

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

Subpart K K—Ohio

2. In § 81.336 the table entitled "Ohio SO₂" is revised to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—SO₂

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|---|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| Athens County | | | | X |
| Clermont County | | | | X |
| Columbiana County | | | | X |
| Coshocton County: | | | | |
| Franklin Township | X ¹ | | | |
| The remainder of Coshocton County | | | | X ¹ |
| Cuyahoga County: | | | | |
| The Cities of Bay Village, Westlake, North Olmsted, Olmsted Falls, Rock River, Fairview Park, Berea, Middleburg Hts., Strongsville, North Royalton, Broadview Hts., Brecksville and the Townships of Olmsted and Riveredge | | | | X |
| The remainder of Cuyahoga County | X | | | |
| Gallia County: | | | | |
| Addison Township | | X ¹ | | |
| The remainder of Gallia County | | | | X ¹ |
| Greene County | | | | X |
| Hamilton County: | | | | |
| The City of Cincinnati bounded on the west by 175 and U.S. Route 127, and on the south by the Ohio and Little Miami Rivers; the Cities of Norwood, Fairfax, Silverton, Golf Manor, Amberly, Deer Park, Arlington Heights, Elwood Place, and St. Bernard | | | | X ¹ |
| The remainder of Hamilton County | | | | X ¹ |
| Jefferson County: | | | | |
| Cities of Steubenville & Mingo Junction, Townships of Steubenville, Island Creek, Cross Creek, Knox and Wells | | | | X |
| The remainder of Jefferson County | | | | X ¹ |
| Lake County: | | | | |
| The Cities of Eastlake, Timberlake, Lakeline, Willoughby (north of U.S. 20), and Mentor (north of U.S. 20 west of S.R. 306) | | | | X |
| The remainder of Lake County | | | | X |
| Lorain County: | | | | |
| Area bounded on the north by the Norfolk and Western Railroad Tracks, on the east by State Route 301 (Abbe Road), on the south by State Route 254, and on the west by Oberlin Road | X | | | |
| The remainder of Lorain County | | | | X |
| Lucas County: | | | | |
| The area east of Rte. 23 & west of eastern boundary of Oregon Township | X ¹ | | | |
| The remainder of Lucas County | | | | X ¹ |
| Mahoning County | | | | X |
| Montgomery County | | | | X |
| Morgan County | | | | X |
| Center Township | | | | X ¹ |
| The remainder of Morgan County | | | | X ¹ |
| Summit County: | | | | |

OHIO—SO₂—Continued

| Designated area | Does not meet primary standards | Does not meet secondary standards | Cannot be classified | Better than national standards |
|--|---------------------------------|-----------------------------------|----------------------|--------------------------------|
| Area bounded by the following lines—North—Interstate 76, East—Route 93, South—Vanderhoof Road, West—Summit County Line | | | | X |
| Area bounded by the following lines—North—Bath Road (48 east to Route 8, Route 8 north to Barlow Road, Barlow Road east to county line, East—Summit/Portage County line, South Interstate 76 to Route 93, Route 93 south to Route 619, Route 619 east to County line, West-Summit/Medina County line ... | 2 | 2 | 2 | 2 |
| Entire area northwest of the following line Route 80 east to Route 91, Route 91 north to the County line | | | | X ³ |
| The remainder of Summit County | | | | X ⁴ |
| Trumbull County | | | | X |
| Washington County | | | | X |
| Waterford Township | | | | X |
| The remainder of Washington County | | | | X |
| All other counties in the State of Ohio | | | | X ¹ |

¹ EPA designation replaces State designation.

² This area remains undesignated at this time as a result of a court remand in PPG Industries, Inc. vs. Costle, 630 F.2d 462 (6th Cir. 1980).

³ This area was affected by the Sixth Circuit Court remand but has since been designated.

⁴ The area was not affected by the court remand in PPG Industries, Inc. vs. Costle, 630 F.2d 462 (6th Cir. 1980).

[FR Doc. 99-6256 Filed 3-16-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[PA-107-4066c; FRL-6311-3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Allegheny County, Pennsylvania; Control of Landfill Gas Emissions from Existing Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a municipal solid waste landfill (MSW) 111(d) plan submitted by the Commonwealth of Pennsylvania Department of Environmental Protection (PADEP) on behalf of the Allegheny County Health Department (ACHD) for the purpose of controlling MSW landfill gas emissions from existing facilities. The plan was submitted to fulfill requirements of the Clean Air Act (CAA). The Allegheny County plan establishes landfill gas emissions limits for existing MSW landfills, and provides for the implementation and enforcement of those limits.

EFFECTIVE DATE: This final rule is effective on April 16, 1999.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection

Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., at (215) 814-2190, or by e-mail at topsale.jim@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On April 10, 1998 (63 FR 17683), EPA published a direct final rule for approval of the MSW landfill 111(d) plan submitted by the PADEP on behalf of ACHD. EPA concurrently published a proposed rule on April 10, 1998 (63 FR 17793) to allow interested parties to submit comments. During the public comment period, EPA received one adverse comment from Browning-Ferris Industries, Inc. As a result, EPA withdrew the direct final rule granting approval of the MSW landfill 111(d) plan for Allegheny County on June 18, 1998 (63 FR 33250).

On June 16, 1998, EPA published in the **Federal Register** (63 FR 32743) a direct final action which amends, corrects errors, and clarifies the regulatory text of the "Standards of Performance for New Stationary Sources and Guidelines for Control of Existing Sources: Municipal Solid Waste Landfills," which was promulgated on March 12, 1996. The Background section of the amended rule (63 FR 32744) states, "These changes do not significantly modify the requirements of the regulation." No adverse comments were received on the amended landfill

rule, and as a result, it became effective on August 17, 1998.

II. Response to Public Comments

During the public comment period offered on the approval of the Allegheny County MSW landfill 111(d) plan, EPA received an adverse comment from Browning-Ferris Industries, Inc. opposing approval of the Allegheny County portion of the Commonwealth of Pennsylvania's plan. The following paragraphs present the commenter's remarks and EPA's responses.

Comment: On May 12, 1998, the commenter noted that the effective date specified in "Section G. Compliance Schedule" of the direct final rule can be no sooner than the date of **Federal Register** publication, April 10, 1998. The direct final rule states: "The final compliance date and enforceable increments of progress under the 111(d) plans are tied to the effective date of the County's MSW landfill regulation (Article XXI, section 2105.73)." The table "Reporting and Required Increments of Progress," which appears in Section G, indicates that the first compliance/reporting deadline pursuant to the emission guidelines (EG) is "Within 90 days of the effective date of Article XXI Regulation*." The footnote (*) states that "The regulation became effective on August 15, 1997." According to the commenter, use of the state/county effective date to trigger subsequent requirements is inconsistent with previous EPA approvals under 40 CFR Part 60, Subpart Cc, and with proposed revisions to the landfill new source performance standards/emission guidelines (NSPS/EG). Also, the Pennsylvania Air Pollution Control Act