

**Subpart KK—Ohio**

■ 2. Section 52.1870 is amended by adding paragraph (c)(150) to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(150) On August 22, 2008, Ohio submitted revisions to

Ohio Administrative Code Chapter 3745–17, Rules 3745–17–01 through 3745–112–14. The revisions contain particulate matter standards in the State of Ohio necessary to attain and maintain the 2006 24-hour PM<sub>2.5</sub>, annual PM<sub>2.5</sub> and 24-hour PM<sub>10</sub> NAAQS.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745–17–01 Definitions: (A) and (B), Rule 3745–17–02 Ambient air quality standards, Rule 3745–17–04 Compliance time schedules, Rule 3745–17–07 Control of visible particulate emissions from stationary sources, Rule 3745–17–08 Restriction of emission of fugitive dust, Rule 3745–17–09 Restrictions on particulate emissions and odors from incinerators, Rule 3745–17–10 Restrictions on particulate emissions from fuel burning equipment, Rule 3745–17–12 Additional restrictions on particulate emissions from specific air contaminant sources in Cuyahoga county, Rule 3745–17–13 Additional restrictions on particulate emissions from specific air contaminant sources in Jefferson county, and Rule 3745–17–14 Contingency plan requirements for Cuyahoga and Jefferson counties. The rules became effective on February 1, 2008.

(B) January 22, 2008, “Director’s Final Findings and Orders”, signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

(ii) Additional Information.

(A) Ohio Administrative Code Rule 3745–17–01 Definitions: (C), effective on February 1, 2008.

■ 3. Section 52.1890 is amended by adding paragraph (d) to read as follows:

**§ 52.1890 Removed control measures.**

\* \* \* \* \*

(d) On August 22, 2008, Ohio requested that Ohio Administrative Code 3745–17–05 “Non-degradation Policy.” be removed from the Ohio SIP. The rule was rescinded statewide on February 1, 2008.

■ 4. Section 52.1919 is amended by adding paragraph (c) to read as follows:

**§ 52.1919 Identification of plan—conditional approval.**

\* \* \* \* \*

(c) On August 22, 2008, the Ohio Environmental Protection Agency

submitted a revision to Ohio Administrative Code (OAC) 3745–17–11. The rule establishes a particulate emission limit for coating operations in lieu of generic emission limits based on the weight of processed materials. On July 2, 2010, Ohio submitted a commitment to amend OAC 3745–17–11 by November 25, 2011. The amendment would provide that any exemption granted by the state for sources too large to meet the coating work practice requirement must be submitted for EPA approval as a State Implementation Plan (SIP) revision. When EPA determines the state has met its commitment, OAC 3745–17–11 will be incorporated by reference into the SIP.

[FR Doc. 2010–26880 Filed 10–25–10; 8:45 am]

**BILLING CODE 6560–50–P**

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA–R05–OAR–2009–0807; FRL–9209–1]

**Approval and Promulgation of Air Quality Implementation Plans; Ohio; Ohio Ambient Air Quality Standards**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving amendments to the Ohio Administrative Code (OAC) relating to the consolidation of Ohio’s Ambient Air Quality Standards (AAQS) into Ohio’s State Implementation Plan (SIP) under the Clean Air Act. On April 8, 2009, and August 11, 2009, Ohio EPA adopted amendments to various rules in the OAC to consolidate the state’s AAQS. On September 10, 2009, Ohio EPA requested from EPA approval of amendments to the OAC with the intent to consolidate Ohio’s AAQS into a single rule to provide greater accessibility for the regulated community and to the citizens of Ohio. EPA is approving the request because the revisions clarify the state’s rules and thus better serve the purpose of providing for meeting these standards. **DATES:** This direct final rule will be effective December 27, 2010, unless EPA receives adverse comments by November 26, 2010. 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–2009–0807, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

3. *Fax:* (312) 692–2054.

4. *Mail:* Jay Bortzer, Chief, Air Programs Branch (AR–18), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Jay Bortzer, Chief, Air Programs Branch (AR–18), 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–2009–0807. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://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 <http://www.regulations.gov> or e-mail. The <http://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 <http://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.

*Docket:* All documents in the docket are listed in the <http://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 <http://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 Federal holidays. We recommend that you telephone Melissa M. Barnhart, Environmental Scientist, at (312) 353-8647 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Melissa M. Barnhart, Environmental Scientist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8647, [barnhart.melissa@epa.gov](mailto:barnhart.melissa@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. What is the background for this action?
- II. Review of the Request.
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

### **I. What is the background for this action?**

On April 8, 2009, and August 11, 2009, Ohio EPA adopted amendments to various rules in the OAC to consolidate the state’s AAQS. Prior to April, 2009, Ohio’s AAQS were found in several of the 35 chapters of the OAC that are dedicated to Air Pollution Control. The wide scattering of these standards in the various chapters often caused confusion among the regulated community, requiring them to perform extensive searches to find individual standards. The intent of this rulemaking effort is to consolidate Ohio’s AAQS into a single rule to provide greater accessibility for the regulated community and to the citizens of Ohio.

### **II. Review of the Request**

Ohio requests that EPA approve the reorganization of the AAQS as they apply to Ohio’s SIP. Incorporating the air quality standards into Ohio’s SIP helps assure that violations of the NAAQS are addressed. Consolidation of the various air quality standards into a single rule helps achieve that purpose by making the standards easier to find.

Therefore, EPA is approving the following Ohio Administrative Code rules: 3745-17-03 “Measurement methods and procedures.”, 3745-17-14 “Contingency plan requirements for Cuyahoga and Jefferson counties.”, 3745-18-03 “Attainment dates and compliance time schedules.”, 3745-23-01 “Definitions.”, 3745-23-02 “Methods of measurement.”, 3745-25-01 “Definitions.”, 3745-25-02 “Ambient air quality standards.”, 3745-25-03 “Air pollution emergencies and episode criteria.”, 3745-25-04 “Air pollution emergency emission control action programs.”, and 3745-25-05 “Air pollution emergency orders.”.

### **III. What action is EPA taking?**

EPA is approving amendments to the OAC relating to the consolidation of Ohio’s AAQS into Ohio’s SIP. 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 December 27, 2010 without further notice unless we receive relevant adverse written comments by November 26, 2010. 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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective December 27, 2010.

### **IV. Statutory and Executive Order Reviews**

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Clean Air Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this

action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 December 27, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today’s **Federal Register** rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 17, 2010.

**Susan Hedman,**

*Regional Administrator, Region 5.*

■ 40 CFR part 52 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)(151) to read as follows:

**§ 52.1870 Identification of plan.**

\* \* \* \* \*

(c) \* \* \*

(151) On September 10, 2009, Ohio EPA submitted amendments to the OAC with the intent to consolidate Ohio’s

Ambient Air Quality Standards into a single rule to provide greater accessibility for the regulated community and to the citizens of Ohio. EPA is approving the request because the revisions clarify the state’s rules and thus better serve the purpose of providing for meeting these standards.

(i) Incorporation by reference.

(A) Ohio Administrative Code Rule 3745–17–03 “Measurement methods and procedures.”, effective April 18, 2009.

(B) Ohio Administrative Code Rule 3745–17–14 “Contingency plan requirements for Cuyahoga and Jefferson counties.”, effective April 18, 2009.

(C) Ohio Administrative Code Rule 3745–18–03 “Attainment dates and compliance time schedules.”, effective April 18, 2009.

(D) Ohio Administrative Code Rule 3745–23–01 “Definitions.”, effective April 18, 2009.

(E) Ohio Administrative Code Rule 3745–23–02 “Methods of measurement.”, effective April 18, 2009.

(F) Ohio Administrative Code Rule 3745–25–01 “Definitions.”, effective April 18, 2009.

(G) Ohio Administrative Code Rule 3745–25–02 “Ambient air quality standards.”, effective April 18, 2009.

(H) Ohio Administrative Code Rule 3745–25–03 “Air pollution emergencies and episode criteria.”, effective August 21, 2009.

(I) Ohio Administrative Code Rule 3745–25–04 “Air pollution emergency emission control action programs.”, effective April 18, 2009.

(J) Ohio Administrative Code Rule 3745–25–05 “Air pollution emergency orders.”, effective April 18, 2009.

(K) April 8, 2009, “Director’s Final Findings and Orders”, signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

(L) August 11, 2009, “Director’s Final Findings and Orders”, signed by Chris Korleski, Director, Ohio Environmental Protection Agency.

[FR Doc. 2010–26963 Filed 10–25–10; 8:45 am]

**BILLING CODE 6560–50–P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

[Docket No. FWS–R6–ES–2010–0074; 92220–1113–0000; ABC Code: C6]

**RIN 1018–AX37**

**Endangered and Threatened Wildlife and Plants; Reinstatement of Protections for the Gray Wolf in the Northern Rocky Mountains in Compliance With a Court Order**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are issuing this final rule to comply with a court order that has the effect of reinstating the regulatory protections under the Endangered Species Act of 1973, as amended (ESA), for the gray wolf (*Canis lupus*) in most of the northern Rocky Mountains. Pursuant to the District of Montana court order dated August 5, 2010, this rule corrects the gray wolf listing for the northern half of Montana, the northern panhandle of Idaho, the eastern third of Washington and Oregon, and north-central Utah as endangered and reinstates the former special rules designating the gray wolf in the remainder of Montana and Idaho as nonessential experimental populations. Because ESA protections were not removed in Wyoming by our April 2, 2009 (74 FR 15123), final delisting rule, Wyoming is not impacted by this final rule.

**DATES:** This action is effective October 26, 2010. However, the court order had legal effect immediately upon its filing at 2:43 p.m. Mountain Daylight Time on August 5, 2010.

**ADDRESSES:** This final rule is available on the Internet at <http://www.regulations.gov>. It will also be available for inspection, by appointment, during normal business hours at U.S. Fish and Wildlife Service, Office of the Western Gray Wolf Recovery Coordinator, 585 Shepard Way, Helena, Montana 59601. Call (406) 449–5225 to make arrangements.

**FOR FURTHER INFORMATION CONTACT:** For information on wolves in the northern Rocky Mountains, contact Edward E. Bangs, Western Gray Wolf Recovery Coordinator, U.S. Fish and Wildlife Service, at our Helena office (see **ADDRESSES**) or telephone (406) 449–5225, extension 204. Individuals who are hearing-impaired or speech-impaired may call the Federal Relay