Ohio | Environmental Protection Agency

Ohio's
2010 Revised Sulfur Dioxide National Ambient Air Quality Standard Infrastructure State Implementation Plan

DRAFT

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Division of Air Pollution Control

May 2013

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ORC 3745.11 - http://codes.ohio.gov/orc/3745.11
ORC 3704.03 - http://codes.ohio.gov/orc/3704.03
OAC Chapter 3745-14 - http://www.epa.ohio.gov/dapc/regs/3745_14.aspx
OAC Chapter 3745-15 - http://www.epa.ohio.gov/dapc/regs/3745_15.aspx
OAC rule 3745-15-03 - http://www.epa.ohio.gov/portals/27/regs/3745-15/3745-15-03.pdf
OAC Chapter 3745-16 - http://www.epa.ohio.gov/dapc/regs/3745_16.aspx
OAC Chapter 3745-18 - http://www.epa.ohio.gov/dapc/regs/3745_18.aspx
OAC rule 3745-18-04 - http://www.epa.ohio.gov/portals/27/regs/3745-18/3745-18-04_Final.pdf)
OAC Chapter 3745-25 - http://www.epa.ohio.gov/dapc/regs/3745_25.aspx
OAC rule 3745-25-03(A) – http://www.epa.ohio.gov/portals/27/regs/3745-25/3745-25-03.pdf
OAC rule 3745-25-05 - http://www.epa.ohio.gov/portals/27/regs/3745-25/3745-25-05.pdf
OAC Chapter 3745-31 - http://www.epa.ohio.gov/dapc/regs/3745_31.aspx
OAC rule 3745-31-06 - http://www.epa.ohio.gov/portals/27/regs/3745-31/3745-31-06f.pdf

OAC rule 3745-31-18 - http://www.epa.ohio.gov/portals/27/regs/3745-31/3745-31-18f.pdf
OAC rule 3745-31-34 - http://www.epa.ohio.gov/portals/27/regs/3745-77/3745-31-34_Emer.pdf
OAC Chapter 3745-47 - http://codes.ohio.gov/oac/3745-47
OAC Chapter 3745-77 – http://www.epa.ohio.gov/dapc/regs/3745_77.aspx
OAC rule 3745-78-02 - http://www.epa.ohio.gov/portals/27/regs/3745-78/3745-78-02.pdf
OAC Chapter 3745-103 - http://www.epa.ohio.gov/dapc/regs/3745_103.aspx
OAC Chapter 3745-109 - http://www.epa.ohio.gov/dapc/regs/3745_109.aspx

Ohio EPA's Analysis

The State Implementation Plan (SIP) elements listed below are required under Section 110(a)(1) and (2). Section 110(a)(1) provides the procedural and timing requirements for SIPs. Section 110(a)(2) lists the elements and sub-elements required in a complete and approvable SIP. Many of the Section 110(a)(2) SIP elements relate to the general information and authorities that constitute the "infrastructure" of a state's air quality program; hence these SIPs are referred to as infrastructure SIPs. Following each element below is Ohio EPA's discussion regarding the Agency's ability to fulfill the requirement with respect to the national ambient air quality standards (NAAQS), specifically, sulfur dioxide (SO2).

Element A

Section 110(a)(2)(A): Emission limits and other control measures

> *Each such plan shall –*
>
> *(A) include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance, as may be necessary or appropriate to meet the applicable requirements of this [Act].*

To satisfy Element A, the state should identify the existing SIP provisions or any new SIP provisions that the air agency has adopted that limit emissions of pollutants relevant to the subject NAAQS, SO2 in this case, including precursors where applicable (not applicable to SO2). U.S. EPA notes it would not expect infrastructure SIP submissions to identify nonattainment emission controls. Nonattainment area plans are subject to the timing requirements of Section 172.

Comment: Ohio EPA continues to devote staff to implement needed revisions to the SIP. SIP approved Ohio Revised Code (ORC) 3704.03 provides the Director with the authority to develop rules and regulations necessary to meet ambient air quality standards.

Ohio EPA continues to follow and develop federal and state emission reductions measures to meet CAA requirements, such as the maintenance of the 2010 SO2 NAAQS. SO2 emissions are directly regulated through SIP approved Ohio Administrative Code (OAC) Chapter 3745-18.

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Element B

Section 110(a)(2)(B): Ambient air quality monitoring/data system

> *Each such plan shall –*
>
> *(B) provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to –*
>
> > *(i) monitor, compile, and analyze data on ambient air quality, and*
> >
> > *(ii) upon request, make such data available to the Administrator.*

To satisfy Element B, the infrastructure SIP submission should provide evidence of a commitment by, and legal authority for, an agency or official to perform the following actions:

- Monitor air quality for the relevant NAAQS pollutant(s) at appropriate locations in accordance with the EPA's ambient air quality monitoring network requirements.

- Submit data to the EPA's Air Quality System (AQS) in a timely manner in accordance with 40 CFR part 58.

- Provide to the U.S. EPA Regional Office information regarding air quality monitoring activities, including a description of how the air agency has complied with monitoring requirements, and an explanation of any proposed changes to the network. Submission of annual monitoring network plans consistent with the U.S EPA's ambient air monitoring regulations is one way of providing this information.

- Obtain EPA approval of any planned changes to monitoring sites or to the network plan.

Comment: SIP approved ORC 3704.03 provides the Director with the legal authority to monitor air quality. Specifically, paragraph (I) allows the Director to require owners or operators of air contaminant sources to install, employ, maintain and operate various monitoring devises as prescribed by the Director. In addition, paragraph (J) provides the Director with authority to establish, operate, and maintain monitoring stations and other devices designed to measure air pollution.

In accordance with our SIP, Ohio EPA continues to operate one of the largest monitoring networks in the nation. Appendix 1, contains Ohio's latest annual monitoring network plan, "Ohio Air Monitoring Network 2012-2013." This document summarizes the current plans for continued ambient monitoring as agreed to during the most recent review of the U.S. EPA Region 5 monitoring network.

As a result of revisions of the SO2 monitoring network requirements under U.S. EPA's 2010 SO2 standard, Ohio EPA, district offices, and contractual agencies reviewed the existing SO2 monitoring network to ensure it would meet the new requirements. As a result, Ohio has two new, or reestablished, SO2 monitoring sites to meet PWEI requirements. One site was at Collins Park in Toledo at a site where a SO2 monitor had been previously. The other PWEI site was in Columbus at the Fairgrounds which was also a previous SO2 monitoring site location.

Ohio EPA submits all data to U.S. EPA's Air Quality System (AQS) in a timely manner and routinely works with U.S. EPA Region 5 regarding any planned changes to Ohio's monitoring network. Ohio commits to continuing to perform these actions.

Element C

Section 110(a)(2)(C): Program for enforcement of control measures and for construction or modification of stationary sources

> *Each such plan shall –*
>
> *(C) include a program to provide for the enforcement of the measures described in subparagraph (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that national ambient air quality standards are achieved, including a permit program as required in parts C and D.*

This element consists of three sub-elements:

- Enforcement,
- State-wide permitting of new and modified minor sources and minor modifications of major sources (*i.e.,* minor new source review or minor NSR), and
- Permitting of major sources and major modifications in areas designated attainment or unclassifiable for the subject NAAQS as required by CAA title I part C (*i.e*., the major source PSD program).

Comment: SIP approved ORC 3704.03(R) provides the Director with the authority to enforce those emission limits and control measures necessary to satisfy Element A. Ohio EPA continues to devote staff to implement a vigorous enforcement program. Ohio EPA's continued commitment to ensuring compliance of Ohio entities can be seen through Ohio EPA's enforcement activities which can be viewed at http://epa.ohio.gov/dapc/enforcement.aspx.

SIP approved ORC 3704.03 provides the Director with the authority to continue to implement Ohio's minor NSR and major source PSD program. Ohio's SIP approved NSR provisions are contained within SIP approved OAC Chapter 3745-31. OAC Chapter 3745-31 meets the requirements of 40 CFR 51.160 to 164, 51.166, and 51.307.

Ohio's NSR program requirements ensure that the construction and modification of stationary sources do not cause or contribute to a violation of the SO2 NAAQS or increment. Moreover, it ensures that new or modified sources will apply Best Available Technology (minor sources), or Best Available Control Technology (major sources), when applicable, to reduce SO2 emissions. Lastly, Ohio EPA will continue to revise its NSR regulations to address any applicable U.S.EPA amendments to their rules within required timeframes.

Ohio's NSR program also addresses requirements established in accordance with U.S.EPA's GHG Tailoring Rule provisions. These provisions are addressed within OAC rule 3745-31-34. OAC rule 3745-31-34 became effective March 21, 2011. Ohio EPA submitted OAC rule 3745-31-34 for U.S.EPA's approval into Ohio's SIP and is waiting for a federal action. While waiting for the federal approval, Ohio is also subject to the GHG PSD SIP Narrowing Rule.

Element D(i)(I) and (II)

Section 110(a)(2)(D)(i): Interstate pollution transport

> *Each such plan shall –*
>
> *(D) contain adequate provisions –*
>
> > *(i) prohibiting, consistent with the provisions of this title, any source or other type of emissions activity within the state from emitting any air pollutant in amounts which will –*
> >
> > > *(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other state with respect to any such national primary or secondary ambient air quality standard, or*

> *(II) interfere with measures required to be included in the applicable implementation plan for any other state under part C to prevent significant deterioration of air quality or to protect visibility.*

Comment: U.S.EPA has already developed programs that address Section 110(a)(2)(D) for many of the NAAQS (such as the Clean Air Interstate Rule (CAIR) and the Regional Haze Rule).

Section 110(a)(2)(D)(i)(I) good neighbor provisions are often referred to as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance). Ohio EPA has adopted, and implemented, various SIP approved major programs related to the interstate transport of pollution. SIP approved OAC Chapters 3745-16 (Stack Height Requirements), 3745-103 (Acid Rain Permits and Compliance), 3745-14 (Nitrogen Oxides – Budget Trading Program), and 3745-109 (Clean Air Interstate Rule) all address Congressional and U.S.EPA concerns over the transport of emissions of regulated pollutants beyond our state borders. Ohio has also responded to requests by the States of Indiana and West Virginia to implement revisions to OAC Chapter 3745-18 (Hamilton County and Jefferson County) to alleviate modeled violations due, in part, to sources in Ohio. U.S. EPA is currently working with states to further address these requirements of Section 110(a)(2)(D)(i)(I). Pursuant to *Homer City*[1], a state is not required to submit a Section 110(a)(2)(D)(i)(I) SIP until U.S. EPA defines the states obligation under that provision. U.S. EPA's regulations must quantify states' Section 110(a)(2)(D)(i)(I) duties with sufficient specificity to trigger the SIP submission obligation[2].

Section 110(a)(2)(D)(i)(II) provisions are often referred to as prong 3 (interference with PSD) and prong 4 (interference with visibility protection).

To address prong 3, Ohio EPA confirms that new major sources and major modifications are subject to Ohio's SIP approved PSD program, as discussed above for Element C. For sources not subject to PSD because they are in a nonattainment area, Ohio also has a SIP approved nonattainment NSR program also contained within OAC Chapter 3745-31.

To address prong 4[3], Ohio EPA confirms that Ohio has a SIP approved PSD program (as discussed under Element C), a SIP approved nonattainment NSR

[1] EME Homer City Generation v. EPA, 696 F.3d 7, 29 (D.C. Cir. 2012)

[2] The *Homer City* decision says "EPA's quantifying of a state's good neighbor obligation and setting of a state's emissions budget is what 'require[s]' the state to make a 'submission' implementing [the good neighbor provision]." 696 F.3d at 30-31.

[3] U.S. EPA's guidance also guides states to confirm they have a SIP approved Reasonably Attributable Visibility Impairment (RAVI) program. However, a RAVI program is required only for states identified in 40 CFR 51.300 as subject. Ohio is not a subject state.

program (as discussed above), and a SIP approved Regional Haze program (77 FR 39177) that meets requirements of 40 CFR 51.308.

Ohio EPA continues to work with U.S. EPA in developing SIPs to meet this requirement for purposes of PSD, visibility and good neighbor provisions for any applicable NAAQS.

Element D(ii)

Section 110(a)(2)(D)(ii): Interstate pollution abatement and international air pollution

Each such plan shall –

(D) contain adequate provisions -

(ii) insuring compliance with the applicable requirements of sections 126 and 115 (relating to interstate and international pollution abatement).

Section 126(a) requires state SIPs to include provisions requiring a new or modified source to notify neighboring states of potential impacts from the source. Section 126 (b) and (c) is applicable, only if U.S. EPA has, in response to a petition, made a finding that emissions from a source(s) within Ohio emit prohibited amounts of air pollution. Section 115 authorizes U.S. EPA to revise Ohio's SIP under certain conditions to alleviate international transport into another county.

Comment: SIP approved OAC Chapter 3745-31 is consistent with 40 CFR 51.166(q)(2)(iv), regarding notifications and public participation when a new source or modifications to major source occurs.

Further, there is no source(s) in Ohio subject to an active finding under Section 126 with respect to any air pollutant, nor are there any final findings under Section 115 of the CAA against Ohio with respect to any air pollutant.

Element E

Section 110(a)(2)(E): Adequate resources and authority, conflict of interest, and oversight of local governments and regional agencies

Each such plan shall –

(E) provide

(i) necessary assurances that the state (or, except where the Administrator deems inappropriate, the general purpose local government or governments, or a regional agency designated by the state or general purpose local governments for such purpose) will have adequate personnel, funding, and authority under state (and, as appropriate, local) law to carry out such implementation plan (and is not prohibited by any provision of Federal or state law from carrying out such implementation plan or portion thereof),

(ii) requirements that the state comply with the requirements respecting state boards under section 128, and

(iii) necessary assurances that, where the state has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the state has responsibility for ensuring adequate implementation of such plan provision.

Section 110(a)(2)(E)(i) requires assurance the state has adequate personnel and funding to carry out its SIP functions.

Section 110(a)(2)(E)(ii) pertains to Section 128, applicable to certain boards, bodies, and personnel that approve permits or enforcement orders. Section 128 states:

Sec. 128(a) - Not later than the date one year after the date of the enactment of this section, each applicable implementation plan shall contain requirements that –

(1) any board or body which approves permits or enforcement orders under this Act shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permits or enforcement orders under this Act, and

(2) *any potential conflicts of interest by members of such board or body or the head of an executive agency with similar powers be adequately disclosed.*

A state may adopt any requirements respecting conflicts of interest for such boards or bodies or heads of executive agencies, or any other entities which are more stringent than the requirements of (paragraphs (1) and (2), and the Administrator shall approve any

> *such more stringent requirements submitted as part of an implementation plan.*

And lastly, Section 110(a)(2)(E)(iii) requires the state to have legal authority under state law to carry out its SIP and related issues.

Comment: With respect to sub-element (i) and (iii), Ohio EPA has sole authority to develop, implement and enforce Ohio's SIP. Under SIP approved ORC 3704.03, Ohio EPA has the legal authority to carry out the SIP and any other programs and requirements as established by the CAA. Specifically, ORC 3704.03(E) gives Ohio EPA the authority to establish environmental programs, procedures, requirements and regulations to enforce the CAA.

Appendix 2 is the Ohio EPA Division of Air Pollution Control's current funding sources that are used to implement the required SIP programs. These funding sources are provided through Ohio EPA's Biennial Budget approved by Ohio's legislature. Ohio EPA does not anticipate a future lack or decrease in its resources (funding or personnel) for future implementations. With respect to the resources needed to permit GHG emitting sources, U.S. EPA's Narrowing Rule provides that our Ohio EPA's currently approved SIP does not involve permitting of GHG emitting sources smaller than EPA's Tailoring Rule thresholds; therefore, Ohio EPA retains adequate resources for this purpose.

With respect to sub-element (ii), Ohio does not have a board that approves enforcement or permit orders; instead, that authority rests with the Director of Ohio EPA. Therefore, only the second, (2) requirement of Section 128 applies to Ohio. U.S. EPA has previously approved provisions submitted by Ohio EPA intended to address the applicable requirements of Section 110(a)(2)(E)(ii) by way of Section 128. Notably, these provisions were approved into the SIP on November 24, 1981 (46 FR 57490). Ohio EPA submitted these revisions on January 30, 1981, which are contained in ORC 102: Public Officers – Ethics. These provisions sufficiently address the second (2) requirement of Section 128. ORC 102.02, "Filing with ethics committee" names certain individuals as having to file with Ohio's ethics committee. By the definition provided therein, the Director of Ohio EPA and his/her delegate must file an annual statement with the ethics committee inclusive of the details included in ORC 102.02(A)(1) – (7), which include provisions addressing potential conflicts of interest. Furthermore, this annual filing is subject to public inspection, per ORC 102.02(A)(7), which fulfills the requirement for adequate disclosure.

Ohio EPA believes that U.S.EPA's previous approval of these provisions adequately satisfies the applicable requirements of Section 128 as it relates to this infrastructure SIP for the 2010 SO_2 NAAQS. Insofar as the requirements of Section 110(a)(2)(E)(ii) are not NAAQS specific, i.e., state board requirements apply to all NAAQS, Ohio EPA also requests in this submission that the

previously approved provisions addressing Section 128 also satisfy the applicable requirements for Section 110(a)(2)(E)(ii) for any previous infrastructure SIP for which U.S. EPA has not finalized action, e.g., the 2006 PM2.5 NAAQS, the 2008 lead NAAQS, the 2008 ozone NAAQS, and the 2010 NO2 NAAQS.

Element F

Section 110(a)(2)(F): Stationary source monitoring and reporting

> *Each such plan shall –*
>
> *(F) require, as may be prescribed by the Administrator –*
>
> > *(i) the installation, maintenance, and replacement of equipment, and the implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions from such sources,*
> >
> > *(ii) periodic reports on the nature and amounts of emissions and emissions-related data from such sources, and*
> >
> > *(iii) correlation of such reports by the state agency with any emission limitations or standards established pursuant to this Act, which reports shall be available at reasonable times for public inspection.*

Section 110(a)(2)(F) requires SIPs to include stationary sources monitoring, emissions reporting, and reporting on the nature and amount of emissions and emissions-related data from such sources. It requires including regulations for source monitoring, recordkeeping, and reporting requirements applicable to Pb.

Comment: Ohio EPA SIP approved OAC rule 3745-18-04 addresses methods of ambient air measurements for SO2. SIP approved OAC Chapter 3745-15 provides for general provisions that include submitting of emissions reports and measurement of emissions. SIP approved OAC Chapter 3745-77 and OAC Chapter 3745-31 provide requirements for recordkeeping by sources.

With respect to sub-element (i), Ohio has the authority under SIP approved ORC 3704.03(I) to require owners or operators of air contaminant sources to install, employ, maintain and operate such emissions, ambient air quality, meteorological, or other monitoring devices or methods as the director shall prescribe; to sample those emissions at such locations, at such intervals, and in such manner as the director prescribes; to maintain records and file periodic reports with the director containing information as to location, size, and height of

emission outlets, rate, duration, and composition of emissions, and any other pertinent information the director prescribes; and to provide such written notice to other states as the director shall prescribe. In addition, Ohio does not have any provisions preventing the use of credible evidence. Ohio EPA District Offices and local air agencies are currently required to witness 50% of all source emissions testing and review 100% of all emissions tests (fulfilling the requirements for sub-element (iii)). Hundreds of emission tests are performed throughout the state each year. In addition, at the present time, 271 sources in the state employ 603 continuous monitoring systems for various air pollutants. Ohio EPA oversees the operation and certification of these systems and routinely provides quarterly summary reports to U. S. EPA. A quarterly excess emission report summary report for the Ohio facilities is included in Appendix 3. These reports are also available for public inspection.

With respect to sub-element (ii), Ohio EPA has reporting requirements consistent with 40 CFR 51.211, 40 CFR 51-321 to 323, and 40 CFR Part 51, Subpart A.

The 1990 federal CAA established new permitting and reporting requirements for air polluting facilities Under Title V of the CAA amendments, facilities that have the potential to emit certain amounts of air pollution are required to apply for and obtain a state-federal operating permit and pay emission fees. In Ohio, facilities are required to file on April 15th of each year. The Fee Emissions Report (FER) requirements are outlined in ORC 3745.11 and OAC rule 3745-78-02.

Facilities are required to apply for and obtain an air pollution control operating permit, and submit an annual emissions report for estimated actual facility wide emissions of particulate matter (PM), sulfur dioxide (SO_2), nitrogen dioxides (NOx), organic compounds (OC), and lead (Pb) no later than April 15th for the previous year. Also, Ohio EPA has the authority under OAC rule 3745-15-03 to request and receive the information from regulated entities. An Emission Inventory Summary (EIS) is provided to U.S. EPA to develop an annual criteria and toxic pollutant inventory pursuant to 40CFR 51.321. Beginning with calendar year 2006 inventory, all Title V facilities are required to file a complete inventory. Pollutants required to be reported in the EIS are: NOx, VOC, SO_2, Lead, OC, CO, NH_3, PM-CON, PM-FIL, PM_{10}-FIL and $PM_{2.5}$-FIL.

Element G

Section 110(a)(2)(G): Emergency episodes

Each such plan shall –

(G) provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.

This section requires states to provide for authority to address activities causing imminent and substantial endangerment to public health, including contingency plans to implement the emergency episode provisions in their SIPs.

Comment: SIP approved OAC Chapter 3745-25 addresses the requirement to implement emergency action plans in the event of an Air Quality Alert (or higher). Such an event has not occurred since 1978 and these rules have undergone revision to: 1) make them more relevant and 2) to incorporate revised significant harm levels which U.S. EPA determine are necessary to address the revised ozone and PM 2.5 standards. These rules became effective as of August 21, 2009.

Specifically, OAC rule 3745-25-03(A) determines: “Conditions justifying the proclamation of an air pollution "Alert", air pollution "Warning", or air pollution "Emergency" shall be deemed to exist whenever the director determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, lead to a substantial threat to the health of persons.” Additionally, OAC rule 3745-25-05 determines: “The following orders may be issued by the director upon his/her declaration that an air pollution episode exists for any air contaminants for which air quality standards have been adopted” and contains the contingency measures that must be put in place.

These regulations contain specific requirements related to SO2 and meet the requirements of 40 CFR 51.151 and 40 CFR 51.152.

Element H

Section 110(a)(2)(H): SIP revisions

Each such plan shall –

(H) provide for revision of such plan –

(i) from time to time as may be necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and

(ii) except as provided in paragraph (3)(C), whenever the Administrator finds on the basis of information available to the Administrator that the plan is substantially inadequate to attain the national ambient air quality standard which it implements or to

otherwise comply with any additional requirements established under this Act.

Section 110(a)(2)(H) requires states to have the authority to revise their SIPs in response to changes in the NAAQS, availability of improved methods for attaining the NAAQS, or in response to a U.S. EPA finding that a SIP is substantially inadequate.

Comment: SIP approved ORC 3704.03 provides the Director with the authority to develop programs for the prevention, control, and abatement of air pollution; and to develop rules and regulations for the purpose of achieving and maintaining compliance with ambient air quality standards in all areas within the state as expeditiously as practicable, but not later than any deadlines applicable under the federal Clean Air Act. Ohio EPA continues to make every possible effort to meet all SIP deadlines.

Element I

Section 110(a)(2)(I): Plan revisions for nonattainment areas

Each such plan shall –

(I) in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of part D (relating to nonattainment areas).

Comment: As noted in the infrastructure SIP guidance document, U.S.EPA would not expect infrastructure SIP submissions to address subsection 110(a)(2)(I). These provisions are addressed under a different submission and schedule.

Element J

Section 110(a)(2)(J): Consultation with government officials, public notification, and PSD and visibility protection

Each such plan shall –

(J) meet the applicable requirements of section 121 (relating to consultation), section 127 (relating to public notification), and part C (relating to prevention of significant deterioration of air quality and visibility protection).

Section 110(a)(2)(J) requires states to provide a process for consultation with local governments and Federal Land Managers (FLMs) carrying out NAAQS implementation requirements pursuant to Section 121. It also requires states to

notify the public if NAAQS are exceeded in an area and to enhance public awareness of measures that can be taken to prevent exceedances. Lastly, it requires states to meet the applicable requirements of part C related to PSD and visibility protection.

Comment: Ohio EPA actively participates in the regional planning efforts that include both the state rule developers as well as representatives from the FLMs and other affected stakeholders. The FLMs are also included in Ohio EPA's interested party lists for announcements of draft and proposed rule packages and NSR permits. Ohio EPA works with interested FLMs regarding proposed major new sources in Ohio. Ohio's SIP approved OAC rule 3745-31-06 requires notification and the availability of public participation related to NSR actions. Notification is provided to the general public, other state or local air pollution control agencies, executives of the city or county where the source is located, regional land use planning agencies, and FLMs. In addition, SIP approved ORC Chapter 3704.03(K) requires giving reasonable public notice and conducting public hearings on any plans for the prevention, control, and abatement of air pollution that the director is required to submit to the federal government.

Ohio EPA's District Offices and local air agencies monitor air quality daily, and where required, report the daily air quality index to the interested media. In addition, Ohio EPA's remotes access data system (RADS) provides online reports of real time air quality data on the internet and feeds raw information to EPA's AIRNOW program. In addition, several of the local stakeholder groups actively participate in the AIRNOW forecast program. Ohio EPA prepares an annual report detailing data from the complete network (2011 Air Quality Report; Appendix 4).

Ohio EPA also routinely and actively works with the media, local governments and other agencies to develop and enhance methods for advising the public of health hazards associated with air quality exceedances, ways to enhance public awareness of measures that can prevent such exceedances, and of ways in which the public can participate in regulatory and other efforts to improve air quality.

Ohio EPA is addressing both the long term requirements to meet natural visibility levels by 2064 as part of the Regional Haze program and the ongoing review of new major sources under Ohio's approved PSD new source review program. Ohio EPA has an approved Regional Haze SIP, as discussed under Element D(i)(I) and (II).

Element K

Section 110(a)(2)(K): Air quality modeling and submission of modeling data

Each such plan shall –

(K) provide for –

(i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and

(ii) the submission, upon request, of data related to such air quality modeling to the Administrator.

To satisfy this element, Ohio EPA may demonstrate the ability to perform, or require, NSR modeling and the ability to perform area-wide modeling related to attainment demonstrations.

Comment: Ohio EPA reviews the potential impact of major and some minor new sources, consistent with Appendix W of 40 CFR Parts 51 and 52 and Ohio EPA Engineering Guide 69. The regulatory requirements related to PSD modeling can be found in the SIP approved OAC rule 3745-31-18. Ohio's authority to require modeling be conducted by other entities (i.e., applicants) lies within SIP approved ORC 3704.03(F).

Ohio EPA also performs area-wide air quality modeling related to attainment demonstrations. Ohio's authority to perform this type of modeling lies within SIP approved ORC 3704.03(A), (C), (E), (N) and (X).

Modeling data are available upon request by U.S.EPA or other interested parties.

Element L

Section 110(a)(2)(L): Permitting fees

Each such plan shall –

(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover –

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V.

Comment: Element F discusses Ohio EPA's Title V Fee Emission Reporting (FER) program. Please refer to that element for details regarding the authorizing code and regulations. Ohio EPA continues to implement the SIP approved Title V permit program, including requiring major sources to pay emissions fees to cover reviewing, processing, and enforcing the permits.

Element M

Section 110(a)(2)(M): Consultation and participation by affected local entities

Each such plan shall –

(M) provide for consultation and participation by local political subdivisions affected by the plan.

Comment: Ohio EPA follows approved procedures for public notification and participation, consistent with SIP approved OAC Chapter 3745-47. Consultation with local governments is also authorized through ORC 3704.03(B); where the Director will "advise, consult, contract, and cooperate with any governmental or private agency in the furtherance of the purposes of this chapter." Ohio EPA always provides a public participation process, for all stakeholders that includes a minimum of a 30-day comment period and a public hearing, for all SIP related actions.