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June 13, 2022

Environmental Protection Agency  
EPA Docket Center (EPA/DC)  
Attn: Docket ID No. EPA-HQ-OAR-2021-0668; FRL 8670-01-OAR]

**RE: Ohio EPA Comments on U.S. EPA's April 6, 2022, Proposed Rule, "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard." [87 FR 20036]**

Dear Administrator Regan:

The Ohio Environmental Protection Agency (Ohio EPA) appreciates the opportunity to provide comments on the above referenced U.S. EPA proposed rule regarding the Federal Implementation Plan (FIP) to address transport under the 2015 Ozone National Ambient Air Quality Standard (NAAQS).

Ohio EPA's primary concern regarding this proposed rule is that the nitrogen oxides (NO<sub>x</sub>) emissions rates and budgets proposed for Ohio may be difficult to achieve for the few remaining coal-fired power plants in the affected state. Furthermore, for the first time since the NO<sub>x</sub> SIP Call, U.S. EPA is proposing to regulate non-electric generating industrial sources. It is also difficult to fully determine the impact to Ohio's sources given the lack of clarity in certain definitions and the applicability for these sources. Further detailed comments are provided below:

1. U.S. EPA has proposed an extremely low and potentially unachievable emissions rate and NO<sub>x</sub> budget for Ohio's electric generating units (EGUs). The emission rate is based on what we believe are incorrect assumptions about the quantity of possible reductions from proposed control strategies. We also believe the proposed rate is not representative of real performance for Ohio plants, which are already controlling NO<sub>x</sub> emissions to a significant degree while maintaining compliance with U.S. EPA's mercury emissions rules.

U.S. EPA is proposing to set allocations at a level beginning in 2023 that could be achieved by the full operation of existing post-combustion controls (SCRs and SNCRs) and state-of-the-art combustion control upgrades. U.S. EPA is proposing to reduce Ohio's NO<sub>x</sub> budget by approximately 15% between 2022 and 2023. This is a significant drop in allocations. As stated above, we believe U.S. EPA may be overestimating the ability for Ohio sources to achieve further optimization of controls, especially considering the delicate balance required while maintaining compliance with U.S. EPA's mercury

emissions rules. Considering that we are in the second half of 2022, Ohio EPA considers this accelerated schedule unachievable.

U.S. EPA is proposing to set allocations at a level beginning in 2026 that would be achieved by retrofitting post-combustion controls for those that do not have advanced controls installed. Again, we believe this schedule could be quite challenging for some sources with site constraints or other technical constraints that could necessitate longer implementation timelines for installation of advanced control systems.

We also urge U.S. EPA to consider measures already taken by sources that have worked with States to optimize controls during recent ozone seasons. Ohio has specifically worked with several utilities recently to maximize performance during periods of peak ozone in efforts to attain the 2015 ozone standard in Ohio's nonattainment areas. These sources voluntarily went beyond their minimum requirements. U.S. EPA's proposal for the rates and allocations that can be achieved by these existing units, that were already optimizing their performance, may not reflect their ability to continue to operate in a cost-effective manner over the long term.

2. Ohio EPA is concerned that U.S. EPA may be imposing implementation steps as a part of this FIP on the states as if it is a state implementation plan (SIP). Ohio EPA recommends U.S. EPA provide clarity in the preamble on the State's role in U.S. EPA's FIP.

U.S. EPA is also proposing to require incorporation of FIP requirements in the Title V permit (87 FR 20152) similar to the requirements under the previous trading programs. Under prior transport FIPs, these terms and conditions were a minimal resource burden to States for the cap-and-trade program requirements. However, in this proposal, it appears that U.S. EPA is providing specific monitoring requirements, opportunities for alternatives, and specific emissions limitations for non-EGU sources. This leads to several questions regarding the state's obligations to review Title V compliance reports for compliance with U.S. EPA's FIP limitations and regarding the state's role in compliance oversight.

3. Applicability for many non-EGUs is based upon a calculation of potential-to-emit (PTE), however, there is no definition in the proposed FIP. Rather U.S. EPA, under proposed 40 CFR 52.41, relies on all the definitions of subpart A of part 60. Subpart A of part 60 does not contain a definition for PTE. PTE can have different meaning under different programs. Ohio EPA requests U.S. EPA provide additional clarity on how PTE is defined and calculated. In addition, we recommend U.S. EPA provide clarification on whether PTE calculations should follow new source review program rules, reasonably available control technology SIP program rules, or some other definition. Understanding the definition of PTE is critical for sources to determine if they are subject to these FIP requirements.
4. Because U.S. EPA did not provide a list in the proposal regarding specific affected non-EGU sources that would be subject to the FIP, Ohio EPA finds it difficult to determine our subject sources based upon the applicability criteria provided in the proposed rule. U.S. EPA appears to have relied on a list of sources in a screening analysis to conduct the

regulatory impact assessment. The list of sources in this screening analysis does not include all of the sources that would be subject based on the applicability criteria set forth in the proposed rule. This could lead to under-predicting the marginal costs associated with compliance with this FIP and therefore over-regulating sources under this FIP.

5. Ohio EPA is concerned that due to lack of clarity in definitions and applicability, some sources may be falsely assuming that they are not subject to this FIP and therefore may not participate in review and comment of this proposal.
6. U.S. EPA is proposing to require CEMS for several non-EGU categories and is considering CEMS requirements for other non-EGU categories. Ohio EPA recommends U.S. EPA consider the costs associated with deployment and ongoing operation of CEMS when performing the cost-benefit analysis and taking into consideration the marginal cost threshold under U.S. EPA's screening analysis. CEMS are expensive to procure and install, and ongoing operation requires specialized technical staff that many of these non-EGU sources have never had to consider employing.

Ohio EPA recommends that U.S. EPA not require CEMS across the board for all categories or even for just some categories. Rather, U.S. EPA should consider only requiring CEMS for sources that are actually emitting at significant NO<sub>x</sub> levels, for example, those greater than 1,000 tons per year of actual emissions. CEMS requirements should be reserved for only the most significant sources.

Furthermore, under the NO<sub>x</sub> SIP Call, U.S. EPA provided a mechanism to allow sources that had long been operating CEMS to request an alternative monitoring mechanism. Many sources have taken advantage of this alternative option and underwent the rigorous process to obtain approval. As a result, the sources discontinued their CEMS monitoring and implemented their approved alternative. Some of these sources may find themselves now subject to this new transport FIP and requirement for CEMS. Ohio EPA recommends U.S. EPA consider grandfathering these alternative approvals and allow these sources to be eligible for alternative monitoring under this FIP.

7. U.S. EPA is proposing emissions limitations for the Iron and Steel Mills and Ferroalloy Manufacturing category (NAICS 3311xx). Depending on emissions unit type, in some cases the emissions limits are in pounds per tons of steel and other times in pounds per mmBtu. The proposed definitions for the emission unit types also often refer to "steel" as the product. Is it U.S. EPA's intent for these emissions limitations to not apply to ferroalloy manufacturing?
8. Additional details and clarity on the screening process U.S. EPA used to assess non-EGUs is requested. Specifically, U.S. EPA indicated that sources with actual emissions greater than 100 TPY were assessed, except well-controlled sources. Ohio EPA seeks additional clarification on what criteria U.S. EPA used to determine if a source was well-controlled. It also appears that a number of emissions units less than 100 TPY actual emissions will be covered by this package in the iron and steel category. Ohio EPA would like clarification on the emission threshold triggering the applicability of this rule for this source category.

9. On December 16, 2021, Ohio EPA submitted comments to U.S. EPA regarding U.S. EPA's 2016v2 inventory. These comments were not incorporated into this proposal. Rather, U.S. EPA expects to incorporate changes into the final FIP rule itself. Ohio EPA is requesting that the comments submitted on December 16, 2021, be incorporated within these comments on the proposed FIP and be considered by U.S. EPA.
  
10. Because changes to the inventory across the country could lead to significant changes in the final FIP, we encourage U.S. EPA provide an opportunity for further comment. While we understand U.S. EPA has verbally stated that they believe the final FIP will not be appreciably changed from this proposed FIP, Ohio EPA requests that U.S. EPA provide further public participation if there are appreciable changes as a result of considering the State's comments on the inventory.

Again, thank you for the opportunity to comment and please consider the attached comments prior to finalizing the proposed FIP.

Sincerely,



Laurie A. Stevenson  
Director, Ohio EPA

Cc: Robert Hodanbosi, Chief, Ohio EPA Division of Air Pollution Control