

Dated: December 18, 2006.

C.R. Choate,

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. E6-21944 Filed 12-21-06; 8:45 am]

BILLING CODE 5001-06-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DOD-2006-OS-0220]

### 32 CFR Part 367

#### Assistant Secretary of Defense for Health Affairs

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This document removes part 367, "Assistant Secretary of Defense for Health Affairs" presently in Title 32 of the Code of Federal Regulations. This part was canceled by DoD Directive 5144.1, "Assistant Secretary of Defense for Networks and Information Integration/Dod Chief Information Officer (ASD(NII)/DOD CIO)".

**DATES:** *Effective Date:* December 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** L. Bynum, 703-696-2970.

**SUPPLEMENTARY INFORMATION:** This part 367 is removed to as a part of a DoD exercise to remove CFR parts no longer required to be codified. DoD Directive 5144.1 may be obtained from <http://www.dtic.mil/whs/directives/corres/dir2.html>.

#### List of Subjects in 32 CFR Part 367

Organization and functions  
(Government agencies).

#### PART 367—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 367 is removed.

Dated: December 15, 2006.

L.M. Bynum,

*Alternate OSD Federal Register Liaison  
Officer, Department of Defense.*

[FR Doc. 06-9823 Filed 12-21-06; 8:45 am]

BILLING CODE 5001-06-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0354; FRL-8259-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Revision to Ohio State Implementation Plan To Rescind Oxides of Nitrogen Rule

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a revision to the Ohio State Implementation Plan (SIP) submitted by Ohio on April 11, 2005 to rescind a rule which affected stationary combustion sources located within Priority I regions of the State and new sources regardless of location. The rule revision we are approving here also applies to nitric acid manufacture. We are taking this action at the request of the Ohio Environmental Protection Agency (Ohio EPA) because this rule is no longer the limiting regulation for any oxides of nitrogen (NO<sub>x</sub>) emission units in the State. The rule was originally approved by EPA over 30 years ago and since then has been superseded by a number of more stringent State and Federal regulations. The Ohio NO<sub>x</sub> SIP call rules and Federal emission standards for utility and industrial units all have greater potential for reducing emissions of NO<sub>x</sub> and improving human health than does the State's rescinded rule.

**DATES:** This final rule is effective on January 22, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0354. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](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 John

Paskevicz, Engineer at (312) 886-6084 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6084, or e-mail at [paskevicz.john@epa.gov](mailto:paskevicz.john@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 Action is EPA Taking?

II. What is the Background for the Action?

III. Final Action

IV. Statutory and Executive Order Reviews

#### I. What Action is EPA Taking?

EPA is approving the request from Ohio to rescind a rule, Ohio Administrative Code (OAC) 3745-23-06, which the State has determined no longer applies to any source in the State. The rule formerly applied to sources of oxides of nitrogen (NO<sub>x</sub>) including nitric acid plants and combustion sources greater than 250 million British Thermal Units (BTU) per hour. Ohio made this request on April 11, 2005, following public hearing. We reviewed the State's request and find that it meets the requirements for technical approvability and agreed that the rule is redundant with regard to control of large NO<sub>x</sub> combustion sources and nitric acid plants in the State. We agree that the rule has been superseded by recent State and Federal rules and is therefore no longer needed.

#### II. What is the Background for the Action?

The Ohio EPA sent a letter and supporting materials to EPA requesting to revise the Ohio SIP by eliminating that portion of plan which approved rule 3745-23-06 of the Ohio Administrative Code. Ohio EPA had made the determination that this rule, originally promulgated in 1972, was no longer viable because it had been superseded by more recent and more stringent rules. We agreed with Ohio EPA and on June 1, 2006, we published a proposal in the **Federal Register** (71 FR 31129) to approve the State's request. In that proposal we asked the public to comment on the State's request and noted that there are no sources in the State subject to rule OAC 3745-23-06. We gave the public thirty days to respond to our proposed action. We did not receive any comments on the proposal from the public either via the U.S. Postal Service or through the EPA public docket on the EPA Web site,

and conclude that the State's request is approvable.

### III. Final Action

EPA is approving the SIP revision request submitted by Ohio on April 11, 2005. We are publishing this action because it meets all of the technical requirements for a revision of the SIP. We received no comments from the public regarding this action.

### VI. Statutory and Executive Order Reviews

#### *Executive Order 12866: Regulatory Planning and Review*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

#### *Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use*

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant regulatory action," this action is also not subject to Executive Order 13211, (Actions Concerning Regulations That Significantly "Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

#### *Regulatory Flexibility Act*

This action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

#### *Unfunded Mandates Reform Act*

Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

#### *Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the

Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

#### *Executive Order 13132: Federalism*

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

#### *Executive Order 13045: Protection of Children From Environmental Health and Safety Risks*

This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

#### *National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

#### *Paperwork Reduction Act*

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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 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 February 20, 2007. 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 in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: December 12, 2006.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of 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.*

#### **Subpart KK—Ohio**

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

#### **§ 52.1890 Removed control measures.**

\* \* \* \* \*

(c) On April 11, 2005, the Ohio Environmental Protection Agency submitted a request to revise the State's plan controlling nitrogen oxide emissions from stationary sources in the State. The request included the results of the action taken by Ohio EPA to rescind OAC 3745-23-06, which affected emissions of oxides of nitrogen from combustion sources and nitric acid plants. This action was preceded by a negative declaration regarding nitric acid plants dated April 11, 1994, and

rule approvals (NO<sub>x</sub> SIP Call, NSPS, budget trading program, etc.) affecting large fossil-fueled utility and industrial boilers. OAC 3745-23-06, Control of nitrogen oxide emissions from stationary sources, also known as AP-7-06 in its original form, is therefore removed from the Ohio SIP.

[FR Doc. E6-21864 Filed 12-21-06; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R03-OAR-2006-0353; FRL-8259-7]

#### Approval and Promulgation of Air Quality Implementation Plans; Maryland; Redesignation of the Kent and Queen Anne's 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Maintenance Plan

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of Maryland. The Maryland Department of the Environment (MDE) is requesting that Kent and Queen Anne's 8-hour Ozone Nonattainment Area (Kent and Queen Anne's area) be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan which provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. Concurrently, EPA is approving the maintenance plan as meeting the requirements of Clean Air Act (CAA) 175A(b) with respect to the 1-hour ozone maintenance plan update. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the 8-hour maintenance

plan for Kent and Queen Anne's area for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the Maryland SIP in accordance with the requirements of the CAA.

**DATES:** *Effective Date:* This final rule is effective on January 22, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2006-0353. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy 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. Copies of the State submittal are available at the Maryland Department of Environment, 1800 Washington Boulevard, Baltimore, Maryland 21230.

**FOR FURTHER INFORMATION CONTACT:**

Linda Miller, (215) 814-2068, or by e-mail at [miller.linda@epa.gov](mailto:miller.linda@epa.gov).

**SUPPLEMENTARY INFORMATION:**

#### I. Background

On October 10, 2006 (71 FR 59414), EPA published a notice of proposed rulemaking (NPR) for the State of Maryland. The NPR proposed approval of Maryland's redesignation request and a SIP revision that establishes a maintenance plan for Kent and Queen Anne's area setting forth how Kent and Queen Anne's will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted on May 2, 2006 and supplemented on May 19, 2006. Other

specific requirements of Maryland's redesignation request and SIP revision for the maintenance plan and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

## II. Final Action

EPA is approving the State of Maryland's redesignation request and maintenance plan for the Kent and Queen Anne's area because the requirements for approval have been satisfied. EPA has evaluated Maryland's redesignation request, submitted on May 2, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that the Kent and Queen Anne's area has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of the Kent and Queen Anne's area from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for this area, dated March 15, 2006 and submitted on May 2, 2006, as a revision to the Maryland SIP. EPA is concurrently approving the maintenance plan for the Kent and Queen Anne's area as the 1-hour ozone maintenance plan update pursuant to 175A(b).

In this final rulemaking, EPA is notifying the public that we have found that the motor vehicle emissions budgets for NO<sub>x</sub> and VOCs in the Kent and Queen Anne's Counties, Maryland submitted 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, Kent and Queen Anne's Counties must use the motor vehicle emissions budgets from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved motor vehicle emissions budgets are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS

Budget year	Relevant pollutants and precursors	Relevant pollutants and precursors
2009 .....	NO <sub>x</sub> 5.11 Tons/Day .....	VOCs 2.72 Tons/Day.
2018 .....	NO <sub>x</sub> 2.38 Tons/Day .....	VOCs 1.62 Tons/Day.