

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.

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**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.

Kent and Queen Anne's area is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

### III. Statutory and Executive Order Reviews

#### A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, 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)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources.

Accordingly, the Administrator certifies that this final 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.*). 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 (Pub. L. 104-4). This final rule also does 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), nor will it 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), because it affects the status of a geographical area, does not impose any new requirements on

sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

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. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. 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. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

#### B. 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 publication of the rule in

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

#### C. Petitions for Judicial Review

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, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for the Kent and Queen Anne's area, 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, Intergovernmental relations, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: December 15, 2006.

**Donald S. Welsh,**

*Regional Administrator, Region III.*

■ 40 CFR parts 52 and 81 are 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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan for the Kent and Queen Anne's Area at the end of the table to read as follows:

##### § 52.1070 Identification of plan.

\* \* \* \* \*  
(e) \* \* \*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan for the Kent and Queen Anne's Area.	Kent and Queen Anne's Counties.	05/2/06, 05/19/06 .....	December 22, 2006 [Insert page number where the document begins].	

**PART 81—[AMENDED]**

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

**Authority:** 42 U.S.C. 7401 *et seq.*  
 ■ 2. Section 81.321 is amended by revising the ozone table entry for the

Kent and Queen Anne's Area to read as follows:

**§ 81.321 Maryland.**  
 \* \* \* \* \*

**MARYLAND—OZONE (8-HOUR STANDARD)**

Designated area	Designation <sup>a</sup>		Category/ classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
<b>Kent and Queen Anne's Area</b>				
Kent County .....	December 22, 2006 .....	Attainment.		
Queen Anne's County .....	December 22, 2006 .....	Attainment.		

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is June 15, 2004, unless otherwise noted.  
<sup>2</sup> Early Action Compact Area, effective date deferred until December 31, 2006.  
<sup>3</sup> November 22, 2004.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2002-0093; FRL-8260-7]

RIN 2060-AN10

**National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on amendments to the National Emission Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks (Automobiles and Light-Duty Trucks NESHAP) which were promulgated on April 26, 2004, under the authority of section 112(d) of the Clean Air Act. The direct final rule amendments provide the option of including surface coating

of heavier motor vehicles under this rule. This action also makes direct final rule amendments to the National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products (Miscellaneous Metal Parts NESHAP) and the National Emission Standards for Hazardous Air Pollutants for Surface Coating of Plastic Parts and Products (Plastic Parts NESHAP) to maintain consistency between these rules and the Automobiles and Light-Duty Trucks NESHAP.

**DATES:** The direct final rule is effective on February 20, 2007 without further notice, unless EPA receives adverse written comment by January 22, 2007 or by February 5, 2007 if a public hearing is requested by January 2, 2007. If adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** indicating which amendments, sections, or paragraphs will become effective and which are being withdrawn due to adverse comment. If anyone contacts EPA requesting to speak at a public hearing, a public hearing will be held on January 8, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID

No. EPA-HQ-OAR-2002-0093. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., confidential business information 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 Air and Radiation Docket, EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**Note:** The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult