

# Proposed Rules

Federal Register

Vol. 72, No. 74

Wednesday, April 18, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### 32 CFR Part 213

[DOD-2006-OS-0107]

RIN 0790-A118

#### Support for Non-Federal Entities Authorized To Operate on DoD Installations

**AGENCY:** Department of Defense.

**ACTION:** Proposed rule.

**SUMMARY:** This rule establishes policy and assigns responsibilities under DoD Directive 5124.8 for standardizing support to Non-Federal entities authorized to operate on DoD installations. Designates the Secretary of Army as the DoD executive agent for: Support to Boy Scout and Girl Scout local councils and organizations in areas outside of the United States; support for the national Boy Scout jamboree; the annual DoD audit of the American Red Cross (ARC) accounts and the subsequent report to Congress; and necessary ARC deployment support. It also designates the Secretary of the Air Force as the DoD Executive Agent for conducting the Armed Forces Entertainment program. It will have minimal impact on the public.

**DATES:** Comments must be received by June 18, 2007. Do not submit comments directly to the point of contact or mail your comments to any address other than what is shown below. Doing so will delay the posting of the submission.

**ADDRESSES:** You may submit comments, identified by docket number and or RIN number and title, by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301-1160.

*Instructions:* All submissions received must include the agency name and docket number or Regulatory

Information Number (RIN) for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://regulations.gov> as they are received without change, including any personal identifiers or contact information.

**FOR FURTHER INFORMATION CONTACT:** Pam Crespi 703-602-5004.

#### SUPPLEMENTARY INFORMATION:

#### Executive Order 12866, "Regulatory Planning and Review"

This proposed regulatory action is not a significant regulatory action, as defined by Executive Order 12866 and does not:

- (1) Have an annual effect to the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;
- (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or
- (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)

The proposed regulatory action does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)

The proposed regulatory action is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. The rule establishes policy and assigns executive agent responsibilities but taken cumulatively, those changes would not have a significant impact on a substantial number of small entities.

#### Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)

The proposed regulatory action does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995.

#### Executive Order 13132, "Federalism"

The proposed regulatory action does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

- (1) The States;
- (2) The relationship between the National Government and the States; or
- (3) The distribution of power and responsibilities among the various levels of government.

#### List of Subjects in 32 CFR Part 213

Federal buildings and facilities.

Accordingly, 32 CFR part 213 is proposed to be added to read as follows:

#### PART 213—SUPPORT FOR NON-FEDERAL ENTITIES AUTHORIZED TO OPERATE ON DOD INSTALLATIONS

Sec.

- 213.1 Purpose.
- 213.2 Applicability and scope.
- 213.3 Definition.
- 213.4 Policy.
- 213.5 Responsibilities

**Authority:** 10 U.S.C. 2554 and 2606.

#### § 213.1 Purpose.

This part:

- Authorizes 32 CFR part 212.
- Establishes policy and assigns responsibilities under DoD Directive 5124.8<sup>1</sup> for standardizing support to non-Federal entities authorized to operate on DoD installations.
- Designates the Secretary of the Army as the DoD Executive Agent (DoD EA) according to DoD Directive 5101.1:<sup>2</sup>
  - For DoD support to the Boy Scouts of America (BSA) and Girl Scouts of the United States of America (GSUSA) local councils and organizations in areas outside of the United States 10 U.S.C. 2606. DoD support will also cover the periodic national jamboree according to 10 U.S.C. 2606.<sup>3</sup>

<sup>1</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

<sup>2</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

<sup>3</sup> A Federal district judge has ruled that support to BSA under section 2554 of Reference (g) is

(2) To perform the annual audit of the American Red Cross (ARC) accounts and to prepare and submit the annual report to Congress according to 36 U.S.C. 300110.

(3) To provide the ARC with the necessary deployment support.

(d) Designates the Secretary of the Air Force as the DoD EA responsible for conducting the Armed Forces Entertainment (AFE) program.

### § 213.2 Applicability and scope.

This part:

(a) Applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components") and non-Federal entities authorized to operate on DoD installations.

(b) Shall not revise, modify, or rescind any Memorandum of Understanding (MOU) between a non-Federal entity and the U.S. Government or the Department of Defense or their implementing arrangements in existence as of the effective date of this Directive. Additionally, the Directive shall not revise, modify, or rescind any MOU between the Department of Justice (DoJ) and the Department of Defense that is in existence as of the effective date of this Directive. Any such agreements shall, as they expire, come up for renewal, or as circumstances otherwise permit, be revised to conform to this Directive and any implementing guidance.

(c). Does not apply to banks or credit unions addressed in DoD Directive 1000.11<sup>4</sup> or the Civil Air Patrol according to 10 U.S.C. 2554.

### § 213.3 Definition.

*Non-federal entities.* A non-Federal entity is generally a self-sustaining, non-Federal person or organization, established, operated, and controlled by any individual(s) acting outside the scope of any official capacity as officers, employees, or agents of the Federal Government. This Directive addresses only those entities that may operate on DoD installations with the express

unconstitutional, and has enjoined the Department of Defense from providing future support under that statute. The Department of Defense is appealing that order. However, unless the order is overturned on appeal, the Department of Defense cannot provide any support to BSA using this statute. Contact your local legal office for further guidance.

<sup>4</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

consent of the installation commander or higher authority under applicable regulations. Non-Federal entities may include elements of state, interstate, Indian tribal, and local government, as well as private organizations.

### § 213.4 Policy.

It is DoD policy that:

(a) DoD support for non-Federal entities shall be in accordance with relevant statutes as well as DoD 5500.7-R.<sup>5</sup> In accordance with DoD 5500.7-R and to avoid preferential treatment, DoD support should be uniform, recognizing that non-Federal entity support of Service members and their families can be important to their welfare.

(b) Under DoD Directive 5124.8 procedures shall be established as Instructions and agreements for the operation of non-Federal entities on DoD installations and for the prohibition of official sanction, endorsement, or support by the DoD Components and officials, except as authorized by DoD 5500.7-R and applicable law. Instructions and agreements must be compatible with the primary mission of the Department and provide for Congressionally authorized support to non-Federal entities on DoD installations.

(c) In accordance with DoD 5500.7-R, installation commanders or higher authority may authorize, in writing, logistical support for events, including fundraising events, sponsored by non-Federal entities covered by this part.

(d) Installation commanders or higher authority may coordinate with non-Federal entities in order to support appropriated or nonappropriated fund activities on DoD installations, so long as the support provided by the non-Federal entities does not compete with appropriated or nonappropriated fund activities.

(e) Non-Federal entities are not entitled to sovereign immunity and the privileges given to Federal entities and instrumentalities.

### § 213.5 Responsibilities.

(a) The Principal Deputy Under Secretary of Defense for Personnel and Readiness (PDUSD(P&R)), under the Under Secretary of Defense for Personnel and Readiness, shall:

(1) Be responsible for implementing all policy matters and Office of the Secretary of Defense oversight of non-Federal entities on DoD installations.

(2) Develop procedures and execute any necessary agreements to implement

policy for the operation of non-Federal entities on DoD installations.

(3) Assign responsibilities to the DoD Components to accomplish specific oversight and administrative responsibilities with respect to non-Federal entities operating on DoD installations.

(4) Oversee the activities of the designated DoD EA, assessing the need for continuation, currency, effectiveness, and efficiency of the DoD EA according to 10 U.S.C. 2554. Make recommendations for establishment of additional DoD EA assignments and arrangements as necessary.

(b) The Secretary of the Army, as the designated DoD EA, and according to 10 U.S.C. 2554, shall:

(1) Perform the audit of the annual ARC accounts and prepare and submit the annual report according to 36 U.S.C. 300110 and this part.

(2) Coordinate support to the BSA and GSUSA according to DoD Instruction 1015.9<sup>6</sup> and this part.

(3) Provide necessary deployment support to ARC according to an approved DoD and ARC MOU. Initially, the Army will cover costs, except those paid by the ARC. The Army will then be reimbursed, upon its request, by the entity directly benefiting from the ARC support.

(4) Designate a point of contact to coordinate matters regarding the DoD EA responsibilities, functions, and authorities.

(c) The Secretary of the Air Force, as the designated DoD EA with responsibility for conducting the AFE program, shall administer the AFE program according to 10 U.S.C. 2554, DoD Instruction 1330.13,<sup>7</sup> and this part to include the following:

(1) Annually determine with the other DoD Components and the PDUSD (P&R) the scope of the program.

(2) Budget, fund, and maintain accountability for approved appropriated fund expenses. Develop and implement supplemental guidance to identify allowable expenses and reimbursements.

(3) Provide centralized services for selecting, declining, scheduling, and processing entertainment groups for overseas.

(4) Designate a point of contact to coordinate matters regarding the DoD EA responsibilities, functions, and authorities.

<sup>6</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

<sup>7</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

<sup>5</sup> Copies may be obtained at <http://www.dtic.mil/whs/directives/>.

Dated: April 11, 2007.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison  
Officer, DoD.*

[FR Doc. E7-7247 Filed 4-17-07; 8:45 am]

BILLING CODE 5001-06-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2006-0305; FRL-8301-8]

#### Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the South Bend- Elkhart 8-Hour Nonattainment Area to Attainment for Ozone

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

**ACTION:** Proposed rule.

**SUMMARY:** On May 30, 2006, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of St. Joseph and Elkhart Counties to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS) and of an ozone maintenance plan for St. Joseph and Elkhart Counties as a revision to the Indiana State Implementation Plan (SIP). Today, EPA is proposing to approve Indiana's request and corresponding SIP revision. EPA is also proposing to approve the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>) Motor Vehicle Emission Budgets (MVEBs) for these Counties, as supported by the ozone maintenance plan for this area, for purposes of transportation conformity determinations.

**DATES:** Comments must be received on or before May 18, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0305, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
- *Fax:* (312) 886-5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77

West Jackson Boulevard, Chicago, Illinois. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of operation are Monday through Friday, 8:30 AM to 4:30 PM, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2006-0305. 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 [www.regulations.gov](http://www.regulations.gov) or e-mail. The [www.regulations.gov](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 [www.regulations.gov](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 and any form of encryption, and should be free of any defects or viruses.

*Docket:* 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., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hardcopy 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. It is recommended that you telephone

Steven Rosenthal, Environmental Engineer, at (312) 886-6052, before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Steven Rosenthal, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, [doty.edward@epa.gov](mailto:doty.edward@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean the EPA. This supplementary information section is arranged as follows:

- I. What Action Is EPA Proposing to Take?
- II. What Is the Background for This Action?
- III. What Are the Criteria for Redesignation to Attainment?
- IV. What Are EPA's Analyses of the State's Requests and What Are the Bases for EPA's Proposed Action?
- V. Has Indiana Adopted Acceptable Motor Vehicle Emissions Budgets for the End of the 14-Year Maintenance Plan Which Can Be Used To Support Transportation Conformity Determinations?
- VI. What Is the Effect of EPA's Proposed Action?
- VII. Statutory and Executive Order Reviews

#### I. What Action is EPA Proposing to Take?

We are proposing to take several related actions for St. Joseph and Elkhart Counties. First, we are proposing to determine that St. Joseph and Elkhart Counties have attained the 8-hour ozone NAAQS based on air quality for the period of 2003 through 2005. Second, we are proposing to approve Indiana's ozone maintenance plan for St. Joseph and Elkhart Counties as a revision of the Indiana SIP. The maintenance plan is designed to keep St. Joseph and Elkhart Counties in attainment of the 8-hour ozone standard through 2020. As supported by and consistent with the ozone maintenance plan, we are also proposing to approve the 2020 VOC and NO<sub>x</sub> MVEBs for St. Joseph and Elkhart Counties for transportation conformity purposes. Finally, we are proposing to approve the request from the State of Indiana to change the designation of St. Joseph and Elkhart Counties from nonattainment to attainment of the 8-hour ozone NAAQS. We have determined that the State and St. Joseph and Elkhart Counties have met the requirements for redesignation to attainment under section 107(d)(3)(E) of the Clean Air Act (CAA).