

which it was intended in the CFR and is no longer necessary.

**DATES:** *Effective Date:* July 20, 2004.

**FOR FURTHER INFORMATION CONTACT:** L.M. Bynum (703) 601-4722.

**SUPPLEMENTARY INFORMATION:** The revised DoD Directive 6000.6 is available at <http://www.dtic.mil/whs/directives/corres/dir2.html>.

#### List of Subjects in 32 CFR Part 61

Government employees, health professions, Military personnel.

#### PART 61—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 61 is removed.

Dated: July 13, 2004.

**L.M. Bynum,**

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

[FR Doc. 04-16396 Filed 7-19-04; 8:45 am]

**BILLING CODE 5001-06-M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R05-OAR-2004-OH-0001; FRL-7789-2]

#### Approval and Promulgation of Maintenance Plan Revisions; Ohio

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is approving Ohio's submittal of a revision to the Ohio portion of the Cincinnati 1-Hour ozone maintenance plan. Ohio held a public hearing on the submittal on March 30, 2004. This maintenance plan revision establishes a new transportation conformity motor vehicle emissions budget (MVEB) for the year 2010. EPA is approving the allocation of a portion of the safety margin for oxides of nitrogen (NO<sub>x</sub>) to the area's 2010 MVEB for transportation conformity purposes. This allocation will still maintain the total emissions for the area at or below the attainment level required by the transportation conformity regulations. The transportation conformity budget for volatile organic compounds will remain the same as previously approved in the maintenance plan. EPA is not at this time addressing any request to redesignate the Ohio portion of the Cincinnati area to attainment for the 1-Hour ozone National Ambient Air Quality Standard (NAAQS). The rationale for the approval and other information are provided in this rulemaking action.

**DATES:** This "direct final" rule is effective on September 20, 2004, unless EPA receives adverse written comments by August 19, 2004. If adverse comment is received, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Docket ID No. R05-OAR-2004-OH-0001 by one of the following methods: Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

E-mail: [bortzer.jay@epa.gov](mailto:bortzer.jay@epa.gov).

Fax: (312) 886-5824.

Mail: You may send written comments to: J. Elmer Bortzer, Chief, Air Programs Branch, (AR-18J), Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: J. Elmer Bortzer, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604.

Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. R05-OAR-1994-OH-0001. EPA's policy is that all comments received will be included in the public docket without change, 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 [regulations.gov](http://www.regulations.gov), or e-mail. The federal [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 [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, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

**Docket:** All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. 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. Publicly available docket materials are available either electronically in EDOCKET or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone Patricia Morris, Environmental Scientist, at (312) 353-8656 before visiting the Region 5 office.) This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Patricia Morris, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312)353-8656. [morris.patricia@epa.gov](mailto:morris.patricia@epa.gov).

#### SUPPLEMENTARY INFORMATION:

- I. General Information
  - A. Does this action apply to me?
  - B. How can I get copies of this document and other related information?
  - C. How and to whom do I submit comments?
- II. Background
  - A. When did Ohio hold a public hearing and officially submit the revision request?
  - B. What change is Ohio requesting?
- III. Transportation Conformity Budgets
  - A. What are transportation conformity budgets?
  - B. What is a safety margin?
  - C. How does this action change the maintenance plan?
  - D. What are subarea budgets?
  - E. Why is this request approvable?
- IV. Statutory and Executive Order Review

#### I. General Information

##### A. Does This Action Apply to Me?

This action is rulemaking on a non-regulatory planning document intended to ensure the maintenance of air quality in the Cincinnati Area.

*B. How Can I Get Copies of This Document and Other Related Information?*

1. The Regional Office has established an electronic public rulemaking file available for inspection on EDOCKET and a hard copy file which is available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under Docket ID No. R05-OAR-2004-OH-0001. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing at the Air Programs Branch, Air and Radiation Division, EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. EPA requests that if at all possible, you contact the person listed in the For Further Information Contact section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the regulations.gov Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

*B. How and to Whom Do I Submit Comments?*

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket "R05-OAR-2004-OH-0001" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

For detailed instructions on submitting public comments and on what to consider as you prepare your comments see the **ADDRESSES** section and the section I General Information of the **SUPPLEMENTARY INFORMATION** section of the related proposed rule which is published in the Proposed Rules section of this **Federal Register**.

## II. Background

*A. When Did Ohio Hold a Public Hearing and Officially Submit the Revision Request?*

Ohio held a public hearing on the State Implementation Plan (SIP) revision request on March 30, 2004, in Cincinnati, Ohio. The formal comment period extended until April 2, 2004, to allow a full 30 days for public comment. No adverse comments were received. Ohio submitted transcripts of the public hearing and copies of the announcement of the 30 day public comment period to EPA. Ohio sent a letter dated March 15, 2004, which requested that EPA initiate review of the existing data and proceed to parallel process the request. The official submittal with all documentation including transcripts of the hearing were submitted in a letter dated April 19, 2004. Only one comment was received and that comment was in support of the revision request.

*B. What Change Is Ohio Requesting?*

Ohio is requesting a change to the transportation conformity budget in the approved 1-Hour ozone maintenance plan for Cincinnati. The Cincinnati-Hamilton ozone nonattainment/maintenance area is a bi-state area. The Ohio Counties include Hamilton, Butler, Clermont and Warren and the Kentucky Counties include Boone, Campbell and Kenton. The currently approved maintenance plan was approved by EPA on June 19, 2000, (65 FR 37879-37900). In the June 19, 2000, notice, EPA

approved the maintenance plan and also a redesignation request to redesignate the Cincinnati area to attainment/maintenance for the 1-Hour ozone standard. The redesignation was challenged and subsequently vacated; however, the maintenance plan approval was upheld.

In this submittal, Ohio is requesting a change to the transportation conformity budget. The approved maintenance plan has a "safety margin" of emissions which can be allocated to the MVEB. The requested change only changes the NO<sub>x</sub> budget for transportation conformity.

## III. Transportation Conformity Budgets

*A. What Are Transportation Conformity Budgets?*

A transportation conformity budget is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the State Implementation Plan (SIP). The SIP controls emissions through regulations, for example, on fuels and exhaust levels for cars. The emissions budget concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the emissions budget. The transportation conformity rule allows the MVEB to be changed as long as the total level of emissions from all sources remains below the attainment level.

*B. What Is a Safety Margin?*

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the air quality health standard. For example: Cincinnati first attained the one hour ozone standard during the 1996-1999 time period. The State uses 1996 as the attainment level of emissions for the Cincinnati area. The emissions from point, area and mobile sources in 1996 equaled 212.7 tons per day of VOC and 411.2 tons per day of NO<sub>x</sub>. The Ohio Environmental Protection Agency projected emissions out to the year 2010 and projected a total of 195.9 tons per day of VOC and 363.7 tons per day of NO<sub>x</sub> from all sources in the Ohio portion of the Cincinnati area. The safety margin for the Ohio portion of the Cincinnati area is calculated to be the difference between these amounts or 16.8 tons per day of VOC and 46.5 tons

per day of NO<sub>x</sub>. Detailed information on the estimated emissions from each source category is summarized in the proposed approval of the maintenance plan at 65 FR 3638 published on January 24, 2000. Ohio has requested to allocate 10 tons per day of the NO<sub>x</sub> safety margin to the mobile source emission budgets for NO<sub>x</sub>. With the added safety margin in the motor vehicle emission estimate for 2010 the total NO<sub>x</sub> emissions for the area continue to be below the 1996 attainment year. Ohio is not asking to use the entire safety margin in the maintenance plan. Even with the allocation of 10 tons per day of NO<sub>x</sub> to mobile sources, it leaves the area with 36.5 tons per day NO<sub>x</sub> safety margin.

The emissions are projected to maintain the area's air quality consistent with the air quality health standard. The safety margin credit can be allocated to the transportation sector. The total emission level, even with this allocation will be below the attainment level or safety level and thus is acceptable. The safety margin is the extra safety points that can be allocated as long as the total level is maintained.

#### C. How Does This Action Change the Maintenance Plan?

This action changes the budget for mobile sources. The maintenance plan is designed to provide for future growth while still maintaining the ozone air quality standard. Growth in industries, population, and traffic is offset with reductions from cleaner cars and other emission reduction programs. Through the maintenance plan the State and local agencies can manage and maintain air quality while providing for growth.

In the submittal, Ohio requested to allocate a portion of the NO<sub>x</sub> safety margin to the 2010 MVEB. The VOC MVEB will remain the same as approved and only the NO<sub>x</sub> budget is requested to change. The NO<sub>x</sub> MVEB will change from 52.3 tons of NO<sub>x</sub> to 62.3 tons of NO<sub>x</sub>. This budget would be the constraining number for mobile sources and transportation conformity. The Transportation Plan and Transportation Improvement Program for Cincinnati will need to be below the MVEB to demonstrate conformity. These requirements are detailed in the transportation conformity regulations which were approved as part of the Ohio SIP on May 16, 1996 (61 FR 24702) and approved as amended in a **Federal Register** notice dated May 30, 2000 (65 FR 34395).

#### D. What Are Subarea Budgets?

Ohio is submitting these budgets as subarea budgets which are only

applicable to the Ohio portion of the Cincinnati area. Subarea budgets will allow conformity to be determined for Ohio and Kentucky separately. Kentucky currently has approved 2010 mobile source budgets. In separate actions, both States (Ohio and Kentucky) are formally electing to use subarea budgets per 40 CFR 93.124(d) for the purpose of determining transportation conformity in the areas within their individual state. Subarea budgets will still require the Cincinnati area to conduct transportation conformity for the entire area (both Ohio and Kentucky portions). However, subarea budgets will allow transportation projects in each State to be implemented if and only if the budget test is met for that particular State.

#### E. Why Is the Request Approvable?

The emissions from point, area and mobile sources in 1996 equaled 212.7 tons per day of VOC and 411.2 tons per day of NO<sub>x</sub>. This is the level of emissions which allow attainment of the one hour ozone standard. The Ohio Environmental Protection Agency projected emissions out to the year 2010 and projected a total of 195.9 tons per day of VOC and 363.7 tons per day of NO<sub>x</sub> from all sources in the Ohio portion of the Cincinnati area. The allocation of the safety margin will keep the total emissions below the attainment level. Thus, the emissions are projected to maintain the area's air quality consistent with the air quality health standard. After review of the SIP revision request, EPA finds that the allocation of the 10 tons per day from the safety margin to the 2010 NO<sub>x</sub> MVEB for the Cincinnati Ohio area is approvable because the new MVEB for NO<sub>x</sub> will maintain the total emissions at or below the attainment year inventory level as required by the transportation conformity regulations.

#### IV. 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*

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).

##### *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 (Pub. L. 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. section 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. section 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 September 20, 2004. 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, Intergovernmental relations, Volatile organic compounds, Ozone.

Dated: July 8, 2004.

### Norman Niedergang,

Acting Regional Administrator, Region 5.

■ Part 52, chapter I, 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 52.1885 is amended by adding paragraph (b)(12) to read as follows:

### § 52.1885 Control strategy: Ozone.

\* \* \* \* \*

(b) \* \* \*  
(12) Approval—On April 19, 2004, Ohio submitted a revision to the ozone maintenance plan for the Cincinnati, Ohio area. The revision consists of allocating a portion of the area's NO<sub>x</sub> safety margin to the transportation conformity motor vehicle emissions budget. The motor vehicle emissions budget for NO<sub>x</sub> for the Cincinnati, Ohio area is now 62.7 tons per day for the year 2010. This approval only changes the NO<sub>x</sub> transportation conformity emission budget for Cincinnati, Ohio.

\* \* \* \* \*

[FR Doc. 04-16333 Filed 7-19-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 61

[OAR-2002-0082; FRL 7789-5]

### National Emission Standards for Hazardous Air Pollutants for Asbestos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; amendments.

SUMMARY: On September 18, 2003 (68 FR 54790), EPA issued amendments to the national emission standards for hazardous air pollutants (NESHAP) for asbestos under section 112 of the Clean Air Act (CAA). This action corrects typographical errors in Table 1 to the amendments that were promulgated on September 18, 2003.

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C.

553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making this action final without prior proposal and opportunity for comment because the corrections to the final rule do not change the requirements of the final rule. They are minor technical corrections and are not controversial. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B) (see also the final sentence of section 307(d)(1) of the Clean Air Act (CAA), 42 U.S.C. 7607(d)(1), indicating that the good cause provisions of the APA continue to apply to this type of rulemaking under the CAA).

DATES: The final rule is effective on August 19, 2004.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. OAR 2002-0082. All documents in the docket are listed in the EDOCKET index at <http://www.epa.gov/edocket>. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information 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 in EDOCKET or in hard copy at the EPA Air Docket. This Docket Facility is open from 8:30 a.m. to 4:30 p.m. e.s.t., Monday through Friday, excluding legal holidays. The EPA Air Docket is located at the EPA Docket Center, EPA West, Room B102, 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 EPA Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Fairchild, U.S. EPA, Minerals and Inorganic Chemicals Group (C-504-05), Emission Standards Division, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5167, facsimile number (919) 541-5600, electronic mail address: [fairchild.susan@epa.gov](mailto:fairchild.susan@epa.gov).