

## XII. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this notice. Submit a single copy of electronic comments or two paper copies of mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

## XIII. References

The following references have been placed on display in the Division of Dockets Management (see **ADDRESSES**) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Reclassification petition from RS Medical Corp., dated February 7, 2005, and amendment dated November 30, 2005.

2. Orthopedic and Rehabilitation Devices Panel Meeting Transcript, June 2, 2006.

Dated: January 5, 2007.

**Linda S. Kahan,**

*Deputy Director, Center for Devices and Radiological Health.*

[FR Doc. E7-476 Filed 1-16-07; 8:45 am]

**BILLING CODE 4160-01-S**

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

#### 25 CFR Part 292

**RIN 1076-AE81**

#### Gaming on Trust Lands Acquired After October 17, 1988

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Proposed rule; reopening of comment period.

**SUMMARY:** This document reopens the comment period for the proposed rule published on December 4, 2006 (71 FR 70335), which establishes procedures that an Indian tribe must follow in seeking to conduct gaming on lands acquired after October 17, 1988.

**DATES:** Comments must be received on or before February 1, 2007.

**ADDRESSES:** You may submit comments identified by the number 1076-AE81, by any of the following methods:

- *Federal rulemaking portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* 202-273-3153.

- *Mail:* Mr. George Skibine, Director, Office of Indian Gaming, Office of the

Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW., Mail Stop 3657—MIB, Washington, DC 20240.

- *Hand Delivery:* Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, 1849 C Street, NW., Mail Stop 3657—MIB, Washington, DC, from 9 a.m. to 4 p.m., Monday through Friday.

#### FOR FURTHER INFORMATION CONTACT:

George Skibine, Office of Indian Gaming, Acting Deputy Assistant Secretary—Policy and Economic Development, Mail Stop 3657—MIB, 1849 C Street, NW., Washington, DC 20240; Telephone (202) 219-4066.

**SUPPLEMENTARY INFORMATION:** On October 5, 2006 (71 FR 58769), the Bureau of Indian Affairs (BIA) published a proposed rule to establish procedures that an Indian tribe must follow in seeking to conduct gaming on lands acquired after October 17, 1988. The Indian Gaming Regulatory Act allows Indian tribes to conduct class II and class III gaming activities on land acquired after October 17, 1988, only if the land meets certain exceptions. This proposed rule establishes a process for submitting and considering applications from Indian tribes seeking to conduct class II or class III gaming activities on lands acquired in trust after October 17, 1988.

On December 4, 2006, the BIA published a notice making corrections to the proposed rule and extended the comment period until December 19, 2006. Eighteen comments were received after December 19, 2006. Several of these comments raise substantive issues that may result in modification of the proposed rule. The comment period is reopened to allow consideration of the comments received after December 19, 2006, and to allow additional time for comment on the proposed rule. Comments must be received on or before February 1, 2007.

Dated: January 11, 2007.

**Michael D. Olsen,**

*Principal Deputy Assistant Secretary—Indian Affairs.*

[FR Doc. E7-511 Filed 1-16-07; 8:45 am]

**BILLING CODE 4310-4N-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2005-KY-0004-200609; FRL-8269-4]

#### Approval and Promulgation of Implementation Plans; Kentucky: Performance Testing and Open Burning

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the Kentucky State Implementation Plan (SIP), submitted by the Commonwealth of Kentucky, through the Kentucky Department of Air Quality (KDAQ), on September 6, 2005. The revisions include changes to Kentucky Administrative Regulations (KAR) Title 401, Chapters 50:045, "Performance tests," and 63:005, "Open burning." The changes included in the proposed SIP revisions are part of Kentucky's strategy to attain and maintain the 8-hour ozone and fine particulate (PM<sub>2.5</sub>) national ambient air quality standards (NAAQS) by reducing emissions of PM<sub>2.5</sub> and precursors to ozone. EPA is proposing to approve Kentucky's SIP revisions pursuant to section 110 of the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before February 16, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID Number, "EPA-R04-OAR-2005-KY-0004," by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

2. E-mail: [hou.james@epa.gov](mailto:hou.james@epa.gov).

3. Fax: 404-562-9019.

4. Mail: "EPA-R04-OAR-2005-KY-0004," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

5. Hand Delivery or Courier: James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. 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 Number, "EPA-R04-OAR-

2005-KY-0004." EPA's policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](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 through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. 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, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, 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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. 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.

**FOR FURTHER INFORMATION CONTACT:** James Hou, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8965. Mr. Hou can also be reached via electronic mail at [hou.james@epa.gov](mailto:hou.james@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Summary of Proposed Action**

On September 6, 2005, KDAQ submitted to EPA proposed SIP revisions for review and approval into the Kentucky SIP. The proposed revisions include changes made by the Commonwealth of Kentucky to its performance test and open burning regulations, found at 401 KAR 50:045 and 401 KAR 63:005, respectively. These changes became state effective on July 13, 2005. The rule changes were made to update Kentucky's regulations on performance testing, and to establish additional requirements to reduce emissions from open burning.

Kentucky's performance testing rule, 401 KAR 50:045, provides guidelines for the methodology, testing conditions, and reporting requirements necessary for sources to demonstrate compliance with air emissions limitations and standards. Corresponding federal rules on performance tests, promulgated by EPA pursuant to Part D of title I of the CAA ("Plan Requirements for Nonattainment Areas"), are found at 40 Code of Federal Regulations (CFR) part 63. These federal rules were incorporated by reference into the Kentucky SIP on July 12, 1982 (47 FR 30059). Kentucky recently made changes to its rules such that the rule previously containing the performance test requirements, 401 KAR 50:016, is being repealed, and the performance test requirements from that rule are being placed in 401 KAR 50:045. Because 401 KAR 50:016 was not part of the Kentucky SIP, EPA is not addressing Kentucky's repeal of that rule. Rather, today's action proposes approval of 401 KAR 50:045, which now includes the performance testing provisions previously found in 401 KAR 50:016. As part of the movement of the performance test provisions to 401 KAR 50:045, Kentucky made minor, non-substantive, changes to the rule. Kentucky's performance testing rule is consistent with applicable federal law. The proposed SIP revision regarding performance testing is therefore

approvable pursuant to section 110 of the CAA.

Kentucky's open burning rule, 401 KAR 63:005, establishes restrictions on open burning designed to reduce emissions from such activities. This rule was first approved into the Kentucky SIP on July 12, 1982 (47 FR 30059). The rule is structured such that open burning in general is prohibited unless specified conditions are met. The conditions are described in sections 3 and 4 of 401 KAR 63:005; section 5 also includes such restrictions but applies only to open burning for fire training. Kentucky revised its open burning rule, effective July 13, 2005, in order to better control open burning of potentially hazardous household garbage. This rule is part of Kentucky's strategy to attain and maintain the 8-hour ozone and PM<sub>2.5</sub> NAAQS by reducing emissions of PM<sub>2.5</sub> and ozone precursors resulting from open burning.

The open burning rule changes made by Kentucky are intended to protect air quality in areas where open burning is occurring. The rule changes clarify instances when open burning of household garbage is permitted and allow open burning of wood waste or clean lumber by municipal and county governments. The changes added definitions for "clean lumber," and "land clearing," and modified the definition of "household rubbish." The modification made to the definition of "household rubbish" now excludes from the definition any "other hazardous waste materials." The changes also included a new section, section 5, which specifically addresses restrictions to open burning for fire training. Among the new requirements are that substances being burned for training purposes not contain hazardous or asbestos containing materials (see, sections 5(3) and 5(4)). The changes made to section 5 are at least as stringent as the previous regulation. As a result, the SIP revision is approvable pursuant to section 110 of the CAA.

##### **II. Proposed Action**

EPA is proposing to approve the SIP revisions submitted by Kentucky on September 6, 2005. The revisions include changes to two state rules: 401 KAR 50:045, "Performance tests," and 401 KAR 63:005, "Open burning." The SIP revisions include changes to rules that are part of Kentucky's strategy to attain and maintain the NAAQS by reducing emissions of particulate matter, volatile organic compounds, nitrogen oxides, and hazardous air pollutants.

### III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed 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 proposed 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.*). Because this rule proposes to approve 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 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). This proposed 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 proposed action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. As a result, it does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of

the CAA. 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 CAA. 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. This proposed 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.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: January 3, 2007.

#### A. Stanley Meiburg,

*Acting Regional Administrator, Region 4.*

[FR Doc. E7-531 Filed 1-16-07; 8:45 am]

**BILLING CODE** 6560-50-P

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2006-0892; FRL-8269-3]

#### Redesignation of Washington County, OH To Attainment for the 8-Hour Ozone Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** The Ohio Environmental Protection Agency (Ohio EPA) submitted a request on September 22, 2006, and supplemented it on November 17, 2006, for redesignation of Washington County, Ohio (the Ohio portion of the Parkersburg-Marietta 8-hour ozone nonattainment area) to attainment for the 8-hour ozone standard. EPA is proposing to approve the several elements of this request. First, EPA is making a determination that complete, quality-assured ambient air quality data indicate that the Parkersburg-Marietta area has attained the 8-hour ozone standard. Furthermore, preliminary monitoring data for the 2006 ozone season show that the

Parkersburg-Marietta area continues to attain the NAAQS. Second, EPA is proposing to approve, as revisions to the Ohio State Implementation Plan (SIP), the State's plans for maintaining the 8-hour ozone NAAQS through 2018. Third, EPA is proposing to redesignate Washington County to attainment for the 8-hour ozone standard, based on a finding that the requirements for this redesignation have been satisfied. Fourth, EPA finds adequate and is proposing to approve the State's 2018 Motor Vehicle Emission Budgets (MVEBs) for Washington County. Region 3 will address the West Virginia portion of the Parkersburg-Marietta area (Wood County) in a separate rulemaking action.

**DATES:** Comments must be received on or before February 16, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0892, by one of the following methods:

- <http://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, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office 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. EPA-R05-OAR-2006-0892. 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