

US EPA ARCHIVE DOCUMENT

MVEBs of 1.52 tpd of VOCs and 1.91 tpd of NO<sub>x</sub>.

(3) Allen County and Stark County, as submitted on June 20, 2006, and supplemented on August 24, 2006, and December 4, 2006. The maintenance plan establishes 2009 MVEBs for Allen County of 5.08 tpd of VOCs and 8.28 tpd of NO<sub>x</sub>, and 2018 MVEBs for Allen County of 2.89 tpd of VOCs and 3.47 tpd of NO<sub>x</sub>. For Stark County the 2009 MVEBs are 10.02 tpd of VOCs and 18.03 tpd of NO<sub>x</sub>, and the 2018 budgets are 5.37 tpd of VOC and 7.08 tpd of NO<sub>x</sub>.

(4) Washington County, as submitted on September 22, 2006, and supplemented on November 17, 2006. The maintenance plan establishes 2009 MVEBs for Washington County of 2.59 tpd of VOCs and 3.58 tpd of NO<sub>x</sub>, and 2018 MVEBs for Washington county of 1.67 tpd of VOCs and 1.76 tpd of NO<sub>x</sub>.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-RO4-OAR-2006-0584-200723; FRL-8335-4]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky: Redesignation of the Kentucky Portion of the Louisville 8-Hour Ozone Nonattainment Area to Attainment for Ozone

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a request, submitted on September 29, 2006, from the Commonwealth of Kentucky (Kentucky), through the Kentucky Division for Air Quality (KDAQ), to redesignate the Kentucky portion of the bi-State Louisville 8-hour ozone nonattainment area to attainment for the 8-hour National Ambient Air Quality Standard (NAAQS). The Kentucky portion of the bi-State Louisville 8-hour ozone nonattainment area (hereafter referred to as the "Kentucky State Louisville Area") is comprised of three Kentucky Counties—Bullitt, Jefferson and Oldham. The Indiana portion of the bi-State Louisville 8-hour ozone nonattainment area is comprised of two Indiana Counties—Clark and Floyd. EPA's approval of Kentucky's redesignation request is based upon the determination that Kentucky has demonstrated that the Kentucky State Louisville Area has met the criteria for

redesignation to attainment specified in the Clean Air Act (CAA), including the determination that the entire (both the Kentucky and Indiana portions) bi-State Louisville 8-hour ozone nonattainment area has attained the 8-hour ozone standard. Additionally, EPA is approving the 8-hour ozone maintenance plan for the Kentucky State Louisville Area, including the regional motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) which cover the Kentucky and Indiana portions of this bi-State area. In July and September 2006, Indiana submitted a redesignation request and maintenance plan for the Indiana portion of this 8-hour ozone area with identical MVEBs to those reflected in Kentucky's maintenance plan. EPA is taking action on that redesignation request and maintenance plan in a separate action. This final rule also addresses a comment made on EPA's proposed rulemaking for this action, previously published April 27, 2007 (72 FR 20966).

**EFFECTIVE DATE:** This rule will be effective August 6, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-RO4-OAR-2006-0584. 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 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 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 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Heidi LeSane, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. LeSane can be reached via telephone

number at (404) 562-9074 or electronic mail at [LeSane.Heidi@epa.gov](mailto:LeSane.Heidi@epa.gov).

#### SUPPLEMENTARY INFORMATION:

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#### I. What Is the Background for the Actions?

On September 29, 2006, Kentucky, through the KDAQ, submitted a request to redesignate the Kentucky bi-State Louisville Area to attainment for the 8-hour ozone standard, and for EPA approval of the Kentucky State Implementation Plan (SIP) revision containing a maintenance plan for the Kentucky State Louisville Area. In an action published on April 27, 2007 (72 FR 20966), EPA proposed to approve the redesignation of the Kentucky State Louisville Area to attainment. EPA also proposed approval of Kentucky's plan for maintaining the 8-hour NAAQS as a SIP revision, and proposed to approve the regional MVEBs for the Kentucky bi-State Louisville Area that were contained in the maintenance plan. This rule is EPA's final action on the April 27, 2007, proposed rule.

During the comment period for EPA's proposal, one commenter submitted an adverse comment. EPA is addressing that comment in this action, and is taking final action as described in Section II and Section V of this rulemaking.

EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new regional MVEBs for the years 2003 and 2020 that are contained in the maintenance plan for the Kentucky bi-State Louisville Area. These MVEBs are identical to those reflected in Indiana's maintenance plan for this bi-State area. The maintenance plans establish the following regional MVEBs for the Kentucky bi-State Louisville Area.

#### KENTUCKY BI-STATE LOUISVILLE 8-HOUR OZONE MVEBS [Tons per day]

	2003	2020
VOC .....	40.97	22.92
NO <sub>x</sub> .....	95.51	29.46

EPA's adequacy public comment period on these budgets (as contained in Kentucky's submittal) began on April 27, 2007, and closed on May 29, 2007.

No comments related to the adequacy of the MVEBs were received during EPA's adequacy public comment period.

Consequently, in a letter dated June 18, 2007, to John Lyons, Director of the Kentucky Department of Air Quality, and Art Williams, Director of Jefferson County Air Pollution Control District, EPA informed Kentucky of its intention to find the new 2003 and 2020 MVEBs for VOC and NO<sub>x</sub> adequate for transportation conformity purposes. The State of Indiana was also informed of EPA's intentions in a letter dated June 18, 2007. Subsequently, in a separate **Federal Register** notice, EPA is finding the 2003 and 2020 MVEBs, as contained in Kentucky's submittal, adequate. A similar notice was published for these MVEBs as contained in Indiana's submittal. These MVEBs meet the adequacy criteria contained in the Transportation Conformity Rule. The new regional MVEBs are thus currently being used for transportation conformity determinations.

Various aspects of EPA's Phase 1 8-hour ozone implementation rule were challenged in court and on December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit Court) vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004.) *South Coast Air Quality Management Dist. (SCAQMD) v. EPA*, 472 F. 3d 882 (DC Cir. 2006). On June 8, 2007, in response to several petitions for rehearing, the D.C. Circuit clarified that the Phase 1 Rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 Rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the Act as 8-hour nonattainment areas, the 8-hour attainment dates and the timing for emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour standard and those anti-backsliding provisions of the Phase 1 Rule that had not been successfully challenged. The June 8th decision reaffirmed the December 22, 2006, decision that EPA had improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty

fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and (4) certain transportation conformity requirements for certain types of federal actions. The June 8th decision clarified that the Court's reference to conformity requirements was limited to requiring the continued use of 1-hour MVEBs until 8-hour budgets were available for 8-hour conformity determinations.

For the reasons set forth in the proposal action for the Kentucky bi-state Louisville Area, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

## II. What Actions Is EPA Taking?

EPA is taking final action to approve Kentucky's redesignation request and to change the legal designation of the Kentucky bi-State Louisville Area from nonattainment to attainment for the 8-hour ozone NAAQS. EPA's response to the only comment received on the April 27, 2007, proposed rule, is described in Section III below. The entire bi-State Louisville 8-hour ozone nonattainment area is comprised of three Kentucky Counties—Bullitt, Jefferson, and Oldham, and two Indiana Counties—Clark and Floyd. This final action addresses only the Kentucky portion of the bi-state Louisville 8-hour ozone area. EPA will take action on the redesignation request and maintenance plan for the Indiana portion of this area in a separate action. EPA is also approving Kentucky's 8-hour ozone maintenance plan for Bullitt, Jefferson, and Oldham counties (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Kentucky state Louisville Area in attainment for the 8-hour ozone NAAQS through 2020. These approval actions are based on EPA's determination that Kentucky has demonstrated that the Kentucky state Louisville Area has met the criteria for

redesignation to attainment specified in the CAA, including a demonstration that the entire bi-state Louisville area has attained the 8-hour ozone standard. EPA's analyses of Kentucky's 8-hour ozone redesignation request and maintenance plan are described in detail in the proposed rule published April 27, 2007 (72 FR 20966).

Consistent with the CAA, the maintenance plan that EPA is approving today also includes 2003 and 2020 regional MVEBs for NO<sub>x</sub> and VOCs. In this action, EPA is approving these 2003 and 2020 MVEBs. For regional emission analysis years that involve years prior to 2020, the applicable budget, for the purpose of conducting transportation conformity analyses, are the new 2003 MVEBs. For regional emission analysis years that involve the year 2020 and beyond, the applicable budget, for the purpose of conducting transportation conformity analyses, are the new 2020 MVEBs. EPA determined that the 2003 and 2020 MVEBs are adequate through a previous action. EPA is approving such MVEBs in this action.

Additionally, in this action, EPA is responding to the one comment received on the April 27, 2007 (72 FR 20966), rulemaking proposing to approve the redesignation request and the maintenance plan SIP revision.

## III. Why Are We Taking These Actions?

EPA has determined that the entire bi-state Louisville area has attained the 8-hour ozone standard and has also determined that Kentucky has demonstrated that all other criteria for the redesignation of the Kentucky State Louisville Area from nonattainment to attainment of the 8-hour ozone NAAQS have been met. See, section 107(d)(3)(E) of the CAA. EPA is also taking final action to approve the maintenance plan for the Kentucky State Louisville Area as meeting the requirements of sections 175A and 107(d) of the CAA. Furthermore, EPA is approving the 2003 and 2020 MVEBs contained in Kentucky's maintenance plan because these MVEBs are consistent with maintenance for the entire bi-state Louisville area. In the April 27, 2007, proposal to redesignate the Kentucky State Louisville Area, EPA described the applicable criteria for redesignation to attainment and its analysis of how those criteria have been met. The rationale for EPA's findings and actions is set forth in the proposed rulemaking and summarized in this rulemaking.

## IV. What Are the Effects of These Actions?

Approval of the redesignation request changes the official designation of

Bullitt, Jefferson, and Oldham Counties for the 8-hour ozone NAAQS, found at 40 CFR Part 81. It also incorporates into the Kentucky SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2020. The maintenance plan includes contingency measures to remedy future violations of the 8-hour ozone NAAQS, and establishes MVEBs for the years 2003 and 2020 for the entire bi-state Louisville area.

#### V. Response to Comments

EPA received comments from one individual in response to the April 27, 2007, proposal to redesignate the Kentucky State Louisville Area. 72 FR 20966. The following is a summary of the adverse comment received and EPA's response to that comment.

*Comment:* Kentucky Resource Council states that the data reflects that Louisville Gas & Electric's (LG&E) power plants, Trimble, Ghent and Mill

Creek, are running at low NO<sub>x</sub> emission rates due to recent installation of selective catalytic reduction control technology. To the extent that these reductions achieved by the utilities to aid compliance with the NO<sub>x</sub> SIP call are relied upon by the District and Kentucky in order to demonstrate attainment or maintenance of attainment, those emission reductions must be made permanent and enforceable. As a cap and trade program, the NO<sub>x</sub> SIP call would not itself require that the utilities continue to operate at such a low emissions rate from these units.

*Response:* In evaluating attainment and future maintenance of the 8-hour ozone standard in the Louisville area, the Commonwealth of Kentucky and EPA utilized current air quality monitoring data and future projected emissions data based upon enforceable, permanent reductions. Some of these

reductions are related to regional NO<sub>x</sub> reduction programs, such as the NO<sub>x</sub> SIP Call and the Clean Air Interstate Rule. As discussed in the redesignation proposal, the emissions analysis for the Louisville area indicates that the area will continue to maintain the 8-hour ozone standard until at least 2020 without taking into account the reductions from LG&E's use of specific control technology. The projected NO<sub>x</sub> levels without reductions from the NO<sub>x</sub> SIP Call for the years 2005, 2008, 2011, 2014, 2017 and 2020, continue to show reductions below the base year, which demonstrate maintenance as summarized in the table below. We expect the area will continue to benefit from the reductions due to control equipment installed to meet the NO<sub>x</sub> SIP Call. However, EPA's analysis indicates that the area will continue to maintain even without those reductions.

#### ACTUAL AND PROJECTED NO<sub>x</sub> EMISSIONS FOR BULLITT, JEFFERSON AND OLDHAM COUNTIES

[Tons per day]

Categories	2003	2005	2008	2011	2014	2017	2020
<b>Point</b>							
Bullitt .....	0.60	0.61	0.64	0.65	0.68	0.71	0.72
Jefferson .....	74.48	53.95	53.63	50.91	51.76	51.24	46.49
Oldham .....	0.09	0.09	0.09	0.10	0.10	0.10	0.10
Area Subtotal .....	75.47	54.65	54.36	51.66	52.54	52.05	47.31
<b>Point</b>							
Bullitt .....	0.11	0.11	0.12	0.12	0.13	0.13	0.14
Jefferson .....	0.75	0.76	0.76	0.76	0.76	0.76	0.76
Oldham .....	0.07	0.07	0.07	0.08	0.09	0.09	0.09
Area Subtotal .....	0.93	0.94	0.95	0.96	0.98	0.98	0.99
<b>Mobile*</b>							
Bullitt .....	7.52	7.23	5.99	4.83	3.84	3.17	2.73
Jefferson .....	63.29	54.96	41.55	29.62	19.76	13.87	11.02
Oldham .....	4.43	4.36	3.58	2.88	2.34	1.96	1.72
Mobile Subtotal .....	75.24	66.55	51.12	37.33	25.94	19.00	15.47
<b>Nonroad</b>							
Bullitt .....	1.81	1.78	1.70	1.60	1.47	1.35	1.27
Jefferson .....	31.94	31.11	29.36	27.37	25.26	23.44	22.17
Oldham .....	1.63	1.59	1.49	1.37	1.22	1.07	0.95
Nonroad Total .....	35.38	34.48	32.55	30.34	27.95	25.86	24.39
Total with NO <sub>x</sub> SIP Call Reductions .....	187.02*	156.62	138.98	120.29	107.41	97.89	88.16
Reductions due to NO <sub>x</sub> SIP Call .....	.....	20.88	21.25	23.93	23.05	23.54	28.25
Total without NO <sub>x</sub> SIP Call reductions .....	.....	177.50	160.23	144.22	130.46	121.43	116.41

\* Actual baseline emissions.

Without taking credit for NO<sub>x</sub> SIP Call reductions, projected emissions are below the baseline emissions for attainment.

#### VI. Final Action

After evaluating Kentucky's redesignation request and the comments received, EPA is taking final action to approve the redesignation and change the legal designation of the Kentucky

state Louisville Area from nonattainment to attainment for the 8-hour ozone NAAQS. Through this action, EPA is also approving into the Kentucky SIP, the 8-hour ozone maintenance plan for Bullitt, Jefferson,

and Oldham Counties, which includes the new 2003 MVEBs of 40.97 tpd for VOC, and 95.51 tpd for NO<sub>x</sub>, and 2020 MVEBs of 22.92 tpd for VOC, and 29.46 tpd for NO<sub>x</sub> for the entire bi-state Louisville area. These identical MVEBs are reflected in Indiana's 8-hour maintenance plan which was developed for Clark and Floyd Counties, as part of this bi-state 8-hour ozone area. EPA is taking action on the Indiana SIP through a separate rulemaking.

**VII. Statutory and Executive Order Reviews**

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. 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 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 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).

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 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 affects the status of a geographical area, does not impose any new requirements on sources or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

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 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.*).

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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 4, 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) of the CAA.)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 81*

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

Dated: June 27, 2007.

**J.I. Palmer Jr.**,  
Regional Administrator, Region 4.

■ 40 CFR part 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 S—Kentucky**

■ 2. Section 52.920(e) is amended by adding a new entry at the end of the table for "Louisville 8-hour Ozone Maintenance Plan" to read as follows:

**§ 52.920 Identification of plan.**

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

**EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Louisville 8-hour Ozone Maintenance Plan.	Bullitt County, Jefferson County, Oldham County.	.....	07/05/07 [Insert first page of publication].	

**PART 81—[AMENDED]**

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

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

■ 2. In § 81.318, the table entitled “Kentucky-Ozone (8–Hour Standard)” is amended by revising the entry for “Louisville, KY-IN”, “Bullitt County”,

“Jefferson County”, and “Oldham County” to read as follows:

**§ 81.318 Kentucky.**

\* \* \* \* \*

**KENTUCKY-OZONE (8-HOUR STANDARD)**

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Louisville, KY–IN:				
Bullitt County .....	08/06/07	Attainment.		
Jefferson County .....	08/06/07	Attainment.		
Oldham County .....	08/06/07	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.

\* \* \* \* \*  
[FR Doc. E7–13003 Filed 7–3–07; 8:45 am]  
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 62**

[EPA–R05–OAR–2006–0560; FRL–8335–5]

**Approval and Promulgation of Air Quality Implementation Plans; Ohio Rules to Control Emissions From Hospital, Medical, and Infectious Waste Incinerators**

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

**ACTION:** Final rule.

**SUMMARY:** The EPA is giving final approval to a State plan submitted by Ohio concerning criteria pollutant and toxic emissions from Hospital, Medical and Infectious Waste Incinerators (HMIWI) in the State. Ohio prepared a plan based on Clean Air Act (CAA) sections 111(d) and 129 for existing hospital, medical and infectious waste incinerators and asked that it be reviewed and approved as the State plan. The State’s HMIWI plan sets out requirements for affected units at least as stringent as the EPA requirements entitled “Emission Guidelines (EG) and Compliance Times for Hospital/ Medical/ Infectious Waste Incinerators” published in the **Federal Register** dated September 15, 1997. For approval, the State plan must include requirements for emission limits at least as protective as those requirements stated in the emission guideline. We are approving, with some exceptions, items requested in Ohio’s letter of October 18, 2005,

including limits for a variety of emissions from HMIWI units including mercury, cadmium, lead, hydrogen chloride, and dioxin and criteria pollutants. The rules in the plan apply to existing sources only, for which construction commenced on or before June 20, 1996. New sources constructed after this date are covered by a Federal new source performance standard. The Ohio rules, contained in the plan, were proposed on March 22, 2002, and a public hearing was held on April 29, 2002. The rules became effective in Ohio on March 23, 2004. EPA proposed approval in the **Federal Register** on January 10, 2007, and received no comments on the proposal. We are approving the Ohio plan, with several noted exceptions, because it meets the requirements of the EPA emission guideline affecting hospital incinerators.

**DATES:** This final rule is effective on August 6, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2006–0560. 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–18)), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6084, [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 being taken by EPA?
- II. The HMIWI State Plan Requirement
- III. What does the Ohio plan contain?
- IV. Is my HMIWI subject to these regulations?
- V. Why is the Ohio HMIWI plan approvable?
- VI. Statutory and Executive Order Reviews

**I. What action is being taken by EPA?**

We are approving selected portions of the Ohio plan to control the air emissions from HMIWI units in the State. Our approval is based on EPA’s review of the Ohio plan compared to the EPA Emission Guideline (EG) document dated September 15, 1997, 40 CFR part 60, subpart Ce (Emission Guidelines and Compliance Times for HMIWIs, see 62 FR 48348–48391). As noted in our proposed rule approval, (72 FR 1197, dated January 10, 2007) we are not taking action on the following portions of the Ohio Rule 3745–75–02(I)(1) (arsenic), –02(I)(2) (beryllium), –02(I)(4) (chromium), and –02(I)(7) (nickel) because these pollutants and the emission limits noted in the State rule for these pollutants are not part of the EPA emission guideline document. EPA