

need for revision of two sections to conform to the Commission's Order No. 43, October 29, 2007, which adopted those regulations.

The first affects 39 CFR 3020.91. As published, this section states that the Postal Service is to file a notice of a correction in product lists no later than 30 days prior to the effective date of the proposed change. The correct timeframe for filing such notices is no later than 15 days.

The second revision affects 39 CFR 3020.93. As published, this section includes the phrase "market dominant" before "product description". The phrase "market dominant" should not have been used as a qualifier.

As published, the final regulations contain errors which may prove to be misleading and need to be clarified.

#### List of Subjects in 39 CFR Part 3020

Administrative practice and procedure; Postal Service.

■ Accordingly, 39 CFR part 3020 is corrected by making the following correcting amendments:

#### PART 3020—PRODUCT LISTS

■ 1. The authority citation for part 3020 continues to read as follows:

**Authority:** 39 U.S.C. 503; 3622; 3631; 3642; 3682.

■ 2. Revise § 3020.91 to read as follows:

##### § 3020.91 Modification.

The Postal Service shall submit corrections to product descriptions in the Mail Classification Schedule that do not constitute a proposal to modify the market dominant product list or the competitive product list as defined in § 3020.30 by filing notice of the proposed change with the Commission no later than 15 days prior to the effective date of the proposed change.

■ 3. Revise paragraph (b) of § 3020.93 to read as follows:

##### § 3020.93 Implementation.

\* \* \* \* \*

(b) The Commission's finding that changes to the product descriptions are not inconsistent with 39 U.S.C. 3642 is provisional and subject to subsequent review.

**Steven W. Williams,**

*Secretary.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2007-1085; FRL-8519-1]

#### Final Rule; Ohio; Revised Oxides of Nitrogen (NO<sub>x</sub>) Regulation, Phase II, and Revised NO<sub>x</sub> Trading Rule

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is approving a revision to the Ohio oxides of nitrogen (NO<sub>x</sub>) State Implementation Plan (SIP) containing provisions which control emissions of NO<sub>x</sub> from large internal combustion (IC) engines, makes corrections to typographical errors in the previously approved Phase I NO<sub>x</sub> SIP, and expands the definition of NO<sub>x</sub> budget unit. This approval requires reductions in NO<sub>x</sub> emissions from large IC engines, based on cost-effective control measures. Large IC engines are defined in the State rule as emitting one ton or more of NO<sub>x</sub> per day during the ozone season. The Ohio NO<sub>x</sub> SIP Call IC engine inventory is based on the inventory of IC engines compiled by EPA as part of the NO<sub>x</sub> SIP Call rule. Including these engines in the Ohio plan reduces NO<sub>x</sub> to a level at which the State will meet its ozone season NO<sub>x</sub> budget. EPA is approving the State's revision because it satisfies the Federal requirements for Phase II sources and demonstrates that these rules will meet the Phase II budget for Ohio.

**DATES:** This direct final rule is effective April 4, 2008 without further notice, unless EPA receives adverse comment by March 5, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2007-1085, by one of the following methods:

I. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

II. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

III. *Fax:* (312) 886-5824

IV. *Mail:* Reference EPA-R05-OAR-2007-1085 Docket, Air Programs Branch, U.S. Environmental Protection Agency, (AR-18J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

V. *Hand Delivery or Courier:* John Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, U.S. Environmental Protection Agency (AR-18J), 77 West Jackson Boulevard,

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 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to Docket ID No. "EPA-R05-OAR-2007-1085". 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 and any form of encryption and should 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 at [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. 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:** John Paskevicz, Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. The telephone number is (312) 886-6084. Mr. Paskevicz can also be reached via electronic mail at: [paskevicz.john@epa.gov](mailto:paskevicz.john@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document, "we," "us," and "our" refer to the U.S. Environmental Protection Agency.

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**I. Does this rule apply to me?**

This rule applies to owners or operators of any large NO<sub>x</sub> SIP Call stationary internal combustion engines as defined in the State rule and located in the State of Ohio. A "large NO<sub>x</sub> SIP Call engine" means any engine in the Ohio NO<sub>x</sub> SIP Call engine inventory emitting more than one ton of NO<sub>x</sub> emissions per control period day in 1995. Ohio used the EPA 1995 baseline inventory list that contained the NO<sub>x</sub> emission units for all of the States including Ohio. A search of that list shows that there are 12 large lean burn IC engines, as described by EPA, in Ohio. These engines are located at pipeline pumping stations and are required by State rule to meet the NO<sub>x</sub> SIP Call Phase II budget. Compliance plans are expected to show that control of these 12 units will bring about reductions of NO<sub>x</sub> to meet the portion of the NO<sub>x</sub> budget associated with these units.

**II. The State's Submittal**

*A. Why did the State submit this revision and how does it fit in with the State's NO<sub>x</sub> plan?*

In order to reduce ozone transport in the eastern part of the United States, the

EPA issued the NO<sub>x</sub> SIP Call on October 27, 1998, (63 FR 57356) to reduce emissions of NO<sub>x</sub>, a precursor of ozone. Subsequent litigation affecting this SIP Call prompted the EPA to divide the SIP Call into two phases. The majority of the SIP Call was upheld by the D.C. Circuit Court of Appeals and these requirements became Phase I of the SIP Call. A second phase of the SIP Call was necessary to address the portions of the October 1998 action which were vacated or remanded to EPA by the Court. EPA published the final Phase II Rule on April 21, 2004 (69 FR 21604). The plans that cover the portion of the rule re-issued after the Court decision are known as "Phase II" SIPs and were due to be submitted to EPA on April 1, 2005, with full compliance by May 1, 2007. The Ohio plan revision was received by EPA on June 16, 2005. Additional information regarding compliance plan approval by Ohio was provided on November 7, 2006.

In addition to the Phase II rule, EPA published a draft example rule on September 15, 2004, for States to use as a model for their State rules. A copy of this draft example rule is available at the Web site: <http://www.epa.gov/ttn/oarpg/t1/meta/m25546.html>. Coincidental with the draft example rule EPA provided a list of questions and answers for use by States in response to some common questions expressed by the regulated community. (<http://www.epa.gov/ttn/oarpg/t1/reports/23814qnaasfin.pdf>) The EPA Phase II rule identifies the incremental budget for Ohio which the State is expected to comply with in order to fulfill the requirements of the NO<sub>x</sub> SIP Call.

*B. What did Ohio submit?*

Ohio's revision contains rules which add IC engines to the list of affected sources of NO<sub>x</sub>. The revision also includes some language changes to the original NO<sub>x</sub> SIP, and also changes in definitions and the addition of specific language for cogeneration units. These changes are located in OAC 3745-14-01, -05, and -12, and Appendix B.

OAC 3745-14-01 was changed in the areas of Definitions and Applicability. Ohio made changes in the Definitions section addressing continuous emissions monitoring, linking the language to Ohio rule 3745-14-08, and 40 CFR part 75, and expanded the language in the state's rule pertaining to automated data acquisition and handling system and NO<sub>x</sub> monitoring. An additional list of definitions was added pertaining to IC engines, clearly defining to which source types this rule applies. In the applicability portion of

the rule a separate section addressing (and including) cogeneration units was added.

A number of minor wording revisions were made in OAC 3745-14-05, relating to Ohio's incorporation by reference of EPA's technical amendments to the NO<sub>x</sub> SIP Call Rule and ASTM standard test methods for several pollutants including NO<sub>x</sub>. This State rule revision includes Appendix B to the chapter, and lists the non-electric generating unit's (non-EGU) annual NO<sub>x</sub> allowance allocations. This appendix contains corrections to errors on the list made in the point identification portion of the State's Appendix B for non-EGUs.

OAC 3745-14-12, Stationary internal combustion engines, is an entirely new rule which applies to large NO<sub>x</sub> SIP Call engines as defined in OAC 3745-14-01. The rule lists the requirements for a compliance plan, and the requirements for monitoring, recordkeeping and reporting of data.

**III. EPA's Evaluation and Final Action**

*A. Is the Ohio submittal complete?*

Yes, Ohio submitted a complete SIP revision. The revision is complete from the point of view of satisfying the Ohio state code for submitting State plans to EPA. And the revision is complete based on the requirements of 40 CFR part 51, Appendix V.

This revision augments a number of earlier revisions to the Ohio NO<sub>x</sub> SIP Call. On August 5, 2003, 68 FR 46089, EPA published a final rule giving conditional approval of the Ohio NO<sub>x</sub> SIP Call plan, following receipt of a written commitment from Ohio to revise the flow control date.

On June 27, 2005, 70 FR 36845, EPA published a final rule approving the Ohio revision which excludes carbon monoxide boilers at fluid catalytic cracking units in oil refineries from Ohio's NO<sub>x</sub> trading program.

*B. Did the State submit the revision in time to meet EPA requirement?*

The State Phase II SIP was required to be submitted one year following the approval by the EPA Administrator establishing the final full NO<sub>x</sub> budgets for States subject to the NO<sub>x</sub> SIP Call. The final full NO<sub>x</sub> budget rule was signed by the administrator on April 1, 2004. (69 FR 21604) The revised State plans were due on April 1, 2005. The Ohio plan was received by EPA on June 16, 2005.

*C. Does the Ohio submittal meet the evaluation criteria?*

EPA evaluated the Ohio plan submittal based on the guidance EPA

provided to states affected by the NO<sub>x</sub> SIP Call. We are satisfied that the plan submitted by Ohio meets this guidance. EPA published an example rule (EPA guidance) illustrating a means by which States can meet the NO<sub>x</sub> SIP Call Phase II requirements. The example rule contained: A set of new definitions associated with stationary internal combustion engines; a description of a compliance plan containing provisions applicable to each owner/operator of a large IC engine; and a detailed list of reporting, monitoring, and recordkeeping requirements with which an owner/operator must comply. We reviewed the Ohio Phase II submittal against our example rule and find the Ohio IC engine rule to be consistent with applicable elements of the EPA example rule.

Ohio also included an incorporation by reference (in OAC 3745-14-01) of: (1) A standard test method for determining NO<sub>x</sub> concentrations in emissions from natural gas-fired reciprocating engines, combustion turbines, boilers, and process heaters using portable analyzers; (2) Technical Amendment to the Finding of Significant Contribution and Rulemaking for Certain States for Purposes of Reducing Regional Transport of Ozone, (65 FR 11222, March 2, 2000); and, (3) Interstate Ozone Transport Response to Court Decisions on the NO<sub>x</sub> SIP Call, NO<sub>x</sub> SIP Call Technical Amendments, and Section 126 Rules (69 FR 21603, April 21, 2004.)

#### IV. What action is EPA taking?

EPA is approving the revision to the Ohio NO<sub>x</sub> SIP Call which adds provisions affecting large stationary internal combustion engines. We are also approving a number of changes to the State's plan including the revised budget demonstration for IC engines, rule changes affecting continuous emissions monitoring, and additional language affecting cogeneration units.

#### V. 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 making progress toward meeting Federal requirements and would impose no additional

requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule would 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 action approves pre-existing requirements under State law and would 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 would 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 would 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 approves a State rule making progress toward implementing a Federal standard. It does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. 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 would approve a State rule making progress toward implementing a Federal Standard.

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. This rule would 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. 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. 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 April 4, 2008. 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, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Reporting and recordkeeping requirements.

Dated: January 11, 2008.

**Gary Gulezian,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of 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 52.1870 is amended by adding paragraph (c)(141) to read as follows:

#### § 52.1870 Identification of plan.

\* \* \* \* \*  
(c) \* \* \*

(141) Ohio Environmental Protection Agency, on June 16, 2005, submitted amendments to the State Implementation Plan to control nitrogen oxide emissions from internal combustion engines in new rule Ohio Administrative Code (OAC) 3745-14-12. This rule adds stationary internal combustion engines to the list of sources in the Ohio NO<sub>x</sub> SIP Call emission reduction program. Also, OAC 3745-14-01, General Provisions, is amended. This rule contains definitions used for the nitrogen oxides rules, expands the definition of NO<sub>x</sub> budget unit, adds definitions for the internal combustion engine rule, amends definition associated with continuous emissions monitoring, and makes corrections to typographical errors. OAC 3745-14-05 Portions of this rule are amended to correctly line up with the changes made in the definitions section of the NO<sub>x</sub> plan. Typographical errors are also corrected.

(i) *Incorporation by reference.* The following sections of the Ohio Administrative Code (OAC) are incorporated by reference.

(A) OAC 3745-14-01, General Provisions, effective on May 07, 2005.

(B) OAC 3745-14-05, NO<sub>x</sub> Allowance Allocations, effective on May 07, 2005.

(C) OAC 3745-14-12, Stationary Internal Combustion Engines, effective on May 7, 2005.

[FR Doc. E8-1797 Filed 2-1-08; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 3130

[WO-310-1310-PP-241A]

RIN 1004-AD78

#### Oil and Gas Leasing; National Petroleum Reserve—Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Bureau of Land Management (BLM) is amending its regulations at 43 CFR part 3130 pertaining to oil and gas resources in the National Petroleum Reserve—Alaska (NPR-A). The rule makes oil and gas administrative procedures in NPR-A consistent with Section 347 of the Energy Policy Act of 2005. The rule amends the administrative procedures for the efficient transfer, consolidation, segregation, suspension, and unitization of Federal leases in the NPR-A. The rule

also changes the way the BLM processes lease renewals, lease extensions, lease expirations, lease agreements, exploration incentives, lease consolidations, and termination of administration for conveyed lands in the NPR-A. Finally, the rule makes the NPR-A regulation on additional bonding consistent with the regulations that apply outside of the NPR-A.

**DATES:** This rule is effective March 5, 2008.

**ADDRESSES:** Further information or questions regarding this final rule should be addressed in writing to the Director (WO-300), Bureau of Land Management, 1849 C St., NW., Washington DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Greg Noble, Chief, Energy Branch, the BLM's Alaska State Office at (907) 267-1429 or Ian Senio at the BLM's Division of Regulatory Affairs at (202) 452-5049. Persons who use a telecommunications device for the deaf (TDD) may contact these persons through the Federal Information Relay Service (FIRS) at 1-800-877-8339, 24 hours a day, 7 days a week, to leave a message or question with the above individuals. You will receive a reply during normal business hours.

#### SUPPLEMENTARY INFORMATION:

I. Background

II. Discussion of the Final Rule and Responses to Comments on the Proposed Rule

III. Procedural Matters

#### I. Background

Part 3130 of 43 Code of Federal Regulations (CFR) contains the regulations that apply to oil and gas leasing in the NPR-A authorized under the Naval Petroleum Reserves Production Act of 1976, as amended (NPRPA), (42 U.S.C. 6501 *et seq.*).

On April 11, 2002 (67 FR 17866), the BLM published a final rule that applies to operations under Federal oil and gas leases in NPR-A and added a new subpart allowing the formation of oil and gas units in the NPR-A.

On August 8, 2005, the President signed the Energy Policy Act of 2005 (EPAAct of 2005) (Pub. L. 109-58). Section 347 of the EPAAct of 2005 amends the NPRPA. These amendments require that the BLM revise our existing regulations on:

- (A) Lease extensions and renewals;
- (B) Participation in oil and gas units;
- (C) Production allocation;
- (D) Termination of administration of conveyed mineral estate; and
- (E) Waiver, suspension, and reduction of rental or minimum royalty or reduction of the royalty rate.

On May 22, 2007, the BLM published a proposed rule to amend existing regulations pertaining to oil and gas resources in the NPR-A (72 FR 28636). This final rule is substantially the same as the proposed rule. However, the final rule differs in some respects from the proposed rule. Some changes are the result of public comment on the proposed rule, and others are to make the rule clearer and more consistent with the EPAAct of 2005.

## II. Discussion of the Final Rule and Responses to Comments on the Proposed Rule

### Section 3130.0-3 Authority

This final rule amends the authority section by adding a reference to the Energy Policy Act of 2005 (Pub. L. 109-58) in a new paragraph (d). We received no substantive comment on this section and it remains as proposed.

### Section 3130.0-5 Definitions

The EPAAct of 2005 uses three terms that we also use in this final rule. All three terms are used in the provisions having to do with the methodology for allocating production among committed tracts in a unit in the NPR-A (see section 3137.23(g)). If the unit included non-Federal land, the methodology must take into account reservoir heterogeneity and area variation in reservoir producibility. This section of the rule defines the terms "production allocation methodology," "reservoir heterogeneity," and "variation in reservoir producibility" in a manner consistent with normal usage in the field. In the final rule we revised the definitions of "production allocation methodology" and "variation in reservoir producibility" based on a commenter's suggestions. The definition of "reservoir heterogeneity" remains as proposed.

One commenter suggested modifying the definition of "production allocation methodology" to make it clear that all production from a participating area would be allocated to committed tracts forming the participating area. We agree that the suggested modification provides added clarity and in the final rule revised the definition based on this comment.

The commenter also suggested changing the definition for "variation in reservoir producibility" by deleting the sentence, "This can be dependent on where the well penetrates the reservoir", and replacing it with "These differences can result from variations in the thickness of the reservoir, porosity, and the amount of connected pore space." We accept the comment and