

In accordance with Executive Order 13132, the adjustments do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Title VIII of ANILCA precludes the State from exercising management authority over fish and wildlife resources on Federal lands. Cooperative salmon run assessment efforts with ADF&G will continue.

In accordance with the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951), Executive Order 13175, and 512 DM 2, we have evaluated possible effects on Federally recognized Indian tribes and have determined that there are no effects. The Bureau of Indian Affairs is a participating agency in this rulemaking.

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. As these actions are not expected to significantly affect energy supply, distribution, or use, they are not significant energy actions and no Statement of Energy Effects is required.

#### *Drafting Information*

William Knauer drafted this document under the guidance of Thomas H. Boyd, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Taylor Brelsford, Alaska State Office, Bureau of Land Management; Rod Simmons, Alaska Regional Office, U.S. Fish and Wildlife Service; Bob Gerhard, Alaska Regional Office, National Park Service; Ida Hildebrand, Alaska Regional Office, Bureau of Indian Affairs; and Ken Thompson, USDA-Forest Service, provided additional guidance.

**Authority:** 16 U.S.C. 3, 472, 551, 668dd, 3101-3126; 18 U.S.C. 3551-3586; 43 U.S.C. 1733.

Dated: July 16, 2002.

**Kenneth E. Thompson,**

*Subsistence Program Leader, USDA-Forest Service.*

Dated: July 17, 2002.

**Thomas H. Boyd,**

*Acting Chair, Federal Subsistence Board.*  
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**BILLING CODE 3410-11-P; 4310-55-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 51**

[OH1521; FRL72553]

### **Completeness Status of Oxides of Nitrogen Regulations; Submission of a Complete Plan by the State of Ohio**

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

**ACTION:** Final rule; completeness determination.

**SUMMARY:** EPA is notifying the public that it has made a finding that Ohio's July 11, 2002 submission regarding State Implementation Plan (SIP) revisions for the reduction of oxides of nitrogen (NO<sub>x</sub>) is a complete submission under the Clean Air Act. Ohio's SIP revision was submitted to satisfy EPA's October 27, 1998 regulation entitled, "Finding of Significant Contribution and Rulemaking for Certain States in the Ozone Transport Assessment Group Region for Purposes of Reducing Regional Transport of Ozone," otherwise known as the "NO<sub>x</sub> SIP Call". The NO<sub>x</sub> SIP Call originally required 22 states and the District of Columbia to submit enforceable SIP measures to control NO<sub>x</sub> emissions. The intended effect of a NO<sub>x</sub> SIP revision is to reduce emissions of NO<sub>x</sub> in order to help attain the national ambient air quality standard for ozone.

On December 26, 2000, EPA determined that Ohio, along with several other states, had failed to submit a SIP in response to the NO<sub>x</sub> SIP Call, thus starting an 18-month clock for the mandatory imposition of sanctions and the obligation for EPA to promulgate a Federal Implementation Plan (FIP) within 24 months. On July 11, 2002, Ohio submitted a NO<sub>x</sub> SIP and EPA has determined that Ohio's SIP submission is complete. Therefore, through this rule, EPA is notifying the public that the sanctions clock as it pertains to Ohio is terminated.

This determination is limited to the completeness of Ohio's submission and is not an approval of Ohio's plan. A determination as to the adequacy of Ohio's plan will be made at a later date and only after a thorough review of Ohio's submission by EPA personnel and the completion of rule and comment rulemaking.

**EFFECTIVE DATE:** August 5, 2002.

**FOR FURTHER INFORMATION CONTACT:** John Paskevich, Engineer, Regulation Development Section, Air Programs Branch, Air and Radiation Division (AR-18J), U.S. Environmental

Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone: (312) 886-6084. Copies of documents relative to this action are available at the above listed contact for inspection during normal business hours. The interested persons wanting to examine these documents should make an appointment at least 24 hours before the visiting day.

#### **SUPPLEMENTARY INFORMATION:**

The contents of this rule are listed in the following outline:

- I. Background
  - A. What Criteria are Used to Judge the Submission Complete?
  - B. What is the Next Step?
- II. What Action is EPA Taking Today?
- III. Administrative Requirements

#### **I. Background**

Throughout this document, whenever "we," "us" or "our" is used, we mean EPA.

This rule is simply an announcement that the NO<sub>x</sub> SIP revision submitted by Ohio to EPA on July 11, 2002 has been found to be complete. NO<sub>x</sub> control plans are required from certain states, including Ohio, as a result of EPA's NO<sub>x</sub> SIP Call that found that certain upwind states were significantly contributing to ozone transport and preventing east coast states from attaining the ambient ozone air quality standard (63 FR 57356, October 27, 1998). Sources within states affected by this finding are large emitters of NO<sub>x</sub> which, using available technology, can control NO<sub>x</sub> emissions. These large emitters include coal fired electric generating units (EGUs) and industrial boilers (non-EGUs).

EPA's SIP Call established emission budgets, for all of the listed states (including the District of Columbia). Listed states are required to demonstrate in their NO<sub>x</sub> plans that they can meet the EPA specified NO<sub>x</sub> emissions budget. A major feature of the plans are allowance trading programs which states, including Ohio, have included to provide flexibility for sources to meet the strict emission reduction requirements of a state plan.

After a series of court challenges, the deadline by which most of the 22 states and the District of Columbia were required to submit NO<sub>x</sub> SIP revisions was extended to October 30, 2000. See 65 FR 81366, December 26, 2000 (discussion of legal history surrounding EPA's NO<sub>x</sub> SIP Call). Several states, including the State of Ohio, failed to submit NO<sub>x</sub> plans by the October 2000 deadline. As a result, EPA published a finding of this failure in the **Federal Register** on December 26, 2000 (65 FR 81366). This finding triggered, among

other things, a mandatory application of sanctions in the ozone non-attainment areas of states that did not submit a plan. The sanctions were scheduled to take effect within 18 months of January 25, 2001, the effective date of EPA's December 2000 finding. The triggered sanctions included, among other things, the imposition of 2:1 offsets on new source construction in ozone non-attainment areas.

On July 11, 2002, Ohio submitted a NO<sub>x</sub> plan to EPA. EPA has reviewed the plan and has determined that it contains all of the required elements for a complete submission. Therefore, EPA is taking action to stop the previously scheduled sanctions from taking effect in Ohio.

#### A. What Criteria Are Used To Judge the Submission Complete?

The criteria by which we determined the submission to be complete are outlined in 40 CFR part 51, appendix V, Criteria for Determining the Completeness of Plan Submissions. These criteria include: (1) A formal letter of submittal from the governor or his designee requesting approval; (2) approved rules or regulations noting the dates of adoption or effective date of the plan; (3) evidence that the state has legal authority to adopt and implement the plan; (4) a copy of the regulation or rule; signed, stamped, and dated by the appropriate state official; (5) evidence that the procedural requirements of the state were followed; (6) evidence of public notice; (7) evidence of public hearings; (8) compilation of public comments; (9) inventory of affected sources; and (10) a budget demonstration. EPA has determined that the State of Ohio's July 11, 2002 submission, contains all of these elements.

#### B. What Is the Next Step?

EPA is taking the next step to perform a detailed technical review of Ohio's rules and budget demonstration to determine if Ohio's plan is approvable. EPA intends to publish the results of this review at a later date. Ohio has indicated, in its effort to develop a State plan, that it wishes to have an approved SIP for the control of NO<sub>x</sub> emissions from affected sources and intends to work diligently to that end. EPA, therefore, will continue to work with Ohio towards the goal of approving Ohio's plan.

### II. What Action Is EPA Taking Today?

Today, EPA is announcing to the public that Ohio has submitted a complete NO<sub>x</sub> State implementation plan in response to EPA's NO<sub>x</sub> SIP Call,

originally published on October 27, 1998 (63 FR 57356). We are also announcing that all of the potential sanctions, some of which were scheduled to take effect on July 25, 2002, in Ohio non-attainment areas, will not take effect because we are affirmatively determining that Ohio has corrected the original deficiency (failure to file a plan) that formed the basis of EPA's December 2000 finding (65 FR 81366). EPA will take action regarding the approval or disapproval of Ohio's submission at a later date.

### III. Administrative Requirements

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 finds that a State submission meets Federal requirements and imposes no additional requirements. 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.*). This rule finds that a State submission is complete and as such does not impose any additional enforceable duty, 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 finds that a state submission is complete, and 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 is not economically significant.

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.*).

This document is final agency action but is not subject to notice-and-comment requirements of the Administrative Procedures Act (APA), 5 U.S.C. 553(b). The EPA invokes, consistent with past practice (for example, 61 FR 36294), the good cause exception pursuant to the APA, 5 U.S.C. 553(b)(3)(B). The USEPA believes that because of the limited time provided to make findings of failure to submit and findings of incompleteness regarding SIP submissions or elements of SIP submission requirements, Congress did not intend such findings to be subject to notice-and-comment rulemaking. Notice and comment are unnecessary because no significant EPA judgment is involved in making a nonsubstantive findings of a SIP submission or elements of SIP submissions required by the CAA. Furthermore, providing notice and comment would be impracticable because of the limited time provided under the statute for making such determinations. The APA also provides that notice and comment may not be necessary where a rule relieves a restriction. Finally, notice and comment rulemaking would be contrary to the public interest because it would divert agency resources from the critical substantive review of complete SIPs. See 58 FR 51270, 51272, n.17 (October 1, 1993); 59 FR 39832, 39853 (August 4, 1994).

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 the 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 August 27, 2002. 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).)

**Authority:** 42 U.S.C. 7401–7671q.

Dated: July 23, 2002.

**Thomas V. Skinner,**

*Regional Administrator, Region 5.*

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**BILLING CODE 6560–50–M**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[PA 182–4196a; FRL–7255–5]

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Withdrawal of Direct Final Rule; Motor Vehicle Inspection and Maintenance Program—Request for Delay in the Incorporation of On-Board Diagnostics Testing

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

**ACTION:** Withdrawal of direct final rule.

**SUMMARY:** Due to our receipt of an adverse comment, EPA is withdrawing the direct final rule to approve Pennsylvania's request for a one-year extension of the federal deadline to commence testing of automotive on-board diagnostic (OBD) systems as part of its motor vehicle inspection and maintenance program. In the direct final rule published on June 6, 2002 (67 FR 38894), EPA stated that if we received adverse public comment by July 8, 2002, the rule would be withdrawn and would not take effect. EPA subsequently received a letter of adverse comment. EPA will address the comments received in a subsequent final action based upon the proposed action also published on June 6, 2002 (67 FR 38924). EPA will not institute a second comment period on this action.

**EFFECTIVE DATE:** The Direct final rule is withdrawn as of August 5, 2002.

**FOR FURTHER INFORMATION CONTACT:** Brian Rehn, via mail at: Air Quality Planning and Information Services

Branch, Mail Code 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; or via telephone at: (215) 814–2176; or via e-mail at: [rehn.brian@epa.gov](mailto:rehn.brian@epa.gov).

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone.

Dated: July 29, 2002.

**Thomas C. Voltaggio,**

*Acting Regional Administrator, Region III.*

Accordingly, the addition of §52.2022(f) is withdrawn as of August 5, 2002.

[FR Doc. 02–19693 Filed 8–2–02; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 54

[CC 96–45; FCC 02–196]

#### Federal-State Joint Board on Universal Service: Children's Internet Protection Act

**AGENCY:** Federal Communications Commission.

**ACTION:** Suspension of final rules; interim procedures; notice of modification of collection of information.

**SUMMARY:** In this document, the Commission adopts interim measures for the schools and libraries universal service support mechanism in response to the decision issued by the United States District Court for the Eastern District of Pennsylvania. The court held that section 1721(b) of the Children's Internet Protection Act (CIPA), codified at 47 U.S.C. 254(h)(6), was facially unconstitutional and enjoined the Commission from withholding federal funds from any public library for failure to comply with the Internet-filtering requirements of the provision. In keeping with the court's injunction, we suspend enforcement of those portions of § 54.520 of our rules implementing the provision pending final judicial action by the Supreme Court. We also adopt certain specific measures to ensure that libraries that have applied for discounted services under the schools and libraries support mechanism are not denied such discounts because of lack of compliance with the unconstitutional CIPA requirements. Finally, we direct the Universal Service Administrative Company to implement the necessary

changes to program procedures and forms. We take these steps to respond promptly to the court's mandate and to ensure that the schools and libraries universal service support mechanism continues to operate in accordance with federal law.

**EFFECTIVE DATE:** August 5, 2002.

### FOR FURTHER INFORMATION CONTACT:

Peter Trachtenberg, Attorney-Advisor, (202) 418–7369.

**SUPPLEMENTARY INFORMATION:** This document, adopted and released on June 28, 2002, will be available for public inspection during regular business hours at the FCC Reference Information Center, Room CY–A257, at the Federal Communications Commission, 445 12th St., SW., Washington, DC 20554. The complete text is available through the Commission's duplicating contractor: Qualex International, Portals II, 445 12th Street, S.W., Room CY–B402, Washington, DC 20554, telephone 202–863–2898, facsimile 202–863–2898, or via e-mail at [qualexint@aol.com](mailto:qualexint@aol.com).

### Synopsis of Order

1. Pending Supreme Court action, we suspend enforcement against libraries of those sections of 47 CFR 54.520 that were adopted to implement 47 U.S.C. 254(h)(6). Specifically, we suspend enforcement of 47 CFR 54.520(c)(2)(i) and (iii), 54.520(c)(3), and 54.520(d) as they apply to all libraries, to the extent that these provisions require any library to filter or certify to such filtering under 47 U.S.C. 254(h)(6). We further suspend enforcement of 47 CFR 54.520(g)(1) as it applies to all libraries.

2. In addition, we direct the Schools and Libraries Division (SLD) of the Administrator to take the following specific actions to effectuate the principle that library applicants not be penalized for non-compliance with section 254(h)(6). First, SLD shall accept without penalty all FCC Forms 486 from Funding Year 4 library applicants that have not previously filed their FCC Forms 486 for a period lasting 120 days from the release date of this Order or the release date of a funding commitment decision letter, whichever is later. If a library applicant files an FCC Form 486 after that period, the normal 120 day rule shall be applied to the applicant's service requests, limiting funding to services received on or after the date 120 days prior to the postmark of the FCC Form 486.

3. Second, for those Funding Year 2001 library applicants that filed an FCC Form 486 after the October 28, 2001 deadline, SLD shall not apply any penalty for having missed the October