

negotiate or bargain on behalf of the United States concerning the terms or conditions of military service of members of the Armed Forces with any person who represents or purports to represent members of the Armed Forces.

(c) *Strikes and other concerted activity.* (1) No person on a military installation, and no member of the Armed Forces, may organize or attempt to organize, or participate in, any strike, picketing, march, demonstration, or other similar form of concerted action involving members of the Armed Forces that is directed against the Government of the United States and that is intended to induce any civilian officer or employee, or any member of the Armed Forces, to:

(i) Negotiate or bargain with any person concerning the terms or conditions of service of any member of the Armed Forces,

(ii) Recognize any military labor organization as a representative of individual members of the Armed Forces in connection with any complaint or grievance of any such member arising out of the terms or conditions of service of such member in the Armed Forces, or

(iii) Make any change with respect to the terms or conditions of service in the Armed Forces of individual members of the Armed Forces.

(2) No person may use any military installation for any meeting, march, picketing, demonstration, or other similar activity for the purpose of engaging in any activity prohibited by this part.

(3) No member of the Armed Forces, and no civilian officer or employee, may permit or authorize the use of any military installation for any meeting, march, picketing, demonstration, or other similar activity that is for the purpose of engaging in any activity prohibited by this part.

(d) *Representation.* A military labor organization may not represent, or attempt to represent, any member of the Armed Forces before any civilian officer or employee, or any member of the Armed Forces, in connection with any grievance or complaint of any such member arising out of the terms or conditions of service of such member in the Armed Forces.

#### **§ 143.6 Activity not covered by this part.**

(a) This part does not limit the right of any member of the Armed Forces to:

(1) Join or maintain membership in any lawful organization or association not constituting a "military labor organization" as defined in § 146.3 of this part;

(2) Present complaints or grievances concerning the terms or conditions of the service of such member in the Armed Forces in accordance with established military procedures;

(3) Seek or receive information or counseling from any source;

(4) Be represented by counsel in any legal or quasi-legal proceeding, in accordance with applicable laws and regulations;

(5) Petition the Congress for redress of grievances; or

(6) Take such other administrative action to seek such administrative or judicial relief, as is authorized by applicable laws and regulations.

(b) This part does not prevent commanders or supervisors from giving consideration to the views of any member of the Armed Forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees, or organizations.

(c) This part does not prevent any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities with respect to terms or conditions of civilian employment.

#### **§ 143.7 Responsibilities.**

(a) The Heads of DoD Components shall:

(1) Ensure compliance with this part and with the guidelines contained in § 143.8 of this part.

(2) Establish procedures to ensure that any action initiated under this part is reported immediately to the Head of the DoD Component concerned.

(3) Report any action initiated under this part immediately to the Secretary of Defense.

(b) The Deputy Under Secretary of Defense (Program Integration) shall serve as the administrative point of contact in the Office of the Secretary of Defense for all matters relating to this part.

#### **§ 143.8 Guidelines.**

The guidelines for making certain factual determinations are as follows:

(a) In determining whether an organization is a military labor organization, whether a person is a member of a military labor organization, or whether such person or organization is in violation of any provision of this part, the history and operation of the organization (including its constitution and bylaws, if any) or person in question may be evaluated, along with evidence on the conduct constituting a prohibited act.

(b) In determining whether the commission of a prohibited act by a

person can be imputed to the organization, examples of factors that may be considered include: The frequency of such act; the position in the organization of persons committing the act; whether the commission of such act was known by the leadership of the organization; whether the commission of the act was condemned or disavowed by the leadership of the organization.

(c) Any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this part shall be gathered in strict compliance with the provisions of DoD Directive 5200.27<sup>1</sup> and shall not be acquired by counterintelligence or security investigative personnel. The organization itself shall be considered a primary source of information.

Dated: December 18, 2006.

**C.R. Choate,**

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

[FR Doc. E6-21943 Filed 12-21-06; 8:45 am]

**BILLING CODE 5001-06-P**

## **DEPARTMENT OF DEFENSE**

### **Office of the Secretary**

[DOD-2006-OS-0204]

RIN 0790-AI07

### **32 CFR Part 144**

### **Service by Members of the Armed Forces on State and Local Juries**

**AGENCY:** Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** This rule implements 10 U.S.C 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty. The provisions of this rule impact active-duty members of the Armed Forces. This updated rule contains editorial changes only as required for internal Department of Defense mandated reconsideration every 5 years.

**DATES:** *Effective Date:* January 22, 2007.

**FOR FURTHER INFORMATION CONTACT:** Colonel C. Garcia, Office of the Deputy Under Secretary of Defense for Program Integration, 4000 Defense Pentagon, Washington DC 20301-4000. Telephone (703) 697-3387.

**SUPPLEMENTARY INFORMATION:** The proposed rule was published on October 10, 2006, at 71 FR 59411. One comment was received. The commenter recommended that the part be changed

<sup>1</sup> Copies are available at <http://www.dtic.mil/whs/directives>.

so that general, flag, and commanding officers could choose to serve on juries if that officer determined that he or she could do so without interfering with his or her duties. As applied in the field, no such change is necessary: such officers are usually their own exemption authority, and if they wish to serve on a jury they may do so without a change to the part. The rule is therefore adopted as published below.

#### **Executive Order 12866, "Regulatory Planning and Review"**

It has been determined that 32 CFR part 144 is not a significant regulatory action. The rule does not:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy; a section of the economy; productivity; competition; jobs; the environment; public health or safety; or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

#### **Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104-4)**

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year.

#### **Public Law 96-354, "Regulatory Flexibility Act" (5 U.S.C. 601)**

It has been certified that this rule is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities. By its terms, this rule applies to state and local governments. It has no impact on "small entities".

#### **Public Law 96-511, "Paperwork Reduction Act" (44 U.S.C. Chapter 35)"**

It has been certified that this rule does impose reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995. The reporting and recordkeeping requirements have been submitted to OMB for review.

#### **Executive Order 13132, "Federalism"**

It has been certified that this rule does not have federalism implications, as set

forth in Executive Order 13132. This rule does not have substantial direct effects on the States, the relationship between the National Government and the States; or the distribution of power and responsibilities among the various levels of Government.

#### **List of Subjects in 32 CFR Part 144**

Courts, Intergovernmental relations, Military personnel.

■ Accordingly 32 CFR part 144 is revised to read as follows:

### **PART 144—SERVICE BY MEMBERS OF THE ARMED FORCES ON STATE AND LOCAL JURIES**

Sec.

- 144.1 Purpose.
- 144.2 Applicability.
- 144.3 Definitions.
- 144.4 Policy.
- 144.5 Responsibilities.
- 144.6 Procedures.

**Authority:** 10 U.S.C. 982.

#### **§ 144.1 Purpose.**

This part implements 10 U.S.C. 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty.

#### **§ 144.2 Applicability.**

The provisions of this part apply to active-duty members of the Armed Forces.

#### **§ 144.3 Definitions.**

(a) *Armed Forces.* The Army, the Navy, the Air Force, the Marine Corps.

(b) *State.* Includes the 50 United States, U.S. Territories, District of Columbia, and the Commonwealth of Puerto Rico.

(c) *Active Duty.* Full-time duty in the active Military Service of the United States; includes full-time training duty, annual training duty, active duty for training, and attendance, while in the active Military Service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

(d) *Operating Forces.* Those forces whose primary missions are to participate in combat and the integral supporting elements thereof.

#### **§ 144.4 Policy.**

It is DoD policy to permit members of the Armed Forces to maximally fulfill their civic responsibilities consistent with their military duties. For Service members stationed in the United States, serving on a State or local jury is one such civic obligation. Service members are exempt from jury duty, when it unreasonably would interfere with performance of their military duties or

adversely affect the readiness of a unit, command, or activity.

#### **§ 144.5 Responsibilities.**

The Secretaries of the Military Departments, or designees, in accordance with regulations prescribed by the Secretary concerned, shall determine whether Service members shall be exempt from jury duty. This authority may be delegated no lower than to commanders authorized to convene special courts-martial.

#### **§ 144.6 Procedures.**

The Secretaries of the Military Departments shall publish procedures that provide the following:

(a) When a Service member on active duty is summoned to perform State or local jury duty, the Secretary concerned, or the official to whom such authority has been delegated, shall decide if such jury duty would:

(1) Interfere unreasonably with the performance of the Service members military duties.

(2) Affect adversely the readiness of the unit, command, or activity to which the member is assigned.

(b) If such jury service would interfere with the Service member's military duties or adversely affect readiness, the Service member shall be exempted from jury duty. The decision of the Secretary concerned, or the official to whom such authority has been delegated, shall be conclusive.

(c) All general and flag officers, commanding officers, and all personnel assigned to the operating forces, in a training status, or stationed outside the United States are exempt from serving on a State or local jury. Such jury service necessarily would interfere unreasonably with the performance of military duties by these members and adversely affect the readiness of the unit, command, or activity to which they are assigned.

(d) Service members who serve on State or local juries shall not be charged leave or lose any pay or entitlements during the period of service. All fees accrued to members for jury service are payable to the U.S. Treasury. Members are entitled to any reimbursement from the State or local jury authority for expenses incurred in the performance of jury duty, such as for transportation costs or parking fees.

(e) Written notice of each exemption determination shall be provided to the responsible State or local official who summoned an exempt member for jury duty.

Dated: December 18, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison  
Officer, Department of Defense.

[FR Doc. E6-21944 Filed 12-21-06; 8:45 am]

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

[DOD-2006-OS-0220]

#### 32 CFR Part 367

#### Assistant Secretary of Defense for Health Affairs

AGENCY: Department of Defense.

ACTION: Final rule.

**SUMMARY:** This document removes part 367, "Assistant Secretary of Defense for Health Affairs" presently in Title 32 of the Code of Federal Regulations. This part was canceled by DoD Directive 5144.1, "Assistant Secretary of Defense for Networks and Information Integration/Dod Chief Information Officer (ASD(NII)/DOD CIO)".

**DATES:** *Effective Date:* December 22, 2006.

**FOR FURTHER INFORMATION CONTACT:** L. Bynum, 703-696-2970.

**SUPPLEMENTARY INFORMATION:** This part 367 is removed to as a part of a DoD exercise to remove CFR parts no longer required to be codified. DoD Directive 5144.1 may be obtained from <http://www.dtic.mil/whs/directives/corres/dir2.html>.

#### List of Subjects in 32 CFR Part 367

Organization and functions  
(Government agencies).

#### PART 367—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 367 is removed.

Dated: December 15, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison  
Officer, Department of Defense.

[FR Doc. 06-9823 Filed 12-21-06; 8:45 am]

BILLING CODE 5001-06-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2006-0354; FRL-8259-5]

#### Approval and Promulgation of Air Quality Implementation Plans; Ohio; Revision to Ohio State Implementation Plan To Rescind Oxides of Nitrogen Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

**SUMMARY:** EPA is approving a revision to the Ohio State Implementation Plan (SIP) submitted by Ohio on April 11, 2005 to rescind a rule which affected stationary combustion sources located within Priority I regions of the State and new sources regardless of location. The rule revision we are approving here also applies to nitric acid manufacture. We are taking this action at the request of the Ohio Environmental Protection Agency (Ohio EPA) because this rule is no longer the limiting regulation for any oxides of nitrogen (NO<sub>x</sub>) emission units in the State. The rule was originally approved by EPA over 30 years ago and since then has been superseded by a number of more stringent State and Federal regulations. The Ohio NO<sub>x</sub> SIP call rules and Federal emission standards for utility and industrial units all have greater potential for reducing emissions of NO<sub>x</sub> and improving human health than does the State's rescinded rule.

**DATES:** This final rule is effective on January 22, 2007.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2006-0354. 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, or e-mail at [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 EPA Taking?
- II. What is the Background for the Action?
- III. Final Action
- IV. Statutory and Executive Order Reviews

#### I. What Action is EPA Taking?

EPA is approving the request from Ohio to rescind a rule, Ohio Administrative Code (OAC) 3745-23-06, which the State has determined no longer applies to any source in the State. The rule formerly applied to sources of oxides of nitrogen (NO<sub>x</sub>) including nitric acid plants and combustion sources greater than 250 million British Thermal Units (BTU) per hour. Ohio made this request on April 11, 2005, following public hearing. We reviewed the State's request and find that it meets the requirements for technical approvability and agreed that the rule is redundant with regard to control of large NO<sub>x</sub> combustion sources and nitric acid plants in the State. We agree that the rule has been superseded by recent State and Federal rules and is therefore no longer needed.

#### II. What is the Background for the Action?

The Ohio EPA sent a letter and supporting materials to EPA requesting to revise the Ohio SIP by eliminating that portion of plan which approved rule 3745-23-06 of the Ohio Administrative Code. Ohio EPA had made the determination that this rule, originally promulgated in 1972, was no longer viable because it had been superseded by more recent and more stringent rules. We agreed with Ohio EPA and on June 1, 2006, we published a proposal in the **Federal Register** (71 FR 31129) to approve the State's request. In that proposal we asked the public to comment on the State's request and noted that there are no sources in the State subject to rule OAC 3745-23-06. We gave the public thirty days to respond to our proposed action. We did not receive any comments on the proposal from the public either via the U.S. Postal Service or through the EPA public docket on the EPA Web site,