

Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will 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, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

#### *F. Executive Order 13175, Coordination With Indian Tribal Governments*

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

#### *G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks*

*Protection of Children From Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the

environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

#### *H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use*

This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

#### *I. National Technology Transfer and Advancement Act (NTTAA)*

Section 12 of the NTTAA of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use "voluntary consensus standards" (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

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

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

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

Dated: May 14, 2012.

**A. Stanley Meiburg,**  
Acting Regional Administrator, Region 4.  
[FR Doc. 2012-12777 Filed 5-24-12; 8:45 am]

**BILLING CODE 6560-50-P**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2012-0336; FRL-3675-6 ]**

### **Approval and Promulgation of Implementation Plans; Kentucky; Louisville; Fine Particulate Matter 2002 Base Year Emissions Inventory**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve the fine particulate matter (PM<sub>2.5</sub>) 2002 base year emissions inventory, portion of the State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky on December 3, 2008. The emissions inventory is part of the Kentucky's December 3, 2008, SIP revision that was submitted to meet the nonattainment requirements related to the Commonwealth's portion of the bi-state Louisville, KY-IN nonattainment area for the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS). The bi-state Louisville, KY-IN nonattainment area is comprised of Clark and Floyd Counties in Indiana, in their entirety; the Madison Township portion of Jefferson County, Indiana; and Bullitt and Jefferson Counties in Kentucky, in their entirety. This proposed action only relates to the Kentucky portion (i.e., Bullitt and Jefferson Counties) of this Area. EPA will consider action on the emissions inventory for the Indiana portion of this Area in a separate action. This action is being taken pursuant to section 110 of the Clean Air Act.

**DATES:** Comments must be received on or before June 25, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2012-0336, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email:* R4-RDS@epa.gov.
3. *Fax:* (404) 562-9019.
4. *Mail:* "EPA-R04-OAR-2012-0336," Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960.
5. *Hand Delivery or Courier:* Lynora Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2012-0336. 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 email, 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 email comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard Wong, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8726. Mr. Wong can be reached via electronic mail at [wong.richard@epa.gov](mailto:wong.richard@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Background
- II. Analysis of the Commonwealth's Submittal
- III. Proposed Action
- IV. Statutory and Executive Order Reviews

**I. Background**

On July 18, 1997 (62 FR 36852), EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual PM<sub>2.5</sub> NAAQS based upon air quality monitoring data for calendar years 2001-2003. These designations became effective on April 5, 2005. The bi-state Louisville Area (which is comprised of Clark and Floyd Counties in Indiana, in their entirety; the Madison Township portion of Jefferson County, Indiana; and Bullitt and Jefferson Counties in Kentucky in their entirety) was designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.318 for Kentucky and 40 CFR 81.315 for Indiana.

Designation of an area as nonattainment starts the process for a state to develop and submit to EPA a SIP under title I, part D of the Clean Air Act (CAA or Act). This SIP must include, among other elements, a demonstration of how the NAAQS will be attained in the nonattainment area as expeditiously as practicable, but no later than the date required by the CAA. Under CAA section 172(b), a state has up to three years after an area's designation as nonattainment to submit its SIP to EPA. For the 1997 PM<sub>2.5</sub> NAAQS, these SIPs were due April 5, 2008. See 40 CFR 51.1002(a).

On December 3, 2008, Kentucky submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS in the Commonwealth's portion of the bi-state Louisville Area. Subsequently, on March 9, 2011 (76 FR 12860), EPA

determined that the bi-state Louisville Area attained the 1997 annual average PM<sub>2.5</sub> NAAQS. The determination of attainment was based upon complete, quality-assured and certified ambient air monitoring data for the 2007-2009 period, showing that the Area had monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 51.1004(c).

On September 30, 2011, Kentucky withdrew the nonattainment submissions (everything with the exception of the 2002 base year emissions inventory) for its portion of the bi-state Louisville Area as allowed by 40 CFR 51.1004(c). EPA notes that the determination of attainment did not suspend the emissions inventory requirement found in CAA section 172(c)(3), and as such, Kentucky did not withdraw this portion of its December 3, 2008, SIP revision. Section 172(c)(3) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is now proposing to approve the emissions inventory portion of the SIP revision submitted by the Commonwealth of Kentucky on December 3, 2008, as required by section 172(c)(3).

**II. Analysis of the Commonwealth's Submittal**

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Kentucky selected 2002 as base year for the emissions inventory per 40 CFR 51.1008(b). Emissions contained in Kentucky's December 3, 2008, SIP revision cover the general source categories of point sources, non-road mobile sources, area sources, on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Appendix H of the Kentucky submittal; a summary is provided below.

The table below provides a summary of the annual 2002 emissions of nitrogen oxides (NO<sub>x</sub>), sulfur dioxide (SO<sub>2</sub>) and PM<sub>2.5</sub> included in the Kentucky submittal.

TABLE 1—2002 ANNUAL EMISSIONS FOR THE LOUISVILLE AREA  
[Tons per year]

County	Point sources		
	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>
Bullitt .....	221	391	56
Jefferson .....	25,915	41,483	830
County	Non-road sources		
	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>
Bullitt .....	578	50	44
Jefferson .....	10,989	1,429	720
County	Area sources		
	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>
Bullitt .....	51	93	804
Jefferson .....	234	0	1,083
County	Mobile sources		
	NO <sub>x</sub>	SO <sub>2</sub>	PM <sub>2.5</sub>
Bullitt .....	2,979	89	43
Jefferson .....	25,864	917	369

The 172(c)(3) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, nonroad mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in the Commonwealth's attainment SIP for its portion of the bi-state Louisville Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the states to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine

vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA preliminarily agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 172(c)(3) and the implementing regulations.

EPA has reviewed Kentucky's emissions inventory and has preliminarily determined that it is adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement. Further, EPA has made the preliminary determination that the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

### III. Proposed Action

EPA is proposing to approve the 2002 base year emissions inventory portion of the SIP revision submitted by the Commonwealth of Kentucky on December 3, 2008. EPA has made the

preliminary determination that this action is consistent with section 110 of the CAA.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
  - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
  - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
  - Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
  - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the Commonwealth, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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

Air pollution control, Environmental protection, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements and Sulfur oxides.

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

Dated: May 11, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2012-12799 Filed 5-24-12; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R05-OAR-2011-0595; FRL-9677-4]

#### Approval and Promulgation of Implementation Plans; Ohio; Volatile Organic Compound Emission Control Measures for the Cleveland Ozone Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** On June 1, 2011, the Ohio Environmental Protection Agency (Ohio EPA) submitted several volatile organic compound (VOC) rules for approval into its State Implementation Plan (SIP). These rules, which include the source categories covered by the Control Technique Guideline (CTG) documents issued in 2008, as well as several other miscellaneous rule revisions, will help Ohio's effort to attain the 2008 ozone standard. These rules are approvable because they are consistent with the CTG documents issued by EPA in 2008, and satisfy the reasonably available control technology (RACT) requirements of the Clean Air Act (Act).

**DATES:** Comments must be received on or before June 25, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0595, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *Email:* [aburano.douglas@epa.gov](mailto:aburano.douglas@epa.gov).
- *Fax:* (312) 408-2279.
- *Mail:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* Douglas Aburano, Chief, Attainment Planning and Maintenance Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2011-0595. 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 information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or email. 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 email

comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov) your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in [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 Steven Rosenthal at (312) 886-6052 before visiting the Region 5 office.

#### FOR FURTHER INFORMATION CONTACT:

Steven Rosenthal, Environmental Engineer, Attainment Planning & Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6052, [rosenthal.steven@epa.gov](mailto:rosenthal.steven@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 should I consider as I prepare my comments for EPA?
- II. What action is EPA taking today and what is the purpose of this action?
- III. What is EPA's analysis of Ohio's submitted VOC rules?
- IV. Statutory and Executive Order Reviews