



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2012-0336; FRL-9708-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the 1997 annual fine particulate matter (PM_{2.5}) 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 Kentucky's December 3, 2008, attainment demonstration SIP revision that was submitted to meet the nonattainment requirements related to the Commonwealth's portion of the bi-state Louisville, Kentucky-Indiana nonattainment area for the 1997 annual PM_{2.5} national ambient air quality standards (NAAQS), hereafter referred to as "the bi-state Louisville Area" or "Area." The bi-state Louisville Area is comprised of Clark and Floyd Counties in Indiana, in their entireties; the Madison Township portion of Jefferson County, Indiana; and Bullitt and Jefferson Counties in Kentucky, in their entireties. This final action only relates to the Kentucky portion (i.e., Bullitt and Jefferson Counties) of this Area. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: This rule will be effective [insert date 30 days after date of publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R04-OAR-2012-0336. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov 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.

SUPPLEMENTARY INFORMATION:

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

I. Background

On July 18, 1997 (62 FR 36852), EPA established an annual PM_{2.5} NAAQS at 15.0 micrograms per cubic meter based on a three-year average of annual mean PM_{2.5} concentrations. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 annual PM_{2.5} 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 was designated nonattainment for the 1997 annual PM_{2.5} 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 CAA. 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 annual PM_{2.5} 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_{2.5} 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 PM_{2.5} 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_{2.5} 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_{2.5} NAAQS. *See* 40 CFR 51.1004(c).

On September 30, 2011, Kentucky withdrew the attainment demonstration submission (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 does 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.

On May 25, 2012, EPA published a proposed rulemaking to approve Kentucky's 1997 annual PM_{2.5} emissions inventory for its portion of the bi-state Louisville Area. *See* 77 FR 31262. Comments on the proposed rulemaking were due on or before June 25, 2012. No comments, adverse or otherwise, were received on EPA's May 25, 2012, proposed rulemaking. Pursuant to section 110 of the CAA, EPA is now taking final action to approve the Kentucky's 1997 annual PM_{2.5} emissions inventory as provided in EPA's May 25, 2012, proposed rulemaking. A summary of the background for today's final action is provided below. For more

detail, please refer to EPA's proposed rulemaking at 77 FR 31262.

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 the 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, and on-road mobile 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_x), sulfur dioxide (SO₂), and PM_{2.5} included in the Kentucky submittal.

Table 1. 2002 Annual Emissions for the Kentucky Portion of the Louisville Area

(tons per year)

County	Point Sources		
	NO _x	SO ₂	PM _{2.5}
Bullitt	221	391	56

Jefferson	25,915	41,483	830
County	Non-Road Sources		
	NO_x	SO₂	PM_{2.5}
Bullitt	578	50	44
Jefferson	10,989	1,429	720
County	Area Sources		
	NO_x	SO₂	PM_{2.5}
Bullitt	51	93	804
Jefferson	234	0	1,083
County	Mobile Sources		
	NO_x	SO₂	PM_{2.5}
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 are used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 base year 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 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 2002 base year emissions inventory and has determined that it is adequate for the purposes of meeting section 172(c)(3) emissions inventory requirement. Further, EPA has made the determination that the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is taking final action to approve the 2002 base year emissions inventory portion of the attainment demonstration SIP revision submitted by the Commonwealth of Kentucky on December 3, 2008. EPA has made the 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 final 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 final 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 (Public Law 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 final 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.

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 action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is published in the Federal Register. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 20, 2012_

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

40 CFR part 52 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 S - Kentucky

2. Section 52.920(e) is amended by adding a new entry for “Louisville; 1997 Annual Fine Particulate Matter 2002 Base Year Emissions Inventory” to the end of the table to read as follows:

§52.920 Identification of plan.

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(e) * * *

EPA Approved Kentucky Non-regulatory Provisions

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
* *	* *	*	*	*
Louisville; 1997 Annual Fine Particulate Matter 2002 Base Year Emissions Inventory	Bullitt and Jefferson Counties	12/03/2008	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]	

[FR Doc. 2012-18784 Filed 08/01/2012 at 8:45 am; Publication Date: 08/02/2012]