

## Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

## Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, 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.

## Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of Information and Regulatory Affairs has not designated this as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

## Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

## Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023-01, and Commandant Instruction M16475.ID which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have made a preliminary determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

### List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.1031 to read as follows:

#### § 117.1031 Chehalis River.

The draw of the U.S. 101 highway bridge, mile 0.1, at Aberdeen shall open on signal if at least one-hour notice is given at all times.

Dated: November 10, 2009.

**G.T. Blore,**

*Rear Admiral, U.S. Coast Guard Commander, Thirteenth Coast Guard District.*

[FR Doc. E9-28907 Filed 12-3-09; 8:45 am]

**BILLING CODE 4910-15-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2009-0502; FRL-9088-9]

### Approval and Promulgation of Implementation Plans; Kentucky: Revisions to the Kentucky State Implementation Plan

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a State Implementation Plan (SIP)

revision submitted by the Commonwealth of Kentucky on December 31, 2008, for the purpose of establishing transportation conformity criteria and procedures related to interagency consultation, and enforceability of certain transportation related control and mitigation measures for the Commonwealth of Kentucky.

**DATES:** Comments must be received on or before January 4, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0502, by one of the following methods:

1. <http://www.regulations.gov>: Follow the online instructions for submitting comments.

2. *E-mail:*

*Somerville.Amanetta@epa.gov.*

3. *Fax:* 404-562-9019.

4. *Mail:* "EPA-R04-OAR-2009-0502," Air Quality Modeling and Transportation 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:* Ms. Amanetta Somerville, Air Quality Modeling and Transportation 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-2009-0502. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <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 <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <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 <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, 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 <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 <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:** Amanetta Somerville, Air Quality Modeling and Transportation 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. Ms. Somerville's telephone number is 404-562-9025. She can also be reached via electronic mail at [Somerville.amanetta@epa.gov](mailto:Somerville.amanetta@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. Transportation Conformity
- II. Background for this Action
- III. Proposed Action
  - A. Federal Requirements
  - B. Clarksville-Hopkinsville Conformity SIP
  - C. Huntington-Ashland Conformity SIP
  - D. Louisville Conformity SIP
  - E. Northern Kentucky-Cincinnati Conformity SIP
- IV. Statutory and Executive Order Reviews

**I. Transportation Conformity**

Transportation conformity (hereafter referred to as "conformity") is required under section 176(c) of the Clean Air Act (CAA or Act) to ensure that federally supported highway, transit projects, and other activities are consistent with ("conform to") the purpose of the SIP. Conformity currently applies to areas that are designated nonattainment, and to areas that have been redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the Act, for the following transportation related criteria pollutants: ozone, particulate matter (PM<sub>2.5</sub> and PM<sub>10</sub>), carbon monoxide, and nitrogen dioxide.

Conformity to the purpose of the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the relevant criteria pollutants, also known as national ambient air quality standards (NAAQS). The transportation conformity regulation is found in 40 CFR Part 93 and provisions related to conformity SIPs are found in 40 CFR 51.390.

**II. Background for This Action**

*A. Federal Requirements*

EPA promulgated the Federal transportation conformity criteria and procedures ("Conformity Rule") on November 24, 1993 (58 FR 62188). Among other things, the rule required states to address all provisions of the conformity rule in their SIPs frequently referred to as "conformity SIPs." Under 40 CFR 51.390, most sections of the conformity rule were required to be copied verbatim. States were also required to tailor all or portions of the following three sections of the conformity rule to meet their state's individual circumstances: 40 CFR 93.105, which addresses consultation procedures; 40 CFR 93.122(a)(4)(ii), which addresses written commitments to control measures that are not included in a metropolitan planning organization's (MPO's) transportation plan and transportation improvement program that must be obtained prior to a conformity determination, and the requirement that such commitments, when they exist, must be fulfilled; and 40 CFR 93.125(c), which addresses written commitments to mitigation measures that must be obtained prior to a project-level conformity determination, and the requirement that project sponsors must comply with such commitments, when they exist.

On August 10, 2005, the "Safe, Accountable, Flexible, Efficient

Transportation Equity Act: A Legacy for Users" (SAFETEA-LU) was signed into law. SAFETEA-LU revised section 176(c) of the CAA transportation conformity provisions. One of the changes streamlines the requirements for conformity SIPs. Under SAFETEA-LU, states are required to address and tailor only three sections of the rule in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and, 40 CFR 93.125(c), described above. In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule. These changes took effect on August 10, 2005, when SAFETEA-LU was signed into law.

*B. SIP Submission*

On December 31, 2008, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet's Department of Air Quality (KY DAQ), submitted the Commonwealth's transportation conformity and consultation interagency rule to EPA as an addition to the SIP. The interagency consultation procedures for the transportation conformity partners are outlined in the document *Transportation Conformity: A Guide for Interagency Consultation*, which is referenced in the Kentucky transportation conformity rule.

The Commonwealth of Kentucky developed its consultation rule based on the elements contained in 40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c). As a first step, the Commonwealth worked with the existing transportation planning organization's interagency committee that included representatives from Kentucky's air quality agency, Kentucky Department of Transportation (DOT), U.S. DOT (i.e., Federal Highway Administration—Kentucky Division, Federal Transit Administration), the MPOs of the maintenance and nonattainment areas of Kentucky, and EPA. The interagency committee met regularly and drafted the consultation rules considering elements in 40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c), and integrated the local procedures and processes into the rule. The consultation process developed in this rule is for the Commonwealth of Kentucky.

*C. Section Description of Nonattainment Areas*

Currently, in the Commonwealth of Kentucky, there are 3 maintenance areas and 1 nonattainment area for the 1997 8-hour ozone standard, and 3 nonattainment areas for the 1997 annual PM<sub>2.5</sub> standard. The conformity SIP has been developed to include all necessary partners in each of the areas listed.

Below provides the details for all of these areas.

### 1. Clarksville-Hopkinsville Conformity SIP

Effective June 15, 2004, EPA designated Christian County, Kentucky and Montgomery County, Tennessee in the bi-state Clarksville-Hopkinsville area, as nonattainment for the 1997 8-hour ozone standard (69 FR 23858). On January 25, 2006, EPA redesignated the Kentucky portion of the Clarksville-Hopkinsville nonattainment area to attainment for the 1997 8-hour ozone NAAQS (71 FR 4047). In a separate action, the Tennessee portion of this area was also redesignated from nonattainment to attainment for the 1997 8-hour ozone standard.

The Clarksville Urbanized Area Metropolitan Planning Organization (CUAMPO) is the MPO for most of the bi-state Clarksville-Hopkinsville 1997 8-hour ozone maintenance area. CUAMPO's planning boundary includes most of Christian County, Kentucky and Montgomery County, Tennessee in the Clarksville-Hopkinsville area. The areas outside the MPO's planning boundary in Christian County, Kentucky and Montgomery County, Tennessee are considered "donut"<sup>a</sup> areas for the purposes of implementing transportation conformity in this area. Per the Transportation Conformity Rule, the MPO's conformity determination is not complete without a regional analysis that considers the projects in the MPO area as well as the donut areas that are within the nonattainment/maintenance area. For the purposes of implementing the 1997 8-hour ozone transportation conformity requirements, CUAMPO serves as the lead agency for the preparation, consultation, and distribution of the conformity determinations. The "donut" areas are included in CUAMPO's travel demand model and CUAMPO coordinated the inputs for the model with the Kentucky Transportation Cabinet and the Tennessee DOT.

Christian County, Kentucky, which is a part of the Clarksville-Hopkinsville bi-state maintenance area, does not have a previous conformity SIP. The state of Tennessee will establish conformity procedures for Montgomery County, Tennessee as part of the Clarksville-Hopkinsville maintenance area in their individual conformity SIP. The SIP revision includes the conformity procedures for the Christian County,

<sup>a</sup> Donut areas are geographic areas outside a metropolitan planning area boundary, but inside the boundary of a nonattainment or maintenance area that contains any part of a metropolitan area.

Kentucky portion of the Clarksville-Hopkinsville bi-state maintenance area.

### 2. Huntington-Ashland

Effective June 15, 2004, EPA designated Boyd County in Kentucky; and Cabell and Wayne counties in West Virginia as nonattainment for the 1997 8-hour ozone standard. This area is known as the bi-state Huntington-Ashland 1997 8-hour ozone area. The bi-state Huntington-Ashland 1997 8-hour ozone area was designated nonattainment under Subpart 1 of the Act and as such is referred to as a "basic" 8-hour ozone nonattainment area. On August 3, 2007, EPA published the redesignation of the Kentucky portion of the Huntington-Ashland (Boyd County) 8-hr ozone nonattainment area to attainment in the **Federal Register** (72 FR 43172). In a separate action, the West Virginia portion of this area was also redesignated from nonattainment to attainment for the 1997 8-hour ozone standard.

Effective April 5, 2005, EPA designated the whole counties of Boyd County in Kentucky, Cabell and Wayne County in West Virginia, and Lawrence and Scioto County in Ohio, as nonattainment for the 1997 PM<sub>2.5</sub> annual standard. Partial counties of Lawrence County in Kentucky; Mason County in West Virginia; and Adams and Gallia Counties in Ohio were also designated nonattainment for the 1997 PM<sub>2.5</sub> annual standard as part of the Huntington-Ashland area. The current designation status of the Huntington-Ashland area is nonattainment for the 1997 PM<sub>2.5</sub> annual standard.

There are two MPOs that are responsible for transportation planning for areas within the Huntington-Ashland 8-hour ozone maintenance and PM<sub>2.5</sub> nonattainment area. The Five County Area Development District (FIVCO) is the MPO responsible for transportation planning in Boyd County, Kentucky. KYOVA is the other MPO. KYOVA's planning boundary includes Lawrence County, Ohio; and Cabell and Wayne Counties in West Virginia. The partial counties of Lawrence County, Kentucky; Adams and Gallia Counties in Ohio; and Mason County, West Virginia are not within either MPO's planning boundary, and are considered "donut" areas for the purposes of implementing transportation conformity in this area. Per the Transportation Conformity Rule, the MPO's conformity determination is not complete without a regional analysis that considers the projects in the MPO area(s) as well as the donut areas that are within the nonattainment/maintenance area. For

the purposes of implementing the 1997 8-hour ozone and the 1997 PM<sub>2.5</sub> annual transportation conformity requirements, FIVCO serves as the lead agency for the preparation, consultation, and distribution of the conformity determinations for the 1997 8-hour ozone standard for Boyd County. FIVCO and KYOVA serve as co-leads for the preparation, consultation, and distribution of the conformity determinations for the 1997 PM<sub>2.5</sub> annual standard for the entire Huntington Ashland nonattainment area for the 1997 PM<sub>2.5</sub> annual standard.

Boyd County and the partial county of Lawrence, Kentucky which are a part of the Huntington-Ashland area do not have a previous conformity SIP. The states of Ohio and West Virginia will establish conformity procedures for their respective state in their individual conformity SIPs for Lawrence County, Ohio; and Cabell and Wayne Counties in West Virginia; and the partial counties of Adams and Gallia in Ohio; and Mason County, West Virginia. The SIP revision at issue now includes the conformity procedures for both the partial county of Lawrence and Boyd County, Kentucky in its entirety, for the Huntington-Ashland area.

### 3. Louisville Conformity SIP

Effective June 15, 2004, EPA designated Clark and Floyd Counties in Indiana; and Bullitt, Jeffery, and Oldham Counties in Kentucky, in the bi-state Louisville area, as nonattainment for the 1997 8-hour ozone standard. On July 5, 2007, EPA redesignated the Kentucky portion of the Louisville nonattainment area to attainment for the 1997 8-hour ozone NAAQS (72 FR 36601). In a separate action, the Indiana portion of this area was also redesignated from nonattainment to attainment for the 1997 8-hour ozone standard.

Effective April 5, 2005, EPA designated Madison Township of Jefferson County; and Clark and Floyd Counties in Indiana; and Bullitt and Jefferson Counties in Kentucky, in the bi-state Louisville area, as nonattainment for the 1997 PM<sub>2.5</sub> annual standard. The current designation status of the Louisville bi-state area is nonattainment for the 1997 PM<sub>2.5</sub> annual standard.

The Kentuckiana Regional Planning & Development Agency (KIPDA) is the MPO for the entire bi-state Louisville 1997 8-hour ozone area, and for most of the bi-state Louisville 1997 PM<sub>2.5</sub> annual area. KIPDA's planning boundary includes Clark and Floyd Counties in Indiana; and Bullitt, Jefferson and Oldham Counties in Kentucky. Madison

Township of Jefferson County, Indiana is not within the KIPDA planning boundary, and thus is considered a “donut” area for the purposes of implementing transportation conformity in this area. Per the Transportation Conformity Rule, the MPO’s conformity determination is not complete without a regional analysis that considers the projects in the MPO area as well as the donut areas that are within the nonattainment/maintenance area. For the purposes of implementing the 1997 8-hour ozone and the PM<sub>2.5</sub> annual transportation conformity requirements, KIPDA serves as the lead agency for the preparation, consultation, and distribution of the conformity determinations. KIPDA coordinated with the Indiana DOT for travel-related information for Madison Township.

Bullitt, Jefferson, and Oldham Counties in Kentucky which are a part of the Louisville bi-state area do not have a previous conformity SIP. The State of Indiana will establish conformity procedures for the counties that make up the Indiana portion of the bi-state Louisville area in their individual conformity SIP. The SIP revision at issue now includes the conformity procedures for the Bullitt, Jefferson, and Oldham Counties in Kentucky which are a part of the Louisville bi-state area.

#### 4. Northern Kentucky-Cincinnati Conformity SIP

Effective June 15, 2004, EPA designated the Ohio counties of Butler, Clermont, Clinton, Hamilton and Warren; the Kentucky counties of Boone, Campbell and Kenton; and a portion of Dearborn County in Indiana in the tri-state Northern Kentucky-Cincinnati area, as nonattainment for the 1997 8-hour ozone standard. The tri-state Northern Kentucky-Cincinnati 1997 8-hour ozone area was designated nonattainment under Subpart 1 of the CAA and as such is referred to as a “basic” 8-hour ozone nonattainment area.

Effective April 5, 2005, EPA designated the Ohio counties of Butler, Clermont, Clinton, Hamilton and Warren; the Kentucky counties of Boone, Campbell and Kenton; and a portion of Dearborn County in Indiana in the tri-state Northern Kentucky-Cincinnati area, as nonattainment for the PM<sub>2.5</sub> standard. The current designation status of both the tri-state Northern Kentucky-Cincinnati 1997 8-hour ozone and PM<sub>2.5</sub> areas is nonattainment.

The Ohio, Kentucky, Indiana Regional Council of Governments (OKI) is the MPO for most of the Northern

Kentucky-Cincinnati 1997 8-hour ozone and PM<sub>2.5</sub> areas. OKI’s planning boundary includes the Ohio counties of Butler, Clermont, Hamilton and Warren; the Kentucky counties of Boone, Campbell and Kenton; and Dearborn County, Indiana. Clinton County, Ohio is not within the OKI’s planning boundary, and thus is considered a “donut” area for the purposes of implementing transportation conformity in this area. Per the Transportation Conformity Rule, the MPO’s conformity determination is not complete without a regional analysis that considers the projects in the MPO area as well as the donut areas that are within the nonattainment/maintenance area. For the purposes of implementing the 1997 8-hour ozone and 1997 PM<sub>2.5</sub> annual transportation conformity requirements, OKI served as the lead agency for the preparation, consultation, and distribution of the conformity determinations. OKI coordinated with the Ohio DOT for travel-related information for Clinton County.

Boone, Campbell and Kenton Counties in Kentucky which are a part of the Northern Kentucky-Cincinnati tri-state area do not have a previous conformity SIP. The States of Indiana and Ohio will establish conformity procedures for the counties that make up the Indiana and Ohio portions of the Northern Kentucky-Cincinnati area in their individual conformity SIPs. The SIP revision at issue now includes the conformity procedures for Boone, Campbell and Kenton Counties in Kentucky which are a part of the Northern Kentucky-Cincinnati tri-state area.

### III. Proposed Action

EPA is proposing to approve the Kentucky SIP revision consisting of the transportation conformity section. This addition consists of transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation-related control measures and mitigation measures. The intended effect is to establish the transportation conformity criteria and procedures in the Kentucky SIP.

On December 31, 2008, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet’s KY DAQ, submitted the State’s transportation conformity and consultation interagency rule to EPA as an addition to the SIP. The Kentucky transportation conformity rule establishes procedures for interagency consultation for existing and future nonattainment and maintenance areas

for certain transportation-related pollutants.

The Commonwealth of Kentucky developed its consultation rule based on the elements contained in 40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c). As a first step, the Commonwealth worked with the existing transportation planning organization’s interagency committee that included representatives from the State air quality agency, State DOT, Federal Highway Administration—Kentucky Division, Federal Transit Administration, the MPOs of the maintenance and nonattainment areas of Kentucky, and EPA. The interagency committee met regularly and drafted the consultation rules considering elements in 40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c), and integrated the local procedures and processes into the rule. The consultation process developed in this rule is for the Commonwealth of Kentucky. On July 29, 2008, KY DAQ held a public hearing for the transportation conformity rulemaking.

EPA has evaluated this SIP and has determined that the Commonwealth has met the requirements of Federal transportation conformity rule as described in 40 CFR Part 51, Subpart T and 40 CFR Part 93, Subpart A. KY DAQ has satisfied the public participation and comprehensive interagency consultation requirement during development and adoption of the consultation procedures at the local level. Therefore, EPA is proposing to approve the rule as an addition to the Kentucky SIP. EPA’s rule requires the states to develop their own processes and procedures for interagency consultation among the Federal, state, and local agencies, and resolution of conflicts meeting the criteria in 40 CFR 93.105. The SIP revision must include processes and procedures to be followed by the MPO, state DOT, and U.S. DOT in consulting with the state and local air quality agencies and EPA before making transportation conformity determinations. The transportation conformity SIP addition must also include processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, state DOTs, and U.S. DOT. Kentucky’s revision includes these required elements.

EPA has reviewed the submittal to assure consistency with the CAA as amended by SAFETEA-LU and EPA regulations (40 CFR Part 93 and 40 CFR 51.390) governing state procedures for transportation conformity and interagency consultation and has concluded that the submittal is

approvable. Details of our review are set forth in a technical support document (TSD), which has been included in the docket for this action. Specifically, in the TSD, we identify how the submitted procedures satisfy our requirements under 40 CFR 93.105 for interagency consultation with respect to the development of transportation plans and programs, SIPs, and conformity determinations, the resolution of conflicts, and the provision of adequate public consultation, and our requirements under 40 CFR 93.122(a)(4)(ii) and 93.125(c) for enforceability of control measures and mitigation measures.

#### 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 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 state, 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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: November 20, 2009.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. E9-28970 Filed 12-3-09; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 63

[EPA-R04-OAR-2009-0793; FRL-9089-3]

#### Approval of Section 112(l) Authority for Hazardous Air Pollutants; Equivalency by Permit Provisions; National Emission Standards for Hazardous Air Pollutants; Plywood and Composite Wood Products

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

**ACTION:** Proposed rule.

**SUMMARY:** Pursuant to section 112(l) of the Clean Air Act, EPA is proposing to amend regulations to expand the North Carolina Department of Environment and Natural Resources equivalency by permit program coverage to include all 32 sources in North Carolina that are subject to the plywood and composite wood products rule.

**DATES:** Comments must be received in writing by January 4, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0793, by one of the following methods:

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

2. *E-mail:* [page.lee@epa.gov](mailto:page.lee@epa.gov).

3. *Fax:* 404-562-9095.

4. *Mail:* "EPA-R04-OAR-2009-0793", Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring 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:* Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring 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 am to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

**FOR FURTHER INFORMATION CONTACT:** Lee Page, Air Toxics Assessment and Implementation Section, Air Toxics and Monitoring 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) 562-9131. Mr. Page can also be reached via electronic mail at [page.lee@epa.gov](mailto:page.lee@epa.gov).

**SUPPLEMENTARY INFORMATION:** In the Final Rules section of this **Federal Register**, EPA is publishing a direct final rule for this action without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the rule amendment is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.