

By the Commission.

Dated: June 9, 2011.

**Elizabeth M. Murphy,**  
Secretary.

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BILLING CODE 8011-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2011-0414-201134; FRL-9319-1]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Kentucky and Indiana; Louisville; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine pursuant to the Clean Air Act (CAA), that the bi-state Louisville, Kentucky-Indiana, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Louisville Area” or “the Area”) has attained the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) by its applicable attainment date of April 5, 2010. The determination of attainment was previously made by EPA on March 9, 2011, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period. EPA is now proposing to find that the Louisville Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date. EPA is proposing this action because it is consistent with the CAA and its implementing regulations.

**DATES:** Comments must be received on or before July 15, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-0414, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.
2. *E-mail*: benjamin.lynora@epa.gov.
3. *Fax*: (404) 562-9019.
4. *Mail*: EPA-R04-OAR-2011-0414, 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*: Ms. 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-2011-0414. 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://](http://www.regulations.gov)

[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:** In Region 4, Sara Waterson or Joel Huey, 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. Ms. Waterson may be reached by telephone at (404) 562-9061 or via electronic mail at [waterson.sara@epa.gov](mailto:waterson.sara@epa.gov). Mr. Huey may be reached by telephone at (404) 562-9104. Mr. Huey can also be reached via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov). In Region 5, John Summerhays, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. The telephone number is (312) 886-6067. Mr. Summerhays can also be reached via electronic mail at [summerhays.john@epa.gov](mailto:summerhays.john@epa.gov).

#### SUPPLEMENTARY INFORMATION:

- I. What action is EPA taking?
- II. What is the background for this action?
- III. What is the air quality in the Louisville Area for the 1997 annual PM<sub>2.5</sub> NAAQS for the 2007–2009 monitoring period?
- IV. What is the proposed action, and what is the effect of this action?
- V. Statutory and Executive Order Reviews

#### I. What action is EPA taking?

Based on EPA’s review of the quality-assured and certified monitoring data for 2007–2009, and in accordance with section 179(c)(1) of the CAA and EPA’s regulations, EPA proposes to determine that the Louisville Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. The Louisville Area is comprised of Jefferson County in Kentucky, and Clark, Floyd and a portion of Jefferson Counties in Indiana.

On March 9, 2011, EPA published a final rulemaking making a determination of attainment to suspend the requirements for the Louisville Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency

measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS so long as the Area continues to attain the 1997 Annual PM<sub>2.5</sub> NAAQS. See 76 FR 12860. Today's proposed action merely makes a determination that the Louisville Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date. This action is not a re-proposal of the attainment determination to suspend the requirements for the Louisville Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard. More information regarding the 1997 annual PM<sub>2.5</sub> NAAQS and the Area's attainment of that NAAQS is available at 76 FR 12860 (March 9, 2011).

**II. What is the background for this action?**

As a nonattainment area for the 1997 annual PM<sub>2.5</sub> NAAQS, the Louisville Area had an applicable attainment date of April 5, 2010 (based on 2007–2009 monitoring data). Pursuant to section 179(c) of the CAA, EPA is required to make a determination on whether the Area attained the standard by its applicable attainment date. Specifically, section 179(c)(1) of the CAA reads as follows: "As expeditiously as practicable after the applicable attainment date for any nonattainment area, but not later than 6 months after such date, the Administrator shall determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date."

**III. What is the air quality in the Louisville Area for the 1997 annual PM<sub>2.5</sub> NAAQS for the 2007–2009 monitoring period?**

Under EPA regulations at 40 CFR 50.7, the 1997 annual primary and secondary PM<sub>2.5</sub> standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup> at all relevant monitoring sites in the subject area.

EPA reviewed the ambient air monitoring data for the Louisville Area in accordance with the provisions of 40 CFR part 50, Appendix N. All data considered have been quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 3-year period from 2007–2009. The 3-year period from 2007–2009 is the period EPA must consider for areas that had an applicable attainment date of April 5, 2010.

TABLE 1—ANNUAL AVERAGE CONCENTRATIONS IN THE LOUISVILLE AREA (2007–2009)

Site name	County	Site No.	Annual average concentration (µg/m <sup>3</sup> )
Jeffersonville .....	Clark, IN .....	18-019-0006	14.6
New Albany .....	Floyd, IN .....	18-043-1004	13.1
Shepherdsville .....	Bullitt, KY .....	21-029-0006	13.0
Wyandotte Park .....	Jefferson, KY .....	21-111-0044	13.5
37th & Southern .....	Jefferson, KY .....	21-111-0043	13.4
Watson Elementary .....	Jefferson, KY .....	21-111-0051	13.0

As shown above in Table 1, during the 2007–2009 design period, the Louisville Area met the 1997 annual PM<sub>2.5</sub> NAAQS. The official annual design value for the Louisville Area for the 2007–2009 period is 14.6 µg/m<sup>3</sup>. More detailed information on the monitoring data for the Louisville Area during the 2007–2009 design period is provided in EPA's March 9, 2011, final rulemaking to approve the clean data determination for the Louisville Area for the 1997 annual PM<sub>2.5</sub> NAAQS. See 76 FR 12860.

**IV. What is the proposed action, and what is the effect of this action?**

This action is a proposed determination that the Louisville Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date of April 5, 2010, consistent with the CAA section 179(c)(1). Finalizing this proposed action would not constitute a redesignation of the Louisville Area to attainment of 1997 annual PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the CAA. Further, finalizing

this proposed action does not involve approving a maintenance plan for the Louisville Area as required under section 175A of the CAA, nor would it find that the Louisville Area has met all other requirements for redesignation. Even if EPA finalizes today's proposed action, the designation status of the Louisville Area would remain nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

**V. Statutory and Executive Order Reviews**

This action proposes to make a determination of attainment based on air quality, and would 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 1997 annual average PM<sub>2.5</sub> NAAQS data determination for the Louisville Area does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIPs are not approved to apply in Indian country located in the states, 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, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: May 23, 2011.

**Gwendolyn Keyes Fleming,**

*Regional Administrator, Region 4.*

Dated: June 3, 2011.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2011-14812 Filed 6-14-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2011-0369; FRL-8874-3]

#### **Amitraz, Bentazon, Bifenthrin, Chlorfenapyr, Cyfluthrin, Deltamethrin, et al.; Proposed Tolerance Actions**

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

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with current Agency practice to describe more clearly the measurement and scope or coverage of tolerances, EPA is proposing minor revisions to tolerance expressions for a number of pesticide active ingredients, including the insecticides amitraz, bifenthrin, chlorfenapyr, cyfluthrin, deltamethrin, esfenvalerate, fenpropathrin, and pyridaben; the fungicide metalaxyl; the herbicides bentazon, quizalofop ethyl, sodium acifluorfen, and tebuthiuron; and the

plant growth regulator ethephon. Also, EPA proposes to remove several expired tolerances for quizalofop ethyl.

**DATES:** Comments must be received on or before August 15, 2011.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2011-0369, by one of the following methods:

• **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

• **Mail:** Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• **Delivery:** OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket Facility's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305-5805.

**Instructions:** Direct your comments to docket ID number EPA-HQ-OPP-2011-0369. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line 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 information that you consider to be CBI or otherwise protected through [www.regulations.gov](http://www.regulations.gov) or e-mail. The 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 [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

**Docket:** All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. 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, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305-5805.

#### **FOR FURTHER INFORMATION CONTACT:**

Joseph Nevola, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-8037; e-mail address: [nevola.joseph@epa.gov](mailto:nevola.joseph@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. General Information**

##### *A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II.A. If you have any questions regarding the applicability of this action to a particular entity, consult the person