

State citation	Title/subject	State effective date	EPA approval date	Additional explanation/§ 52.2063 citation
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[FR Doc. 2012-11461 Filed 5-11-12; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R03-OAR-2011-0556; FRL-9669-5 ]

**Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Ohio; Determination of Clean Data for the 2006 24-Hour Fine Particulate Standard for the Steubenville-Weirton Area****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is making a final determination regarding the two-state Steubenville-Weirton, Ohio-West Virginia nonattainment area (hereafter referred to as the "Steubenville-Weirton Area" or "Area") for the 2006 24-hour fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS). EPA is determining that the Steubenville-Weirton Area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination is based upon complete, quality assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 24-hour 2006 PM<sub>2.5</sub> NAAQS based on the 2008-2010 data. EPA's determination suspends the obligation of Ohio and West Virginia to submit, with respect to this area, attainment demonstrations, associated reasonably available control measures (RACM), reasonable further progress plans, contingency measures, and other planning State Implementation Plans (SIPs) related to attainment of the 2006 PM<sub>2.5</sub> standard for so long as the Area continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS.

**DATES:** *Effective Date:* This final rule is effective on June 13, 2012.**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2011-0556. All documents in the docket are listed in the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as

copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** In Region III, Asrah Khadr, Office of Air Program Planning, Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103-2023. The telephone number is (215) 814-2071. Ms. Khadr can also be reached via electronic mail at [khadr.asrah@epa.gov](mailto:khadr.asrah@epa.gov). In Region V, Carolyn Persoon, Air Planning and Maintenance Section, Air Programs Branch (AR-18), Environmental Protection Agency, Region V, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507. Ms. Persoon's telephone number is (312) 353-8290. Ms. Persoon can also be reached via electronic mail at [persoon.carolyn@epa.gov](mailto:persoon.carolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. Summary of Public Comment and EPA Response
- IV. Statutory and Executive Order Reviews

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

EPA is making a final determination that the Steubenville-Weirton Area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination is based upon complete, quality assured, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 PM<sub>2.5</sub> NAAQS based on data for 2008-2010.

On October 4, 2011 (76 FR 61291), EPA proposed its determination of attainment for the Steubenville-Weirton Area. A discussion of the rationale behind this determination and the effect of the determination were included in the notice of proposed rulemaking (NPR). One adverse comment was submitted in response to EPA's October 4, 2011 NPR (76 FR 61291). A summary of the comment and EPA's response is provided in section III of this document.

**II. What is the effect of this action?**

Under the provisions of EPA's PM<sub>2.5</sub> implementation rule (40 CFR 51.1004(c)), the requirements for the

States of Ohio and West Virginia to submit, for the Steubenville-Weirton Area, an attainment demonstration and associated RACM (including reasonably available control technology (RACT)), a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 2006 PM<sub>2.5</sub> NAAQS are suspended for so long as the Area continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS. If EPA subsequently determines that this Area violates the 24-hour 2006 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements, set forth at 40 CFR 51.1004(c), would no longer exist and this area would thereafter have to address the pertinent requirements.

This action, does not constitute a redesignation of the Steubenville-Weirton Area to attainment of the 24-hour 2006 PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, this action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor does it find that the Area has met all other requirements for redesignation. Even after a determination of attainment by EPA, the designation status of the Steubenville-Weirton Area remains nonattainment for the 24-hour 2006 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 Steubenville-Weirton Area.

**III. Summary of Public Comment and EPA Response**

*Comment:* An Ohio resident expressed concern for the air quality in the Steubenville-Weirton Area. The resident perceives the air quality to be poor and thus questioned how this Area will be free from requirements to create plans for air quality improvement. The resident also proposed that areas with air quality problems should be subject to more stringent standards.

*Response:* Since 2006, the States of Ohio and West Virginia, as well as the Federal government, have implemented various measures that have resulted in cleaner air in the Steubenville-Weirton Area, including, the nitrogen oxides (NO<sub>x</sub>) SIP Call which addressed pollutants that can result in acid rain; mobile source engine standards leading to a decrease in NO<sub>x</sub> and direct PM<sub>2.5</sub>; fuel standards decreasing sulfur dioxide (SO<sub>2</sub>); as well as rules affecting SO<sub>2</sub> and

NO<sub>x</sub> from power plants. These and other measures have resulted in a decrease in monitored PM<sub>2.5</sub> concentrations in the Steubenville-Weirton Area. Questions regarding the stringency of existing air standards are not relevant to this determination. The sole concern of this determination is whether the Area has attained the 2006 PM<sub>2.5</sub> 24-hour standard. Since 2008, based on complete, quality assured and certified data, this Area has monitored attainment of that standard, set by EPA to protect human health and the environment. The Area continues to attain the standard. At this time, therefore, no additional attainment planning or measures related to attainment of the 2006 PM<sub>2.5</sub> 24-hour standard are needed. In the future, should EPA determine that a violation of the standard occurs, the States of Ohio and West Virginia will then be required to submit an attainment demonstration, associated RACM, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard.

#### IV. Statutory and Executive Order Reviews

##### A. General Requirements

This action merely makes an attainment determination based on air quality data and does not impose any additional requirements. For that reason, this 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.

##### B. Submission to Congress and the Comptroller General

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).

##### C. Petitions for Judicial Review

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 July 13, 2012. 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 clean data determination for the 24-hour 2006 PM<sub>2.5</sub> NAAQS for the Steubenville-Weirton Area 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, Particulate matter, Sulfur oxides, Nitrogen oxides, Reporting and recordkeeping requirements.

Dated: February 15, 2012.

**W.C. Early,**

*Acting, Regional Administrator, Region III.*

Dated: April 18, 2012.

**Susan Hedman,**

*Regional Administrator, Region V.*

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 KK—Ohio

■ 2. In § 52.1880, paragraph (r) is added to read as follows:

##### § 52.1880 Control strategy: Particulate matter.

\* \* \* \* \*

(r) *Determination of Attainment.* EPA has determined, as of *May 14, 2012*, that based on 2008 to 2010 ambient air quality data, the Steubenville-Weirton nonattainment area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS.

##### Subpart XX—West Virginia

■ 3. In § 52.2526, paragraph (g) is added to read as follows:

##### § 52.2526 Control strategy: Particulate matter.

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(g) *Determination of Attainment.* EPA has determined, as of *May 14, 2012*, that based on 2008 to 2010 ambient air quality data, the Steubenville-Weirton nonattainment area has attained the 24-hour 2006 PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area

continues to meet the 24-hour 2006 PM<sub>2.5</sub> NAAQS.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 180

[EPA-HQ-OPP-2008-0039; FRL-9344-2]

#### Acetone; Exemption From the Requirement of a Tolerance

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

**ACTION:** Final rule.

**SUMMARY:** This regulation establishes an exemption from the requirement of a tolerance for residues of acetone (67-64-1) when used as an inert ingredient as a solvent or co-solvent, 40 CFR 180.930, in pesticides products applied to animals. Whitmire Micro-Gen (now affiliated with BASF Corp.; 3568 Tree Court Industrial Blvd., St. Louis, MO 63112) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of acetone.

**DATES:** This regulation is effective May 14, 2012. Objections and requests for hearings must be received on or before July 13, 2012, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2008-0039. 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., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available 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 Docket Facility is open 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:** Mark Dow, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (703) 305-5533; email address: [dow.mark@epa.gov](mailto:dow.mark@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. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

###### B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at [http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab\\_02.tpl](http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl). To access the OCSPP test guidelines referenced in this document electronically, please go to <http://www.epa.gov/ocspp> and select "Test Methods and Guidelines."

###### C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure

proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2008-0039 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before July 13, 2012. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit a copy of your non-CBI objection or hearing request, identified by docket ID number EPA-HQ-OPP-2008-0039, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online 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.

##### II. Petition for Exemption

In the **Federal Register** of February 6, 2008 (73 FR 6966) (FRL-8350-9), EPA issued a notice pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 7E7239) by Whitmire Micro-Gen (now affiliated with BASF Corp.; 3568 Tree Court Industrial Blvd., St. Louis, MO 63112). The petition requested that 40 CFR 180.930 be amended by establishing an exemption from the requirement of a tolerance for residues of acetone (Cas Reg. No. 67-64-1) when used as an inert ingredient as a solvent or co-solvent in pesticide formulations applied to animals. That notice referenced a summary of the petition prepared by Whitmire Micro-Gen (now affiliated with BASF Corp.; 3568 Tree Court Industrial Blvd., St. Louis, MO 63112), the petitioner, which is available in the docket, <http://>