

wheelchair. We invite comment to facilitate our assessment of the potential impact of these initiatives on small entities.

E. Paperwork Reduction Act

This rule imposes no new information reporting or record keeping necessitating clearance by the Office of Management and Budget.

F. Unfunded Mandates Reform Act

The Department has determined that the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply to this notice.

Issued this 26th day of May 2011, at Washington, DC.

Ray LaHood,

Secretary of Transportation.

List of Subjects in 14 CFR Part 382

Air carriers, Civil rights, and Individuals with disabilities.

For the reasons set forth in the preamble, the Department is proposing to amend 14 CFR part 382, as follows:

PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

1. The authority citation for part 382 continues to read as follows:

Authority: 49 U.S.C. 41705.

2. Section 382.67 is revised to read as follows:

§ 382.67 What is the requirement for priority space in the cabin to store passengers' wheelchairs?

(a) As a carrier, you must ensure that there is a priority space (e.g., a closet or a row of seats where a wheelchair may be strapped using a strap kit approved by the Federal Aviation Administration or applicable foreign government) in the cabin of sufficient size to stow at least one typical adult-sized folding, collapsible, or break-down manual passenger wheelchair, the dimensions of which are 13 inches by 36 inches by 42 inches or less without having to remove the wheels or otherwise disassemble it. This requirement applies to any aircraft with 100 or more passenger seats.

(b) This space must be other than the overhead compartments and under-seat spaces routinely used for passengers' carry-on items.

(c) If passengers holding confirmed reservations are not able to travel on a flight because their seats are being used to stow a passenger's wheelchair as required by paragraph (a) of this section, carriers must compensate those passengers in an amount to be calculated as provided for in instances of involuntary denied boarding under

14 CFR part 250, where part 250 applies.

(d) As a carrier, you must never request or suggest that a passenger should not stow his or her wheelchair in the cabin to accommodate other passengers (e.g., informing a passenger that stowing a wheelchair in the cabin will require other passengers to be removed from the flight), or for any other non-safety related reason (e.g., easier for the carrier if the wheelchair is stowed in the cargo).

(e) As a foreign carrier, you must meet the requirement of paragraph (a) of this section for new aircraft ordered after May 13, 2009, or delivered after May 13, 2010. As a U.S. carrier, this requirement applies to you with respect to new aircraft you operate that were ordered after April 5, 1990, or which were delivered after April 5, 1992.

§ 382.123 [Amended]

3. Section 382.123(c) is removed.

[FR Doc. 2011-13802 Filed 6-2-11; 8:45 am]

BILLING CODE 4910-9X-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2010-0719-201115; FRL-9314-9]

Approval and Promulgation of Air Quality Implementation Plans; Ohio, Kentucky, and Indiana; Cincinnati-Hamilton Nonattainment Area; Determination of Attainment of the 1997 Annual Fine Particulate Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to make two determinations regarding the tri-state Cincinnati-Hamilton (Ohio, Kentucky, and Indiana) fine particulate matter (PM_{2.5}) nonattainment area (hereafter referred to as "the Cincinnati Area" or "the Area"). First, EPA is proposing to determine that the Area has attained the 1997 annual average PM_{2.5} National Ambient Air Quality Standard (NAAQS). This proposed determination of attainment is based upon complete, quality-assured and certified ambient air monitoring data for the 2007-2009 period showing that the Area has monitored attainment of the 1997 annual PM_{2.5} NAAQS. If EPA finalizes this proposed determination of attainment, the requirements for the 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 standard shall be suspended for so long as the Area continues to attain the annual PM_{2.5} NAAQS. Second, EPA is also proposing to determine, based on quality-assured and certified monitoring data for the 2007-2009 monitoring period, that the Area has attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010.

DATES: Comments must be received on or before July 5, 2011.

ADDRESSES: Submit your general comments and your comments specifically regarding the Kentucky portion of the Cincinnati Area, identified by Docket ID No. EPA-R04-OAR-2010-0719, by one of the following methods:

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

2. *E-mail:* benjamin.lynorae@epa.gov.

3. *Fax:* (404) 562-9040.

4. *Mail:* EPA-R04-OAR-2010-0719, 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:* Lynorae 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 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.

Submit your comments regarding the Ohio and Indiana portions of the Cincinnati Area, identified by Docket ID No. EPA-R04-OAR-2010-0719, by one of the following methods:

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

2. *E-mail:* aburano.douglas@epa.gov.

3. *Fax:* 312-353-6960.

4. *Mail:* Douglas Aburano, Chief, Control Strategies Section, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604-3507.

5. *Hand Delivery:* Douglas Aburano, Chief, Control Strategies Section, U.S.

Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3507. Such deliveries are only accepted during the Regional Office 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–R04–OAR–2010–0719. 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 information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. 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.

Docket: All documents in the docket are listed in the <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 through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours 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.

FOR FURTHER INFORMATION CONTACT: In Region 4, Joel Huey or Sara Waterson, 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. 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. Ms. Waterson may be reached by telephone at (404) 562–9061 or via electronic mail at [waterson.sara@epa.gov](mailto:watson.sara@epa.gov). In Region 5, John Summerhays, Control Strategies 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.

SUPPLEMENTARY INFORMATION:

- I. What actions is EPA taking?
- II. What is the background for these actions?
- III. Does the Cincinnati Area meet the annual PM_{2.5} standard?
 - A. Criteria
 - B. Cincinnati Area Air Quality
 - C. Has the Cincinnati area met the 1997 annual PM_{2.5} air quality standard?
- IV. What are the effects of these actions?
- V. Statutory and Executive Order Reviews

I. What actions is EPA taking?

EPA is proposing to determine that the Cincinnati Area (comprised of Butler, Clermont, Hamilton, and Warren Counties in Ohio; Boone, Campbell and Kenton Counties in Kentucky; and a portion of Dearborn County in Indiana) has attaining data for the 1997 annual PM_{2.5} NAAQS.¹ The proposal is based upon quality assured, quality controlled and certified ambient air monitoring data that show the Area has monitored attainment of the 1997 annual PM_{2.5} NAAQS based on the 2007–2009 data. EPA is also proposing to determine, in accordance with EPA’s PM_{2.5} Implementation Rule of April 25, 2007 (72 FR 20664), that the Cincinnati Area has attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010.

II. What is the background for these actions?

On July 18, 1997 (62 FR 36852), EPA established an annual PM_{2.5} NAAQS at

15.0 micrograms per cubic meter (µg/m³) based on a 3-year average of annual mean PM_{2.5} concentrations. At that time, EPA also established a 24-hour NAAQS of 65 µg/m³. (This action does not address the 24-hour NAAQS.) See 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM_{2.5} NAAQS based upon air quality monitoring data from those monitors for calendar years 2001–2003. These designations became effective on April 5, 2005. The Cincinnati Area was designated nonattainment for the 1997 PM_{2.5} NAAQS. See 40 CFR 81.336 (Ohio), 40 CFR 81.318 (Kentucky), and 40 CFR 81.315 (Indiana).

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM_{2.5} NAAQS at 15.0 µg/m³ based on a 3-year average of annual mean PM_{2.5} concentrations, and promulgated a 24-hour NAAQS of 35 µg/m³ based on a 3-year average of the 98th percentile of 24-hour concentrations. On November 13, 2009, EPA designated the Cincinnati Area as attainment for the 2006 24-hour NAAQS (74 FR 58688). In that action, EPA also clarified the designations for the NAAQS promulgated in 1997, stating that the Cincinnati Area was designated as nonattainment for the annual NAAQS but attainment for the 24-hour NAAQS. Thus, this action does not address attainment of either the 1997 or the 2006 24-hour NAAQS.

In response to legal challenges of the annual NAAQS promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded this NAAQS to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 annual NAAQS are essentially identical, attainment of the 1997 annual NAAQS would also indicate attainment of the remanded 2006 annual NAAQS.

On April 25, 2007 (72 FR 20664), EPA promulgated its PM_{2.5} Implementation Rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 PM_{2.5} NAAQS. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the NAAQS, as discussed below.

III. Does the Cincinnati area meet the annual PM_{2.5} NAAQS?

A. Criteria

This rulemaking is proposing to find that the Cincinnati Area is attaining the annual PM_{2.5} NAAQS, and provides a

¹ “1997 Annual NAAQS” refers to both the primary and secondary standards, which are identical.

basis for that final action. The Cincinnati Area includes certain counties in Ohio, Kentucky, and Indiana. The Cincinnati Area is comprised of Butler, Clermont, Hamilton and Warren Counties in Ohio; Boone, Campbell, and Kenton Counties in Kentucky; and the Lawrenceburg Township portion of Dearborn County in Indiana.

Under EPA regulations at 40 CFR 50.7, the annual primary and secondary PM_{2.5} NAAQS 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/m³ at all relevant monitoring sites in the subject area.

B. Cincinnati Area Air Quality

EPA has reviewed the ambient air monitoring data for the Cincinnati 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 (AQS) database. This review addresses air quality data collected in the 3-year period from 2007–2009.

The following table provides the annual average concentrations averaged over 2007–2009 at the sites in the Cincinnati Area. There are no PM_{2.5} monitoring sites for the Indiana portion of the Cincinnati Area. The highest 3-year average annual concentration for 2007–2009 on this table is recorded at site 39–061–0014, recording a 3-year average annual concentration of 15.0 µg/m³, which is in attainment of the annual PM_{2.5} NAAQS. All other sites in the Area have 3-year average annual PM_{2.5} concentrations below 15.0 µg/m³.

TABLE 1—ANNUAL AVERAGE CONCENTRATIONS IN THE CINCINNATI AREA

Site name	County	Site No.	Annual average concentration (µg/m ³)
Verity HS, Middletown	Butler	39–017–0003	14.0
400 Nilles Rd., Fairfield	Butler	39–017–0016	13.9
2400 Clermont Dr., Batavia	Clermont	39–025–0022	12.3
11590 Grooms Rd., Sycamore	Hamilton	39–061–0006	13.1
Carthage Fire, Seymour/Vine	Hamilton	39–061–0014	15.0
250 Taft Rd., Cincinnati	Hamilton	39–061–0040	13.5
Lower Price Hill, 8th St., Cincinnati	Hamilton	39–061–0042	14.7
2059 Sherman Ave., Norwood	Hamilton	39–061–7001	13.9
300 Murray Rd	Hamilton	39–061–8001	14.6
416 Southeast St	Hamilton	39–165–0007	12.5
NKU	Campbell	21–037–3002	12.5
Covington	Kenton	21–117–0007	12.4

The Cincinnati Area did not meet the 75 percent completeness criteria in three cases. The NKU site began operation on August 1, 2007, and thus did not obtain complete data for the first three quarters of 2007. Nevertheless, the average concentration for the remainder of 2007 and all of 2008 and 2009 is 12.5 µg/m³, which indicates attainment at this site. This would not be considered an incomplete record due to it being a new site. EPA approved the closing of two sites in the 2007–2009 time period, which are not listed in the above table, Scarlet Oaks School (39–061–0043) and Hook Field Airport (39–017–1004). Scarlet Oaks School ended operation December 31, 2008 and Hook Field Airport ended operation December 31, 2007. The Scarlet Oaks School site monitored an average concentration of 14.8 µg/m³ in 2007, and an annual average concentration in 2008 of 13.3 µg/m³. The Hook Field Airport site monitored an annual average concentration of 14.6 µg/m³ for 2007. These values are below the NAAQS. An examination of data from these sites is provided in the February 2011 technical support document available in the docket for this proposed rulemaking.

More generally, EPA believes that the Cincinnati Area has a sufficient network

of sites collecting complete data showing attainment to conclude that the Cincinnati Area is now meeting the annual PM_{2.5} NAAQS. In accordance with 40 CFR part 50, Appendix N and standard EPA practice, the review of this data is based on the three most recent years of complete data, generally 2007–2009. Appendix N does not provide for examining partial years of data, because various seasons of the year reflect various influences on PM_{2.5} concentrations, and a partial year's data may not be representative of values that would be determined from a full year's data set. Nevertheless, EPA examined data from 2010. The complete year has not been certified; therefore, the data are not considered complete for 2010. All of the 2008–2010 design values are below the 15.0 µg/m³, except for the Murray Road site in Cincinnati. The Murray Road site has a preliminary 2008–2010 design value of 15.1 µg/m³; however, the site was shut down in February of the first quarter of 2010 due to safety issues. The partial first quarter of 2010 data before the monitor shut down showed the only data above the NAAQS for the 2008–2010 period. The 2008 design value was 14.4 µg/m³ and the 2009 design value was 13.4 µg/m³. Approval was granted for the site to be

shut down because the Carthage Fire site registered a higher design value and is located approximately a mile from the Murray Road site. A comparison of the 2007–2009 data showed the sites were well correlated with each other.

The available data for 2010 are consistent with the finding, based on 2007–2009 data, that the Cincinnati Area is attaining the 1997 annual PM_{2.5} NAAQS. On the basis of this review, EPA has preliminarily concluded that this Area has met and continues to meet the 1997 PM_{2.5} NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

C. Has the Cincinnati area met the 1997 annual PM_{2.5} air quality standard?

EPA has reviewed the ambient air monitoring data for PM_{2.5}, consistent with the requirements contained in 40 CFR part 50 and recorded the data in the EPA AQS database, for the Cincinnati Area from 2007 through the present time.

On the basis of that review, EPA proposes to determine that this Area has attained and continues to attain the 1997 annual PM_{2.5} NAAQS based on the quality-assured data for the 2007–2009 and 2008–2010 monitoring periods. In

addition, based on EPA's review of the 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 Area attained the 1997 annual PM_{2.5} NAAQS by its applicable attainment date of April 5, 2010.

IV. What is the effect of these actions?

If this proposed determination of attainment is made final, the requirements for the Cincinnati Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 annual PM_{2.5} NAAQS would be suspended for so long as the Area continues to attain the PM_{2.5} NAAQS. See 40 CFR 51.1004(c).

If this proposed rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the Area has violated the annual PM_{2.5} NAAQS, the basis for the suspension of the specific requirements would no longer exist for the Cincinnati Area, and the Area would thereafter have to address the applicable requirements. See 40 CFR 51.1004(c).

Finalizing this proposed action would not constitute a redesignation of the Area to attainment of the annual PM_{2.5} NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this proposed action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor would it find that the Area has met all other requirements for redesignation. Even if EPA finalizes the proposed action, the designation status of the Cincinnati Area would remain nonattainment for the 1997 annual PM_{2.5} 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.

This action is only a proposed determination of attainment that the Cincinnati Area has attained the 1997 annual PM_{2.5} NAAQS. This action does not address the 24-hour PM_{2.5} NAAQS.

If the Cincinnati Area continues to monitor attainment of the annual PM_{2.5} NAAQS, the requirements for the Cincinnati Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the annual PM_{2.5} NAAQS will remain suspended.

In addition, if EPA's separate and independent proposed determination that the Area has attained the 1997 annual PM_{2.5} standard by its applicable

attainment date (April 5, 2010) is finalized, EPA will have met its requirement pursuant to section 179(c)(1) of the CAA to make a determination based on the Area's air quality data as of the attainment date whether the Area attained the standard by that date.

These two actions described above are proposed determinations regarding the Cincinnati Area's attainment status only with respect to the 1997 annual PM_{2.5} NAAQS. Today's actions do not address the 24-hour PM_{2.5} NAAQS.

V. Statutory and Executive Order Reviews

These actions propose to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain federal requirements, and it would not impose additional requirements beyond those imposed by state law. For that reason, these proposed actions:

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are 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
- Do 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, these proposed 1997 annual

PM_{2.5} NAAQS determinations for the Cincinnati Area do 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, Particulate matter, Intergovernmental relations, Reporting and recordkeeping requirements.

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

Dated: April 18, 2011.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: May 23, 2011.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2011–13831 Filed 6–2–11; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

EPA–R09–OAR–2011–0356; FRL–9314–8J

Revisions to the California State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) and Imperial County Air Pollution Control District (ICAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from Motor Vehicle Assembly Coatings, Surface Coatings of Metal Parts and Products, Plastic Parts and Products and Pleasure Crafts, Aerospace Coating Operations and Automotive Refinishing Operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by July 5, 2011.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2011–0356, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.