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Documents mentioned in this notice, and all public comments, are in our online docket at <http://www.regulations.gov> and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket, and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: December 19, 2016.

**Steven M. Fischer,**

*Bridge Administrator, Thirteenth Coast Guard District.*

[FR Doc. 2016-31058 Filed 12-23-16; 8:45 am]

**BILLING CODE 9110-04-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2016-0526; FRL-9957-39-Region 4]

### Air Plan Approval; KY; RACM Determination for the KY Portion of the Louisville Area 1997 Annual PM<sub>2.5</sub>

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the Commonwealth of Kentucky, through the Kentucky Division for Air Quality (KDAQ) on August 9, 2016, that addresses reasonably available control measures (RACM) for the Kentucky portion of the Louisville, KY-IN, nonattainment area for the 1997 Annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS) (hereinafter referred to as the "bi-state Louisville Area" or "Area").

**DATES:** This rule will be effective January 26, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2016-0526. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov)

Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached via telephone at (404) 562-9644 and via electronic mail at [sanchez.madolyn@epa.gov](mailto:sanchez.madolyn@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. Background

In 1997, EPA promulgated the first air quality standards for PM<sub>2.5</sub>. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (µg/m<sup>3</sup>) (based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations) and a 24-hour standard of 65 µg/m<sup>3</sup> (based on a 3-year average of the 98th percentile of 24-hour concentrations). See 62 FR 38652 (July 18, 1997). On January 5, 2005 (70 FR 944), and supplemented on April 14, 2005 (70 FR 19844), EPA designated the bi-state Louisville Area as nonattainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. In that action, EPA defined the bi-state Louisville Area to include Bullitt and Jefferson Counties in Kentucky as well as Clark and Floyd Counties and a portion of Jefferson County (Madison Township) in Indiana. Designation of an area as nonattainment for PM<sub>2.5</sub> starts the process for a state to develop and submit to EPA a SIP revision under title I, part D of the Clean Air Act (CAA or Act). This SIP revision must include, among other elements, a demonstration of how the NAAQS will be attained in

the nonattainment area as expeditiously as practicable, but no later than the attainment date required by the CAA.

Originally, EPA designated all 1997 PM<sub>2.5</sub> NAAQS areas under title I, part D, subpart 1 (hereinafter "Subpart 1"). Subpart 1, comprised of CAA sections 171-179B, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Section 172(c) contains the general SIP requirements for these areas, including RACM requirements under section 172(c)(1). On April 25, 2007 (72 FR 20586), EPA promulgated a rule, codified at 40 CFR part 51, subpart Z, to implement the 1997 PM<sub>2.5</sub> NAAQS under Subpart 1 (hereinafter referred to as the "1997 PM<sub>2.5</sub> Implementation Rule").<sup>1</sup> On December 3, 2008, Kentucky submitted an attainment demonstration SIP revision for the Area that addressed RACM and certain other section 172(c) elements including a reasonable further progress (RFP) plan, base-year and attainment-year emissions inventories, and contingency measures for the Area. This SIP revision included a section 172(c)(1) RACM determination that there were no potential emissions control measures that, if considered collectively, would advance the attainment date by one year or more.

In 2011, EPA determined that the bi-state Louisville Area had attained the 1997 Annual PM<sub>2.5</sub> NAAQS based upon complete, quality-assured, and certified ambient air monitoring data for the 2007-2009 period. See 76 FR 55544 (September 7, 2011); 40 CFR 52.929(b). As a result of this determination and in accordance with 40 CFR 51.1004(c), the requirements for the Area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures, and other planning SIP revisions related to attainment of the 1997 Annual PM<sub>2.5</sub> NAAQS are suspended for so long as: The area is redesignated to attainment,

<sup>1</sup> On January 4, 2013, in *Natural Resources Defense Council v. EPA*, 706 F.3d 428 (D.C. Cir. 2013), the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) found that EPA erred in implementing the 1997 PM<sub>2.5</sub> NAAQS pursuant solely to the general implementation provisions of Subpart 1 rather than the particulate matter-specific provisions in title I, part D, subpart 4. The court remanded both the 1997 PM<sub>2.5</sub> Implementation Rule and the final rule entitled "Implementation of the New Source Review (NSR) Program for Particulate Matter Less than 2.5 Micrometers (PM<sub>2.5</sub>)" (73 FR 28321, May 16, 2008) to EPA to address this error. In 2014, EPA finalized a rule classifying areas previously designated nonattainment for the 1997 and/or 2006 fine particle pollution standards under Subpart 1, including the bi-state Louisville Area, as "Moderate" nonattainment areas under subpart 4 and setting deadlines for SIP submissions addressing the requirements of subpart 4. See 79 FR 31566 (June 2, 2014) [hereinafter 2014 Rule].

at which time the requirements no longer apply; or EPA determines that the area has violated the PM<sub>2.5</sub> NAAQS, at which time the area is again required to submit such plans. Therefore, Kentucky withdrew the aforementioned PM<sub>2.5</sub> attainment demonstration SIP revision except for the portion addressing emissions inventory requirements under section 172(c)(3). EPA later approved Kentucky's 2002 base-year emissions inventory for the Louisville Area pursuant to section 172(c)(3) on August 2, 2012 (77 FR 45956).

On March 5, 2012, Kentucky submitted a request to redesignate the Kentucky portion of the bi-state Louisville Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.<sup>2</sup> As the result of a 2015 decision from the United States Court of Appeals for the Sixth Circuit (Sixth Circuit) in *Sierra Club v. EPA*, 793 F.3d 656 (6th Cir. 2015) requiring a SIP-approved Subpart 1 RACM determination prior to the redesignation of a 1997 Annual PM<sub>2.5</sub> NAAQS nonattainment area, Kentucky submitted a SIP revision on August 9, 2016, to address the section 172(c)(1) RACM requirements and to support the Commonwealth's March 5, 2012, redesignation request. In that SIP revision, the Commonwealth determined that no additional control measures are necessary in the Area to satisfy the CAA section 172(c)(1) RACM requirements.

In a notice of proposed rulemaking (NPRM) published on October 21, 2016 (81 FR 72755), EPA proposed to conclude that Kentucky's Subpart 1 RACM determination meets the requirements of CAA section 172(c)(1) and to incorporate this RACM determination into the SIP. The details of Kentucky's SIP revision and the rationale for EPA's action are explained in the NPRM. Comments on the proposed rulemaking were due on or before November 21, 2016. EPA did not receive any adverse comments on the proposed action.

## II. Final Action

EPA is approving Kentucky's August 9, 2016, SIP revision addressing RACM requirements for the 1997 Annual PM<sub>2.5</sub> NAAQS for the Kentucky portion of the bi-state Louisville Area. EPA has concluded that Kentucky's Subpart 1 RACM determination meets the requirements of CAA section 172(c)(1)

and is incorporating this RACM determination into the SIP.

## III. 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. See 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 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 action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 Clean Air Act; 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).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian

country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 27, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

## List of Subjects in 40 CFR Part 52

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

Dated: December 15, 2016.

**Heather McTeer Toney**,  
Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

## PART 52—[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

■ 1. The authority citation for part 52 continues to read as follows:

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

## Subpart S—Kentucky

■ 2. Section 52.920(e) is amended by adding a new entry for "RACM for the Kentucky portion of Louisville, KY-IN

<sup>2</sup> Kentucky submitted its redesignation request prior to the aforementioned ruling in *Natural Resources Defense Council v. EPA*. As discussed in the 2014 Rule, EPA's position is that this ruling does not apply retroactively. See 79 FR at 31568.

Area for the 1997 Annual PM<sub>2.5</sub> NAAQS” at the end of the table to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS**

Name of non-regulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/ effective date	EPA approval date	Explanations
* RACM for the Kentucky portion of Louisville, KY-IN Area for the 1997 Annual PM <sub>2.5</sub> NAAQS.	* Bullitt and Jefferson Counties	* 08/09/2016	* 12/27/2016, [Insert citation of publication].	* 

[FR Doc. 2016–31023 Filed 12–23–16; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA–R05–OAR–2015–0529; FRL–9957–16–Region 5]

**Air Plan Approval; Wisconsin; Infrastructure SIP Requirements for the 2012 PM<sub>2.5</sub> NAAQS**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finalizing approval of some elements of a July 13, 2015 state implementation plan (SIP) submittal from the Wisconsin Department of Natural Resources (WDNR) regarding the infrastructure requirements of section 110 of the Clean Air Act (CAA) for the 2012 fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standards (NAAQS). The infrastructure requirements are designed to ensure that the structural components of each state’s air quality management program are adequate to meet the state’s responsibilities under the CAA. The proposed rulemaking associated with this final action was published on February 19, 2016, and EPA received adverse comments during the comment period, which ended on March 21, 2016. Responses to comments are included below. In this rulemaking, EPA is not taking action on Wisconsin’s satisfaction of the infrastructure requirements of CAA section 110(a)(2)(F), also referred to as “element F,” which pertains to stationary source monitoring and reporting. EPA proposed approval of and received an adverse comment on our proposed approval of element F, which will be

addressed in a separate rulemaking. In this rulemaking we respond to the remainder of the comments we received on our initial proposed rulemaking, which includes those comments not pertaining to element F, and finalize as initially proposed our approval of the other elements of Wisconsin’s 2012 PM<sub>2.5</sub> infrastructure SIP.

**DATES:** This final rule is effective on January 26, 2017.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2015–0529. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, 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 through [www.regulations.gov](http://www.regulations.gov) or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Jenny Liljegren, Physical Scientist, at (312) 886–6832 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6832, [Liljegren.Jennifer@epa.gov](mailto:Liljegren.Jennifer@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean

EPA. This supplementary information section is arranged as follows:

- I. What is the background of this SIP submittal?
- II. Responses to Comments Received on EPA’s Proposed Rulemaking
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. What is the background of this SIP submittal?**

*A. What state SIP submittal does this rulemaking address?*

This rulemaking addresses a July 13, 2015 infrastructure SIP submittal from WDNR for the 2012 PM<sub>2.5</sub><sup>1</sup> NAAQS.

*B. Why did the State make this SIP submittal?*

Under section 110(a)(1) and (2) of the CAA, states are required to submit infrastructure SIPs to ensure that their SIPs provide for implementation, maintenance, and enforcement of the NAAQS, including the 2012 PM<sub>2.5</sub> NAAQS. This submittal must contain any revisions needed for meeting the applicable SIP requirements of section 110(a)(2) or certifications that the state’s existing SIP for the NAAQS already meets those requirements.

EPA highlighted this statutory requirement in an October 2, 2007 guidance document entitled “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 1997 8-hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards” and has issued additional guidance documents, the most recent on September 13, 2013, entitled “Guidance on Infrastructure State Implementation Plan (SIP) Elements under CAA Sections 110(a)(1) and 110(a)(2).” The SIP submittal referenced in this rulemaking pertains to the applicable

<sup>1</sup> PM<sub>2.5</sub> refers to particles with an aerodynamic diameter of less than or equal to 2.5 micrometers, oftentimes referred to as “fine” particles.