

Treasury's records with respect to a reclamation debt and requests to enter into repayment agreements must be sent in writing to: Department of the Treasury, Financial Management Service, Check Resolution Division, Reclamation Branch, Room 700D, P.O. Box 1849, Hyattsville, MD 20788, or to such other address as Treasury may publish in the Treasury Financial Manual, which can be found at <http://www.fms.treas.gov>.

(3) If the Federal Reserve Bank is unable to debit the financial institution's reserve account, FMS will assess interest, penalties, and administrative costs in accordance with § 240.8. Additionally, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and Treasury Check Offset in accordance with § 240.11.

(4) If Treasury determines that a reclamation has been made in error, Treasury will abandon the reclamation. If Treasury already has collected the amount of the reclamation from the reclamation debtor, Treasury will promptly refund to the reclamation debtor the amount of its payment.

(b) * * *

(4) * * *

(iii) If the Director, Check Resolution Division, or an authorized designee, finds, by a preponderance of the evidence, that the reclamation debtor is liable for the reclamation debt, Treasury will notify the reclamation debtor, in writing, of his or her decision. If the reclamation debtor has not paid the reclamation in full, Treasury will direct the Federal Reserve Bank to debit the financial institution's reserve account immediately, provided that at least 30 calendar days have passed from the date of the Notice of Direct Debit. If at least 30 calendar days have not yet passed from the date of the Notice of Direct Debit, Treasury will direct the Federal Reserve Bank to debit the financial institution's reserve account on the 30th calendar day from the date of the Notice of Direct Debit. The Federal Reserve Bank will provide advice of the debit to the reclamation debtor. If the appropriate Federal Reserve Bank is unable to debit a reclamation debtor's reserve account, Treasury will proceed to collect the reclamation debt through offset in accordance with § 240.10 and § 240.11.

* * * * *

Dated: December 23, 2009.

Richard L. Gregg,

Acting Fiscal Assistant Secretary.

[FR Doc. E9-31166 Filed 12-31-09; 8:45 am]

BILLING CODE 4810-35-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2007-1186; FRL-9099-8]

Approval and Promulgation of Air Quality Implementation Plan: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Paducah Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for the Paducah 8-hour ozone attainment area, which comprises Marshall County and a portion of Livingston County (hereafter referred to as the "Paducah Area"). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated emissions tables for this Area to reflect actual emissions. EPA proposes to find that this plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is proposing to approve the revisions to the Kentucky SIP, pursuant to Section 110 of the Clean Air Act (CAA). On March 12, 2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the Paducah Area under the 2008 standard will be addressed in the future.

DATES: Comments must be received on or before February 3, 2010.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2007-1186, 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:* 404-562-9019.
4. *Mail:* EPA-R04-OAR-2007-1186, 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:* 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'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-2007-1186. 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 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: Zuri Farnago, 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. The telephone number is (404) 562-9152. Mr. Farnago can also be reached via electronic mail at farnago.zuri@epa.gov.

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I. Background

In accordance with the CAA, the Paducah Area, consisting of Marshall County and a portion of Livingston County in Kentucky, was designated as marginal nonattainment for the 1-hour ozone NAAQS effective November 6, 1991 (56 FR 56694) because the Area did not meet the 1-hour ozone NAAQS. On November 13, 1992, the Commonwealth of Kentucky submitted a request to redesignate the Paducah Area to attainment for the 1-hour ozone standard. At the same time as the redesignation request, Kentucky submitted the required ozone monitoring data and maintenance plan to ensure that the Paducah Area would remain in attainment for the 1-hour ozone standard for a period of 10 years, consistent with the CAA section 175A(a). The maintenance plan submitted by Kentucky followed EPA guidance for limited maintenance areas, which applied to 1-hour ozone standard areas with design values less than 85 percent of the applicable standard (0.12 parts per million (ppm)). On February 7, 1995, EPA approved Kentucky's request to redesignate the Paducah Area (60 FR 7124) to attainment for the 1-hour ozone standard.

On April 30, 2004, EPA designated areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final

Phase I Implementation Rule for the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase I Rule). Marshall County and a portion of Livingston County (i.e., which make up the Paducah Area) were designated attainment for the 1997 8-hour ozone standard, effective June 15, 2004. The Paducah attainment area consequently was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase I Rule, 40 CFR 51.905(a)(3) and (4). On May 20, 2005, EPA issued guidance providing information on how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005—hereafter referred to as "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Implementation Rule for the 1997 8-hour ozone standard. See *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (DC Cir. 2006). The Court vacated those portions of the Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions. The Court's decision did not alter any requirements under the Phase I Rule for section 110(a)(1) maintenance plans. EPA is proposing to find that Kentucky's May 27, 2008, proposed SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Paducah Area. On March 12, 2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the Paducah Area under the 2008 standard will be addressed in the future.

II. Analysis of the Commonwealth's Submittal

On May 27, 2008, the Commonwealth of Kentucky submitted a SIP revision containing the 1997 8-hour ozone maintenance plan for the Paducah Area as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase I Rule (see 40 CFR 51.905(a)(4)). The purpose of this maintenance plan is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Paducah Area until 2020.

As required, this plan provides for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Paducah Area for 10 years from the effective date of the Area's designation as attainment for the 1997 8-hour ozone NAAQS, and includes contingency measures. A July 15, 2009, submittal from Kentucky updated the emissions projections for point sources for 2005 and 2008 with actual data, and revised the point source projections for 2011, 2014, 2017 and 2020 based on more recent data. Each of the section 110(a)(1) plan components is discussed below for the Paducah Area.

(a) *Attainment Inventory.* In order to demonstrate maintenance in the Paducah Area, Kentucky developed comprehensive inventories of volatile organic compounds (VOC) and nitrogen oxide (NO_x) emissions from area, stationary, and mobile sources using 2002 as the base year. The year 2002 is an appropriate year for Kentucky to base attainment level emissions because states may select any one of the three years on which the 1997 8-hour attainment designation was based (2001, 2002, and 2003). The Commonwealth's submittal contains the detailed inventory data and summaries by source category. Using the 2002 inventory (as a base year) reflects one of the years used for calculating the air quality design values on which the 1997 8-hour ozone designation decisions were based.

A further practical reason for selecting 2002 as the base year emission inventory is that section 110(a)(2)(B) of the CAA and the Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) require states to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the Rule as June 2004. In accordance with these requirements, Kentucky compiles a statewide emissions inventory for point sources on an annual basis. On-road mobile emissions of VOC and NO_x were estimated using MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived using the U.S. EPA's Non-Road Model.

In projecting data for the attainment year 2020 inventory, Kentucky used several methods to project data from the base year 2002 to the years 2005, 2008, 2011, 2014, 2017 and 2020. These actual and projected inventories were developed using EPA-approved technologies and methodologies. Point source and non-point source projections were derived from the Emissions

Growth Analysis System version 4.0 (EGAS 4.0). Non-road mobile projections were derived from EGAS 4.0, as well as from the National Mobile Inventory Model.

The following tables provide VOC and NO_x emissions data for the 2002 base attainment year inventory; as well as actual VOC and NO_x emission inventory data for 2005 and 2008; and

projected VOC and NO_x emission inventory data for 2011, 2014, 2017 and 2020.

TABLE 1—PADUCAH AREA
[VOC and NO_x Emissions Inventory]¹

Emissions	2002	2005	2008	2011	2014	2017	2020
Total VOC (tons per day)	77.46	66.77	21.95	21.87	21.73	21.59	21.64
Total NO _x (tons per day)	8.40	7.52	7.10	6.62	6.05	5.69	5.52

As shown in Table 1 above, the Paducah Area is projected to decrease total VOC and NO_x emissions from the base year of 2002 to the maintenance year of 2020, thus demonstrating continued attainment/maintenance of the 1997 8-hour ozone standard. Total VOC emissions are projected to steadily decrease from the base year of 2002 through 2017, but are then projected to slightly increase by 0.05 tons per day between the years 2017 and 2020. However, year 2020 emissions projected for both VOC and NO_x are well under the 2002 baseline year emissions levels. Thus Kentucky demonstrated that the 1997 8-hour ozone standard will continue to be maintained.

As shown in the table above, Kentucky has demonstrated that the future year emissions will be less than the 2002 base attainment year's emissions for the 1997 8-hour ozone NAAQS. The attainment inventory submitted by Kentucky for this Area is consistent with the criteria discussed in the Wegman Memorandum. EPA finds that the actual emissions levels in 2005, and 2008, along with the future emissions for 2011, 2014, 2017, and 2020 are expected to be less than the emissions levels in 2002. See Table 2 for design value trends for this Area.

In the event that a future 8-hour ozone monitoring reading in this Area is found to violate the 1997 8-hour ozone standard, the contingency plan section of the maintenance plan requires that at least one of the listed measures will be promptly implemented to ensure that this Area returns to maintenance of the 1997 8-hour ozone standard. Please see section (d) Contingency Plan, below, for additional information related to the contingency measures.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan

is to demonstrate how an area will continue to remain in compliance with the 1997 8-hour ozone standard for the 10-year period following the effective date of designation as unclassifiable/attainment. The end projection year for the maintenance plan for Paducah Area was 2020. As discussed in section (a) Attainment Inventory above, Kentucky identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2002. For the original submittal, Kentucky projected VOC and NO_x emissions for the years 2005, 2008, 2011, 2014, 2017 and 2020 in the Paducah Area. Subsequently, Kentucky provided updated projections for all years. EPA finds that the future emissions levels in those years are expected to be below the emissions levels in 2002.

Kentucky's SIP revision also relies on a combination of several air quality measures that will provide for additional 8-hour ozone emissions reductions in the Paducah Area. These measures include the potential implementation of the following, among others: (1) Federal motor vehicle control program; (2) fleet turnover of automobiles; (3) low Reid vapor pressure of gasoline; (4) tier 2 motor vehicle emissions and fuel standards; (5) heavy-duty gasoline and diesel highway vehicles standard; (6) large nonroad diesel engines rule; (7) nonroad spark ignition engines and recreational engines standard; (8) point source emission reductions; (9) Air Products and Chemicals -21-157-00009; (10) reasonably available control measures, (11) maximum available control technology; (12) NO_x SIP Call; (13) Clean Air Interstate Rule (CAIR);² (14) several control programs to reduce area source emissions from aerosol coatings,

architectural and industrial maintenance coatings, and commercial/consumer products; (15) non-highway mobile source reductions; and (16) emissions standards for small and large spark-ignition engines, locomotives and land based diesel engines.

There are no sources subject to CAIR or the NO_x SIP Call in the Paducah Area. Hence the recent remand of CAIR does not impact the maintenance inventories or maintenance demonstration in any way. Further, the Paducah Area was in attainment prior to implementation of these rules. Hence any contribution to the reduction in the background ozone levels from these rules will be in addition to the projected decreases within the maintenance planning area. These rules are included in the discussion of the maintenance plan because, even though the submittal takes no credit for them, they are expected to reduce transported NO_x and ozone from outside the nonattainment area, providing a further, unquantified improvement in the Area's air quality.

(c) *Ambient Air Quality Monitoring.* The table below shows design values³ for the Paducah Area. The ambient ozone monitoring data was collected at sites that were selected with assistance from EPA and are considered to be representative of the area of highest concentration.

There is one monitor in Livingston County in the Paducah Area. Marshall County does not have a monitor. For the Livingston County monitor, no design values exceeding the 1997 0.08 ppm standard occurred in recent years and it is anticipated that the monitor will remain at the current location, unless otherwise allowed to be removed in consultation with EPA and in accordance with the 40 CFR part 58.

¹ The emissions estimates in this table were provided by Kentucky on July 15, 2009, through John Lyons, Director, Division of Air Quality, as an update to emissions estimates provided in the May 25, 2007, submittal.

² Despite the legal status of CAIR as remanded, many facilities have already or are continuing with

plans to install emission controls that may benefit Kentucky areas.

³ The air quality design value at a monitoring site is defined as that concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based standard, the air quality design value is simply the

standard-related test statistic. Thus, for the primary and secondary ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration is also the air quality design value for the site. 40 CFR Part 50, Appendix I, Section 3.

See, Wegman Memorandum, pages 4 and 5.

TABLE 2—DESIGN VALUES FOR 8-HOUR OZONE (PPM)

Year	Paducah area	
	Livingston County	
2000–2002	0.084	
2001–2003	0.084	
2002–2004	0.080	
2003–2005	0.075	
2004–2006	0.072	
2005–2007	0.074	
2006–2008	0.071	

Based on the Table above, each of the three-year average available design values demonstrates attainment of the 1997 ozone NAAQS. Further, these design values indicate that the Paducah Area is expected to continue attainment of the 1997 ozone NAAQS. The attainment level for the 1997 8-hour ozone standard is 0.08 ppm, effectively 0.084 ppm with the rounding convention. However, in the event that a design value at Livingston County monitoring site exceeds the 1997 ozone standard, the contingency plan included in the Kentucky's maintenance plan submittal includes contingency measures which will be promptly implemented in accordance with the contingency plan, discussed below.

(d) *Contingency Plan.* In accordance with 40 CFR 51.905(a)(4)(ii) and the Wegman Memorandum, the section 110(a)(1) maintenance plan includes contingency provisions to promptly correct a violation of the 1997 ozone NAAQS that may occur. In this maintenance plan, if contingency measures are triggered by a violation of the 1997 8-hour ozone NAAQS, Kentucky is committing to adopt one or more of the contingency measures listed below within nine months following the trigger, and implement the measures within eighteen months following the trigger. The contingency measures include: (1) Implementation of a program to require additional emissions reductions on stationary sources; (2) requirement for Stage I Vapor Recovery; (3) requirement of Stage II Vapor Recovery; (4) further restrictions on open burning during summer ozone season; (5) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles; (6) trip-reduction ordinances; (7) employer-based transportation management plans, including incentives; (8) programs to limit or restrict vehicle use in downtown areas, or other areas of

emission concentration, particularly during periods of peak use; and (9) programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

The maintenance plan also includes two additional triggers (which would occur prior to a violation of the 1997 8-hour ozone NAAQS) for an evaluation of existing control measures to see if any further emission reduction measures should be implemented at that time. These triggers are an exceedance of the NAAQS in any portion of the maintenance area or a ten percent or greater increase in emissions of either VOC or NO_x, based on the 2002 emissions inventory and periodic emission inventory updates. If either of these triggers occurs, Kentucky commits to evaluating existing control measures to see if any further emission reduction measures should be implemented.

EPA proposes to find that these contingency measures and schedules for implementation satisfy EPA's guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Paducah Area will depend, in part, on the air quality measures discussed previously (see section II). In addition, Kentucky commits to verifying the 1997 8-hour ozone status in each maintenance plan through annual and periodic evaluations of the emissions inventories. In the annual evaluations, Kentucky will review VOC and NO_x emission data from stationary point sources. During the periodic evaluations (every three years), Kentucky will update the emissions inventory for all emissions source categories, and compare the updated emissions inventory data with actual 2005 and 2008, and projected 2011, 2014, 2017 and 2020 attainment emissions inventories to verify continued attainment of the 1997 8-hour ozone standard.

III. Proposed Action

Pursuant to section 110(a)(1) of the CAA, EPA is proposing to approve the maintenance plan addressing the 1997 8-hour ozone standard for the Paducah Area, which was submitted by Kentucky on May 27, 2008, as updated in a July 15, 2009, submission, and which ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. EPA has evaluated the Commonwealth's submittal and has determined that it meets the applicable requirements of the CAA and EPA

regulations, and is consistent with EPA policy.

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, Intergovernmental

relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 22, 2009.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

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