

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
 - Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, this proposed rule, pertaining to Maryland's control of VOCs from adhesives and sealants, 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, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: August 8, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2011-21272 Filed 8-18-11; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2011-0474; FRL-9453-4]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Determination of Clean Data for the 2006 Fine Particulate Standard for the Charleston Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to determine that the Charleston, West Virginia nonattainment area for the 2006 fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) has clean data for the 24-hour 2006 PM_{2.5} NAAQS. This proposed determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that this area has monitored attainment of the 2006 PM_{2.5} NAAQS based on the 2007-2009 data and data available to date for 2010 in EPA's Air Quality System (AQS) database that show the area continues to attain. If this proposed determination is made final, 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 State Implementation Plans (SIPs) related to attainment of the standard shall be suspended for so long as the area continues to meet the 24-hour 2006 PM_{2.5} NAAQS.

DATES: Written comments must be received on or before September 19, 2011.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2011-0474 by one of the following methods:

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

B. *E-mail:*
fernandez.cristina@epa.gov.

C. *Mail:* EPA-R03-OAR-2011-0474, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA-R03-OAR-2011-0474. 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 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://www.regulations.gov> or in hard copy 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: Asrah Khadr, (215) 814-2071, or by e-mail at Khadr.Asrah@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

The following outline is provided to aid in locating information in this preamble.

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is the Background for this action?
- IV. What is EPA's analysis of the relevant air quality data?
- V. Proposed Action
- VI. Statutory and Executive Order Reviews

I. What action is EPA taking?

EPA is proposing to determine that Charleston, West Virginia PM_{2.5} nonattainment area has clean data for the 24-hour 2006 PM_{2.5} NAAQS. This

determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that these areas have monitored attainment of the 2006 PM_{2.5} NAAQS based on the 2007–2009 data and data available to date for 2010 in EPA's AQS database.

II. What is the effect of this action?

If this determination is made final, under the provisions of EPA's PM_{2.5} implementation rule (see 40 CFR section 51.1004(c)), the requirements for the Charleston nonattainment area to submit an attainment demonstration, associated reasonably available control measures (RACM) (including reasonably available control technology (RACT)), a reasonable further progress (RFP) plan, contingency measures, and any other planning SIPs related to attainment of the 2006 PM_{2.5} NAAQS would be suspended for so long as the area continues to meet the 24-hour 2006 PM_{2.5} NAAQS. Furthermore, as described below, a final clean data determination would not be equivalent to the redesignation of this area to attainment of the 24-hour 2006 PM_{2.5} NAAQS.

If this rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, this area has violated the 24-hour 2006 PM_{2.5} 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 clean data determination that EPA proposes with this **Federal Register** notice, that the air quality data shows attainment of the 24-hour 2006 PM_{2.5} NAAQS, is not equivalent to the redesignation of this area to attainment. This proposed action, if finalized, will not constitute a redesignation to attainment under section 107(d)(3) of the Clean Air Act (CAA), because we would not yet have an approved maintenance plan for this area as required under section 175A of the CAA, nor a determination that this area has met the other requirements for redesignation. The designation status of this area would remain nonattainment for the 2006 PM_{2.5} NAAQS until such time as EPA determines that this area meets the CAA requirements for redesignation to attainment.

III. What is the background for this action?

The 2006 PM_{2.5} NAAQS set forth at 40 CFR 50.13 became effective on December 18, 2006 (71 FR 61144) and promulgated a 24-hour standard of 35 micrograms per cubic meter (µg/m³) based on a 3-year average of the 98th percentile of 24-hour concentration. On

December 14, 2009, (74 FR 58688), EPA made designation determinations, as required by CAA section 107(d)(1), for the 24-hour 2006 PM_{2.5} NAAQS. The Charleston area is designated as nonattainment for the 24-hour 2006 PM_{2.5} NAAQS.

IV. What is EPA's analysis of the relevant air quality data?

EPA has reviewed the ambient air monitoring data, consistent with the requirements contained in 40 CFR part 50 and recorded in EPA's AQS database for the Charleston PM_{2.5} nonattainment area from 2007 through the present time. On the basis of that review, EPA has concluded that this area meets the 24-hour 2006 PM_{2.5} NAAQS based on the 2007–2009 data and data available to date for 2010 in EPA's AQS database.

Under EPA regulations in 40 CFR part 50, section 50.13 and in accordance with Appendix N, the 24-hour primary and secondary PM_{2.5} standards are met when the 98th percentile 24-hour concentration is less than or equal to 35 µg/m³. Table 1 shows the design values for the 2006 24-hour PM_{2.5} NAAQS for the years 2007–2009 and Table 2 shows the preliminary design values for the 2006 24-hour PM_{2.5} NAAQS for the year 2010. EPA's review of the data indicates that the Charleston, West Virginia PM_{2.5} nonattainment area meets the 2006 PM_{2.5} NAAQS.

TABLE 1—2007–2009 DAILY AVERAGE CONCENTRATIONS IN THE CHARLESTON AREA¹

Site name	County	Site No.	Design value (µg/m ³)
Charleston	Kanawha	54–039–0010	29
South Charleston	Kanawha	54–039–1005	32

¹ The publicly available PM_{2.5} AQS data and information is available as part of EPA's AirTrends Site at: <http://www.epa.gov/airtrends/values.html>.

TABLE 2—2010 DAILY AVERAGE CONCENTRATIONS IN THE CHARLESTON AREA

Site name	County	Site No.	Preliminary design value (µg/m ³)
Charleston	Kanawha	54–039–0010	25
South Charleston	Kanawha	54–039–1005	28

V. What's EPA's proposed action?

EPA is proposing to determine that the Charleston nonattainment area has clean data for the 24-hour 2006 PM_{2.5} NAAQS. As provided in 40 CFR 51.1004(c), if EPA finalizes this determination, it will suspend the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other

planning SIPs related to the attainment of the 2006 PM_{2.5} NAAQS, so long as these areas continues to meet the standard. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

VI. What are the statutory and executive order reviews?

Under the CAA, the Administrator is required to approve a SIP submission

that complies with the provisions of the CAA 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 action merely proposes to approve 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 proposed rulemaking that the Charleston, West Virginia PM_{2.5} nonattainment area has clean data for the 24-hour 2006 PM_{2.5} standard 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, Incorporation by reference, Particulate matter, Reporting and recordkeeping.

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

Dated: August 8, 2011.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2011–21224 Filed 8–18–11; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2011–0063; 92220–1113–0000–C5]

Endangered and Threatened Wildlife and Plants; 90-Day Finding on a Petition To Delist the Valley Elderberry Longhorn Beetle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding on a petition to delist the valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*) under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petition presents substantial scientific or commercial information indicating that delisting the valley elderberry longhorn beetle may be warranted. Therefore, with the publication of this notice, we are initiating a status review of the species to determine if delisting is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding the valley elderberry longhorn beetle. Based on this status review, we will issue a 12-month finding on the petition, which will address whether the petitioned action is warranted under section 4(b)(3)(B) of the Act.

DATES: To allow us adequate time to conduct this review, we request that we receive information on or before October 18, 2011. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**, below), the deadline for submitting an electronic comment is Eastern Standard Time on this date.

ADDRESSES: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. In the Keyword box, enter Docket No. FWS–R8–ES–2011–0063, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rules link to locate this document. You may submit a comment by clicking on “Send a Comment or Submission.”

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2011–0063; Division of Policy and Directives

Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all information we receive on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see Request for Information below for more details).

FOR FURTHER INFORMATION CONTACT:

Karen Leye, Listing Coordinator, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Suite W–2605, Sacramento, CA 95825; telephone 916–414–6600;

facsimile 916–414–6712. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Request for Information

When we make a finding that a petition presents substantial information indicating that delisting a species may be warranted, we are required to promptly review the status of the species (status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on the valley elderberry longhorn beetle from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species’ biology, range, and population trends, including:

(a) Habitat requirements for feeding, breeding, and sheltering;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns;

(d) Historical and current population levels, and current and projected trends; and

(e) Past and ongoing conservation measures for the species, its habitat, or both.

(2) The factors that are the basis for making a listing/delisting/downlisting determination for a species under section 4(a) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), which are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.