

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[R04-OAR-2005-KY-0002-200531(a); FRL-8174-1]

#### Approval and Promulgation of Implementation Plans; Kentucky; Redesignation of the Boyd County SO<sub>2</sub> Nonattainment Area

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

**ACTION:** Direct final rule.

**SUMMARY:** On May 13, 2005, and later clarified in a July 12, 2005, supplemental submittal, the Commonwealth of Kentucky submitted a request to redesignate the sulfur dioxide (SO<sub>2</sub>) nonattainment area of Boyd County to attainment of the National Ambient Air Quality Standards (NAAQS) for SO<sub>2</sub>. Boyd County is located within the Huntington-Ashland, West Virginia (WV)-Kentucky (KY)-Ohio (OH) Metropolitan Statistical Area (MSA), and the Boyd County SO<sub>2</sub> nonattainment area is comprised of the southern portion of Boyd County. The Commonwealth also submitted, as revisions to the Kentucky State Implementation Plan (SIP), a maintenance plan for the area and a source-specific SIP revision for the Calgon Carbon Corporation facility in Catlettsburg, Kentucky. EPA is approving the redesignation request for the Boyd County SO<sub>2</sub> nonattainment area and the maintenance plan for this area. The maintenance plan provides for the maintenance of the SO<sub>2</sub> NAAQS in Boyd County for the next ten years. EPA is also approving the source-specific SIP revision for the Calgon Carbon Corporation facility.

**DATES:** This rule is effective on July 24, 2006 without further notice, unless EPA receives adverse written comment by June 23, 2006. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the *Federal Register* and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04-OAR-2005-KY-0002, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.
2. Agency Web site: <http://docket.epa.gov/rmepub/> RME. EPA's electronic public docket and comment system is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key

in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

4. Fax: 404.562.9019.

5. Mail: "R04-OAR-2005-KY-0002," 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.

6. Hand Delivery or Courier. Deliver your comments to: Stacy DiFrank, 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 RME ID No. R04-OAR-2005-KY-0002. 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://docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://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 RME index at <http://docket.epa.gov/rmepub/>. 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 RME 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.

**FOR FURTHER INFORMATION CONTACT:** Stacy DiFrank, (404) 562-9042, or by e-mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

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##### I. What is the Background for the Actions?

On March 3, 1978 (43 FR 8962), EPA designated Boyd County, Kentucky as nonattainment for SO<sub>2</sub> based upon modeling which indicated that both the annual and the 24-hour SO<sub>2</sub> NAAQS were being violated. The 1978 nonattainment designation covered Boyd County in its entirety. On November 2, 1979 (44 FR 63104), following the completion of a monitoring study and at the request of the Commonwealth of Kentucky, EPA redefined the SO<sub>2</sub> nonattainment area to include only the southern portion of Boyd County (e.g., that part of the County lying south of Universal Transverse Mercator (UTM) Northing Line 4251 km). Thus, after 1979, the Boyd County SO<sub>2</sub> nonattainment area has been comprised of only the southern portion of the County. The major sources of SO<sub>2</sub> emissions impacting the Boyd County SO<sub>2</sub> nonattainment area are Calgon Carbon Corporation's carbon reactivation facility in Catlettsburg, Kentucky (Calgon Carbon Corporation's facility) and a petroleum refinery in Catlettsburg operated by Catlettsburg Refining, LLC, a subsidiary of Marathon

Ashland Petroleum LLC (Marathon Ashland's petroleum refinery). On the date of enactment of the 1990 Clean Air Act (CAA or the Act) Amendments, SO<sub>2</sub> areas meeting the conditions of section 107(d) of the Act, including pre-existing SO<sub>2</sub> nonattainment areas, were designated nonattainment for the SO<sub>2</sub> NAAQS by operation of law. As a result, the Boyd County SO<sub>2</sub> nonattainment area remained nonattainment for the SO<sub>2</sub> NAAQS following enactment of the 1990 CAA Amendments on November 15, 1990.

Under the CAA, EPA may redesignate areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) of the Act, including full approval of a maintenance plan for the area. On May 13, 2005, and later clarified in a July 12, 2005, supplemental submittal, Kentucky submitted a request to redesignate the Boyd County SO<sub>2</sub> nonattainment area to attainment status. The request includes modeling and monitoring data that demonstrates attainment of the SO<sub>2</sub> NAAQS. The modeling analysis includes an inventory of SO<sub>2</sub> emissions sources located within fifty kilometers (km) of the nonattainment area. The Commonwealth also submitted a maintenance plan as a SIP revision which provides for maintenance of the SO<sub>2</sub> NAAQS in Boyd County for the next ten years. The maintenance plan includes a list of emissions sources, their emission rates and other stack parameters. In addition, Kentucky submitted a source-specific SIP revision to incorporate specified emissions points and their associated emissions limits (as set out in the Calgon Carbon Corporation facility's 2005 title V operating permit) into the Kentucky SIP.

**II. What Actions is EPA Taking?**

Through this rulemaking, EPA is taking several related actions. EPA is

redesignating the Boyd County SO<sub>2</sub> nonattainment area to attainment status because Kentucky's redesignation request meets the requirements of section 107(d)(3)(E) of the CAA. EPA is also approving Kentucky's SIP revision which provides a maintenance plan for Boyd County (such approval being one of the CAA criteria for redesignation to attainment status) because the plan meets the requirements of CAA section 175A. Finally, EPA is approving the source-specific SIP revision for Calgon Carbon Corporation's facility, which incorporates specified emissions points and their associated emissions limits (as detailed in section III below) into the Kentucky SIP.

**III. What are the Criteria for Redesignation and Approval of the Maintenance Plan?**

Section 107(d)(3)(E) of the CAA, as amended, specifies five requirements that must be met to redesignate an area to attainment. They are as follows:

1. The area must meet the applicable NAAQS;
2. The area must have a fully approved SIP under section 110(k);
3. The area must show improvement in air quality due to permanent and enforceable reductions in emissions;
4. The area must meet all applicable requirements under section 110 and part D of the Act; and
5. The area must have a fully approved maintenance plan pursuant to section 175A.

EPA has reviewed the redesignation request submitted by the Commonwealth for the Boyd County SO<sub>2</sub> nonattainment area and finds that the request meets the five requirements of section 107(d)(3)(E).

*1. The Data Shows Attainment of the NAAQS for SO<sub>2</sub> in the Boyd County Nonattainment Area*

Boyd County's 1979 nonattainment designation was based upon monitored

values recorded in the area in the mid 1970s. No ambient air quality violations of the SO<sub>2</sub> NAAQS have occurred in recent years due to the implementation of permanent and enforceable measures to reduce ambient SO<sub>2</sub> levels. In particular, since the time of the nonattainment designation, reductions in SO<sub>2</sub> emissions have occurred at the Marathon Ashland petroleum refinery and at the Calgon Carbon Corporation facility—both located in Catlettsburg, Boyd County, Kentucky.

There is currently one monitor operating within the Boyd County SO<sub>2</sub> nonattainment area and the redesignation request for the area is based upon the most recent five years of air quality data (2001–2005) from that monitor. See Table 1 below. The data was collected and quality assured in accordance with 40 CFR part 58, and entered into the Air Quality Subsystem (AQS) of the Aerometric Information Retrieval System (AIRS). The primary SO<sub>2</sub> NAAQS consists of an annual mean of 0.030 parts per million (ppm), not to be exceeded in a calendar year, and a 24-hour average of 0.14 ppm, not to be exceeded more than once per calendar year. The secondary SO<sub>2</sub> NAAQS is a 3-hour average of 0.5 ppm, not to be exceeded more than once per calendar year. The data indicate that the County's ambient air quality attains the annual and 24-hour primary SO<sub>2</sub> standards, as well as the 3-hour SO<sub>2</sub> secondary standard. Kentucky's May 2005 submittal also includes a table in Appendix C, summarizing the monitoring data that has been collected in Boyd County since 1975. The Commonwealth's submittal is included and available for review in both the hard copy and E-Docket for this rulemaking.

TABLE 1.—SO<sub>2</sub> DATA FOR BOYD COUNTY AMBIENT MONITORS

Monitor ID	Year	2nd max 24-hr (ppm)	#OBS >0.14 ppm (365 µg/m <sup>3</sup> )	2nd max 3-hr ppm	#OBS >0.5 ppm (1300 µg/m <sup>3</sup> )	Annual (ppm)	#OBS >0.03 ppm (80 µg/m <sup>3</sup> )
21-019-0017 .....	2001	.013	0	.038	0	.0045	0
	2002	.020	0	.041	0	.0039	0
	2003	.023	0	.063	0	.0038	0
	2004	.018	0	.061	0	.0041	0
	2005	.023	0	.048	0	.0060	0

For SO<sub>2</sub>, monitoring data alone is generally insufficient to assess an area's attainment status. EPA's guidance memorandum addressing redesignation requests states that for SO<sub>2</sub> and

specified other pollutants, "dispersion modeling will generally be necessary to evaluate comprehensively sources' impacts." See "Procedures for Processing Requests to Redesignate

Areas to Attainment," Memorandum from John Calcagni, Director Air Quality Management Division, to EPA Regional Air Directors, dated September 4, 1992. Typically, attainment planning for SO<sub>2</sub>

involves dispersion modeling used to demonstrate that the emission limits adopted by the state are sufficient to assure attainment. With such modeling, EPA can generally determine an area to be attaining the standard without further modeling, provided monitoring data also support that determination.

An inventory of significant SO<sub>2</sub> emissions sources located within fifty km of the Boyd County SO<sub>2</sub> nonattainment area is contained in the May 2005 maintenance plan submitted by Kentucky. The SO<sub>2</sub> emissions from these sources were used in a modeling demonstration to show maintenance of the SO<sub>2</sub> NAAQS for at least ten years.

A summary of the modeling demonstration is presented below. The complete details of the emissions inventory are contained in Appendix F of Kentucky's 2005 submittal.

Maximum allowable permitted emissions limits were used for the Boyd County modeling demonstration. Using the maximum allowable emissions limits (that are not expected to change) results in a current and a future projected inventory which are the same. These emissions limits are established in operating conditions contained in federally enforceable permits. In addition, certain source-specific emissions limits (discussed below) for the Calgon Carbon Corporation facility are being incorporated, through this rulemaking, into the Kentucky SIP. Any future increases in emissions and/or significant changes to the stack configuration parameters from those that were modeled would be subject to the Kentucky SIP's minor source New

Source Review (NSR) and/or Prevention of Deterioration (PSD) requirements, which include demonstrating that the SO<sub>2</sub> NAAQS and applicable PSD increments are protected.

The Commonwealth's air dispersion modeling was developed according to EPA guidance at Appendix W of 40 CFR part 51: Guideline on Air Quality Models (i.e. Modeling Guideline). The American Meteorological Society (AMS)/United States Environmental Protection Agency (EPA) Regulatory Model Improvement Committee (AERMIC) Model (AERMOD) was used in the demonstration. The modeling system consists of 3 components: AERMOD (the air dispersion model), the AERMOD meteorological preprocessor (AERMET), and the AERMOD mapping program for processing terrain and generating receptor elevations (AERMAP). The AERMOD modeling system can be found on the Support Center for Regulatory Models (SCRAM) Internet site, i.e. <http://www.epa.gov/ttn/scram/>. During the development of the redesignation modeling and at the time of the submittal of the SIP and its supplement, AERMOD was not an EPA regulatory model but was proposed to be included as a preferred EPA model in the April 20, 2000 **Federal Register** (65 FR 21506). The Kentucky Division for Air Quality (KDAQ) requested approval for use of the AERMOD model in a letter dated October 20, 2003, and EPA approved the request in a letter to the Commonwealth dated November 12, 2003. AERMOD was promulgated as a regulatory air dispersion model in the

November 9, 2005 **Federal Register** (70 FR 68218).

Meteorological data used in this modeling demonstration consists of: (1) Surface level data collected on-site at the Cooper School tower near Catlettsburg, Kentucky, which is within the nonattainment area and which has been supplemented with data from the Huntington/Tri-State Airport National Weather Service (NWS) station as needed; and (2) upper-air data from the Huntington/Tri-State Airport NWS station. These meteorological data were prepared for use with AERMOD using the AERMET preprocessor. As indicated in the emissions inventory discussion above, significant SO<sub>2</sub> emissions sources located within fifty km of the nonattainment area were used in the modeling demonstration. Maximum allowable and/or permitted SO<sub>2</sub> emissions rates were used as inputs to the model for each source specifically modeled.

Compliance with the three averaging periods for the SO<sub>2</sub> NAAQS (i.e., 3-hour, 24-hour and annual) was indicated in the modeling demonstration. The model-predicted concentration, when added to the background ambient air quality monitored concentrations, were less than the three averaging periods. These modeling results for the three averaging periods for the SO<sub>2</sub> NAAQS are presented in Table 2 below. A more detailed discussion of the modeling demonstration is included in the Kentucky SIP submittal, including the complete details of all the modeling inputs and results.

TABLE 2.—SUMMARY OF SO<sub>2</sub> MODELING RESULTS FOR BOYD COUNTY, KENTUCKY NONATTAINMENT AREA  
[Micrograms per cubic meter]

Averaging period	Maximum modeled concentration	Background concentration	Total	EPA NAAQS	Percent of NAAQS standard (percent)
3-hour .....	1060.18	103.4	1163.58	1300	89.5
24-hour .....	306.66	43.2	349.86	365	95.9
Annual .....	66.1	11.0	77.1	80	96.4

EPA's review of both the monitoring and modeling data indicates that attainment of the SO<sub>2</sub> NAAQS has been demonstrated for the Boyd County SO<sub>2</sub> nonattainment area.

2. *The Area Has a Fully Approved SIP Under Section 110(k) of the CAA*

EPA has fully approved, under section 110(k) of the Act, the applicable Kentucky SIP for the Boyd County SO<sub>2</sub> nonattainment area. Following passage of the CAA of 1970, Kentucky has

adopted and submitted, and EPA has fully approved at various times, provisions addressing the general SIP requirements set out in CAA section 110 for all areas, including Boyd County. The historical record of EPA's approval of Kentucky's SIP can be found at 40 CFR 52.920. In addition, EPA is approving through this rulemaking, the Commonwealth's attainment demonstration, maintenance plan, and source-specific SIP revision related directly to the Boyd County SO<sub>2</sub>

nonattainment area. EPA may rely on prior SIP approvals in approving a redesignation request, see Calcagni Memo, p. 3 *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998), *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. See also 68 FR 25426 (May 12, 2003) and citations therein.

**3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions**

EPA has determined that the improvement in air quality in the Boyd County SO<sub>2</sub> nonattainment area is due to permanent and enforceable emission reductions. Emissions inventories contained in the attainment demonstration represent emissions limitations that are federally enforceable because they are either SIP requirements or permit limitations. For example, the primary sources of SO<sub>2</sub> emissions in the Boyd County SO<sub>2</sub> nonattainment area, Marathon Ashland's petroleum refinery and Calgon Carbon Corporation's facility, are subject to SO<sub>2</sub> limitations in permits that have resulted in significant SO<sub>2</sub> reductions that are permanent and enforceable.

Marathon Ashland's petroleum refinery reduced SO<sub>2</sub> emissions by 24 percent in 1993 and these reductions were used in the modeled attainment demonstration submitted by the

Commonwealth in conjunction with its redesignation request. In addition, the petroleum refinery is subject to a 2001 Federal consent decree requiring implementation of certain environmental measures, along with emissions limitations and monitoring requirements which result, among other things, in further SO<sub>2</sub> emissions reductions from the refinery. The consent decree requires that these further measures, limitations, and monitoring requirements be incorporated into an appropriate Federally enforceable permit and, pursuant to this requirement, the Commonwealth issued a synthetic minor permit to Marathon Ashland for the petroleum refinery in Catlettsburg on March 29, 2002. The synthetic minor permit incorporates the consent decree's emissions limitations and other specified standards and measures for a number of pollutants, including SO<sub>2</sub>, making them permanent and enforceable.

Calgon Carbon Corporation's facility in Catlettsburg is also subject to SO<sub>2</sub> emissions limitations and other reporting and recordkeeping requirements that are permanent and enforceable. Those limitations and requirements are contained in the facility's CAA title V operating permit issued on August 21, 2000, and revised on March 1, 2004, and result in a total SO<sub>2</sub> emissions decrease at the facility of 1,439.67 tons per year (tpy). In addition to the facility's title V permit, specified SO<sub>2</sub> emissions points and their corresponding SO<sub>2</sub> emissions limits which are contained in the Calgon Carbon Corporation title V permit are being, through this rulemaking, incorporated into the Kentucky SIP as a source-specific SIP revision. The specific SO<sub>2</sub> emissions points and associated SO<sub>2</sub> emissions limits which are being incorporated into the SIP are described in Table 3 below.

**TABLE 3.—SO<sub>2</sub> EMISSION AND OPERATING CAPS DESCRIPTION FOR CALGON CARBON CORPORATION**  
[Catlettsburg, Kentucky]

AERMOD emission point	Calgon emission point	Affected facility	Title V permit (V-00-015 R2) SO <sub>2</sub> limitation
57 .....	12	B-Line Baker Heater .....	0.0853 lb/mmBTU.
58 .....	14	B-Line Activator .....	2.88 lb/hr 12.6 tons/12 month period.
59 .....	21	C-Line Activators .....	7.72 lb/hr 33.8 tons/12 month period.
62 .....	31	D-Line Bakers .....	15.0 lb/hr 65.7 tons/12 month period.
63 .....	34	D-Line Activators .....	15 lb/hr 65.7 tons/12 month period.
64 .....	32	D-Line Baker Heater .....	0.0853 lb/mmBTU.
65 .....	40	E-Line Baker Heater .....	0.477 lb/mmBTU.
66 .....	39	E-Line Bakers .....	15.0 lb/hr 65.7 tons/12 month period.
67 .....	42	E-Line Activators .....	7.5 lb/hr 32.85 tons/12 months each.
69 .....	64	Package Boiler .....	1.166 lb/mmBTU.

The SO<sub>2</sub> emissions reductions and emissions limitations resulting from the permits and SIP revisions described above for these existing sources support EPA's determination that the improvement in air quality in the Boyd County SO<sub>2</sub> nonattainment area is due to permanent and enforceable emission reductions. If a new source is constructed or an existing source modified after EPA redesignates the area to attainment, the air quality analyses required under Kentucky's SIP-approved PSD program will ensure that such sources are permitted with emissions limits at or below those needed to assure attainment and maintenance of the SO<sub>2</sub> NAAQS and to protect all applicable PSD increments.

**4. The Commonwealth Has Met All Applicable Requirements for the Area Under Section 110 and Part D of the CAA**

Section 110(a)(2) of the Act contains the general requirements for nonattainment plans (enforceable emission limits, ambient monitoring, permitting of new sources, adequate funding, etc.). Over the years, EPA has approved Kentucky's SIP as meeting the basic requirements of CAA section 110(a)(2). See 40 CFR 52.920. In addition, through this rulemaking, EPA is approving the attainment demonstration and maintenance plan for the Boyd County SO<sub>2</sub> nonattainment area and the source-specific SIP revision for Calgon Carbon Corporation's facility (which incorporates specified SO<sub>2</sub> emissions points and their corresponding SO<sub>2</sub> emissions limits into the Kentucky SIP). Thus, the

Commonwealth has met all applicable requirements for the area under CAA section 110(a)(2).

For redesignation, the Boyd County SO<sub>2</sub> nonattainment area must also meet all applicable requirements under part D of title I of the Act. Part D contains the general provisions applicable to SIPs for nonattainment areas. The planning requirements for SO<sub>2</sub> nonattainment areas are set out in subparts 1 (CAA sections 171-179B) and 5 (CAA sections 191-192) of part D of the Act. EPA issued guidance in the General Preamble to title I of the CAA which describes our views on how we will review SIPs and SIP revisions submitted under title I, including those containing SO<sub>2</sub> nonattainment and maintenance area SIP provisions. See 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992). The General Preamble also discusses EPA's interpretation of the

title I requirements and lists SO<sub>2</sub> policy and guidance documents.

CAA sections 191 and 192 of subpart 5 address requirements for SO<sub>2</sub> nonattainment areas designated subsequent to enactment of the 1990 CAA Amendments and areas lacking fully approved SIPs immediately before enactment of the 1990 CAA Amendments. The Boyd County SO<sub>2</sub> nonattainment area falls into neither of these categories and is therefore subject to the general nonattainment planning requirements of subpart 1 (CAA sections 171–179B). In particular, CAA section 172 provides, among other requirements, that SIPs must assure that reasonably available control measures (RACM) (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology (RACT)) shall be implemented as expeditiously as practicable and shall provide for attainment. As noted above, EPA is approving, through this rulemaking, the Commonwealth's attainment demonstration (including the emissions inventory and enforceable emissions limitations), maintenance plan, and source-specific SIP revision related directly to the Boyd County SO<sub>2</sub> nonattainment area. The emissions inventory and enforceable emissions reductions demonstrated in the Commonwealth's May 2005 submittal, along with the Commonwealth's maintenance plan and source-specific SIP revision for Calgon Carbon Corporation's facility, satisfy subpart 1's nonattainment planning requirements and provide for attainment of the area.

#### *5. The Area Has a Fully Approved Maintenance Plan Under Section 175A of the CAA*

Section 175A of the CAA sets forth the necessary elements of a maintenance plan needed for areas seeking redesignation from nonattainment to attainment. The maintenance plan is required to be approved as a SIP revision under section 110 of the CAA. Under section 175A(a) of the CAA, the maintenance plan must show that the NAAQS will be maintained for at least ten years after EPA approves a redesignation to attainment. The maintenance plan must also include contingency measures to address any violation of the NAAQS.

In conjunction with its request to redesignate the Boyd County SO<sub>2</sub> nonattainment area to attainment status, Kentucky submitted a SIP revision to provide for the maintenance of the NAAQS in Boyd County for at least ten years after the effective date of

redesignation to attainment. The maintenance plan and associated contingency measures are being approved in the SIP with this rulemaking because it satisfies the requirements of CAA section 175A. The emissions inventory and maintenance demonstration elements of this maintenance plan are discussed above. The remaining major elements of the plan are described below.

#### Continuation of the Monitoring Network

Kentucky has indicated in the submitted maintenance plan that it will continue to monitor SO<sub>2</sub> in the Boyd County area in accordance with 40 CFR parts 53 and 58 to verify continued attainment of the SO<sub>2</sub> NAAQS. The data will continue to be entered into the Air Quality Subsystem of the Aerometric Information Retrieval System.

#### Verification of Continued Attainment

Kentucky has committed in the maintenance plan to review the monitored data annually, and to review the local monitored meteorological data. KDAQ will also assess compliance of local targeted facilities to verify continued attainment of the area and will review and update the annual emissions inventory for the Boyd County area at a minimum of once every three years.

#### Contingency Plan

Kentucky has indicated in its submitted maintenance plan that it will rely on ambient air monitoring data in the Boyd County area to track compliance with the SO<sub>2</sub> NAAQS and to determine the need to implement contingency measures. In the event that an exceedance of the SO<sub>2</sub> NAAQS occurs, KDAQ will expeditiously investigate and determine the source(s) that caused the exceedance and/or violation, and enforce any SIP or permit limit that is violated. In the event that all sources are found to be in compliance with applicable SIP and permit emission limits, KDAQ will perform the necessary analysis to determine the cause(s) of the exceedance, and determine what additional control measures are necessary to impose on the area's stationary sources to continue to maintain attainment of the SO<sub>2</sub> NAAQS. KDAQ will inform any affected stationary source(s) of SO<sub>2</sub> of the potential need for additional control measures. If there is a violation of the SO<sub>2</sub> NAAQS, it will notify the stationary source(s) that the potential exists for a NAAQS violation. Within six months, the source(s) must submit a detailed plan of action specifying additional

control measures to be implemented no later than 18 months after the notification. The additional control measures will be submitted to EPA for approval and incorporation into the SIP.

#### IV. Final Actions

EPA is approving the Commonwealth of Kentucky's request to redesignate the Boyd County SO<sub>2</sub> nonattainment area to attainment because the redesignation request meets the requirements of section 107(d)(3)(E) of the CAA. In addition, EPA is approving Kentucky's maintenance plan for Boyd County as a SIP revision because the plan meets the requirements of section 175A. Finally, EPA approving the Commonwealth's source-specific SIP revision for Calgon Carbon Corporation's Catlettsburg facility as detailed in Section III above.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comment. However, in the "Proposed Rules" section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve these SIP revisions if adverse comments are filed. This rule will be effective on July 24, 2006 without further notice unless EPA receives adverse comment by June 23, 2006. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly,

the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk

that may disproportionately affect children.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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 rule 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 July 24, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

*40 CFR Part 81*

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: May 12, 2006.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart S—Kentucky**

■ 2. Section 52.920 is amended:

■ (a) In paragraph (d) by adding a new entry at the end of the table for "Calgon Carbon Corporation," and

■ (b) In paragraph (e) by adding a new entry at the end of the table for "Ashland-Huntington Maintenance Plan," to read as follows:

**§ 52.920 Identification of plan.**

\* \* \* \* \*

(d) \* \* \*

**EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS**

Name of source	Permit No.	State effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Calgon Carbon Corporation .....	V-00-015 .....	05/13/05	05/24/06 [Insert first page number of publication].	The only parts of the permit being approved and incorporated are the SO <sub>2</sub> emission limits from the following emissions points: 12, 14, 21, 31, 34, 32, 40, 39, 42, and 64.

(e) \* \* \*

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
Kentucky portion of the Ashland-Huntington Sulfur Dioxide Maintenance Plan.	Boyd County .....	05/13/05	05/24/06 [Insert first page number of publication].	

**PART 81—[AMENDED]**

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.318, the table entitled “Kentucky SO<sub>2</sub>” is amended by revising the entry for “That portion of Boyd

County south of UTM northing line 4251 km” to read as follows:

**§ 81.318 Kentucky.**

\* \* \* \* \*

KENTUCKY—SO<sub>2</sub>

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
That portion of Boyd County south of UTM northing line 4251km.				X

\* \* \* \* \*  
[FR Doc. 06-4820 Filed 5-23-06; 8:45 am]  
BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 63**

[EPA-HQ-OAR-2004-0441; FRL-8174-5]

RIN 2060-AI66

**National Emission Standards for the Printing and Publishing Industry**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action on amendments to the national emission standards for hazardous air pollutants (NESHAP) for the printing and publishing industry which were promulgated on May 30, 1996, under the authority of section 112 of the Clean Air Act (CAA). The direct final rule amendments amend specific provisions in the Printing and Publishing Industry NESHAP to resolve issues and questions raised after promulgation of the final rule and to correct errors in the regulatory text. This action also makes direct final rule amendments to the

Paper and Other Web Coating NESHAP and the Printing, Coating, and Dyeing of Fabric and Other Textiles NESHAP to clarify the interaction between these rules and the Printing and Publishing Industry NESHAP.

**DATES:** The direct final rule is effective on August 22, 2006 without further notice, unless EPA receives adverse written comment by June 23, 2006 or by July 10, 2006 if a public hearing is requested by June 5, 2006. If adverse comments are received, EPA will publish a timely withdrawal in the **Federal Register** indicating which amendments, sections or paragraphs will become effective and which are being withdrawn due to adverse comment. If anyone contacts EPA requesting to speak at a public hearing, a public hearing will be held on June 8, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2004-0441. All documents in the docket are listed in the [www.regulations.gov](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 in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air and Radiation Docket, EPA West Building, Room B-102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air and Radiation Docket is (202) 566-1742.

**Public Hearing.** If a public hearing is held, it will be held at 10 a.m. at the EPA’s Environmental Research Center Auditorium, Research Triangle Park, NC, or at an alternate site nearby.

**FOR FURTHER INFORMATION CONTACT:** For further information contact Mr. David Salman, EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Coatings and Chemicals Group (D205-01), Research Triangle Park, NC 27711; telephone number (919) 541-0859; fax number (919) 541-0246; e-mail address: [salman.dave@epa.gov](mailto:salman.dave@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**Regulated Entities.** Categories and entities potentially regulated by this action include: