

NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this proposed action does not involve approving maintenance plans for the area as required under section 175A of the CAA, nor would it find that the area has met all other requirements for redesignation. Even if EPA finalizes the proposed action, the designation status of the Louisville area would remain nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment and takes action to redesignate the area.

This action is only a proposed determination that the Louisville area has attained the 1997 annual PM<sub>2.5</sub> NAAQS. Today's action does not address the 24-hour PM<sub>2.5</sub> NAAQS.

If the Louisville area continues to monitor attainment of the annual PM<sub>2.5</sub> NAAQS, the requirements for the Louisville area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the annual PM<sub>2.5</sub> NAAQS will remain suspended.

#### V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 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 proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements. 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 proposes to make a determination based on air quality data, and would, if finalized, result in the suspension of certain Federal requirements, 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 proposed rule also does not have tribal applications 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 proposed 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), because it merely proposes to make a determination based on air quality data and would, if finalized, result in the suspension of certain Federal requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks" (62 FR 19885, April 23, 1997) because it proposes to determine that air quality in the affected area is meeting Federal standards.

The requirements of 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply because it would be inconsistent with applicable law for EPA, when determining the attainment status of an area, to use voluntary consensus standards in place of promulgated air quality standards and monitoring procedures to otherwise satisfy the provisions of the CAA. This proposed rule does not impose an information collection burden under the provisions of the Paper Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Under Executive Order 12898, EPA finds that this rule, pertaining to the determination of attainment of the fine particle standard for the bi-state Louisville (Indiana and Kentucky) area, involves proposed determinations of attainment based on air quality data and will not have disproportionately high and adverse human health or environmental effects on any communities in the area, including minority and low-income communities.

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 9, 2010.

**Susan Hedman,**

*Regional Administrator, Region 5.*

Dated: August 27, 2010.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 799

[EPA-HQ-OPPT-2009-0555; FRL-8428-8]

RIN 2070-AB79 and RIN 2070-AC76

### Withdrawal of Proposed Rules; Discontinuing Rulemaking Efforts Listed in the Unified Agenda of Federal Regulatory and Deregulatory Actions

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

**ACTION:** Proposed rules; withdrawals.

**SUMMARY:** EPA is withdrawing two proposed rules for which the Agency no longer intends to issue a final rule. This document identifies the proposed rules and explains the Agency's decision not to pursue a final rulemaking at this time. This withdrawal of these proposed rules does not preclude the Agency from initiating the same or similar rulemaking at a future date. It does, however, close out the entry for these proposed rules in the EPA Semi-Annual Regulatory Agenda, published as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). Should the Agency decide at some future date to initiate the same or similar rulemaking, it will add an appropriate new entry to the EPA Semi-Annual Regulatory Agenda to reflect the initiation of the action.

**ADDRESSES:** EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPPT-2009-0555. All documents in the docket are listed in the docket index available at <http://www.regulations.gov>. Although listed in the docket index, some information is not publicly available, e.g., 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 in the electronic docket at <http://www.regulations.gov>, or, if only available in hard copy, at the OPPT Docket. The OPPT Docket is located in the EPA Docket Center (EPA/DC) at Rm. 3334, EPA West Bldg., 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room hours of operation are 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number of the EPA/DC Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Docket visitors are required

to show photographic identification, pass through a metal detector, and sign the EPA visitor log. All visitor bags are processed through an X-ray machine and subject to search. Visitors will be provided an EPA/DC badge that must be visible at all times in the building and returned upon departure.

**FOR FURTHER INFORMATION CONTACT:** For technical information contact: Robert Jones, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (202) 564-8161; e-mail address: [jones.robert@epa.gov](mailto:jones.robert@epa.gov).

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; e-mail address: [TSCA-Hotline@epa.gov](mailto:TSCA-Hotline@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Does this Action Apply to Me?

This action is directed to the public in general, and may be of particular interest to those persons who follow proposed rules issued under the Toxic Substances Control Act (TSCA). Since others may also be interested, the Agency has not attempted to describe all the specific entities potentially interested.

##### II. Why is EPA Issuing this Withdrawal Document?

This document serves two purposes:

1. It announces to the public that EPA is withdrawing certain proposed rules for which the Agency no longer intends to issue a final rule.
2. It officially terminates the ongoing rulemaking activities, which allows the Agency to close out the individual rulemaking entries for these actions that appear in the Agency's Semi-Annual Regulatory Agenda.

All agencies publish Semi-Annual Regulatory Agendas describing regulatory actions they are developing or have recently completed. These Semi-Annual Regulatory Agendas are published in the **Federal Register**, usually during the spring and fall of each year, as part of the Unified Agenda. The Agency publishes the EPA Semi-Annual Regulatory Agenda to update the public about: Regulations and major policies currently under development, reviews of existing regulations and major policies, and rules and major policies completed or canceled since the last Semi-Annual Regulatory Agenda. (See <http://www.epa.gov/lawsregs/search/regagenda.html>.)

We believe our actions will be more cost-effective and protective if our

development process includes stakeholders working with us to identify the most practical and effective solutions to problems and we stress this point most strongly in all of our training programs for rule and policy developers. The Semi-Annual Regulatory Agenda is often used as a tool to solicit interest and participation from stakeholders. As such, EPA believes that the public is best served by a Semi-Annual Regulatory Agenda that reflects active rulemaking efforts. The withdrawal of these inactive rulemaking efforts will streamline the Semi-Annual Regulatory Agenda and allow the public to better identify and focus on those rulemaking activities that are active.

For the individual reasons described in this document, the Agency has decided not to complete these actions at this time. By withdrawing the proposed rules, the Agency is eliminating the pending nature of that regulatory action. Should the Agency determine to pursue anything in these areas in the future, it will issue a new proposed rule and create a new entry in the Agency's Semi-Annual Regulatory Agenda.

##### III. Which Rulemakings are Being Withdrawn?

The following two proposed rules are being withdrawn. The titles match that used in the Semi-Annual Regulatory Agenda, and the "RIN" refers to the regulatory identifier number assigned to the rulemaking effort in the Semi-Annual Regulatory Agenda.

###### A. The Proposed Test Rule for Certain Chemicals on the ATSDR/EPA CERCLA Priority List of Hazardous Substances (RIN 2070-AB79)

1. *What was proposed?* In the **Federal Register** issue of October 20, 2006 (71 FR 61926) (FRL-8081-3), EPA published the "Proposed Test Rule for Certain Chemicals on the ATSDR/EPA CERCLA Priority List of Hazardous Substances" for the consideration of testing for four chemicals (chloroethane, hydrogen cyanide, methylene chloride, and sodium cyanide). The chemicals are listed on the Agency for Toxic Substances and Disease Registry (ATSDR)/EPA priority list of hazardous substances which is compiled under the Comprehensive Environmental Response Compensation and Liability Act (CERCLA).

2. *Why is it being withdrawn?* In the proposal for this test rule, EPA explained that the reason EPA proposed to use its authority under section 4 of TSCA was to support ATSDR's Substance Specific Applied Research Program, a program for collecting data and other information needed for

developing health assessments pursuant to CERCLA, 42 U.S.C. 9601 *et seq.* ATSDR had referred the chemicals subject to the proposed rule to EPA under authority of section 104(i) of CERCLA, 42 U.S.C. 9604(i). Since then, ATSDR has informed EPA that it no longer needs EPA to finalize this proposed rule. Therefore, OPPT is withdrawing this proposed test rule and removing it from the EPA Semi-Annual Regulatory Agenda.

3. *Where can I get more information about this action?* EPA established a docket for this action under docket ID number EPA-HQ-OPPT-2002-0073, which is available at [regulations.gov](http://regulations.gov). See **ADDRESSES** for more detailed information about this docket.

###### B. The Proposed Test Rule for Hazardous Air Pollutants (RIN 2070-AC76)

1. *What was proposed?* In the **Federal Register** issue of June 26, 1996 (61 FR 33177) (FRL-4869-1), EPA published the "Proposed Test Rule for Hazardous Air Pollutants" (HAPs). This document proposed using EPA's authority under section 4 of TSCA for testing 21 chemicals that are listed as hazardous air pollutants under section 112 of the Clean Air Act (CAA) and solicited proposals for enforceable consent agreements.

2. *Why is it being withdrawn?* EPA's Office of Air and Radiation (OAR), along with EPA's Office of Research and Development (ORD), referred the chemicals subject to this proposed rule to OPPT for obtaining certain health effects data to assess the risk remaining after the imposition of technology-based emissions standards required by CAA section 112(d), 42 U.S.C. 7412(d). OPPT explained that the reason it proposed to use EPA's authority under section 4 of TSCA was to support OAR and ORD in meeting EPA's statutory obligation under CAA section 112(f), 42 U.S.C. 7412(f). After the proposal was issued in 1996, OAR and ORD informed OPPT that they no longer support the need for a final rule. Additionally, OPPT has determined that the record does not address scientific information developed since the original proposal was issued in 1996. Therefore OPPT is withdrawing this proposed test rule and removing it from the EPA Semi-Annual Regulatory Agenda.

3. *Where can I get more information about this action?* EPA established a docket for this action under docket control number OPPTS-42187, which is available at [regulations.gov](http://regulations.gov). See **ADDRESSES** for more detailed information about this docket.

**List of Subjects in 40 CFR Part 799**

Environmental protection, Chemicals, Hazardous substances, Health, Reporting and recordkeeping requirements.

Dated: September 8, 2010.

**Stephen A. Owens,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17**

[Docket No. FWS-R3-ES-2010-0062; 92220-1113-0000-C6]

**Endangered and Threatened Wildlife and Plants; 90-Day Finding on Petitions To Delist the Gray Wolf in Minnesota, Wisconsin, Michigan, and the Western Great Lakes**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of petition finding and initiation of status review.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce a 90-day finding on petitions to remove (delist) the gray wolf in the western Great Lakes from the List of Endangered and Threatened Wildlife (List) established under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that removing the gray wolf in Minnesota, Wisconsin, and Michigan from the List may be warranted. Therefore, with the publication of this notice, we are initiating a review of the status of the species to determine if delisting in Minnesota, Wisconsin, and Michigan is warranted. To ensure that this status review is comprehensive, we are requesting scientific and commercial data and other information regarding the gray wolf in Minnesota, Wisconsin, and Michigan. Based on the status review, we will issue a 12-month finding on the petitions, which will address whether any of the petitioned actions are warranted, as provided in 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 November 15, 2010. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** section, below),

the deadline for submitting an electronic comment is 12:00 Midnight, Eastern Standard Time on this date.

**ADDRESSES:** You may submit information by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. In the box that reads "Enter Keyword or ID," enter the Docket number for this finding, which is [FWS-R3-ES-2010-0062]. Check the box that reads "Open for Comment/ Submission," and then click the Search button. You should then see an icon that reads "Submit a Comment." Please ensure that you have found the correct rulemaking before submitting your comment.

- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-R3-ES-2010-0062, Division of Policy and Directives Management, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Suite 222, Arlington, VA 22203. 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 the **Request for Information** section below for more details).

After the date specified in **DATES**, you must submit information directly to the Regional Office (see **FOR FURTHER INFORMATION CONTACT** section below). Please note that we might not be able to address or incorporate information that we receive after the above requested date.

**FOR FURTHER INFORMATION CONTACT:**

Laura Ragan, Endangered Species Listing Coordinator, Midwest Regional Office, U.S. Fish and Wildlife Service, 1 Federal Drive, Fort Snelling, Minnesota, 55111, by telephone (612-713-5350), or by facsimile (612-713-5292). If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:****Request for Information**

When we make a finding that a petition to remove (delist) a species from the List of Endangered and Threatened Wildlife presents substantial information that the petitioned action may be warranted, we are required to promptly commence a review of 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 gray wolf in Minnesota, Wisconsin, and Michigan 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 delisting 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.
- (3) Current or planned activities in the western Great Lakes region and their possible impacts on the wolf and its habitat;
- (4) Information concerning the adequacy of the recovery criteria described in the 1992 Recovery Plan for the Eastern Timber Wolf;
- (5) The extent and adequacy of Federal, State, and tribal protection and management that would be provided to the wolf in the western Great Lakes region as a delisted species;
- (6) Whether gray wolves in Minnesota alone; or in Minnesota and Wisconsin combined; or in Minnesota, Wisconsin, and Michigan combined constitute distinct population segments or entities that which may be removed from the List of Endangered and Threatened Wildlife under the Act; and
- (7) Information or data regarding the taxonomy of wolves in the western Great Lakes region.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or