

taxpayers will focus on such factors as whether IRS personnel devoted an appropriate amount of time to a matter, properly analyzed the issues presented, developed the facts regarding those issues, correctly applied the law to the facts, and complied with statutory, regulatory and IRS procedures, including timeliness, adequacy of notifications and required contacts with taxpayers.

(2) *Toll-free telephone sites.* The quality review of telephone services will focus on such factors as whether IRS personnel provided accurate tax law and account information.

(3) *Other workunits.* The quality review of other workunits will be determined according to criteria prescribed by the Commissioner or his delegate.

(c) *Quantity measures.* The quantity measures will consist of outcome-neutral production and resource data, such as the number of cases closed, work items completed, hours expended and similar inventory, workload and staffing information, that does not contain information regarding the tax enforcement result reached in any case involving particular taxpayers.

(d) *Definitions—(1) Tax enforcement result.* A tax enforcement result is the outcome produced by an IRS employee's exercise of judgment recommending or determining whether or how the IRS should pursue enforcement of the tax law with respect to any assessed or unassessed tax.

(i) *Examples of data containing information regarding tax enforcement results.* The following are examples of data containing information regarding tax enforcement results: number of liens filed; number of levies served; number of seizures executed; dollars assessed; dollars collected; full pay rate; no change rate; and number of fraud referrals.

(ii) *Examples of data that do not contain information regarding tax enforcement results.* The following are examples of data that do not contain information regarding tax enforcement results: number of cases closed; time per case; direct examination time/out of office time; cycle time; number or percentage of overage cases; inventory information; toll-free level of access; talk time; and data derived from a quality review or from a review of an employee's or a workunit's work on a case, such as the number or percentage of cases in which correct examination adjustments were proposed or appropriate lien determinations were made.

(iii) *Records of tax enforcement results.* Records of tax enforcement

results are data, statistics, compilations of information or other numerical or quantitative recordings of the tax enforcement results reached in one or more cases, but does not include information, including the tax enforcement result, regarding an individual case to the extent the information is derived from a review of an employee's or a workunit's work on individual cases.

(e) *Permitted uses of records of tax enforcement results.* Records of tax enforcement results may be used for purposes such as forecasting, financial planning, resource management, and the formulation of case selection criteria.

(f) *Examples.* The following examples illustrate the rules of this section:

*Example 1.* In conducting a performance evaluation, a supervisor may take into consideration information showing that the employee had failed to propose an appropriate adjustment to tax liability in one of the cases the employee examined, provided that information is derived from a review of the work done on the case. All information derived from such a review of individual cases handled by an employee, including time expended, issues raised, and enforcement outcomes reached may be considered in setting goals or evaluating the employee.

*Example 2.* A supervisor may not establish a goal for proposed adjustments in a future examination, even though the goal was derived from analyses of previously-handled cases, because such enforcement goals are not based upon an analysis of the newly-assigned case.

*Example 3.* A headquarters unit may use records of tax enforcement results to develop methodologies and algorithms for use in selecting tax returns to audit.

**Charles O. Rossotti,**

*Commissioner of Internal Revenue.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[LA40-1-7338b; FRL-6207-9]

#### Approval and Promulgation of Implementation Plan Louisiana; Nonattainment Major Stationary Source Revision

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

**ACTION:** Proposed rule.

**SUMMARY:** In this action, EPA is proposing to approve a revision to the Louisiana State Implementation Plan (SIP), Title 33 of the Louisiana Administrative Code Chapter 5 Section

504, "Nonattainment New Source Review Procedures." The purpose of this revision is to allow major stationary sources, emitting at least 100 tons per year of volatile organic compounds, to offset emissions within the source by an internal offset ratio of at least 1.3 to 1. If the internal offset condition is met, then the requirement to apply the Lowest Achievable Emission Rates shall be lifted. In the final rules section of this **Federal Register** (FR), EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. The rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this proposed rule. If EPA receives relevant adverse comments, EPA will publish a timely withdrawal informing the public that the final rule will not take effect, and all relevant public comments received during the 30-day comment period set forth below will be addressed in a subsequent final rule based on this proposed rule. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments must be received in writing by February 4, 1999.

**ADDRESSES:** Written comments should be addressed to Ms. Jole C. Luehrs, Chief, Air Permits Section (6PD-R), at the EPA Region 6 office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Multimedia Planning and Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

Louisiana Department of Environmental Quality, H. B. Garlock Building, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

**FOR FURTHER INFORMATION CONTACT:** Tommy S. Stogner, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-8510.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Rule which is published in the Rules and Regulations section of this FR.

**Authority:** 42 U.S.C. 7401-7671q.

Dated: December 8, 1998.

**William N. Rhea,**

*Acting Regional Administrator, Region 6.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[KY98-1-9808b: FRL-6199-2]

#### Approval and Promulgation of Air Quality Implementation Plans; Kentucky; Basic Motor Vehicle Inspection and Maintenance Program

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is approving the State Implementation Plan (SIP) revision submitted on November 10, 1997, by the Commonwealth of Kentucky, through the Kentucky Natural Resources and Environmental Protection Cabinet. This revision modifies the implementation of a basic motor vehicle inspection and maintenance (I/M) program in Jefferson County, Kentucky, to require loaded mode testing of vehicles instead of the current idle testing. In the final rules section of this **Federal Register**, the EPA is approving the Commonwealth's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

**DATES:** To be considered, comments must be received by February 4, 1999.

**ADDRESSES:** Written comments should be addressed to: Dale Aspy at the EPA Regional office listed below.

Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4, Air Programs Branch, 61 Forsyth Street, Atlanta, Georgia 30303.

Air Pollution Control District of Jefferson County, 850 Barrett Avenue, Suite 205, Louisville, Kentucky 40204.

Division for Air Quality, Department for Environmental Protection, Natural Resources and Environmental Protection Cabinet, 316 St. Clair Mall, Frankfort, Kentucky 40601.

**FOR FURTHER INFORMATION CONTACT:** Dale Aspy, Regulatory Planning Section, Air Planning Branch, Air, Pesticides & Toxics Management Division, Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303. The telephone number is (404) 562-9041. Reference file KY98-1-9808.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: November 5, 1998.

**A. Stanley Mieburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 99-18 Filed 1-4-99; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 227

[Docket No. 981231331-8331-01; I.D. 122898G]

#### Threatened Fish and Wildlife; Listing of the Gulf of Maine/Bay of Fundy Population of Harbor Porpoise as Threatened Under the Endangered Species Act (ESA)

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** NMFS has determined that listing of the Gulf of Maine/Bay of Fundy (GOM/BOF) population of harbor porpoise, *Phocoena phocoena*, as threatened under the ESA is not warranted at this time. Therefore, NMFS withdraws the January 7, 1993, proposal to list the GOM/BOF population of harbor porpoise as threatened under the ESA. Since publication of the proposal to list, additional information regarding the status of the GOM/BOF harbor

porpoise population, its commercial fishery bycatch rate, and management actions implemented to reduce harbor porpoise bycatch have become available to justify reevaluation of the factors that prompted the original proposed listing.

**ADDRESSES:** Requests for copies of this determination or a complete list of references should be addressed to the Chief, Marine Mammal Division (PR2), Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

**FOR FURTHER INFORMATION CONTACT:** Margot Bohan, F/PR2, NMFS, (301) 713-2322, Laurie Allen, Northeast Region, NMFS, (978) 281-9291, or Kathy Wang, Southeast Region, NMFS, (727) 570-5312.

#### SUPPLEMENTARY INFORMATION:

##### Background

Prompted by 1989 and 1990 data indicating that the rate of harbor porpoise bycatch in the gillnet fishery was large relative to the available estimates of harbor porpoise abundance in the GOM/BOF, NMFS announced its intent on February 12, 1991, to review the status of harbor porpoise in U.S. waters for possible listing as threatened or endangered under the ESA. At the time that NMFS was reviewing harbor porpoise status, the Sierra Club Legal Defense Fund, on behalf of the International Wildlife Coalition and 12 other organizations, pursuant to 16 U.S.C. 1533(b), submitted a petition to NMFS (September 18, 1991) to add the GOM/BOF harbor porpoise population to the U.S. List of Endangered and Threatened Wildlife (50 CFR part 17), as a threatened species. NMFS determined that the petition presented substantial information indicating that the petitioned action might be warranted (56 FR 65044, Dec. 13, 1991). Under section 4(b)(3)(A) of the ESA, if a petition is found to present such information, a review of the status of the species concerned is mandated. To ensure a comprehensive status review, NMFS solicited information and comments specific to harbor porpoise in the GOM/BOF and adjacent waters.

On May 5-8, 1992, NMFS conducted a workshop to review the status of the GOM/BOF harbor porpoise and adjacent populations (as described in Gaskin, 1984) offshore eastern North America (NMFS, 1992). Participants at that workshop reviewed the best available scientific data on the population structure, abundance, reproductive rates, and levels of bycatch for each of the populations considered. The information reviewed during the harbor porpoise workshop and that received