



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2012-0212, EPA-R05-OAR-2012-0338; FRL-9900-28-

Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Ohio; Redesignation of the Ohio Portions of the Parkersburg-
Marietta and Wheeling Areas to Attainment of the 1997 Annual
Fine Particulate Matter Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking several related actions under the Clean Air Act (CAA) affecting the state of Ohio and the Ohio portions of the Parkersburg-Marietta and Wheeling, West Virginia-Ohio areas for the 1997 annual fine particulate matter (PM_{2.5}) national ambient air quality standard (NAAQS or standard). EPA is approving requests from the state of Ohio to redesignate the Ohio portions of the Parkersburg-Marietta and Wheeling areas to attainment of the 1997 annual PM_{2.5} standard. EPA is approving, as a revision to the Ohio state implementation plan (SIP), the state's plans for maintaining the 1997 annual PM_{2.5} standard in those areas through 2023. EPA is determining the insignificance of the motor vehicle emission budgets (MVEBs) for purposes of transportation conformity in those areas. EPA is approving the comprehensive inventories submitted by Ohio for the oxides of

nitrogen (NO_x), primary PM_{2.5}, and sulfur dioxide (SO₂), ammonia and volatile organic compounds (VOC) in the Parkersburg-Marietta area (Washington County), and in the Wheeling area (Belmont County) as meeting the requirements of the CAA. Finally, EPA is determining that the areas continue to maintain the 1997 annual PM_{2.5} standard based on certified 2009-2011 air quality data.

DATES: This final rule is effective [insert date of publication in the Federal Register].

ADDRESSES: EPA has established dockets for this action: Docket ID Nos. EPA-R05-OAR-2012-0212 (Parkersburg-Marietta) and EPA-R05-OAR-2012-0338 (Wheeling). All documents in the dockets are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., 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 either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you

telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353-8777, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8777, maietta.anthony@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplementary information section is arranged as follows:

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I. What is the Background for the Actions?

On December 2, 2011 (76 FR 75464), EPA issued a final determination that the Parkersburg-Marietta and Wheeling nonattainment areas were attaining the 1997 annual PM_{2.5} standard.

On February 29, 2012, Ohio submitted its request to redesignate the Ohio portion of Parkersburg-Marietta (Washington County) to attainment of the 1997 annual PM_{2.5} standard. On April 16, 2012, Ohio submitted its request to redesignate the Ohio portion of Wheeling (Belmont County) to attainment of the

1997 annual PM_{2.5} standard. These redesignation requests are based on 2008-2010 monitoring data showing attainment of the 1997 annual PM_{2.5} standard.

On November 30, 2012 (77 FR 71383, 77 FR 71371), EPA published notices proposing to approve Ohio's requests to redesignate the Ohio portions of the Parkersburg-Marietta and Wheeling areas to attainment of the 1997 annual PM_{2.5} standard. These rulemaking notices also proposed to approve Ohio's PM_{2.5} maintenance plan, 2005 NO_x, SO₂, and primary PM_{2.5} emission inventories for Washington and Belmont Counties, and proposed to determine the insignificance of the 2022 NO_x and PM_{2.5} MVEBs for Washington and Belmont Counties. These rulemaking notices also proposed to determine that the Ohio portions of the Parkersburg-Marietta and Wheeling areas continue to attain the 1997 PM_{2.5} annual standard based on certified 2009-2011 air quality data. For each proposed action, one supportive comment was received from the Ohio Utility Group, and no adverse comments were received.

On April 30, 2013, Ohio provided ammonia and VOC emissions inventories to EPA to supplement the February 29, 2012, and April 16, 2012, requests for redesignation.

On June 26, 2013 (78 FR 38256, 78 FR 38247), EPA published supplemental notices proposing to determine that the Ohio portions of Parkersburg-Marietta and Wheeling continue to attain

the 1997 annual standard and have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA received one supportive comment from the Ohio Utility Group on the supplemental notice for the Ohio portion of the Wheeling area, and received no adverse comments.

II. What Actions is EPA Taking?

After reviewing Ohio's redesignation requests, EPA has determined that the requests meet the criteria set forth in section 107(d)(3)(E) of the CAA. Therefore, EPA is approving the redesignation of the Ohio portion of the Parkersburg-Marietta area (Washington County) and the Ohio portion of the Wheeling area (Belmont County) to attainment for the 1997 annual $PM_{2.5}$ standard. EPA is also approving Ohio's $PM_{2.5}$ maintenance plans for these areas as a revision to the Ohio SIP based on Ohio's demonstration that the plan meets the requirements of section 175A of the CAA. In addition, EPA is approving the 2005 NO_x , SO_2 , and $PM_{2.5}$ emission inventories and 2007/2008 ammonia and VOC emission inventories for Washington and Belmont Counties as meeting the requirement for emission inventories contained in section 172(c)(3) of the CAA. EPA also finds the state's 2022 NO_x and $PM_{2.5}$ MVEBs for Washington and Belmont Counties to be insignificant for purposes of transportation conformity. Finally, EPA is determining that the entire Parkersburg-Marietta

and Wheeling areas continue to attain the 1997 annual PM_{2.5} standard based on certified 2009-2011 air quality data.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of planning requirements for this 8-hour ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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, these actions merely do not impose additional requirements beyond those imposed by State law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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,
- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally

permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 [insert date 60 days

after publication of this document in the Federal Register].
Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Nitrogen oxides, Particulate
matter, Sulfur dioxide, Ammonia, Volatile organic compounds.

40 CFR Part 81

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

Dated: August 12, 2013

Susan Hedman,
Regional Administrator, Region 5.

40 CFR Parts 52 and 81 are amended as follows:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

2. Section 52.1880 is amended by adding paragraphs (p)(3), (p)(4), (q)(3) and (q)(4) to read as follows:

§52.1880 Control strategy: Particulate matter.

* * * * *

(p) * * *

(3) The Ohio portion of the Parkersburg-Marietta, WV-OH nonattainment area (Washington County), as submitted on February 29, 2012, and supplemented on April 30, 2013. The maintenance plan determines the insignificance of motor vehicle emissions budgets for Washington County.

(4) The Ohio portion of the Wheeling, WV-OH nonattainment area (Belmont County), as submitted on April 16, 2012, and supplemented on April 30, 2013. The maintenance plan determines the insignificance of motor vehicle emissions budgets for Belmont County.

(q) * * *

(3) Ohio's 2005 NO_x, primary PM_{2.5}, and SO₂ and 2007/2008 ammonia and VOC emissions inventories satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for Washington County.

(4) Ohio's 2005 NO_x, primary PM_{2.5}, and SO₂ and 2007/2008 ammonia and VOC emissions inventories satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for Belmont County.

PART 81-- DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

4. Section 81.336 is amended by revising the entries for Parkersburg-Marietta, WV-OH and Wheeling, WV-OH in the table entitled "Ohio--PM_{2.5} (Annual NAAQS)" to read as follows:

§81.336 Ohio.

* * * * *

Ohio--PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *		
Parkersburg-Marietta, WV-OH: Washington County	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * * *		
Wheeling, WV-OH: Belmont County	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * * *		

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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

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