



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2011-0673; FRL-9900-49-Region5]

**Approval and Promulgation of Air Quality Implementation Plans;
Michigan; Redesignation of the Detroit-Ann Arbor Area to
Attainment of the 1997 Annual Standard and the 2006 24-Hour
Standard for Fine Particulate Matter**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving, under the Clean Air Act (CAA), the state of Michigan's request to redesignate the Detroit-Ann Arbor nonattainment area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties) to attainment for the 1997 annual and 2006 24-hour national ambient air quality standards (NAAQS or standard) for fine particulate matter (PM_{2.5}). On July 5, 2011, the Michigan Department of Environmental Quality (MDEQ) submitted a request for EPA to redesignate the Detroit-Ann Arbor Michigan nonattainment area. EPA determined that the Detroit-Ann Arbor area has attained the 1997 annual and 2006 24-hour PM_{2.5} standard, and proposed on July 2, 2013, to approve Michigan's request to redesignate the area. EPA is taking final action today on that proposal. EPA also is taking final action in this rulemaking on several related proposals. EPA is approving, as a revision to the Michigan state implementation

plan (SIP), the state's plan for maintaining the 1997 annual and 2006 24-hour PM_{2.5} NAAQS in the area through 2023. Finally, EPA finds adequate and is approving Michigan's nitrogen oxides (NO_x) and PM_{2.5} Motor Vehicle Emission Budgets (MVEBs) for 2023 for the Detroit-Ann Arbor area. EPA, therefore, grants Michigan's request to redesignate the Detroit-Ann Arbor area to attainment for the 1997 annual and 2006 24-hour PM_{2.5} standards.

EFFECTIVE DATE: This rule will be effective [INSERT THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action under Docket Identification EPA-R05-OAR-2011-0673. All documents in these dockets are listed on the www.regulations.gov web site. 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 or in hard copy at the U.S. 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 Carolyn Persoon at (312) 353-8290 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, persoon.carolyn@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:

- I. What is the Background for the Actions?
- II. What Actions is EPA Taking?
- III. What is EPA's Response to Comments?
- IV. Why is EPA Taking These Actions?
- V. Final Action
- VI. Statutory and Executive Order Reviews

I. What is the Background for the Actions?

On July 5, 2011, MDEQ submitted its request to redesignate the Detroit-Ann Arbor nonattainment area to attainment for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS, and for EPA approval of the state's SIP revision containing a maintenance plan for the area. On July 2, 2013, (78 FR 39654), EPA proposed approval of Michigan's redesignation request and plan for maintaining the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA also proposed approval of Michigan's MVEBs for PM_{2.5} and NO_x for 2023 for the area. Additional background for today's action is set forth in

EPA's July 2, 2013, proposed rulemaking.

II. What Actions is EPA Taking?

EPA has determined that the entire Detroit-Ann Arbor area is attaining the 1997 annual and 2006 24-hour PM_{2.5} standards (78 FR 39654) and that the Detroit-Ann Arbor area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Thus, EPA is approving the requests from the state of Michigan to change the legal designation of the Detroit-Ann Arbor area from nonattainment to attainment for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA is also taking several additional actions related to Michigan's PM_{2.5} redesignation requests, as discussed below.

EPA is approving Michigan's PM_{2.5} maintenance plan for the Detroit-Ann Arbor area as a revision to the Michigan SIP (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Detroit-Ann Arbor area in attainment of the 1997 annual and 2006 24-hour PM_{2.5} NAAQS through 2023.

EPA also finds adequate and is approving Michigan's 2023 primary PM_{2.5} and NO_x MVEBs for the Detroit-Ann Arbor area. These MVEBs will be used in future transportation conformity analyses for the area.

III. What is EPA's Response to Comments?

EPA received two sets of supportive comments on its proposed rulemaking which have been added to the docket.

IV. Why is EPA Taking These Actions?

EPA has determined that the Detroit-Ann Arbor area has attained the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA has also determined that all other criteria have been met for the redesignation of the Detroit-Ann Arbor area from nonattainment to attainment of the 1997 annual and 2006 24-hour PM_{2.5} NAAQS and for approval of Michigan's maintenance plan for the area. See CAA sections 107(d)(3)(E) and 175A. The detailed rationale for EPA's findings and actions is set forth in the proposed rulemaking of July 2, 2013 (78 FR 39654).

V. Final Action

EPA is determining that the Detroit-Ann Arbor area has attained the standards and that the area meets the requirements for redesignation to attainment of that standard under sections 107(d)(3)(E) and 175A of the CAA. Thus, EPA is granting the request from Michigan to change the legal designation of the Detroit-Ann Arbor area from nonattainment to attainment for the 1997 annual and 2006 24-hour PM_{2.5} NAAQS. EPA is also approving Michigan's 1997 annual and 2006 24-hour PM_{2.5} maintenance plan for the Detroit-Ann Arbor area as a revision to the SIP because the plan meets the requirements of section 175A of the CAA. Finally, EPA finds adequate and is approving Michigan's 2023

primary PM_{2.5} and NO_x MVEBs for the Detroit-Ann Arbor area. These MVEBs will be used in future transportation conformity analyses for the area after the effective date for the adequacy finding and approval.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action 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 Michigan of various requirements for the Detroit-Ann Arbor area. For these reasons, EPA finds

good cause under 5 U.S. C. 553(d)(3) for this action to become effective on the date of publication of this action.

VI. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application 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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, this action:

- is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the

provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR

7629, February 16, 1994).

In addition, this final 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 Commonwealth, 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 FROM DATE OF 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, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

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

Dated: August 15, 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. In § 52.1170 the table in paragraph (e) is amended by adding new entries for "1997 Annual PM_{2.5} Maintenance Plan" and "2006 24-Hour PM_{2.5} Maintenance Plan" at the end of the table to read as follows:

§52.1170 Identification of plan.

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(e) * * *

EPA-APPROVED MICHIGAN NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date	EPA approval date	Comments
* * * * *				
1997 Annual PM _{2.5} Maintenance Plan	Detroit-Ann Arbor area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties)	7/05/2011	[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] [INSERT CITATION OF PUBLICATION]	
2006 24-Hour PM _{2.5} Maintenance Plan	Detroit-Ann Arbor area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties)	7/05/2011	[INSERT DATE OF PUBLICATION IN FEDERAL REGISTER] [INSERT CITATION OF PUBLICATION]	

3. Section 52.1173 is amended by adding paragraphs (j) and (k) to read as follows:

§52.1173 Control strategy: Particulates.

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(j) Approval - The 1997 annual PM_{2.5} maintenance plans for the Detroit-Ann Arbor nonattainment area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties), has been approved as submitted on July 5, 2011. The maintenance plan establishes 2023 motor vehicle emissions budgets for the Detroit-Ann Arbor area of 4,360 tpy for primary PM_{2.5} and 119,194 tpy for NO_x.

(k) Approval - The 2006 24-Hour PM_{2.5} maintenance plans for the Detroit-Ann Arbor nonattainment area (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties), has been approved as submitted on July 5, 2011. The maintenance plan establishes 2023 motor vehicle emissions budgets for the Detroit-Ann Arbor area of 16 tpd for primary PM_{2.5} and 365 tpd for NO_x.

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

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

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

5. Section 81.323 is amended by revising the entry for Detroit-Ann Arbor, MI in the tables entitled "Michigan-PM_{2.5}(Annual NAAQS)" and "Michigan-PM_{2.5}(24-Hour NAAQS)" to read as follows:

§81.323 Michigan.

* * * * *

Michigan-PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
Detroit-Ann Arbor, MI: Livingston County Macomb County Monroe County Oakland County St. Clair County Washtenaw County Wayne 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.

Michigan-PM_{2.5} (24-Hour NAAQS)

Designated Area	Designation for the 1997 NAAQS ^a		Designation for the 2006 NAAQS ^a	
	Date ¹	Type	Date ²	Type
Detroit-Ann Arbor, MI: Livingston County Macomb County Monroe County Oakland County St. Clair County Washtenaw County Wayne County		Unclassifiable/ Attainment	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]	Attainment
* * * * *				

^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.

² This date is 30 days after November 13, 2009, unless otherwise noted.

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Date: 08/29/2013]