



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2014-0274; FRL 9917-33-Region 5]

**Approval and Promulgation of Air Quality Implementation Plans;
Illinois; Revision to the Chicago 8-Hour Ozone Maintenance Plan**

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Illinois' March 28, 2014, revision to the state implementation plan (SIP) for the 1997 8-hour ozone maintenance plan for the Illinois portion of the Chicago-Gary-Lake County, Illinois-Indiana area (the Greater Chicago Area). This SIP revision establishes new Motor Vehicle Emissions Budgets (MVEB) for volatile organic compounds (VOC) and oxides of nitrogen (NO_x) for the year 2025. EPA is approving the allocation of a portion of the safety margin for VOC and NO_x in the ozone maintenance plan to the 2025 MVEBs. Total year 2025 emissions of VOC and NO_x for the area will remain below the attainment levels as required by the transportation conformity regulations.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS
AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2014-0274. All documents in the

docket 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 through 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 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353-6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-6680, leslie.michael@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 this action?

II. What is EPA's response to comments?

III. What Action is EPA Taking?

IV. Statutory and Executive Order Reviews.

I. What is the background for this action?

On August 13, 2012 (77 FR 48062), EPA approved a request from the State of Illinois to redesignate the Illinois portion of the Greater Chicago Area to attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS). In addition to approving the ozone redesignation request, EPA approved the State's plan for maintaining the 1997 8-hour ozone NAAQS in the Illinois portion of the Greater Chicago Area through 2025. The ozone maintenance plan established MVEBs for VOC and NO_x for the year 2025.

MVEBs are the projected levels of controlled emissions from the transportation sector (mobile sources) that are estimated in the SIP to provide for maintenance of the ozone NAAQS. The transportation conformity rule allows the MVEB to be changed as long as the total level of emissions from all sources remains below the attainment levels.

On March 28, 2014, Illinois submitted a SIP revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. This SIP revision establishes new MVEBs for VOC and NO_x for the year 2025. Illinois allocated a

portion of the safety margin for VOC and NO_x in the ozone maintenance plan to the 2025 MVEBs. Total year 2025 emissions of VOC and NO_x for the area will remain below the attainment levels required by the transportation conformity regulations.

On May 22, 2014, EPA published proposed (79 FR 29395) and direct final (79 FR 29324) rules approving a revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. EPA subsequently received adverse comments on the direct final rule and withdrew it on June 26, 2014 (79 FR 36220). The proposal was not withdrawn.

II. What is EPA's response to comments?

EPA received one supportive and one adverse comment on the May 22, 2014 (79 FR 29324) proposed approval of the Illinois SIP revision. The adverse comment was submitted by Robert Ukeiley.

Comment from Robert Ukeiley: The commenter contends that EPA's approval of an increase in mobile source NO_x and VOC emissions will interfere with attainment the 2008 ozone NAAQS as expeditiously as possible and will also interfere with reasonable further progress in violation of Clean Air Act Section 110(l). The comment provides no support for or explanation of the basis for these claims.

Response to Robert Ukeiley: Clean Air Act (Act) Section 110(l) provides in part: "The Administrator shall not approve a

revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress or any other applicable requirement of this chapter." As a general matter, EPA must and does consider section 110(l) requirements for every SIP revision, including whether the revision would "interfere with" any applicable requirement. See, e.g., 70 FR 53, 57 (January 3, 2005); 70 FR 17029, 17033 (April 4, 2005); 70 FR 28429, 28431 (May 18, 2005); and 70 FR 58119, 58134 (October 5, 2005).

At this time, the Greater Chicago Area is marginal nonattainment for the 2008 ozone NAAQS. Marginal areas have an attainment date of December 31, 2015. Marginal areas do not have any reasonable further progress requirements under section 171 of the Act.

The Illinois maintenance plan update for the 1997 8-hour ozone NAAQS does not revise or remove any existing emissions limit for any source. The transportation conformity process, found at 40 CFR part 93 subpart A, allows areas to modify existing MVEBs by adding a "safety margin" to the budgets provided that, in this case, the maintenance plan for the area demonstrates that a "safety margin" exists. A safety margin, as defined in the transportation conformity rule, is the amount by which the total projected emissions from all sources of a given

pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance. (40 CFR 93.101) This concept is further described in 40 CFR 93.124(a). The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. This maintenance plan update establishes new MVEBs for VOC and NO_x for the year 2025 by allocation of a portion of the safety margin for VOC and NO_x from the approved 1997 8-hour ozone maintenance plan. The safety margin for the Illinois portion of the Greater Chicago Area is 175.60 tons/day of VOC and 469.65 tons/day of NO_x as shown in Table 1 below.

Table 1. Safety Margin for Chicago's 1997 8-Hour Ozone Maintenance Plan

Pollutant	2008 Attainment Year Emissions (tons/day)	2025 Projected Year Maintenance Emissions (tons/day)	Safety Margin (tons/day)
VOC	787.45	611.95	175.60
NO _x	896.76	427.11	469.65

Illinois has requested the allocation of 12 tons/day of the VOC and 25 tons/day of NO_x from the safety margins to the 2025 MVEBs. Table 2 shows the approved 1997 8-hour ozone maintenance plan MVEBs, the amount of emissions from the safety margin allocated to the new MVEBs, and new MVEBs.

Table 2. Approved and New MVEBs for Chicago's 1997 8-Hour Ozone Maintenance Plan

Pollutant	Approved 2025 MVEB (tons/day)	Safety Margin Allocation (tons/day)	New 2025 MVEB (tons/day)
VOC	48.13	12.00	60.13
NO _x	125.27	25.00	150.27

Tables 1 and 2 show that the total year 2025 emissions of VOC and NO_x for the area will remain below the attainment level required by the transportation conformity regulations. On this basis, EPA concludes that the maintenance plan update does not interfere with attainment or maintenance of any air quality NAAQS. The revised MVEBs will be used to show that the area's transportation plan and transportation improvement program conform to the SIP for any required analysis year starting with 2025 through the last year of the area's transportation plan. This revision to the MVEBs has no impact on transportation conformity requirements for any year prior to 2025.

The commenter does not provide any information to demonstrate that approval of this maintenance plan update would have any impact on the area's ability to comply with the 2008 ozone NAAQS. In fact, the maintenance plan update provided with the State's submission demonstrates a decline in ozone precursor emissions over the timeframe of the initial maintenance period. The maintenance plan update will not relax the currently

applicable MVEB that is used for any analysis year prior to 2025, nor will the maintenance plan update alter the status quo of the air quality, at least through 2025. As stated above, this area's attainment date for the 2008 ozone NAAQS is December 31, 2015. We believe they will attain (or adopt a strategy to attain) the ozone NAAQS well before 2025, so the change to the 2025 budget should not interfere with the attainment of the 2008 ozone NAAQS as expeditiously as practicable. Accordingly, EPA finds no basis under section 110(1) for EPA to disapprove the SIP revision.

III. What Action is EPA Taking?

EPA is approving a revision to the 1997 8-hour ozone maintenance plan for the Illinois portion of the Greater Chicago Area. The revision will change the MVEBs for VOC and NO_x that are used for transportation conformity purposes. The new 1997 8-hour ozone maintenance plan MVEBs for the Illinois portion of the Greater Chicago Area are 60.13 tons/day of VOC emissions and 150.27 tons/day of NO_x emissions for the year 2025. The revision will keep the total emissions for the area at or below the attainment levels required by law. This action will allow State or local agencies to continue to maintain air quality while allowing planned transportation projects to proceed.

IV. Statutory and Executive Order Reviews.

Under the CAA, 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 Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, 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 a 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 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 DATE OF PUBLICATION 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 in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Oxides of Nitrogen, Ozone, Volatile
organic compounds.

Dated: September 22, 2014.

Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is 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 52.726 is amended by adding paragraph (oo) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(oo) Approval — On March 28, 2014, the State of Illinois submitted a revision to its State Implementation Plan for the Illinois portion of the Chicago-Gary-Lake County, Illinois-Indiana area (the Greater Chicago Area). The submittal established new Motor Vehicle Emissions Budgets (MVEB) for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_x) for the year 2025. The MVEBs for the Illinois portion of the Greater Chicago Area are: 60.13 tons/day of VOC emissions and 150.27 tons/day of NO_x emissions for the year 2025.