



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2010-0899; FRL-9901-44-Region5]

**Approval and Promulgation of Air Quality Implementation Plan;
Illinois; Redesignation of the Chicago Area 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 Chicago area and the state of Illinois for the 1997 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or standard). EPA is determining that the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) area is attaining the 1997 annual PM_{2.5} standard based on quality assured, state-certified monitoring data for all PM_{2.5} monitoring sites in this area from 2007-2012. EPA is granting a request from the state of Illinois to redesignate the Chicago area to attainment of the 1997 annual PM_{2.5} standard. EPA is approving, as a revision of the Illinois State Implementation Plan (SIP), the state's plan for maintaining the 1997 annual PM_{2.5} standard in the Chicago-Gary-Lake County, IL-IN area through 2025. EPA is approving Illinois' comprehensive 2002 Nitrogen Oxides (NO_x), Sulfur Dioxide (SO₂), Volatile

Organic Compound (VOC), ammonia, and primary PM2.5 emission inventories for the Chicago area. Finally, EPA is approving Illinois' 2008 and 2025 NOx and primary PM2.5 Motor Vehicle Emission Budgets (MVEBs) for the Chicago area and finding these MVEBs as adequate for use in transportation conformity determinations. The Chicago area includes: Cook, DuPage, Kane, Lake, McHenry, and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County. The Chicago-Gary-Lake County, IL-IN area also includes Lake and Porter Counties in Indiana, which have been previously redesignated to attainment of the 1997 annual PM2.5 standard.

DATES: This final rule is effective [FEDERAL REGISTER OFFICE: INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: EPA has established a docket for this action: Docket ID No. EPA-R05-OAR-2010-0899. 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 hardcopy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hardcopy 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 Edward Doty, Environmental Scientist, at (312) 886-6057, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, Doty.Edward@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 is EPA's Response to Comments on EPA's Proposed Actions?
- III. Why is EPA Taking These Actions?
- IV. What Actions is EPA Taking?
- V. Statutory and Executive Order Reviews

I. What is the Background for the Actions?

On November 27, 2009 (76 FR 62243), EPA made a final determination that the Chicago-Gary-Lake County, IL-IN area had attained the 1997 annual PM_{2.5} standard based on PM_{2.5} monitoring data for the period of 2006-2008.

On October 15, 2010, the Illinois Environmental Protection Agency (IEPA) submitted a request to EPA for the redesignation of the Chicago area to attainment of the 1997 annual PM_{2.5} standard and for EPA approval of a SIP revision containing PM_{2.5}-related emission inventories and a PM_{2.5} maintenance plan for the Chicago area. The maintenance plan includes 2008 and 2025 MVEBs for the Chicago area. In a supplemental submission to the EPA on September 16, 2011, the IEPA revised the on-road mobile source emissions and MVEBs for the Chicago area to reflect the use of EPA's MOVES model to calculate mobile source emissions. In a supplemental submission to the EPA on May 6, 2013, the IEPA submitted VOC and ammonia emission inventories to supplement the emission inventories that had previously been submitted to support the redesignation request for the 1997 annual PM_{2.5} standard in the Chicago-Gary-Lake County, IL-IN area and to demonstrate future maintenance of the PM_{2.5} standard in this area.

On August 7, 2013 (78 FR 48103), EPA issued a notice of rulemaking proposing to grant Illinois' request to redesignate the Chicago area to attainment of the 1997 annual PM_{2.5} standard. This notice of rulemaking also proposed to: determine that the Chicago-Gary-Lake County, IL-IN area has attained the 1997 annual PM_{2.5} standard based on PM_{2.5} monitoring data for the period of 2007 through 2012; approve

Illinois' PM2.5 maintenance plan for the Chicago area; approve 2002 primary PM2.5, NOx, SO₂, VOC, and ammonia emission inventories for the Chicago area; and approve 2008 and 2025 primary PM2.5 and NOx MVEBs for the Chicago area.

II. What is EPA's Response to Comments on EPA's Proposed Actions?

EPA received three sets of comments on the proposed rule, all of which supported EPA's proposed actions. One of these commenters requested a clarification of information provided in the proposed rule at 78 FR 48115.

A commenter representing the ExxonMobil Oil Corporation supports EPA's proposed actions, but notes that at 78 FR 48115, EPA provides estimates of the NOx and SO₂ emission reductions expected to result from the implementation of a consent decree at the ExxonMobil Joliet Refinery in units of tons per year, whereas the consent decree specifies emission limits for the Joliet refinery as concentration-based limits. The commenter summarizes the NOx and SO₂ emission limits in the consent decree for this facility in units of parts per million units volume of dry air (ppmvd), and requests that EPA clarify that the August 7, 2013, proposed rule is not proposing new emission limits for this facility. The commenter does not refute EPA's estimates of the NOx and SO₂ emission reductions resulting from the consent decree.

In response to the commenter from ExxonMobil Oil Corporation, we want to clarify that it was not the intent of the proposed rule to specify existing emission limits or to propose new emission limits for this facility, and this final rule does not set new emission limits for this facility. The proposed rule simply estimated initial and final emission levels in tons per year for the purposes of estimating the changes in annual emissions that may be expected to result for this facility through the implementation of the consent decree. It was EPA's intent to document the emission reductions in the Chicago area that contributed to the attainment of the 1997 annual PM2.5 standard in the Chicago-Gary-Lake County, IL-IN area. EPA makes no findings in this rulemaking regarding the applicable emission limits for the ExxonMobile Joliet Refineray.

None of the comments received with regard to the August 7, 2013, proposed rule object to any of the proposed actions in that proposed rule. Therefore, we conclude that there are no adverse comments for this proposed rule.

III. Why is EPA Taking These Actions?

EPA has determined that the Chicago-Gary-Lake County, IL-IN area continues to attain the 1997 annual PM2.5 standard. EPA has also determined that all other criteria have been met for the redesignation of the Chicago area from nonattainment to attainment of the 1997 annual PM2.5 standard and for approval of

Illinois' maintenance plan for this 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 rule of August 7, 2013 (78 FR 48103).

IV. What Actions is EPA Taking?

EPA is making a determination that the Chicago-Gary-Lake County, IL-IN area continues to attain the 1997 annual PM_{2.5} standard based on 2007-2012 PM_{2.5} monitoring data. EPA is determining that the Chicago area has met the requirements for redesignation to attainment for the 1997 annual PM_{2.5} standard under sections 107(d)(3)(E) and 175A of the CAA. EPA is, thus, granting the request from Illinois to change the legal designation of the Chicago area from nonattainment to attainment for the 1997 annual PM_{2.5} NAAQS. EPA is also approving Illinois' PM_{2.5} maintenance plan for the Chicago area as a revision to the Illinois SIP because the plan meets the requirements of section 175A of the CAA. EPA is approving 2002 emission inventories for primary PM_{2.5}, NO_x, SO₂, ammonia, and VOC for the Chicago area as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is approving 2008 and 2025 primary PM_{2.5} and NO_x MVEBs for the Chicago area. These MVEBs will be used in future transportation conformity analyses for the Chicago.

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 "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 PM2.5 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.

V. 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 approve state law as meeting Federal requirements and 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 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, Nitrogen oxides, Particulate matter, Sulfur dioxide, Ammonia, Volatile organic compounds.

40 CFR Part 81

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

Dated: September 18, 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 52.725 is amended by adding paragraphs (l) and (m) to read as follows:

§52.725 Control strategy: Particulates.

* * * * *

(l) Approval—The 1997 annual PM_{2.5} maintenance plan for the Illinois portion of the Chicago-Gary-Lake County, IL-IN nonattainment area (including Cook, DuPage, Kane, Lake, McHenry and Will Counties, Aux Sable and Goose Lake Townships in Grundy County, and Oswego Township in Kendall County) has been approved as submitted on October 15, 2010, and supplemented on September 16, 2011, and May 6, 2013. The maintenance plan establishes 2008 and 2025 motor vehicle emissions budgets for this area of 127,951 tons per year for NO_x and 5,100 tons per year for primary PM_{2.5} in 2008 and 44,224 tons per year for NO_x and 2,377 tons per year for primary PM_{2.5} in 2025.

(m) Illinois' 2002 NO_x, primary PM_{2.5}, SO₂, ammonia, and VOC emission inventories, as submitted on October 15, 2010, and supplemented on May 6, 2013, satisfy the emission inventory

requirements of section 172(c)(3) of the Clean Air Act for the Chicago area.

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 81.314 is amended by revising the entry for Chicago-Gary-Lake County, IL-IN in the table entitled "Illinois-PM_{2.5} (Annual NAAQS)" to read as follows:

§81.314 Illinois.

* * * * *

Illinois-PM_{2.5} (Annual NAAQS)

Designated area	Designation ^a	
	Date ¹	Type
Chicago-Gary-Lake County, IL-IN: Cook County DuPage County Grundy County (part) Goose Lake and Aux Sable Townships Kane County Kendall County (part) Oswego Township Lake County McHenry County Will County	[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.

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