



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2016-0276; FRL-9948-19-Region 5]

Determination of Attainment by the Attainment Date; 2008 Ozone National Ambient Air Quality Standards; Cleveland, Ohio and St. Louis, Missouri-Illinois Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a determination, under the Clean Air Act (CAA), that the Cleveland, Ohio (OH) and St. Louis, Missouri-Illinois (MO-IL) areas attained the 2008 ozone National Ambient Air Quality Standards (NAAQS), by the applicable attainment date of July 20, 2016. This determination for each area is based on complete, quality-assured and certified ozone monitoring data for 2013-2015.

DATES: This direct final rule will be effective **[insert date 60 days after publication in the Federal Register]**, unless EPA receives adverse comments by **[insert date 30 days after publication in the Federal Register]**. If adverse comments are received by EPA for an affected area, EPA will publish a timely withdrawal of the direct final rule for that area in the Federal

Register informing the public that the rule will not take effect there.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2016-0276 at <http://www.regulations.gov> or via email to Aburano.Douglas@epa.gov. For comments submitted at [Regulations.gov](http://www.Regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.Regulations.gov). For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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

- I. Background
- II. How does EPA determine whether an area has attained the
2008 ozone standard?
- III. What action is EPA taking and what is the rationale?
- IV. Statutory and Executive Order Reviews

I. Background

On April 30, 2012, the Cleveland, OH and St. Louis, MO-IL
areas were designated as nonattainment for the 2008 ozone NAAQS
and were classified as marginal, effective July 20, 2012
(77 FR 30088, May 21, 2012). On March 6, 2015 (80 FR 12264), in
the final 2008 ozone NAAQS SIP requirements rule, EPA
established an attainment deadline for marginal areas of July
20, 2015.

The CAA section 181(b)(2) requires the EPA to determine, based on an area's ozone design value¹ as of the area's attainment deadline, whether the area has attained the ozone standard by that date. The statute provides a mechanism by which states that meet certain criteria may request and be granted by the EPA Administrator a 1-year extension of an area's attainment deadline.

On May 4, 2016 (81 FR 26697), based on EPA's evaluation and determination that the areas met the attainment date extension criteria of CAA section 181(8)(5), EPA granted the Cleveland and St. Louis areas a 1-year extension of the marginal area attainment date to July 20, 2016.

II. How does EPA determine whether an area has attained the 2008 ozone standard?

Under EPA regulations at 40 CFR part 50, appendix P, the 2008 ozone NAAQS is attained at a site when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to

¹ An area's ozone design value for the 8-hour ozone NAAQS is the highest 3-year average of the annual fourth-highest daily maximum 8-hour average concentrations of all monitors in the area. To determine whether an area has attained the ozone NAAQS prior to the attainment date, EPA considers the monitor-specific ozone design values in the area for the most recent three years with complete, quality-assured, and certified ozone monitoring data prior to the attainment deadline (or for an earlier 3-year period if the area attains the ozone standard ahead of the attainment deadline).

0.075 parts per million (ppm). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the area, then the area is deemed to be meeting the NAAQS. The rounding convention under 40 CFR part 50, appendix P, dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a computed 3-year average ozone concentration of 0.076 ppm is greater than 0.075 ppm and, therefore, over the standard.

EPA's determination of attainment is based upon data that have been collected and quality-assured in accordance with 40 CFR part 58 and recorded in the EPA's Air Quality System database (formerly known as the Aerometric Information Retrieval System). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of required monitoring days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined according to appendix P of part 50.

III. What action is EPA taking and what is the rationale?

EPA is taking this action pursuant to the agency's statutory obligation under CAA section 181(b)(2) to determine

whether the Cleveland and St. Louis nonattainment areas have attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. In this action, EPA is making a determination that the Cleveland and St. Louis areas attained the 2008 ozone NAAQS by the applicable deadline of July 20, 2016, based upon complete, quality-assured and certified ozone monitoring data for 2013-2015.²

EPA evaluated data from air quality monitors in the Cleveland and St. Louis areas in order to determine the areas' attainment status as of the applicable attainment date of July 20, 2016. The data were supplied and quality-assured by state and local agencies responsible for monitoring ozone air monitoring networks. Table 1 displays the 2013-2015 design value for each monitor as well as the fourth high daily maximum 8-hour ozone concentration for each of the three years used to calculate the design value.

Table 1. Annual 4th high daily maximum 8-hour ozone concentration and design value by monitor.

Area	County	Monitor	2013 4 th high	2014 4 th high	2015 4 th high	2013- 2015 design value
St. Louis, MO-IL	Madison, IL	Alton 171190008	0.072	0.072	0.069	0.071
		Maryville	0.075	0.070	0.064	0.069

²These determinations of attainment do not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation.

		171191009				
		Wood River 171193007	0.069	0.070	0.069	0.069
		5403 State Road 160 171199991	0.071	0.068	0.067	0.068
	Saint Clair, IL	East Saint Louis 171630010	0.066	0.067	0.066	0.066
	Jefferson, MO	Arnold 290990019	0.069	0.072	0.069	0.070
	Saint Charles, MO	West Alton 291831002	0.071	0.072	0.070	0.071
		Orchard Farm 291831004	0.071	0.072	0.066	0.069
	Saint Louis, MO	Pacific 291890005	0.067	0.065	0.065	0.065
		Maryland Heights 291890014	0.070	0.072	0.069	0.070
	St. Louis City, MO	St. Louis 295100085	0.066	0.066	0.063	0.065
Cleveland, OH	Ashtabula	Conneaut 390071001	0.070	0.069	0.070	0.069
	Cuyahoga	891 E. 152 St. 390350034	0.069	0.071	0.067	0.069
		E. 14th & Orange 390350060	0.057	0.066	0.063	0.062
		Berea 390350064	0.064	0.059	0.066	0.063
		Mayfield 390355002	0.065	0.061	0.072	0.066
	Geauga	13000 Auburn 390550004	0.065	0.065	0.073	0.067
	Lake	Eastlake 390850003	0.070	0.075	0.074	0.073
		Painesville 390850007	0.068	0.062	0.070	0.066
	Lorain	Sheffield 390930018	0.060	0.067	0.062	0.063
	Medina	Ballash Road 391030004	0.065	0.064	0.063	0.064
	Portage	1570 Ravenna Rd. 391331001	0.058	0.061	0.064	0.061
	Summit	Akron 391530020	0.060	0.058	0.065	0.061

All monitoring sites in the Cleveland and St. Louis areas had design values less than 0.075 ppm based on the 2013-2015 monitoring period. Thus, EPA is determining, in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP

Requirements Rule (40 CFR 51.1103), that these areas attained the standard by the applicable attainment date of July 20, 2016. EPA's determination is based upon three years of complete, quality-assured and certified data.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the proposed rules section of this Federal Register publication, we are publishing a separate document that will serve as the proposal to approve each determination if relevant adverse written comments are filed. This rule will be effective **[insert date 60 days after publication in the Federal Register]** without further notice unless we receive relevant adverse written comments by **[insert date 30 days after publication in the Federal Register]**. If we receive such comments, we will withdraw this action, for any affected area, before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that, if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those

provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective [insert date 60 days after publication in the Federal Register].

IV. Statutory and Executive Order Reviews

Under section 181(b)(2) of the CAA, a determination of attainment is a factual determination based upon air quality considerations. These determinations of attainment would, if finalized, result in the suspension of certain Federal requirements. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Pub. L. 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 because it will not have a substantial direct effect on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. Determinations of attainment do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because a determination of attainment is an action that

affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Administrative practice and procedure, Air pollution control, Designations and classifications, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 15, 2016.

Robert A. Kaplan,
Acting Regional Administrator, Region 5.

Dated: June 3, 2016.

Mark Hague,
Regional Administrator, Region 7.

Part 52, chapter I, title 40 of Code of Federal Regulations 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 (qq) to read as follows:

§ 52.726 Control strategy: Ozone.

* * * * *

(qq) *Determination of attainment.* As required by section 181(b)(2)(A) of the Clean Air Act, EPA has determined that the St. Louis, MO-IL marginal 2008 ozone nonattainment area has attained the NAAQS by the applicable attainment date of July 20, 2016.

3. Section 52.1342 is amended by adding paragraph (d) to read as follows:

§ 52.1342 Control strategy: Ozone.

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(d) *Determination of attainment.* As required by section 181(b)(2)(A) of the Clean Air Act, EPA has determined that the St. Louis, MO-IL marginal 2008 ozone nonattainment area has attained the NAAQS by the applicable attainment date of July 20, 2016.

4. Section 52.1885 is amended by adding paragraph (oo) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(oo) *Determination of attainment.* As required by section 181(b)(2)(A) of the Clean Air Act, EPA has determined that the Cleveland, OH marginal 2008 ozone nonattainment area has attained the NAAQS by the applicable attainment date of July 20, 2016.

5. Section 52.1892 is amended by adding paragraph (g) to read as follows:

§ 52.1892 Determination of attainment.

* * * * *

(g) As required by section 181(b)(2)(A) of the Clean Air Act, EPA has determined that the Cleveland, OH marginal 2008 ozone nonattainment area has attained the NAAQS by the applicable attainment date of July 20, 2016. This determination is based on complete, quality-assured and certified data for the 3-year period 2013-2015.