



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2023-0635; FRL-13222-01-R5]

**Air Plan Approval; Michigan; Redesignation and Maintenance Plan
for the Partial St. Clair 2010 1-Hour Sulfur Dioxide (SO₂) NAAQS
Nonattainment Area**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the St. Clair nonattainment area in southeast Michigan to attainment for the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). The EPA is also proposing to approve Michigan's maintenance plan for the St. Clair SO₂ nonattainment area and emissions limits for the DTE Belle River Power Plant. Michigan submitted the request for approval of the St. Clair area redesignation and maintenance plan on December 15, 2023, with a supplement to the request on July 24, 2025.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2023-0635 at <https://www.regulations.gov>, or via email to arra.sarah@epa.gov. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from the docket. The EPA may publish any comment received to

its public docket. Do not submit to the EPA's docket at <https://www.regulations.gov> any information you consider to be Confidential Business Information (CBI), Proprietary Business Information (PBI), 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. The 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, PBI, or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

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SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean the EPA.

I. Background

On June 22, 2010 (75 FR 35520), the EPA established a new 1-hour SO₂ NAAQS of 75 parts per billion (ppb), which can be met

at an ambient air quality monitoring site (or in the case of dispersion modeling, at an ambient air quality receptor location) when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. 40 CFR 50.17(a)-(b).

On September 12, 2016 (81 FR 45039), the EPA designated part of St. Clair County, Michigan as nonattainment for the 2010 SO₂ NAAQS based on computer modeling that incorporated SO₂ data from Continuous Emissions Monitors (CEM) at the DTE Belle River and St. Clair power plants.

Section 191 of the CAA directs States to submit a State Implementation Plan (SIP) for an area designated as nonattainment for the 2010 SO₂ NAAQS to the EPA within 18 months of the effective date of the designation. The SIP must demonstrate that the State will achieve the NAAQS for the nonattainment area as expeditiously as practicable, but no later than five years from the effective date of designation. As a result, Michigan was required to submit a nonattainment SIP to the EPA by March 12, 2018, to bring the St. Clair area into attainment by the attainment date of September 12, 2021. Michigan did not submit a nonattainment SIP for the St. Clair area by the March 12, 2018, deadline, instead relying on the EPA's Clean Data Policy, described in more detail below, to address the requirement.

On July 24, 2020, Michigan submitted a request that the EPA

make a Clean Data Determination (CDD) under the CAA and the EPA's Clean Data Policy, based on both local monitored air quality data and a new dispersion modeling analysis, demonstrating that the St. Clair nonattainment area attained the 2010 SO₂ NAAQS. When a nonattainment area is attaining the 2010 SO₂ NAAQS based on the most recent available data, the EPA may issue a CDD suspending certain planning requirements for as long as the area continues to attain the NAAQS. On June 30, 2021, Michigan submitted the St. Clair area's emissions inventory and nonattainment new source review (NNSR) verification required by CAA section 172 to the EPA. The EPA issued a CDD for the St. Clair area on December 7, 2021 (86 FR 69173), and approved Michigan's submittal of the emissions inventory and NNSR elements on February 9, 2022 (87 FR 7387). Additionally, to address requirements under CAA section 179(c), the EPA made a determination of attainment by the attainment date, finding that the St. Clair nonattainment area attained the 2010 SO₂ NAAQS for the relevant period associated with the attainment date of September 12, 2021 (89 FR 104884, December 26, 2024).

II. Evaluation of Michigan's Redesignation Request and Maintenance Plan

Michigan submitted a request for redesignation and a maintenance plan for the St. Clair nonattainment area on December 15, 2023, and supplemented the request on July 24, 2025. In addition to information addressing CAA redesignation and maintenance plan requirements, the submittal addresses the

DTE Energy St. Clair Power Plant closure and the reduction of SO₂ emissions from the DTE Belle River Power Plant.

Under section 107(d)(3)(E) of the CAA, the EPA may not promulgate a redesignation of a nonattainment area (or portion thereof) unless:

1. The EPA has determined that the area has attained the NAAQS;
2. The EPA has fully approved the applicable implementation plan for the area under section 110(k) of the CAA;
3. The EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollution control regulations and other permanent and enforceable reductions;
4. The EPA has fully approved a maintenance plan for the area under section 175A of the CAA; and
5. The State containing such area has met all requirements applicable to the area under section 110 of the CAA and part D.

The EPA's evaluation of Michigan's redesignation request and maintenance plan was based on consideration of the five redesignation criteria provided under CAA section 107(d)(3)(E) and is described in the remainder of this section.

A. Criterion (1)- The St. Clair SO₂ Nonattainment Area Has Attained the 2010 SO₂ NAAQS

In accordance with CAA section 107(d) (3) (E) (i), to redesignate a nonattainment area to attainment, the EPA must determine that the area has attained the applicable NAAQS. An area is attaining the 2010 SO₂ standard when the three-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb consistent with 40 CFR 50.17 and appendix T of Part 50. If dispersion modeling is used to make this determination, an area is attaining the 2010 SO₂ NAAQS when the modeled concentration is at or below the one-hour SO₂ NAAQS of 196.4 micrograms per cubic meter (or 75 ppb).

As stated in the EPA's April 23, 2014, *Guidance for 1-Hour SO₂ Nonattainment Area SIP Submissions* (April 2014 SO₂ Guidance), there are two components needed to support an attainment determination: (1) a review of representative air quality monitoring data; and (2) a further analysis, where there are no monitors, or the monitors are not located in the area of maximum concentration, using air quality dispersion modeling, which will generally be needed to estimate SO₂ concentrations throughout the nonattainment area to demonstrate that the entire area is attaining the applicable NAAQS, based on current actual emissions or the fully implemented control strategy. Michigan's redesignation request submission for the St. Clair nonattainment area provides a demonstration that the area is attaining based on ambient air monitoring data and a dispersion modeling analysis for the nonattainment area.

Per component (1), ambient air monitoring data was collected from 2017 to 2021 by two SO₂ monitors located in the nonattainment area: the Remer monitor near the St. Clair Power Plant and the Mills monitor near the Belle River Power Plant. Because of the nonattainment designation, DTE installed these two on-site SO₂ monitoring and meteorology stations in late 2016. A Michigan Air Quality Division SO₂ monitor, known as the Port Huron monitor, is located approximately 12 miles north of the power plants but is outside the nonattainment area; this monitor is addressed in the Technical Support Document (TSD) accompanying this action.

Monitoring data at the two DTE SO₂ monitors for the period from 2017 through 2019 showed attainment of the SO₂ NAAQS and served as justification for Michigan's July 24, 2020, CDD submittal to the EPA. The DTE monitors continued to collect SO₂ data through the end of 2022 showing that the NAAQS continued to be met. Table 1 details the attaining values of ambient air monitoring data in the St. Clair area in accordance with 40 CFR 50.17(b).

Table 1. Monitoring Data for the SO₂ Nonattainment Area (Annual 99th Percentile and Design Values in ppb)

Site ID	Power Plant	Monitor Site Name	99 th Percentile Values					3-year Design Values		
			2017	2018	2019	2020	2021	2017-2019	2018-2020	2019-2021
DTE	Belle River	Mills	46	50	40	28.8	62.2	45	39.6	43.6
DTE	St. Clair	Remer	51	65	45	24.5	41.1	53.6	44.8	46.8

Per component (2), Michigan conducted air quality dispersion modeling in accordance with 40 CFR part 51, appendix W to demonstrate attainment of the 2010 SO₂ NAAQS for the St. Clair nonattainment area based on the fully implemented control

strategy. A more in-depth discussion of the EPA's modeling requirements, including an assessment of longer-term average limits, as well as Michigan's modeling analysis is included in the TSD for this action.

Michigan's modeled demonstration of attainment of the SO₂ NAAQS relies upon the permanent and enforceable SO₂ emission limits for the Belle River Power Plant established in Permit to Install 51-22 and the shutdown of the St. Clair Power Plant, which ceased operation in 2022. Permit to Install 51-22, which implemented revised lower emissions limits for the Belle River facility in April 2022, includes limits for each of the Belle River Power Plant boilers of 0.680 pounds per million British thermal units (lbs/MMBtu) for a 30-day rolling average emission rate and 1.2 pounds per lbs/MMBtu based upon any 3-hour average. The EPA is proposing to incorporate Permit to Install 51-22 into Michigan's SIP in this action.

The April 2014 SO₂ Guidance states that a demonstration that the control strategy in the SIP has been fully implemented is relevant when making an attainment determination based on modeling. Pursuant to the Belle River Renewable Operating Permit, (ROP) MI-ROP-B2796-2024, the facility submitted quarterly Opacity Excess Emissions Reports containing monthly SO₂ emission rate averages for 2023-2024 to Michigan. These monthly emission rate averages are all within the SO₂ emission limits set forth in Permit to Install 51-22.

Michigan's modeling analysis demonstrates that the SO₂

emission limits contained in Permit to Install 51-22, governing Belle River Power Plant SO₂ emissions, in combination with the St. Clair Power Plant shutdown and background concentrations, yield a maximum SO₂ concentration of 62.8 ppb, which is below the 2010 SO₂ NAAQS of 75 ppb. Therefore, the EPA proposes to conclude that the dispersion modeling analysis demonstrates that the St. Clair nonattainment area has attained the 2010 SO₂ NAAQS.

B. Criterion (2) and Criterion (5) - Michigan Has Met All Applicable Requirements Under CAA Section 110 and Part D of the CAA, and the EPA Has Fully Approved the Applicable Implementation Plan Under CAA Section 110(K)

In order to be redesignate a nonattainment area to attainment under a NAAQS, a State must have met all applicable requirements of section 110 and part D of the CAA (CAA section 107(d)(3)(E)(v)), and the EPA must have fully approved the applicable implementation plan (CAA section 107(d)(3)(E)(ii)). The EPA's long-standing interpretation of the CAA is that not every requirement under CAA section 110 and part D is applicable for purposes of CAA section 107(d)(3)(E)(ii) and (v). The Agency's interpretation of the statute limiting evaluation of section 110 and part D requirements to only those requirements that are applicable for purposes of redesignation was first articulated shortly after the passage of the 1990 Amendments to the CAA in Agency guidance documents, and has been consistently applied in notice-and-comment redesignation actions over the last three decades.

Many of the CAA section 110 elements that are unrelated to an area's SO₂ attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2010 1-hour primary SO₂ NAAQS.

The EPA is proposing to determine that Michigan has met the part D requirements and the EPA has fully approved those requirements that are applicable for purposes of redesignation. Part D is comprised of the general nonattainment area plan requirements in subpart 1 (CAA section 172) as well as pollutant-specific subparts, including CAA section 191 (or subpart 5), which applies to areas designated nonattainment for SO₂, nitrogen dioxide, or lead. In lieu of an attainment SIP for St. Clair, Michigan submitted a CDD consistent with the Clean Data Policy that determined the nonattainment area has attained the 2010 SO₂ NAAQS. In designated nonattainment areas where monitored data demonstrate that the NAAQS have been achieved, the EPA interprets certain requirements of the CAA as no longer applicable for so long a time as air quality continues to meet the standard. Under the Clean Data Policy, the EPA may issue a determination of attainment after notice and comment rulemaking determining that a specific area is attaining the relevant standard. For such areas, the requirement to submit to the EPA those SIP elements related to attaining the NAAQS is suspended for as long as the area continues to attain the standard; these planning elements include reasonable further progress

requirements, attainment demonstrations, reasonably available control measures , contingency measures, and other State planning requirements related to attainment of the NAAQS. In the April 2014 SO₂ Nonattainment Area Guidance, the EPA provides guidance and a rationale for the application of the Clean Data Policy to the 2010 SO₂ NAAQS.

The EPA approved Michigan's CDD request in lieu of an attainment SIP, and the determination became effective December 7, 2021 (86 FR 69173). The EPA's final determination suspended the requirements for Michigan to submit an attainment demonstration and other associated nonattainment planning requirements for the St. Clair nonattainment area as long as the St. Clair area continues to attain the 2010 SO₂ NAAQS. Michigan was still required to submit an emissions inventory under CAA section 172(c)(3) and a nonattainment new source review program under CAA section 172(c)(5). Michigan submitted the St. Clair area's emissions inventory and NNSR verification to the EPA on June 30, 2021, which were approved on February 9, 2022 (87 FR 7387).

CAA sections 172(c)(1) and 172(c)(6) direct States with areas designated as nonattainment to demonstrate that the submitted plan and its emission limitations and control measures provide for attainment of the NAAQS. 40 CFR part 51, subpart G further delineates the control strategy requirements that SIPs must meet, and the EPA has long required that all SIPs and control strategies reflect the four fundamental principles of

quantification, enforceability, replicability, and accountability. See "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," (General Preamble) published on April 16, 1992 (57 FR 13498), at 13567 through 13568. SO₂ attainment plans must consist of two components: (1) enforceable emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, appendix W. As discussed above in section II.A., Criterion (1), of this document, Michigan's redesignation request addresses both components, because it includes permanent and enforceable emission reductions for the SO₂ sources in the area and a modeling analysis that demonstrates that Michigan's control strategy provides for attainment of the 2010 SO₂ NAAQS. The EPA is proposing to incorporate Permit to Install 51-22, governing Belle River Power Plant SO₂ emissions, into Michigan's SIP in this action, which will render it Federally enforceable.

Based on the above details and the approval of Michigan's CDD, the EPA is proposing to find that Michigan has met the applicable requirements of section 110 and part D of the CAA for purposes of the redesignation of the St. Clair nonattainment area.

C. Criterion (3) - The EPA Has Determined That Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting from Implementation of the Applicable

Implementation Plan and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires the EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions.

Permanent and enforceable improvements in air quality for the St. Clair area were focused on the two large sources in the area: the St. Clair Power Plant, which shut down in 2022, and the Belle River Power Plant, which implemented lower emission limits that took effect in April 2022. There are no other sources of significant size emitting SO₂ in the area. Michigan's redesignation request contains permanent and enforceable SO₂ strategies for both DTE power plants. As discussed above in section II.A., Criterion (1), of this document, the reduced emission limits at the Belle River facility are contained within Permit to Install 51-22, which the EPA is proposing to incorporate into Michigan's SIP in this action. The Belle River Power Plant will be required to operate emissions controls following redesignation of the area unless such a change is first approved by the EPA as a revision to Michigan's SIP consistent with section 110(1) of the CAA. As part of the closure of the St. Clair Power Plant, the Acid Rain permit for

the facility was revoked by the State on December 15, 2022.

If the area is redesignated to attainment, CAA Prevention of Significant Deterioration (PSD) Requirements for permitting any new sources or modifications to sources in the area will apply.

Michigan's computer modeling analysis assesses nonattainment years (pre-2022) and the modeled attainment year (2022) for the Belle River and St. Clair Power Plants. In this analysis, the State modeled nonattainment (pre-2022) allowable emissions of 38,798 pounds per hour (lbs/hr) which declined to 9,268 lbs/hr after permanent and enforceable reductions were put in place for the area. The dispersion modeling analysis demonstrates that the St. Clair area is attaining the 2010 NAAQS with the closure of the St. Clair Power Plant and implementation of lower emission limits at the Belle River Power Plant. The TSD, which is included in the docket for this action, contains further detail on Michigan's modeling analysis.

The EPA is proposing to find that the St. Clair area modeling results demonstrate attainment and continued maintenance of the 2010 SO₂ NAAQS and that the air quality improvement in the St. Clair nonattainment area is due to permanent and enforceable reductions in emissions.

D. Criterion (4) - The EPA Has Fully Approved a Maintenance Plan for the Area Under Section 175A of the CAA

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from

nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as the EPA deems necessary to ensure prompt correction of any future violations of the 2010 SO₂ NAAQS.

Specifically, the maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. The EPA is proposing to determine that Michigan's redesignation request contains all the necessary components and commitments. The EPA is further proposing to approve the maintenance plan as part of Michigan's federally enforceable SIP.

As part of a State's maintenance plan, the EPA's Redesignation Guidance requires States to identify the level of emissions in an affected area sufficient to attain and maintain the NAAQS. In its redesignation request, Michigan provided modeled SO₂ emissions of the emission units in the nonattainment area for 2022, a year in which the permanent and enforceable reductions reduced the emission rates for the two large facilities in St. Clair. As discussed above in section II.A.,

Criterion (1), of this document, the Belle River facility lowered its allowable limits in revised Permit to Install 51-22, and the St. Clair Power Plant shut down, causing allowable emissions in the area to decline heavily. The pre-2022 total emissions were 39,798 lbs/yr from both large SO₂ emitting facilities, with 2019-2021 design values from the near monitors of 43.7 ppb at DTE Mills Compressor Station Monitor and 37.0 ppb at DTE Remer Road Monitor. The emissions then decreased to 9,268 lbs/yr for the post-2022 modeled rates, summarized in Table 2 of this document below. Michigan's modeling analysis, based on the post-2022 emission rates in Table 2, resulted in a design value of 62.8 ppb, below the SO₂ NAAQS of 75 ppb. Michigan's modeling analysis is discussed further in the TSD, which is included in the docket for this action.

Table 2. Modeled SO₂ Emission Rates Before and After Permanent Reductions in 2022

Modeled Source	Emission Unit	Pre-2022 (lbs/hr)	Post-2022 (lbs/hr)
Belle River Power Plant	Boiler 1	8176	4634
	Boiler 2	8176	4634
St. Clair Power Plant	Unit 1	2355	0
	Unit 2	2355	0
	Unit 3	2355	0
	Unit 4	2355	0
	Unit 6	5186	0
	Unit 7	7840	0

The EPA's "Procedures for Processing Requests to Redesignate Areas to Attainment" describes two ways for a State to demonstrate maintenance of the NAAQS following the redesignation of the area: (1) the State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can model to show that

the future mix of sources and emission rates will not cause a violation of the standard. In both instances, the demonstration should be for a period of 10 years following the redesignation. Furthermore, the plan should contain a summary of air quality concentrations resulting from control measures implemented in instances where modeling is relied upon to demonstrate maintenance. Michigan's maintenance demonstration consists of modeling showing total 1-hour SO₂ concentration values (i.e., maximum 1-hour SO₂ concentrations added to background concentration values) now in effect in the St. Clair area which meet attainment of the 2010 SO₂ NAAQS. The modeling was based on maximum allowable rates that are protective of the SO₂ NAAQS. Because there are no large sources of SO₂ projected to enter the St. Clair area, the St. Clair Power Plant closed in 2022, and the Belle River facility plans to convert from coal to natural gas by 2027, the nonattainment area can be expected to demonstrate attainment of the standard for the requisite 10 years and beyond. Table 3 below shows Michigan's base year inventory and attainment year inventory to demonstrate that the area will remain in attainment to projected year 2035.

Table 3. Source Base Year Inventory and Attainment Year Inventory

Modeled Source	Emission Unit	2017 (tpy)	2023 (tpy)	2035 (tpy)
Belle River facility	Boiler 1	12,790.03	8,831.2	0
	Boiler 2	9,766.03	7,961.3	0
St. Clair facility	Unit 1	2,443.21	0	0
	Unit 2	2,294.02	0	0
	Unit 3	2,374.14	0	0
	Unit 4	0	0	0
	Unit 6	5,974.07	0	0
	Unit 7	1,274.03	0	0

While the State's maintenance plan submission expressly

documents that the area's emissions inventories will remain below the attainment year inventories through 2035, emissions are projected to continue to remain below attainment levels into 2036 and beyond due to the 2022 closure of the St. Clair facility and the projected 2027 conversion of the Belle River facility to natural gas. Along with Table 3 of this document above, Michigan provides additional support within its Permit to Install APP-2024-0273, which shows that the conversion to natural gas from coal will continue to allow the St. Clair area to meet attainment. Detailed within the permit, the baseline actual emissions of the highest consecutive 24-month period from the Belle River facility was calculated at 21,470 tons per year (tpy). After its conversion to natural gas, the Belle River facility's actual emissions are projected to decline to 24 tpy. Therefore, even if the redesignation action is finalized in 2026, the maintenance plan provides continued maintenance for at least ten years after redesignation in accordance with the requirements of section 175A.

DTE voluntarily installed and operated two SO₂ monitors in the nonattainment area and within the vicinity of the two power plants in late 2016 until the end of 2022 to determine whether the modeled violations of SO₂ in fact reflected ambient SO₂ impacts. In 2022, DTE discontinued its monitors due to cost, consistent attainment, and the fact that modeling shows NAAQS attainment will be maintained into the future. The monitoring data showed that monitored SO₂ consistently stayed well below the

SO₂ NAAQS for the six years that the monitors were in operation. Additionally, Michigan has long implemented air rules, including the New Source Review (NSR) and PSD programs that aim to prevent new sources and major modifications from significantly contributing to air quality violations and to continue to protect public health and welfare. Both programs look to safeguard economic growth in a manner consistent with the preservation of existing clean air resources. The NSR and PSD programs will ensure attainment of the SO₂ NAAQS is maintained within the St. Clair area.

For continued verification, Michigan has committed to periodically reevaluate the modeling assumptions and input data used in the redesignation SIP development, as well as to monitor contingency plan indicators and triggers. As Michigan's SO₂ monitoring network does not include a monitor in the St. Clair County nonattainment area, Michigan commits to providing the EPA with an annual emissions report for the Belle River Power Plant in order to provide ongoing verification of attainment in the manner required by the EPA's SO₂ Data Requirements Rule (80 FR 51052, August 21, 2015).

Section 175A(d) of the CAA provides that a maintenance plan must also contain contingency provisions that will promptly correct any violation of the SO₂ NAAQS after the area is redesignated to attainment. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for

action by the State. A State should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must also include a requirement that a State will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d). Unlike CAA section 172(c)(9), section 175A of the CAA does not explicitly require that contingency measures must take effect without further action by the air agency in order for the maintenance plan to be approved. However, the maintenance plan's contingency plan would become an enforceable part of the SIP and should ensure that contingency measures are adopted and implemented as expeditiously as practicable once they are triggered.¹

In the General Preamble, the EPA provides further discussion of contingency measures for SO₂. This guidance states that in many cases, attainment revolves around compliance of a single source or a small set of sources with emission limits shown to provide for attainment. Although this guidance applies to contingency measures under section 172(c)(9), the EPA applies a similar policy with respect to contingency measures for SO₂ required in maintenance plans under section 175A(d). The requirement to submit contingency measures in accordance with section 175A of the CAA can be adequately addressed for SO₂ by the operation of a comprehensive enforcement program,² which can

¹ See April 2014 SO₂ Guidance, page 74.

² See April 2014 SO₂ Guidance, pages 41 and 42.

quickly identify and address sources that might be causing NAAQS exceedances.

Michigan's enforcement program is active and capable of prompt action to remedy compliance issues. Additionally, Michigan commits to the implementation of necessary contingency measures in the event of future violations of the 2010 SO₂ NAAQS. Michigan will consider various contingency measures which will be selected from a comprehensive list of measures deemed appropriate. Listed below are example measures that may be considered, but not a complete comprehensive list:

- Require alternative fuel
- Require SO₂ emissions add-on control technologies for existing emission units
- Require reduced operating hours
- Require SO₂ emission offsets for new and modified major sources
- Require SO₂ emission offsets for new and modified minor sources

All of the listed contingency measures are potentially effective or proven methods of obtaining significant reductions of SO₂ emissions. Because it is not possible at this time to determine what control measure(s) will be appropriate at an unspecified time in the future, the list of contingency measures outlined is not comprehensive. The selection of measures will be based upon cost-effectiveness, emission reduction potential,

economic and social considerations, or other factors that Michigan deems appropriate. Michigan will solicit input from all interested and affected persons in the maintenance area prior to selecting appropriate contingency measures.

Additionally, no contingency measure shall be implemented without providing the opportunity for full public participation during which the relative costs and benefits of individual measures, at the time they are under consideration, can be fully evaluated. Based on the foregoing, the EPA proposes to find that Michigan has addressed the contingency measure requirement.

The EPA is proposing to find that the Michigan maintenance plan adequately addresses the five components of a maintenance plan necessary to attain the NAAQS in the St. Clair nonattainment area. Therefore, the EPA proposes to find that the maintenance plan submitted by Michigan for the St. Clair SO₂ nonattainment area meet the requirements of section 175A of the CAA and proposes to approve this plan.

III. What Action is the EPA Taking?

The EPA is proposing to take several related actions. The EPA is proposing to redesignate the St. Clair area from nonattainment to attainment for the 2010 SO₂ NAAQS in accordance with Michigan's December 15, 2023, request for redesignation. The EPA has determined that the area is attaining the 2010 SO₂ NAAQS and has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The EPA is also proposing to approve Michigan's maintenance plan, which is designed to ensure

that the area will continue to maintain attainment of the SO₂ NAAQS. Additionally, the EPA is proposing to approve into the Michigan SIP Permit to Install 51-22, governing Belle River Power Plant SO₂ emissions.

IV. Incorporation by Reference

In this rulemaking, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference Michigan Permit to Install 51-22, approved April 26, 2022 and revised May 25, 2023, discussed in sections II and III of this preamble. The EPA has made, and will continue to make, these documents generally available through *www.regulations.gov* and at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews.

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan 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, the 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 subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review under Executive Order 12866;
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a State program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian Tribe has demonstrated that a Tribe has jurisdiction. In those areas of Indian country, the rule does not have Tribal implications and will not impose substantial direct costs on Tribal governments or preempt Tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

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

Dated: March 31, 2026.

Anne Vogel,
Regional Administrator, Region 5.