

Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State's submittal, which is the subject of this rule, is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of \$100 million; (b) will not cause a major increase in

costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and (c) does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to constitute a major rule.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or Tribal governments, or the private sector of more than \$100 million per year. The rule does not have a significant or unique effect on State, local, or Tribal governments or the private sector. This determination is based on an analysis of the corresponding Federal regulations, which were determined not to impose an unfunded mandate. Therefore, a statement containing the information

required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Alfred L. Clayborne,

Regional Director, DOI Unified Region 3, 4 and 6.

For the reasons set out in the preamble, 30 CFR part 925 is amended as set forth below:

PART 925—MISSOURI

■ 1. The authority citation for part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. In § 925.15 amend the table by adding an entry for “February 8, 2019” in chronological order by “Date of final publication” to read as follows:

§ 925.15 Approval of Missouri regulatory program amendments.

* * * * *

| Original amendment submission date | Date of final publication | Citation/description |
|------------------------------------|---------------------------|---|
| * February 8, 2019 | * January 28, 2022 | * 10 CSR 40–3.060; 40–3.170; 40–3.180; 40–3.190; 40–3.200; 40–3.210; 40–3.220; 40–3.230; 40–3.240; 40–3.250; 40–3.260; 40–3.270; 40–3.280; 40–3.290; 40–3.300; 40–3.310; 40–4.020; 40–4.040; 40–4.060; 40–4.070; 40–6.100; 40–6.110; 40–6.120. |

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2021–0451; FRL–9166–02–R5]

Air Plan Approval; Michigan; Finding of Failure To Attain the 2010 Sulfur Dioxide Primary National Ambient Air Quality Standard for the Detroit Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Detroit sulfur dioxide (SO₂) nonattainment area failed to attain the 2010 primary 1-hour SO₂ national ambient air quality standard (NAAQS or “standard”) by the applicable attainment date of October 4, 2018. This determination is based upon air quality modeling using actual and allowable

emissions. This action requires the State of Michigan to submit one year after date of publication in the **Federal Register** a revision to its State Implementation Plan (SIP) that, among other elements, provides for expeditious attainment of the 2010 SO₂ standard. EPA is not finalizing the finding of failure to attain for the Rhinelander, Wisconsin area that was included in the notice of proposed rulemaking (NPRM), as a finding of failure to attain only applies to nonattainment areas and EPA expects to redesignate the area to attainment before the effective date of this action.

DATES: This final rule is effective on February 28, 2022.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2021–0451. All documents in the docket are listed on the www.regulations.gov website. 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 through www.regulations.gov or 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 and facility closures due to COVID–19. We recommend that you telephone Abigail Teener, Environmental Engineer, at (312) 353–7314 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Abigail Teener, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–7314, teener.abigail@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background Information

On October 27, 2021 (86 FR 59327), EPA proposed to determine that the

Detroit SO₂ nonattainment area failed to attain the 2010 primary 1-hour SO₂ national ambient air quality standard NAAQS by the applicable attainment date of October 4, 2018. The background for this action is discussed in detail in the NPRM. EPA is not finalizing the finding of failure to attain for the Rhinelander, Wisconsin, area that was included in the NPRM, as a finding of failure to attain only applies to nonattainment areas and EPA expects to redesignate the area to attainment before the effective date of this action.

The determination of failure to attain for the Detroit area was based on air quality dispersion modeling, using actual and allowable emissions from the most recent three complete calendar years, prior to the attainment date of October 4, 2018. The NPRM describes EPA's modeling requirements to support attainment demonstrations as well as various features of the model that EPA used to make its determination of failure to attain. For an area to attain the 2010 SO₂ NAAQS by the October 4, 2018, attainment date, the design value based upon modeled actual and allowable air quality data from 2015–2017 at the area of maximum ambient SO₂ concentration must be equal to or less than 75 parts per billion (ppb) for the 1-hour standard. EPA's modeling analysis indicates that the highest predicted 3-year average 99th percentile 1-hour average concentration within the chosen modeling domain is 139 ppb. Therefore, based on modeled actual and allowable emissions for the 2015–2017 period, EPA is determining that the Detroit area failed to attain the 2010 1-hour SO₂ standard by the October 4, 2018, attainment date.

Under Clean Air Act (CAA) section 179(d), a finding of failure to attain requires a state to submit, no later than one year after the publication date of the final action, a SIP revision for the area meeting the requirements of CAA sections 110 and 172, the latter of which requires, among other elements, a demonstration of attainment within the time period specified in CAA sections 179(d)(3) and 172(a)(2). Therefore, this action requires Michigan to submit a SIP revision by January 30, 2023, per section 179(d). Regardless, as discussed in the NPRM, EPA's obligation to promulgate a Federal implementation plan (FIP) for the Detroit area remains in force, and EPA is actively working on a FIP.

II. Public Comments

The proposed action described above provided a public comment period that closed on November 26, 2021. EPA received no comments on the proposed

finding of failure to attain for the Detroit area.

III. What action is EPA taking?

EPA is determining under CAA section 179(c)(1) that the Detroit area failed to attain the 2010 1-hour SO₂ standard by the applicable attainment date of October 4, 2018. This action requires Michigan under CAA section 179(d) to submit a revision to the SIP for the Detroit SO₂ nonattainment area. The required SIP revision must, among other elements, demonstrate expeditious attainment of the standards within the time period prescribed by CAA section 179(d). The SIP revision required under CAA section 179(d) is due for submittal to EPA no later than January 30, 2023. EPA is not finalizing the finding of failure to attain for the Rhinelander, Wisconsin area that was included in the NPRM, as a finding of failure to attain only applies to nonattainment areas and EPA expects to redesignate the area to attainment before the effective date of this action.

IV. Statutory and Executive Order Reviews

Additional information about these statutes and Executive orders can be found at <https://www2.epa.gov/laws-regulations/laws-and-executive-orders>.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action and therefore was not submitted to the Office of Management and Budget (OMB) for review.

B. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the provisions of the PRA because it does not contain any information collection activities.

C. Regulatory Flexibility Act (RFA)

EPA certifies that this action will not have a significant economic impact on a substantial number of small entities under the RFA. This action will not impose any requirements on small entities. This action requires the state to adopt and submit SIP revisions to satisfy CAA requirements and would not itself directly regulate any small entities.

D. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate of \$100 million or more, as described in UMRA (2 U.S.C. 1531–1538) and does not significantly or uniquely affect small governments.

This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. This action determines that the Detroit SO₂ nonattainment area failed to attain the NAAQS by the applicable attainment date and triggers existing statutory timeframes for the State to submit SIP revisions. Such a determination in and of itself does not impose any Federal intergovernmental mandate.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the National Government and the states, or on the distribution of power and responsibilities among the various levels of government.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This action does not have tribal implications as specified in Executive Order 13175. The finding of failure to attain the SO₂ NAAQS does not apply to tribal areas, and the action does not impose a burden on Indian reservation lands or other areas where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction within the Detroit SO₂ nonattainment area. Thus, this action 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.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2–202 of the Executive order. This action is not subject to Executive Order 13045 because the effect of this action does not trigger additional planning requirements under the CAA. This action does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994). The effect of this action triggers additional planning requirements under the CAA.

K. Congressional Review Act (CRA)

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).

L. Petitions for Judicial Review

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 March 29, 2022. 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, does not 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, Intergovernmental relations, Sulfur oxides.

Dated: January 6, 2022.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 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 an entry for “Determination of failure to attain the 2010 SO₂ standard” immediately after the entry for “2010 Sulfur Dioxide Clean Data Determination” to read as follows:

§ 52.1170 Identification of plan.

* * * * *
(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 |
|--|---|----------------------|---|---|
| * Determination of failure to attain the 2010 SO ₂ standard. | * Detroit area (Wayne County, part). | * | * 1/28/2022, [INSERT FEDERAL REGISTER CITATION]. | * Triggers requirements of CAA section 179(d) for the State of Michigan to submit by January 30, 2023, a revision to its SIP for the Detroit area that, among other elements, provides for expeditious attainment of the 2010 SO ₂ standard within the time period specified in CAA sections 179(d)(3) and 172(a)(2). |
| * | * | * | * | * |

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2021–0261; FRL–8969–02–R9]

Partial Approval and Partial Disapproval of Air Quality Implementation Plans and Determination of Attainment by the Attainment Date; California; San Joaquin Valley Serious Area and Section 189(d) Plan for Attainment of the 1997 24-hour PM_{2.5} NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve in part and disapprove in part portions of state implementation plan (SIP) revisions submitted by California to address Clean Air Act (CAA) requirements for the 1997 24-hour fine particulate matter (PM_{2.5}) national ambient air quality standards (NAAQS or “standards”) in the San Joaquin Valley PM_{2.5} nonattainment area. Specifically, the EPA is approving all but the contingency measures element of the submitted SIP revisions as meeting all applicable “Serious” area and CAA section 189(d) requirements for the 1997 24-hour PM_{2.5} NAAQS and is disapproving the contingency measures element. The EPA is also