

Designation of Areas for Air Quality Planning Purposes; Illinois

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Contact Information: David Pohlman, 312-886-3299

Action: Direct Final Rule

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SUMMARY: In this action EPA is approving the State Implementation Plan (SIP) submitted by the State of Illinois through the Illinois Environmental Protection Agency (IEPA) on June 2, 1995, and January 9, 1996, for the purpose of redesignating the portion of LaSalle County currently designated as nonattainment to attainment status for the particulate matter National Ambient Air Quality Standard (NAAQS). The EPA is also approving the maintenance plan for the LaSalle County PM nonattainment area, which was submitted with the redesignation request to ensure that attainment will be maintained.

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DATES: The "direct final" is effective on October 7, 1996, unless EPA receives adverse or critical comments by September 9, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone David Pohlman at (312) 886-3299 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: David Pohlman at (312) 886-3299.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987 (52 FR 24634), EPA revised the NAAQS for particulate matter (PM) with a new indicator that includes only those particles with an aerodynamic diameter less than or equal to a nominal 10 micrometers. (See 40 CFR Sec. 50.6). The 24-hour primary PM standard is 150 micrograms per cubic meter (micro-g/m³), with no more than one expected exceedance per year. The annual primary PM standard is 50 micro-g/m³ expected annual arithmetic mean. The secondary PM standards are identical to the primary standards.

Portions of LaSalle County were designated as a moderate PM nonattainment area upon enactment of the Clean Air Act (Act) Amendments of 1990 (November 15, 1990). 56 FR 56694 at 56705-706, 56714 (November 6, 1991). The nonattainment area includes the following townships, ranges, and sections: T32N, R1E, S1; T32N, R2E, S6; T33N, R1E, S24; T33N, R1E, S25; T33N, R2E, S30; T33N, R2E, S31; AND T33N, R1E, S36. The area is known as the Oglesby PM nonattainment area, after the nearby town of Oglesby, Illinois.

II. Evaluation Criteria

Title I, section 107(d)(3)(D) of the amended Act and the general preamble to Title I (57 FR 13498 (April 16, 1992)), allow the Governor of a State to request the redesignation of an area from nonattainment to attainment. The criteria used to review redesignation requests are derived from the Act, general preamble, and the following policy and guidance memorandum from the Director of the Air Quality Management Division to the Regional Air Directors, September 4, 1992, Procedures for Processing Requests to Redesignate Areas to Attainment. An area can be redesignated to attainment if the following conditions are met:

1. The area has attained the applicable NAAQS;
2. The area has a fully approved SIP under section 110(k) of the Act;
3. The air quality improvement must be permanent and enforceable;
4. The area has met all relevant requirements under section 110 and Part D of the Act;
5. The area must have a fully approved maintenance plan pursuant to section 175(A) of the Act.

III. Review of State Submittal

Under cover letters dated June 2, 1995, and January 9, 1996, the State submitted a redesignation request for the LaSalle County PM nonattainment area. A public hearing was held on September 22, 1995. The request was reviewed by EPA to determine completeness shortly after its submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V (1991), as amended by 57 FR 42216 (August 26, 1991). The submittal was found to be complete and a letter dated February 29, 1996, was forwarded to the Chief, Bureau of Air, Illinois Environmental Protection Agency, indicating the completeness of the submittal and the next steps to be taken in the review process. The following is a description of how the State's redesignation request meets the requirements of Section 107(d)(3)(E).

1. Attainment of the PM NAAQS

According to EPA guidance, the demonstration that the area has attained the PM NAAQS involves submittal of ambient air quality data from an ambient air monitoring network representing peak PM concentrations, which should be recorded in the Aerometric Information Retrieval System (AIRS). The area must show that the average annual number of expected exceedances of the 24-hour PM standard is less than or equal to 1.0 pursuant to 40 CFR Part 50, section 50.6. The data must represent the most recent three consecutive years of complete ambient air quality monitoring data collected in accordance with EPA methodologies.

The IEPA operates one PM monitoring site in the nonattainment area. Illinois submitted ambient air quality data from the monitoring site which demonstrates that the area has attained the PM NAAQS. This air quality data was verified in AIRS. Quality assurance procedures are a component of the AIRS data entry process. No exceedance of the 24-hour

NAAQS has been measured since 1991, and no exceedance of the annual NAAQS has been measured since 1990. Therefore, the State has adequately demonstrated, through ambient air quality data, that the PM NAAQS has been attained in LaSalle County, with 1993 as the attainment year.

2. State Implementation Plan Approval

Those States containing initial moderate PM nonattainment areas were required to submit a SIP by November 15, 1991 which implemented reasonably available control measures (RACM) by December 10, 1993 and demonstrated attainment of the PM NAAQS by December 31, 1994. The SIP for the area must be fully approved under section 110(k) of the Act, and must satisfy all requirements that apply to the area. On October 21, 1993, (58 FR 54291), EPA approved the LaSalle County PM nonattainment area SIP originally submitted by the State on October 16, 1991.

3. Improvement in Air Quality Due to Permanent and Enforceable Measures

The State must be able to reasonably attribute the improvement in air quality to permanent and enforceable emission reductions. In making this showing, the State must demonstrate that air quality improvements are the result of actual enforceable emission reductions.

The PM dispersion modeling conducted as part of the LaSalle County PM SIP predicted that the control measures included in the SIP were sufficient to provide for attainment and maintenance of the PM NAAQS. The State has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emission reductions of PM as a result of implementing the federally enforceable control measures in the SIP.

4. Meeting Applicable Requirements of Section 110 and Part D of the Act

To be redesignated to attainment, section 107(d)(3)(E) requires that an area must have met all applicable requirements of section 110 of part D of title I of the Act. The EPA interprets this to mean that for a redesignation request to be approved, the State must have met all requirements that applied to the subject area prior to or at the time of a complete redesignation request.

A. Section 110 Requirements. Section 110(a)(2) contains general requirements for nonattainment plans. For purposes of redesignation, the Illinois SIP was reviewed to ensure that all applicable requirements under the amended Act were satisfied. These requirements were met with Illinois' October 16, 1991, and November 13, 1991, submittal for the LaSalle County nonattainment area. This submittal was approved by the EPA on October 21, 1993. See 58 FR 12006 (March 2, 1993), and 58 FR 54291 (October 21, 1993).

B. Part D Requirements. Before a PM nonattainment area may be redesignated to attainment, the State must have fulfilled the applicable requirements of part D. Subpart 1 of part D establishes

the general requirements applicable to all nonattainment areas and subpart 4 of part D establishes specific requirements applicable to PM nonattainment areas.

The requirements of sections 172(c) and 189(a) for providing for attainment of the PM NAAQS, and the requirements of section 172(c) for requiring reasonable further progress, imposition of RACM, the adoption of contingency measures, and the submission of an emission inventory have been satisfied through the October 21, 1993, approval of the LaSalle County PM SIP (58 FR 54291), the July 13, 1995, approval of the Illinois PM contingency measures SIP (60 FR 36060), and the demonstration that the area is now attaining the standard. The requirements of the Part D--New Source Review (NSR) permit program will be replaced by the Part C--Prevention of Significant Deterioration (PSD) program once the area has been redesignated. However, in order to ensure that the PSD program will become fully effective immediately upon redesignation, either the State must be delegated the Federal PSD program or the State must make any needed modifications to its rules to have the approved PSD program apply to the affected area upon redesignation. The PSD program was delegated to the State of Illinois on January 29, 1981 (46 FR 9584).

5. Fully Approved Maintenance Plan Under Section 175(A) of the Act

Section 175(A) of the Act requires states that submit a redesignation request for a nonattainment area under section 107(d) to include a maintenance plan to ensure that the attainment of NAAQS for any pollutant is maintained. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the approval of a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan demonstrating attainment for the ten years following the initial ten year period.

The State of Illinois adequately demonstrated attainment and maintenance of the PM NAAQS through the dispersion modeling submitted as part of the LaSalle County PM attainment demonstration SIP. Since emissions in the area are not expected to increase substantially in the next 10 years, that initial attainment demonstration is still appropriate. Further, emissions from the area's only significant PM source, the Lone Star portland cement plant (and its associated quarry), are currently only about 75% of the levels modeled for the 1991 submittal. Thus, even if production should increase, emissions would likely not exceed the modeled amounts. Also, emissions from any new sources would be restricted by PSD requirements.

Once an area has been redesignated, the State must continue to operate an appropriate air quality monitoring network, in accordance with 40 CFR Part 58, to verify the attainment status of the area. The maintenance plan should contain provisions for continued operation of air quality monitors that will provide such verification. Illinois operates one PM air monitoring site in the nonattainment area. This site is approved annually by the EPA, and any future change would require discussion with EPA. In its submittal, the State commits to continue to operate the PM monitoring station to demonstrate ongoing compliance with the PM NAAQS.

Section 175(A) of the Act also requires that a maintenance plan include contingency provisions,

as necessary, to promptly correct any violation of the NAAQS that occurs after redesignation of the area. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9). However, if the contingency measures in a nonattainment SIP have not been implemented to attain the standards and they include a requirement that the State will implement all of the PM control measures which were contained in the SIP before redesignation to attainment, then they can be carried over into the area's maintenance plan.

Under a cover letter dated July 29, 1994, IEPA submitted a State Rule to satisfy the contingency measures requirements specified in section 172(c)(9) for the LaSalle County PM nonattainment area, among others. This rule is eligible to also be used as the section 175(A) contingency measures, because the State was able to attain the PM NAAQS with the limitations and control measures already contained in the SIP. On July 13, 1995, the EPA approved the rule into the Illinois SIP in a direct final rulemaking (60 FR 36060), which became effective on September 11, 1995. Also, Illinois' June 2, 1995, and January 9, 1996, submittal included a commitment by the State to take action to reduce PM emissions when monitored 24-hour PM concentrations exceed 90% of the NAAQS.

IV. Final Rulemaking Action

In this action, EPA is approving the State of Illinois' request to redesignate the LaSalle County PM nonattainment area to attainment. The EPA is also approving the maintenance plan for the LaSalle County PM nonattainment area, which was submitted with the redesignation request to ensure that attainment will be maintained. The EPA has completed an analysis of this SIP revision request based on a review of the materials presented and has determined that it is approvable because all requirements for redesignation have been met as discussed above.

The EPA is publishing this action without prior proposal because EPA views this action as a noncontroversial revision and anticipates no adverse comments. However, EPA is publishing a separate document in this Federal Register publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on October 7, 1996, unless EPA receives adverse or critical comments by September 9, 1996. If EPA receives comments adverse to or critical of the approval discussed above, EPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in subsequent rulemaking. Please be aware that EPA will institute another comment period on this action only if warranted by significant revisions to the rulemaking based on any comments received in response to today's action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, EPA hereby advises the public that this action will be effective on October 7, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225),

as revised by a July 9, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under section 801(a)(1)(A) of the Administrative Procedure Act (APA) as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's Federal Register. This rule is not a "major rule" as defined by section 804(2) of the APA as amended.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the EPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the EPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the EPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the EPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any

new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. EPA.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 7, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule 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, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 3, 1996.

Valdas V. Adamkus,
Regional Administrator.

For reasons stated in the preamble, parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52--(AMENDED)

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

Subpart O--Illinois

2. Section 52.725 is amended by adding paragraph (d) to read as follows:

Sec. 52.725 Control strategy: Particulates.

* * * * *

(d) Approval--On June 2, 1995, and January 9, 1996, the State of Illinois submitted a maintenance plan for the particulate matter nonattainment portion of LaSalle County, and requested that it be redesignated to attainment of the National Ambient Air Quality Standard for particulate matter. The redesignation request and maintenance plan satisfy all applicable requirements of the Clean Air Act.

PART 81--DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. In Sec. 81.314, the table for "Illinois PM-10" is amended by revising the table heading and the entry for "LaSalle County" to read as follows:

Sec. 81.314 Illinois.

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Illinois--PM-10

Designation Classification

Designated area Date Type Date Type

* * * * *

LaSalle County October 7, 1996 Attainment

Oglesby including the

following Townships, ranges,

and sections: T32N, R1E, S1;

T32N, R2E, S6; T33N, R1E,

S24; T33N, R1E, S25; T33N,

R2E, S30; T33N, R2E, S31; and

T33N, R1E, S36

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(FR Doc. 96-19888 Filed 8-7-96; 8:45 am)

BILLING CODE 6560-50-P

Legal Publications:

- Pub. Law 95-59 SEC. 129 -- Federal Child Support Enforcement Act, Amendment (6/30/77)
- Pub. Law 84-159 SEC. 107 175 172 189 110 307 -- Air Pollution Control Act (Act of 7/14/55)
- Pub. Law 101-549 SEC. 102 105 -- Clean Air Act, Amendments (11/15/90)
- Pub. Law 91-604 SEC. 4 12 -- Noise Pollution and Abatement Act of 1970; Clean Air Act Amendments of 1970