(e) [Reserved]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[MI73–7281a; FRL–6366–5]

Approval and Promulgation of State Implementation Plans; Michigan

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule

SUMMARY: The Environmental Protection Agency (EPA) is approving the State of Michigan's request to redesignate the Detroit area, which includes portions of Wayne, Oakland, and Macomb Counties, to attainment for carbon monoxide (CO). The EPA is also approving the corresponding 175A maintenance plan associated with the redesignation request as a revision to the Michigan State Implementation Plan (SIP) for attaining and maintaining the National Ambient Air Quality Standard (NAAQS) for CO.

DATES: This action is effective August 30, 1999, without further notice, unless EPA receives adverse comment by July 30, 1999. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Send written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (We recommend that you telephone John Mooney at (312) 886–6043 before visiting the Region 5 Office.)

A copy of the SIP revision is available for inspection at the Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), room M1500, United States Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548.

FOR FURTHER INFORMATION CONTACT: John M. Mooney, Regulation Development Section (AR–18J), Air Programs Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6043.

I. Supplementary Information

This Supplementary Information section is organized as follows:

A. Redesignation

Under the Clean Air Act (Act), EPA may redesignate areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3) of the Act. On March 18, 1999, the State of Michigan submitted a redesignation request and section 175A maintenance plan for the Detroit CO nonattainment area. Once approved, the section 175A maintenance plan becomes a federally enforceable part of the SIP for the Detroit area.

A detailed analysis of the Detroit Redesignation Request and section 175A Maintenance Plan SIP submittal for the Detroit area is contained in the EPA's Technical Support Document (TSD), dated May 26, 1999 from John Mooney to the Docket, entitled ''Technical Review of Michigan's State Implementation Plan Revision for the Detroit Carbon Monoxide Nonattainment Area,'' which is available from the Region 5 office listed above.

1. Background

EPA designated the Detroit area as a CO nonattainment area under section 107 of the 1977 Act on March 3, 1978 (43 FR 8962). The Clean Air Act Amendments of 1990 (1990 Act) authorizes EPA to designate nonattainment areas according to degree of severity of the nonattainment problem. On November 6, 1991 (56 FR 56694), the EPA designated the Detroit area as a CO nonattainment area. At the time of the designation, air quality monitoring data recorded in the area did not show violations of the CO NAAQS, however, the State had not completed a redesignation request showing that it had complied with the requirements of section 107 of the Act. As a result, EPA designated the area as nonattainment, but did not establish a nonattainment classification. The preamble for the original designation contains more detail on this action (56 FR 56694).

Since the EPA's 1991 designation, monitors in the Detroit area have demonstrated attainment of the CO NAAQS, except for a single violation of the CO standard at one monitor in the area during 1994. From 1994 to the present, monitors in the area have continued to show attainment. As a result, the area is eligible for redesignation from nonattainment to attainment consistent with the 1990 Act. On March 18, 1999, the State of Michigan submitted a SIP revision to the EPA containing the redesignation request and maintenance plan to ensure continued attainment of the CO standard for the Detroit area. The State also included materials from the public hearing on the request which it held in Detroit on February 10, 1999.

2. Evaluation Criteria

The Amended Act revised section 107(d)(3)(E) to provide five specific requirements that an area must meet to be redesignated from nonattainment to attainment. These requirements are:

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

3. Review of State Submittal

The EPA has reviewed the Michigan redesignation request for the Detroit area and finds that the area meets meet the five requirements of section 107(d)(3)(E). EPA's Redesignation/Maintenance Plan technical support document (TSD) contains a more in-depth analysis of the submittal with respect to certain of these evaluation criteria.

a. Attainment of the CO NAAQS

The Michigan request is based on an analysis of quality-assured CO air

quality data. Ambient air monitoring data for calendar years 1997 through calendar year 1998 show no violations of the CO NAAQS (40 CFR 50.8) in the Detroit area. The State collected this data in an EPA approved, quality assured, National Air Monitoring System monitoring network.

As discussed in the State's redesignation submittal, the CO monitor located on Evergreen Road that recorded the 1994 CO violation has had a history of being vandalized. The State discontinued monitoring at the site after a fire at the site on December 14, 1996. The MDEQ and the Wayne County Department of the Environment established a new monitor at a nearby location on February 7, 1997. At the temporary location, there was a period where the environmental conditions in the monitoring shed exceeded EPA recommendations, requiring that the data recorded during that period be flagged in EPA's Aerometric Information Retrieval System (AIRS). Even though the data was flagged for 2 quarters, the monitor did not record any exceedances of the CO standard during that time. Further, the monitor did not record any exceedances over the next seven quarters, to date, when the State collected valid data at the site. The EPA has reviewed the State's actions to establish the new monitor, as well as the action to discontinue monitoring at the Evergreen Road monitoring site, and believes that the actions that the State took were appropriate. Since this was a new monitor, the lack of complete, quality assured data collected during the startup period for the monitor does not affect the area's ability to demonstrate attainment of the CO NAAQS. EPA sent a letter to the State noting the acceptability of the changes to their CO monitoring network in the area on May 11, 1999.

All other monitors in the Detroit nonattainment area show attainment of the CO NAAQS during the 1997–1998 calendar years, in accordance with EPA's quality assurance and data completeness requirements.

As a result, the area meets the first statutory criterion for redesignation to attainment of the CO NAAQS. The State has committed to continue monitoring in this area in accordance with 40 CFR part 58. (If, however, complete quality assured data show violations of the CO NAAQS before the final EPA action on this redesignation, the EPA will disapprove the redesignation request).

b. Meeting Applicable Requirements of Section 110 and Part D

On May 6, 1980 (45 FR 29801) and February 7, 1985 (50 FR 5250), EPA fully approved Michigan's SIP for the Detroit area as meeting the requirements of section 110(a)(2) and part D of the 1977 Act for CO. The 1990 Act, however, modified section 110(a)(2) and, under part D, revised section 172 and added new requirements for all nonattainment areas. Therefore, in addition to complying with requirements of the 1977 Act, for purposes of redesignation, the Michigan SIP must satisfy all applicable requirements of section 110(a)(2) and part D added by the 1990 amendments. EPA has reviewed the SIP to ensure that it contains all measures that were due under the amended 1990 Act prior to or at the time Michigan submitted its redesignation request for the Detroit area.

i. Section 110 Requirements

The Detroit area SIP meets the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIP met these requirements. The EPA has analyzed the Michigan SIP and determined that it is consistent with the requirements of amended section 110(a)(2).

ii. Part D Requirements

Before EPA may redesignate the Detroit area to attainment, the SIP must have fulfilled the applicable requirements of part D. Under part D, an area's classification indicates the requirements to which it is subject. Subpart 1 of part D sets forth the basic nonattainment requirements applicable to all nonattainment areas, classified as well as nonclassifiable. Subpart 3 of part D establishes additional requirements for CO nonattainment areas classified under section 186 of the Act. As described in the ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' specific requirements of subpart 3 may override subpart 1's general provisions (57 FR 13501 (April 16, 1992)). However, as noted in the General Preamble, the subpart 3 requirements do not apply to ''not classified'' CO nonattainment areas (57 FR 13535). EPA designated the Detroit area as a ''not classified'' CO nonattainment area (56 FR 56694, November 6, 1991), codified at 40 CFR 81.323. Therefore, to be redesignated to attainment, the State must meet the applicable requirements of subpart 1 of part D—specifically sections 172(c) and 176, but not the requirements of subpart 3 of part D.

I. Subpart 1 of Part D—Section 172(c) Provisions

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under 172(b), the section 172(c) requirements are applicable as determined by the Administrator, but no later than 3 years from the date of the nonattainment designation. As discussed below, Michigan has satisfied the section 172(c) requirements.

(A) RFP is defined as progress that a nonattainment area must make each year toward attainment of the NAAQS. This requirement only has relevance during the time it takes an area to attain the NAAQS. Because the Detroit area has attained the NAAQS, its SIP has already achieved the necessary RFP toward that goal.

(B) In addition, because the Detroit area has attained the NAAQS and is no longer subject to an RFP requirement, the section 172(c)(9) contingency measures are not applicable unless EPA does not approve the redesignation request and maintenance plan. However, section 175A contingency measures still apply.

(C) Similarly, once EPA redesignates an area to attainment, nonattainment new source review (NSR) requirements are not generally applicable. The area then becomes subject to prevention of significant deterioration (PSD) requirements instead of the NSR program (45 FR 29790). The State has a valid program for review of new sources (45 FR 29790, May 6, 1980). EPA delegated the PSD program to the State of Michigan on September 10, 1979 and amended it on November 7, 1983 and September 26, 1988. Moreover, the EPA believes that the applicability of the part C PSD program to maintenance areas makes it unnecessary for an area to have obtained full approval of the NSR revisions required by part D to be redesignated.

(D) The State met the 172(c) requirement for an emissions inventory by submitting the 1990 base year emission inventory which EPA approved on April 7, 1995 (60 FR 12495).

(E) No additional Reasonably Available Control Measures (RACM) controls beyond what may already be required in the SIP are necessary upon redesignation to attainment. The General Preamble (57 FR 13560, April 16, 1992) explains that section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable. The EPA interprets this requirement to impose a duty on all

nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area as components of the areas attainment demonstration. Because the area has reached attainment, no additional measures are needed to provide for attainment.

(F) For purposes of redesignation, EPA reviewed the Michigan SIP to ensure that it satisfied all requirements of section 110(a)(2) of the Act, which contains general SIP elements. Title 40 CFR section 52.1172, states that, with several exceptions, EPA approved the Michigan SIP under section 110 of the Act and further found that it satisfied all Part D, Title I (as amended in 1977) requirements on May 6, 1980 (45 FR 29801).

II. Subpart 1 of Part D—Section 176 Conformity Provisions

Section 176(c) of the Act requires States to establish criteria and procedures to ensure that Federally supported or funded projects conform to the air quality planning goals in the applicable State SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. or the Federal Transit Act (''transportation conformity''), as well as to all other Federally supported or funded projects (''general conformity''). Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations that the Act required the EPA to promulgate. EPA approved Michigan's general conformity rule on December 18, 1996 (61 FR 66607).

The EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under Section 107(d). The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the Act continues to apply to areas after redesignation to attainment, since such areas would be subject to a Section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of federally approved State rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if State rules are not yet approved, the EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. Consequently, EPA may approve the CO redesignation request for the Detroit area notwithstanding the lack of a fully approved conformity SIP.

Included in the March 18, 1999 submittal is a commitment by the State to satisfy the applicable requirements of the final transportation conformity rules. This is acceptable since the transportation conformity rule applies to maintenance areas.

For purposes of transportation conformity, the control measures in the maintenance plan establish an emissions budget. The State has defined this budget for year 2010 as 5,453,417 lbs. per day of CO for onroad mobile sources, as noted in their April 29, 1999 letter to the EPA. This level of emissions provides for continued maintenance of the CO standard.

III. Subpart 3 Requirements

As noted in the General Preamble, the subpart 3 requirements do not apply to ''not classified'' CO nonattainment areas (57 FR 13535). EPA designated the Detroit area as a not classified CO nonattainment area on November 6, 1991 (56 FR 56694) codified at 40 CFR 81.323. Therefore, to be redesignated to attainment, the State does not have to meet the requirements of subpart 3 of part D.

c. Fully Approved SIP Under Section 110(k) of the Act

As noted above, because the area is a non classified nonattainment area, the 1990 Act did not establish additional requirements under subpart 3 of the Act. Prior to the 1990 Amendments, EPA had fully approved the State's CO SIP. Since the area is not subject to the subpart 3 requirements, no additional requirements exist under section 110(k) which the State must address prior to redesignation.

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

The State must demonstrate that the actual enforceable emission reductions are responsible for the recent improvement in air quality. The State may make this demonstration through an estimate of the percent reduction (from the year that it used to determine the design value for designation and classification) achieved through Federal measures such as the Federal Motor Vehicle Control Program (FMVCP) and fuel volatility rules, as well as other control measures that the State has adopted and implemented.

The State provided a detailed discussion of the emission reductions of CO between 1986 and 1996 which were responsible for the improvement in air quality. All emission estimates were made using EPA approved emissions inventory techniques.

Consistent with emission inventory guidance, the 1986 base year emission inventory represents 1986 average winter day *actual emissions* for the Detroit area. These 1986 base year emissions were calculated from a 1990 base year inventory that EPA approved on April 7, 1995 (60 FR 12459). The State also projected the 1990 inventory to 1996, to determine the emission reductions during the 10-year time period. The State based its projections on growth factors developed by the Southeast Michigan Council of Governments (SEMCOG) and the Michigan Department of Environmental Quality (MDEQ).

On road mobile sources represent the majority of mobile source emissions in the Detroit-Ann Arbor CO nonattainment area. The State used the Federal highway administration (FHWA) highway performance monitoring system (HPMS) method to develop traffic counts for 1996 vehicle miles traveled (VMT). The VMT, adjusted for seasonal and temporal effects, reflects a typical winter weekday. The State projected the VMT for 1986 and 2010 using SEMCOG's validated travel model. This travel model was calibrated with HPMS VMT data. Michigan developed on road travel speeds for mobile sources using SEMCOG's 1992 regional speed survey. MDEQ generated mobile source emission factors with EPA's MOBILE5a model. Attachment 1 of the State's submittal provides additional detail on significant MOBILE5a model input parameters and methods of mobile source emissions estimation.

MDEQ developed 1996 non-road mobile source emissions estimates for aircraft and railroads. MDOT provided aircraft and railroad activity data for the Detroit-Ann Arbor area. MDEQ obtained aircraft and railroad emission factors from EPA's *Procedure for Emissions Inventory Preparation, Volume IV: Mobile Sources.* MDOT provided forecast growth factors for the 1986 and 2010 aircraft emissions projections. SEMCOG provided growth factors for 1986 and 2010 railroad emissions projections. MDEQ used EPA's NONROAD emissions model to estimate 1986, 1996, and 2010 emissions for the remaining non-road sources.

The MDEQ included actual emissions for 1996 point sources. The MDEQ used 1996 actual activity levels, emissions factors based on the EPA Factor Information Retrieval System Version 6.1B, and control technology effectiveness to estimate emissions. The

1996 emissions were adjusted to account for seasonal fluctuations. The MDEQ projected point source emissions for years 1986 and 2010 by applying energy consumption, source activity, and economic growth factor to the 1996 point source inventory.

The State developed area source emissions estimates for stationary sources emitting less than 100 tons of CO per year and for combustion sources. The stationary sources include residential, commercial, and industrial boilers which burn fossil fuels. Combustion sources include open burning or incineration from forest, agriculture, or structural fires. MDEQ developed activity levels from State and local information. MDEQ used EPA's *Compilation of Air Pollutant Emission Factors, Volume 1: Point and Area Source AP42* to generate emission factors for area sources. The MDEQ projected area source emissions for years 1986 and 2010 by applying energy consumption, source activity, and economic growth factors.

The following tables present the CO emissions for 1986 and 1996 and emission reductions from 1986 to 1996. The State claimed credit for emission reductions achieved by implementing the federally enforceable FMVCP.

As illustrated by the tables and discussed in the TSD, the total reductions achieved from 1986 to 1996 are 1,822,739 lbs. of CO per day.

TABLE 1.—CO EMISSION INVENTORY SUMMARY FOR DEMONSTRATION OF EMISSION REDUCTIONS FROM 1986–1996

[lbs. per day]

Category	1986	1996	Net change1986–1996
Point	564,657	257,359	–307,298
Area	248,194	259,459	+11,265
Non-Road Mobile	434,619	465,913	+31,294
On-Road Mobile	7,058,000	5,500,000	–1,558,000
Total	8,305,470	6,482,731	–1,822,739
Net Reduction	.....	.....	–1,822,739

The State has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emission reductions of 1,822,739 lbs. of CO per day as a result of the federally enforceable FMVCP.

e. Fully Approved Maintenance Plan Under Section 175A

Section 175A of the Act sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the EPA approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the 10 years following the initial 10-year period. To address potential future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation adequate to assure prompt correction of any air quality problems.

Section 175A(d) requires that the contingency provisions include a requirement that the State will implement all control measures that were in the SIP prior to redesignation as an attainment area. In this action, EPA is proposing approval of the State of Michigan's maintenance plan for the Detroit area because EPA finds that Michigan's submittal meets the requirements of section 175A.

I. Emissions Inventory—Base Year Inventory

The State has adequately developed an attainment emission inventory for 1996 that identifies 6,482,731 lbs. of CO per day as the level of emissions in the area sufficient to attain the CO NAAQS.

The State derived all inventories in the maintenance plan from the 1990 base year emission inventory. The methodologies used in developing these inventories are discussed in section 3D of EPA's TSD and in further detail in Attachment 1 of the State's TSD. EPA approved the 1990 base year emission inventory on April 7, 1995 (60 FR 12495). The State has adequately developed an attainment emissions inventory for 1996 that identifies the levels of emissions as 6,482,731 lbs. of CO per days the level of emissions in the area sufficient to attain the NAAQS.

ii. Demonstration of Maintenance—Projected Inventories

To demonstrate continued attainment, the State projected CO emissions through the maintenance period to the year 2010. These emissions are presented in Table 3 of the submittal and summarized below in Table 2. These projected emission inventories demonstrate that the CO emissions will remain below the 1996 attainment year emission levels. In fact, the emissions projections through the year 2010 show an emissions reduction of 1,679,417 lbs. of CO per day. These emission reductions are primarily the result of continued implementation of the Federally enforceable FMVCP.

In developing the projection inventories, the State used the same methodologies as those employed for the other inventories contained in the Section A(3)(d) of today's action and in further detail in Attachment 1 of the State's TSD.

TABLE 2.—CO MAINTENANCE EMISSION INVENTORY PROJECTION SUMMARY THROUGH 2010

[lbs. per day]

Category	1986	1996	2010	Net Change 1986–2010 (percent)
Point	564,657	257,359	280,089	−50.4
Area	248,194	259,459	279,058	10.8
Non-Road Mobile	434,619	465,913	474,167	9.1

TABLE 2.—CO MAINTENANCE EMISSION INVENTORY PROJECTION SUMMARY THROUGH 2010—Continued

[lbs. per day]

Category	1986	1996	2010	Net Change 1986–2010
On-Road Mobile	7,058,000	5,500,000	3,774,000	−46.4
Total	8,305,470	6,482,731	4,803,314	−42.2

The State has adequately demonstrated continued attainment of the CO NAAQS through the projection of CO emissions through the 10 year maintenance period to 2010. These projections indicate that CO emissions, throughout the maintenance period, will remain well below the 1996 attainment inventory.

iii. Verification of Continued Attainment

(I) Ambient Air Quality Monitoring Network

In the submittal and the State's TSD, the State commits to continue to operate and maintain the network of ambient CO monitoring stations in accordance with provisions of 40 CFR Part 58 to demonstrate ongoing compliance with the CO NAAQS.

(II) Tracking

The submittal presents the tracking plan for the maintenance period which consists of two components: (1)continued CO monitoring and (2) an analysis of stationary growth factor assumptions and VMT projections in the year 2007. The State will continue to monitor CO levels throughout the Detroit area to demonstrate ongoing compliance with the CO NAAQS. The State also commits to checking in 2007 the stationary source growth factor assumptions and VMT projections used to generate the 2010 CO inventory to ensure that the estimates are reasonable.

(III) Triggers

The contingency plan contains one trigger: a monitored air quality violation of the CO NAAQS, as defined in 40 CFR section 50.8. The trigger date will be the date that the State certifies to the U.S. EPA that the air quality data are quality assured, which will be no later than 30 days after monitoring an ambient air quality violation. The justification for providing only one trigger is that section 175A(d) explicitly stipulates that a contingency measure must ensure prompt correction of any violation of the NAAQS once the area is redesignated.

iv. Contingency Plan

The level of CO emissions in the Detroit area will largely determine its ability to stay in compliance with the CO NAAQS in the future. Despite best efforts to demonstrate continued compliance with the NAAQS, the ambient air pollutant concentrations may exceed or violate the NAAQS. Therefore, as required by section 175A of the Act, Michigan has provided contingency measures with a schedule for implementation if a future CO air quality problem occurs. Contingency measures in the plan include a series of transportation control measures, a motor vehicle inspection and maintenance (I/M) program, and enforceable emission limitations on stationary sources.

Where it must adopt and implement the contingency measures, the State will observe the schedules specified in the SIP. If it selects a transportation control measure as the contingency measure, the State will program it in the next annual update of the Regional Transportation Improvement Program for Southeast Michigan. For other contingency measures, selection and implementation of the measure will occur within twelve months of the triggering date.

v. Commitment To Submit Subsequent Maintenance Plan Revisions

The State has committed to submit a new maintenance plan within eight years of the redesignation of the Detroit area as required by section 175(A)(b). This subsequent maintenance plan must constitute a SIP revision and provide for the maintenance of the CO NAAQS for a period of 10 years after the expiration of the initial 10 year maintenance period.

B. Final Action

The EPA is approving the Detroit CO maintenance plan as a SIP revision meeting the requirements of section 175A. In addition, the EPA is approving the redesignation request for the Detroit area because the State has demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation.

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

CO SIPs are designed to satisfy the requirements of part D of the Act and to provide for attainment and maintenance of the CO NAAQS. This redesignation should not be interpreted as authorizing the State to delete, alter, or rescind any of the CO emission limitations and restrictions in the approved CO SIP. The State cannot make changes to CO SIP regulations which will render them less stringent than those in the EPA approved plan unless it submits to EPA a revised plan for attainment and maintenance and EPA approves the revision. Unauthorized relaxations, deletions, and changes could result in both a finding of nonimplementation [section 173(b) of the Act] and in a SIP deficiency call made pursuant to section 110(a)(2)(H) of the Act.

II. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order (E.O.) 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elective officials and other representatives of

State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' This rule does not create a mandate on state, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

C. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on these communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the OMB in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' This rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

D. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is does not involve decisions intended to mitigate environmental health or safety risks.

E. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This direct final rule will not have a significant impact on a substantial number of small entities because plan approvals under section 111(d) do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act (Act) preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of a State action. The Act forbids EPA to base its actions on such grounds. Union Electric Co., v. U.S. EPA, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. Submission to Congress and the Comptroller General

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 Congress and to the Comptroller General of the United States.

The EPA will submit 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 United States prior to the 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 rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 30, 1999.

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 a rule or action. The 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, Carbon Monoxide.

40 CFR Part 81

Environmental protection, Air pollution control, Intergovernmental relations, Carbon Monoxide.

Dated: June 7, 1999.

Francis X. Lyons,

Regional Administrator, Region 5.

Chapter I, title 40 of the Code of Federal Regulations is 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 X—Michigan

2. Section 52.1170 is amended by adding paragraph (c)(111) to read as follows:

§ 52.1170 Identification of Plan.

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(c) * * *

(111) On March 18, 1999, the State of Michigan submitted a revision to the Michigan State Implementation Plan for carbon monoxide containing a section 175A maintenance plan for the Detroit area as part of Michigan's request to redesignate the area from nonattainment to attainment for carbon monoxide. Elements of the section 175A maintenance plan include a base year (1996 attainment year) emission inventory for CO, a demonstration of maintenance of the ozone NAAQS with projected emission inventories to the year 2010, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the CO NAAQS (which must be confirmed by the State), Michigan will implement one or more appropriate contingency measure(s) which are in the contingency plan. The menu of contingency measures includes enforceable emission limitations for stationary sources, transportation control measures, or a vehicle inspection and maintenance program.

2. Subpart X is amended by adding § 52.1179 to read as follows:

§ 52.1179 Control strategy: Carbon monoxide.

Approval—On March 18, 1999, the Michigan Department of Environmental Quality submitted a request to redesignate the Detroit CO nonattainment area (consisting of portions of Wayne, Oakland, and Macomb Counties) to attainment for CO. As part of the redesignation request, the State submitted a maintenance plan as required by 175A of the Clean Air Act, as amended in 1990. Elements of the section 175A maintenance plan include a base year (1996 attainment year) emission inventory for CO, a demonstration of maintenance of the ozone NAAQS with projected emission inventories to the year 2010, a plan to verify continued attainment, a contingency plan, and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. If the area records a violation of the CO NAAQS (which must be confirmed by the State), Michigan will implement one or more appropriate contingency measure(s) which are contained in the contingency plan. The menu of contingency measures includes enforceable emission limitations for stationary sources, transportation control measures, or a vehicle inspection and maintenance program. The redesignation request and maintenance plan meet the redesignation requirements in section 107(d)(3)(E) and 175A of the Act as amended in 1990, respectively.

PART 81—[AMENDED]

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

Authority: 42 U.S.C. 7401 *et seq.*

2. In § 81.323 the table entitled ''Michigan-carbon monoxide'' is amended by revising the entry for the ''Detroit Area'' to read as:

§ 81.323 Michigan.

* * * * *

MICHIGAN—CARBON MONOXIDE

Designated areas	Designation		Classification	
	Date [1]	Type	Date [1]	Type
DETROIT AREA				
Areas included within the following (counter-clockwise):				
Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Mile Road to Hayes Road, S. to 14 Mile Road to Clawson City Boundary, following N. Clawson City boundary to N. Royal Oak boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Franklin Hills City boundary to Inkster Road, south to Pennsylvania Road extending east to the Detroit River. Macomb County (part).	August 30, 1999	Attainment.		
Oakland County (part)	August 30, 1999	Attainment.		
Wayne County (part)	August 30, 1999	Attainment.		
*	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6369–9]

RIN 2060–AH47

National Emission Standards for Hazardous Air Pollutants: Group I Polymers and Resins and Group IV Polymers and Resins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule: notice of stay.

SUMMARY: The EPA is taking direct final action to indefinitely stay the compliance dates for portions of the national emission standards for hazardous air pollutants (NESHAP) for Group I Polymers and Resins and Group IV Polymers and Resins. This direct final rule stays, indefinitely, the compliance dates for existing affected sources and new affected sources with an initial start up date on or after March 9, 1999, which are subject to the Group I Polymers and Resins and Group IV Polymers and Resins NESHAP