**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA–R05–OAR–2012–0467; FRL–9697–1]**

# Proposed Approval of Air Quality Implementation Plan; Michigan; Determination of Attainment of the 1997 Annual and 2006 24-Hour Fine Particle Standards for the Detroit-Ann Arbor Nonattainment Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make three determinations under the Clean Air Act (CAA) regarding the fine particle ($PM_{2.5}$) nonattainment area of Detroit-Ann Arbor, Michigan (Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties) (Detroit-Ann Arbor area). EPA is proposing to determine that the Detroit-Ann Arbor area has attained both the 1997 annual $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS) and the 2006 24-hour $PM_{2.5}$ NAAQS. These proposed determinations of attainment are based upon complete, quality-assured, and certified ambient air monitoring data for 2009–2011 showing that the area has monitored attainment of the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS. Preliminary data available for 2012 indicate that the area continues in attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. If these proposed determinations are made final, the requirements for the Detroit-Ann Arbor area to submit an attainment demonstration, associated reasonably available control measures (RACM) to include reasonably available control technology (RACT), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS shall be suspended for so long as the area continues to attain the respective $PM_{2.5}$ NAAQS. EPA is also proposing to determine, based on complete, quality-assured and certified monitoring data for the 2007–2010 monitoring period, that the Detroit-Ann Arbor area had attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010.

**DATES:** Comments must be received on or before August 6, 2012.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R05–OAR–2012–0467, by one of the following methods:

1. *www.regulations.gov:* Follow the online instructions for submitting comments.
2. *Email: blakley.pamela@epa.gov.*
3. *Fax:* (312) 692–2450.
4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA–R05–OAR–2012–0467. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

*Docket:* All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy 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. We recommend that you telephone Carolyn Persoon, Environmental Engineer, at (312) 353–8290, before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8290, *persoon.carolyn@epa.gov.*

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

This supplementary information section is arranged as follows:

I. What is EPA proposing?
II. What is the background of these actions?
III. What is EPA's analysis of the relevant air quality data?
IV. What are the effects of these actions?
V. Statutory and Executive Order Reviews

## I. What is EPA proposing?

In accordance with 40 CFR 51.1004(c), EPA is proposing to determine that Detroit-Ann Arbor Michigan has attained both the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS. These proposed determinations are based upon complete, quality-assured, and certified ambient air monitoring data for the 2009–2011 monitoring period that show the area has monitored attainment of both $PM_{2.5}$ NAAQS. Preliminary quality-assured data available for 2012 are consistent with continued attainment. In accordance with 40 CFR 51.1004(c), if EPA finalizes these determinations, it will suspend the Detroit-Ann Arbor area's obligation to submit attainment related requirements for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS.

Pursuant to section 179(c) of the CAA, EPA is also proposing to determine that, based on air quality monitoring data for 2007–2010, the Detroit-Ann Arbor area attained the 1997 annual $PM_{2.5}$ NAAQS by its applicable attainment date of April 5, 2010.

**II. What is the background for these actions?**

On July 18, 1997 (62 FR 36852), EPA established an annual $PM_{2.5}$ NAAQS at 15.0 micrograms per cubic meter (μg/m³) based on a three-year average of annual mean $PM_{2.5}$ concentrations. At that time, EPA also established a 24-hour $PM_{2.5}$ standard of 65 μg/m³. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2001–2003. These designations became effective on April 5, 2005. The Detroit-Ann Arbor area was designated nonattainment for the 1997 $PM_{2.5}$ NAAQS.

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual $PM_{2.5}$ NAAQS at 15.0 μg/m³ based on a three-year average of annual mean $PM_{2.5}$ concentrations, and promulgated a 24-hour $PM_{2.5}$ standard of 35 μg/m³ based on a three-year average of the 98th percentile of 24-hour concentrations. On November 13, 2009 (74 FR 58688), EPA published its air quality designations and classifications for the 2006 24-hour $PM_{2.5}$ NAAQS based upon air quality monitoring data for calendar years 2006–2008. These designations became effective on December 14, 2009. The Detroit-Ann Arbor area was designated nonattainment for the 2006 24-hour $PM_{2.5}$ NAAQS.

In response to legal challenges to the annual standards promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded these standards to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al.* v. *EPA,* 559 F.3d 512 (DC Cir. 2009). However, given that the 1997 and 2006 annual standards are essentially identical, attainment of the 1997 annual standards would also indicate attainment of the remanded 2006 annual standards.

On April 25, 2007 (72 FR 20664), EPA promulgated its $PM_{2.5}$ implementation rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for state and tribal plans to implement the 1997 p.m.$_{2.5}$ standards. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the standards, as discussed later.

**III. What is EPA's analysis of the relevant air quality data?**

Today's proposed determinations assess whether the Detroit-Ann Arbor area has attained the 1997 annual and the 2006 24-hour $PM_{2.5}$ standards, based on the most recent three years of complete, certified and quality-assured data, and whether the Detroit-Ann Arbor area attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010, based on monitored data from 2007–2010.

Under EPA's regulations at 40 CFR 50.7, the annual primary and secondary $PM_{2.5}$ standards are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, appendix N, is less than or equal to 15.0 μg/m³ at all relevant monitoring sites in the area. Under EPA regulations in 40 CFR 50.13 and in accordance with 40 CFR part 50, Appendix N, the 24-hour primary and secondary $PM_{2.5}$ standards are met when the 98th percentile 24-hour concentration is less than or equal to 35 μg/m³.

EPA has reviewed the ambient air quality monitoring data in the Detroit-Ann Arbor area, consistent with the requirements contained at 40 CFR part 50. EPA's review focused on data recorded in the EPA Air Quality System (AQS) database, for the Detroit-Ann Arbor area for $PM_{2.5}$ nonattainment area from 2007 to 2011. EPA also considered preliminary data for 2012, which has not been certified.

The Detroit-Ann Arbor area has fourteen monitors located in Macomb, Monroe, Oakland, St. Clair, Washtenaw, and Wayne Counties that reported design values from 2009–2011, the most recent three years of data, for $PM_{2.5}$ that ranged from 9.0 to 11.6 μg/m³ for the 1997 annual standard, and 24 to 32 μg/m³ for the 2006 24-hour standard, as shown in Table 1 and Table 2.

All monitors in the Detroit-Ann Arbor area recorded complete data in accordance with criteria set forth by EPA in 40 CFR part 50, appendix N, where a complete year of air quality data comprises four calendar quarters, with each quarter containing data from at least 75 percent capture of the scheduled sampling days. Available data are considered to be sufficient for comparison to the NAAQS if three consecutive complete years of data exist.

TABLE 1—THE 1997 ANNUAL $PM_{2.5}$ DESIGN VALUES FOR DETROIT-ANN ARBOR AREA MONITORS WITH COMPLETE DATA FOR THE 2007–2009, 2008–2010, AND 2009–2011 DESIGN VALUES IN μG/M³

| County | Monitor | Annual standard design value 2007–2009 (μg/m³) | Annual standard design value 2008–2010 (μg/m³) | Annual standard design value 2009–2011 (μg/m³) |
|---|---|---|---|---|
| Macomb | New Haven 260990009 | 10.7 | 9.7 | 9.0 |
| Monroe | Luna Pier 261150005 | 11.6 | 10.3 | 9.9 |
| Oakland | Oak Park 261250001 | 11.4 | 10.0 | 9.4 |
| St. Clair | Port Huron 261470005 | 11.1 | 9.9 | 9.3 |
| Washtenaw | Ypsilanti 261610008 | 11.3 | 10.0 | 9.6 |
| Wayne | Allen Park 261630001 | 11.9 | 11.0 | 10.5 |
| | Dearborn 261630033 | 14.1 | 12.3 | 11.6 |
| | E 7 Mile 261630019 | 11.6 | 10.6 | 9.9 |
| | FIA 261630039 | 12.3 | 11.0 | 10.4 |
| | Linwood 261630016 | 12.1 | 10.7 | 10.1 |
| | Livonia 261630025 | 11.2 | 10.0 | 9.5 |
| | Newberry 261630038 | 12.0 | 10.7 | 10.3 |
| | SW HS 261630015 | 12.8 | 11.5 | 10.9 |
| | Wyandotte 261630036 | 11.6 | 10.2 | 9.6 |

TABLE 2—THE 24-HOUR $PM_{2.5}$ DESIGN VALUES FOR DETROIT-ANN ARBOR AREA MONITORS WITH COMPLETE DATA FOR THE 2008–2010 AND THE 2009–2011 DESIGN VALUES IN μG/M³

| County | Monitor | 24-Hour standard design value 2008–2010 (μg/m³) | 24-Hour standard design value 2009–2011 (μg/m³ |
|---|---|---|---|
| Macomb | New Haven 260990009 | 27 | 25 |
| Monroe | Luna Pier 261150005 | 26 | 24 |
| Oakland | Oak Park 261250001 | 29 | 27 |
| St. Clair | Port Huron 261470005 | 28 | 26 |
| Washtenaw | Ypsilanti 261610008 | 27 | 25 |
| Wayne | Allen Park 261630001 | 29 | 27 |
| | Dearborn 261630033 | 32 | 32 |
| | E 7 Mile 261630019 | 30 | 27 |
| | FIA 261630039 | 30 | 28 |
| | Linwood 261630016 | 30 | 28 |
| | Livonia 261630025 | 28 | 26 |
| | Newberry 261630038 | 29 | 27 |
| | SW HS 261630015 | 31 | 28 |
| | Wyandotte 261630036 | 26 | 24 |

EPA's review of monitoring data from the 2007–2009, 2008–2010, and 2009–2011 monitoring periods supports EPA's determinations that the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area has: (1) Monitored attainment of the $PM_{2.5}$ NAAQS for such period and (2) attained the $PM_{2.5}$ NAAQS by the attainment date of April 5, 2010 for the 1997 standard. Additionally, the preliminary monitoring data for 2012 are consistent with the area's continued attainment.

## IV. What are the effects of these actions?

If EPA's proposed determinations of attainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ standard, based on the most recent three years of complete, quality-assured and certified data, are made final, under the provisions of the $PM_{2.5}$ Implementation Rule (40 CFR 51.1004(c)) the requirements for the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area to submit an attainment demonstration, RACM (including RACT), an RFP plan, contingency measures, and other planning SIP revisions related to attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS shall be suspended for each for so long as the Detroit-Ann Arbor area continues to attain the respective $PM_{2.5}$ NAAQS.

These proposed determinations of attainment for the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area would, if finalized: (1) Suspend the obligation for Michigan to submit the requirements listed above; (2) continue for each NAAQS until such time, if any, that EPA subsequently determines that any monitor in the area has violated that $PM_{2.5}$ NAAQS; and (3) be separate from any future designation determination or requirements for the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area based on any future $PM_{2.5}$ NAAQS revision.

If these rulemakings are finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the Detroit-Ann Arbor area has violated the 1997 annual or 2006 24-hour $PM_{2.5}$ NAAQS, the basis for the suspension of the specific requirements for that NAAQS, set forth at 40 CFR 51.1004(c), would no longer exist, and the State of Michigan would thereafter have to address the pertinent requirements.

The actions proposed above are limited to determinations that the air quality data show that the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area has monitored attainment of the 1997 annual and the 2006 24-hour $PM_{2.5}$ NAAQS, and does not result in a redesignation of the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area to attainment for either the 1997 annual or the 2006 24-hour $PM_{2.5}$ NAAQS.

These proposed actions, if finalized, would not constitute a redesignation to attainment under section 107(d)(3) of the CAA because EPA is not proposing to take action pursuant to CAA section 107(d)(3) and the statutory prerequisites set forth in CAA section 107(d)(3) have not yet been met. For example, EPA has not yet approved a maintenance plan for the area as required under CAA section 175A, nor proposed a determination that the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area has met the other requirements for redesignation under the CAA.

The designation status of the Detroit-Ann Arbor $PM_{2.5}$ nonattainment area will remain nonattainment for the 1997 annual and 2006 24-hour $PM_{2.5}$ NAAQS until such time as EPA takes final rulemaking action to determine that such an area meets the CAA requirements for redesignation to attainment.

Pursuant to section 179(c) of the CAA, EPA is also proposing to determine that the Detroit-Ann Arbor area attained the 1997 annual $PM_{2.5}$ NAAQS by the applicable attainment date of April 5, 2010. If this proposed determination is finalized, EPA will have met its requirement pursuant to section 179(c)(1) of the CAA to make a determination based on the Detroit-Ann Arbor area's air quality data, whether the area attained the 1997 annual $PM_{2.5}$ NAAQS by its attainment date.

EPA is soliciting comment on the issues discussed in this document. EPA will consider these comments before taking final action. Please note that if EPA receives adverse comment on any of the proposed determinations described above and if that determination may be severed from the remainder of the final agency actions, EPA may adopt as final those provisions of the proposed agency action that are not the subject of an adverse comment.

## V. Statutory and Executive Order Reviews

This action proposes to make attainment determinations based on air quality data and would, if finalized, result in the suspension of certain Federal requirements and/or would not impose any additional requirements. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

• Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

• Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, these proposed $PM_{2.5}$ NAAQS attainment determinations do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Particulate matter, Reporting and record-keeping requirements.

Dated: June 26, 2012.

**Susan Hedman,**

*Regional Administrator, Region 5.*

[FR Doc. 2012–16438 Filed 7–3–12; 8:45 am]

BILLING CODE 6560–50–P

**DEPARTMENT OF TRANSPORTATION**

**Pipeline and Hazardous Materials Safety Administration**

**49 CFR Parts 171, 173, and 178**

**[Docket No. PHMSA–2011–0143 (HM–253)]**

**RIN 2137–AE81**

## Hazardous Materials; Reverse Logistics (RRR)

**AGENCY:** Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

**ACTION:** Advance notice of proposed rulemaking (ANPRM).

**SUMMARY:** PHMSA is publishing this ANPRM to identify ways to reduce the regulatory burden for persons who ship consumer products containing hazardous materials in the ''reverse logistics'' supply chain. Reverse logistics is the process that is initiated when a consumer product goes backwards in the distribution chain. It may be initiated by the consumer, the retailer, or anyone else in the chain. Therefore, the process may involve consumers, retailers, manufacturers, and even disposal facilities. Following this ANPRM, PHMSA anticipates publishing an NPRM that will propose to simplify the regulations for reverse logistics shipments and provide avenue means for regulatory compliance that maintains transportation safety. This action is part of DOT's retrospective plan under EO 13563 completed in August 2011 DOT's plan is available at: *http://www.dot.gov/open/docs/dot-final-rrr-plan-08-23-2011.pdf*. To fully engage the broad spectrum of stakeholders affected by reverse logistics, this ANPRM solicits comments and input on several questions in the context of reverse logistics. Any comments, data, and information received will be used to evaluate and shape the proposals in the NPRM.

**DATES:** Comments must be received by October 3, 2012.

**ADDRESSES:** You may submit comments identified by the docket number PHMSA–2011–0143 (HM–253) by any of the following methods:

• *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

• *Fax:* 1–202–493–2251.

• *Mail:* Docket Management System, U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation To Docket Operations, M–30, Ground Floor, Room W12–140 in the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

*Instructions:* All submissions must include the agency name and docket number (PHMSA–2011–0143) or RIN (RIN 2137–AE81) for this notice at the beginning of the comment. Note that all comments received will be posted without change to the docket management system, including any personal information provided. If sent by mail, comments must be submitted in duplicated. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

*Docket:* For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

*Privacy Act:* Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 [45 FR 19477] or you may visit *http://www.regulations.gov*.

**FOR FURTHER INFORMATION CONTACT:** Steven Andrews, Office of Hazardous Materials Standards, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001, telephone (202) 366–8553.

**SUPPLEMENTARY INFORMATION:**

### I. Background

In general, ''reverse logistics'' pertains to the safe return of goods from the marketplace to the original vendor, manufacturer, or supplier. Reverse logistics of hazardous materials affects many industries including high-tech, retail, medical, pharmaceutical, automotive, and aerospace. In effect, reverse logistics is the supply chain in reverse. PHMSA is publishing this ANPRM to identify possible ways to reduce the regulatory burden on retail outlets that ship consumer products containing hazardous materials in the ''reverse logistics'' supply chain. PHMSA is looking to evaluate the shipment of ''reverse logistics'' by