



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels Jr.
Governor

Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

U.S. EPA's Years of Inaction on PM_{2.5} Attainment Designation Continues to Adversely Impact Economic Development in Marion County and the 7th Congressional District

Why does a nonattainment designation adversely impact economic development?

When an area is designated as nonattainment, new or expanding businesses are subject to expensive extra requirements. Most businesses will not make investments in nonattainment areas because locating in an attainment area is less expensive. Also the nonattainment stigma detracts from people's perception of the quality of life in an area.

We are aware of one economic development opportunity with at least 300 new jobs that was waiting for U.S. EPA to issue the final PM_{2.5} attainment designation for Marion County that has decided to locate in another community that is designated as attainment since U.S. EPA did not act. We have also been told by consultants that there are other economic development opportunities that are waiting for U.S. EPA to act, but may have to go elsewhere.

How did we get into this situation?

On April 5, 2005, U.S. EPA properly designated Marion and surrounding counties as nonattainment for the annual PM_{2.5} national ambient air quality standard. Measured air quality in Marion County had exceeded this standard since measurements began in 2000. This designation directly and adversely impacted the ability of Marion and surrounding counties to attract any economic development that required a major source air pollution permit.

By the end of 2008, all air quality measurements in Marion and surrounding counties fully met the annual PM_{2.5} standard and IDEM began preparing the paperwork required for U.S. EPA to designate the area as attainment for all pollutants. After completing the public review and comment process, this paperwork was filed with U.S. EPA in October 2009.

U.S. EPA did not act upon Indiana's October 2009 submittal and Indiana was required to go through another public consultation process and file another request for designation to attainment, which was filed in May 2011.

U.S.EPA reviewed Indiana's submittal, found that it met all of the requirements of the Clean Air Act and published a direct final rulemaking approving the request in the Federal Register on September 27, 2011.

U.S.EPA received an adverse comment on its direct final rulemaking, so on November 14, 2011, it published a withdrawal of that action. Indiana worked with U.S. EPA to respond to the adverse comment and by the end of December 2011, the final approval of the attainment designation was signed by the Regional Administrator and sent to the Federal Register for publication. (Publication in the Federal Register is required before the determination is effective.)

On December 30, 2011, following an appeal of the U.S.EPA's Cross State Air Pollution Rule (CSAPR), the U.S. Court of Appeals for the D.C. Circuit issued an order that stayed the rule, but left the Clean Air Interstate Rule (which CSAPR was intended to replace) in effect pending resolution of the appeal.

U.S. EPA immediately withdrew the signed Federal Register notice approving Indianapolis's designation as attainment before it was published.

Indiana has tried, without success, to work with U.S. EPA to have the attainment designation approval sent back to the Federal Register for publication.

Why won't U.S. EPA publish the PM_{2.5} attainment designation?

The stated reason U.S. EPA will not publish the approval is that U.S. EPA fears that the final court decision on the Cross States Air Pollution Rule might somehow eliminate the emission controls that have brought the area below the standard for the past 4 years.

Is Central Indiana in the same boat as all other PM_{2.5} areas that have now attained the standard?

No! Other areas, including Northwest Indiana, Evansville, IN and Cincinnati, OH -- where U.S. EPA had completed the attainment designation process before the stay of the Cross States Air Pollution Rule -- remain designated as attainment and have an economic development advantage over central Indiana.

Conclusion:

Central Indiana, including all of the 7th Congressional District, is continuing to lose economic development opportunities while U.S. EPA fails to follow-through on its approval of Indiana's petition to designate the area attainment.