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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2008-0395; FRL-9499-6]

**Approval and Promulgation of Air Quality Implementation Plans;
Indiana; Redesignation of Lake and Porter Counties to Attainment
Of the Fine Particulate Matter Standard**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking several related actions affecting Lake and Porter Counties and the State of Indiana for the 1997 annual fine particulate matter (PM_{2.5}) National Ambient Air Quality Standard (NAAQS or standard). EPA is approving a request from the State of Indiana for the redesignation of Lake and Porter Counties to attainment of the 1997 annual PM_{2.5} standard. EPA is approving, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 1997 annual PM_{2.5} standard in the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) PM_{2.5} nonattainment area (Greater Chicago nonattainment area) through 2025. EPA is also approving Indiana's 2025 Nitrogen Oxides (NO_x) and PM_{2.5} Motor Vehicle Emission Budgets (MVEBs). Finally, EPA is approving Indiana's 2005 NO_x, primary PM_{2.5}, and sulfur dioxide (SO₂) emissions inventories for Lake and Porter Counties.

DATES: This final rule is effective [insert date 60 days after publication in the Federal Register].

ADDRESSES: EPA has established a docket for this action: Docket ID No. EPA-R05-OAR-2008-0395. All documents in the docket are listed on the www.regulations.gov web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either 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 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, doty.edward@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:

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I. What is the Background for This Rule?

On July 18, 1997 (62 FR 38652), EPA promulgated an annual PM_{2.5} standard at a level of 15 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) of ambient air, based on the three-year average of the annual mean PM_{2.5} concentration at any monitor (1997 annual PM_{2.5} standard). On October 17, 2006 (71 FR 61144), EPA retained the annual PM_{2.5} standard at 15 $\mu\text{g}/\text{m}^3$ (2006 annual PM_{2.5} standard). However, in response to legal challenges of the 2006 annual PM_{2.5} standard, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded the 2006 annual PM_{2.5} standard to EPA for further consideration. EPA has retained and continues to enforce the 1997 annual PM_{2.5} standard.

On January 5, 2005 (70 FR 944), EPA published air quality area designations for the 1997 annual PM_{2.5} standard based on air quality data for calendar 2001-2003. In that rulemaking, EPA designated the Greater Chicago area, which includes Lake and

Porter Counties in Indiana, as nonattainment for the 1997 annual PM_{2.5} standard.

On April 3, 2008, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of Lake and Porter Counties to attainment of the 1997 annual PM_{2.5} standard. This redesignation request is based on 2004-2007 monitoring data showing attainment of the 1997 annual PM_{2.5} standard. On March 6, 2009, IDEM submitted a technical addendum to the April 3, 2008, PM_{2.5} redesignation request to show that the Greater Chicago nonattainment area continued to attain the 1997 annual PM_{2.5} standard through 2008.

On November 27, 2009 (74 FR 62243), EPA made a final determination that the Greater Chicago nonattainment area was attaining the 1997 annual PM_{2.5} standard.

On May 26, 2011, IDEM submitted a revised PM_{2.5} maintenance plan to EPA demonstrating maintenance of the 1997 annual PM_{2.5} standard in Lake and Porter Counties through 2025. In this submittal, the State included additional air quality data showing continued attainment of the 1997 annual PM_{2.5} standard in the Greater Chicago area during 2008-2010.

On September 27, 2011 (76 FR 59600), EPA issued a notice of rulemaking proposing to approve Indiana's request to redesignate Lake and Porter Counties to attainment of the 1997 annual PM_{2.5} standard. This notice of rulemaking also proposed to approve

Indiana's PM_{2.5} maintenance plan for Lake and Porter Counties, as revised in Indiana's May 26, 2011, submittal, 2005 NO_x, SO₂, and primary PM_{2.5} emission inventories for Lake and Porter Counties, and 2025 NO_x and PM_{2.5} MVEBs for Lake and Porter Counties.

The primary background for today's actions is contained in EPA's September 27, 2011, proposal to approve Indiana's redesignation request, and in EPA's November 27, 2009, final determination that the Greater Chicago area has attained the 1997 annual PM_{2.5} standard. In particular, the September 27, 2011, proposed rulemaking provides a detailed discussion of how Indiana's PM_{2.5} redesignation request and maintenance plan meet the Clean Air Act (CAA) requirements for redesignation to attainment for the 1997 annual PM_{2.5} standard.

II. What Comments Did We Receive on the Proposed Rule?

The public comment period for the proposed rule ended on October 27, 2011. No comments were received regarding the September 27, 2011, proposed rule.

III. What Actions is EPA Taking?

After reviewing Indiana's redesignation request, EPA has determined that it meets the criteria set forth in section 107(d)(3)(E) of the CAA. Therefore, EPA is approving the redesignation of Lake and Porter Counties to attainment for the 1997 annual PM_{2.5} standard. EPA is also approving Indiana's PM_{2.5} maintenance plan for Lake and Porter Counties as a revision of

the Indiana SIP based on Indiana's demonstration that the plan meets the requirements of section 175A of the CAA. In addition, EPA is approving the 2005 NO_x, SO₂, and PM_{2.5} emission inventories for Lake and Porter Counties as meeting the requirement for emission inventories contained in section 172(c)(3) of the CAA. Finally, EPA also finds adequate and is approving the State's 2025 NO_x and PM_{2.5} MVEBs for Lake and Porter Counties for purposes of future transportation conformity analyses and demonstrations.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by State law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Accordingly, these

actions merely do not impose additional requirements beyond those imposed by State law and the CAA. For that reason, these actions:

- are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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 CAA; and,

- do 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, this rule does 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the Federal Register. A major rule cannot take effect until 60 days after it is

published in the Federal Register. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review 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,
Incorporation by reference, Intergovernmental relations,
Nitrogen oxides, Particulate matter, Sulfur dioxide.

40 CFR Part 81

Air pollution control, Environmental protection, National
parks, Wilderness areas.

Dated: November 22, 2011.

Susan Hedman,
Regional Administrator, Region 5.

Parts 52 and 81, 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 et seq.

Subpart P - Indiana

2. Section 52.776 is amended by adding paragraphs (v)(4) and (w)(4) to read as follows:

§52.776 Control strategy: Particulate matter.

* * * * *
(v) * * *

(4) The Chicago-Gary-Lake County, IL-IN nonattainment area (Lake and Porter Counties), as submitted on April 3, 2008, and supplemented on March 6, 2009. The maintenance plan establishes 2025 motor vehicle emissions budgets for Lake and Porter Counties of 2,915.19 tons per year for NOx and 132.70 tons per year for primary PM_{2.5}.

(w) * * *

(4) Indiana's 2005 NOx, primary PM_{2.5}, and SO₂ emissions inventory satisfies the emission inventory requirements of section 172(c)(3) of the Clean Air Act for Lake and Porter Counties.

PART 81 - [AMENDED]

3. The authority citation for part 81 continues to read as follow:

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

4. Section 81.315 is amended by revising the entry for Chicago-Gary-Lake County, IL-IN in the table entitled "Indiana PM2.5 (Annual NAAQS)" to read as follows:

§81.315 Indiana.

* * * * *

Indiana-PM_{2.5} (Annual NAAQS)

Designated Area	Designation ^a	
	Date ¹	Type
* * * * *		
Chicago-Gary-Lake County, IL-IN: Lake County Porter County	<u>[insert date 60 days from date of publication in the Federal Register]</u>	Attainment
* * * * *		

* * * * *

^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is 90 days after January 5, 2005, unless otherwise noted.

[FR Doc. 2011-31131 Filed 12/06/2011 at 8:45 am; Publication
Date: 12/07/2011]