



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R05-OAR-2017-0147; FRL-9989-33-Region 5]**

**Air Plan Approval; Indiana; Reasonable Further Progress Plan and  
Other Plan Elements for the Chicago Nonattainment Area for the  
2008 Ozone Standard**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a revision to the Indiana State Implementation Plan (SIP) to meet the base year emissions inventory, reasonable further progress (RFP), RFP contingency measure, nonattainment new source review (nonattainment NSR), volatile organic compound (VOC) reasonably available control technology (RACT), and motor vehicle inspection and maintenance (I/M) requirements of the Clean Air Act (CAA) for the Indiana portion of the Chicago-Naperville, Illinois-Indiana-Wisconsin area (Chicago area) for the 2008 ozone national ambient air quality standard (NAAQS or standard). EPA is also approving the 2017 transportation conformity motor vehicle emissions budgets (MVEBs) for the Indiana portion of the Chicago area for the 2008 ozone NAAQS. EPA is approving the state's submission as a SIP revision pursuant to section 110 and part D of the CAA and EPA's

regulations because it satisfies the emission inventory, RFP, RFP contingency measure, nonattainment NSR, VOC RACT, I/M, and transportation conformity requirements for areas classified as moderate nonattainment for the 2008 ozone NAAQS. This final action permanently stops the Federal Implementation Plan (FIP) clock triggered by EPA's February 3, 2017 finding that Indiana failed to submit a marginal ozone nonattainment NSR plan. EPA proposed to approve these provisions on August 28, 2018 and received public comments.

**DATES:** This final rule is effective [**insert date 30 days after date of publication in the Federal Register**].

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2017-0147. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information 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 through <http://www.regulations.gov>, or please contact the person identified in the FOR FURTHER INFORMATION CONTACT section for additional availability information.

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

**I. What is being addressed in this document?**

This rule addresses revisions to the Indiana SIP submitted by the Indiana Department of Environmental Management (IDEM) on February 28, 2017 and supplemented on January 9, 2018. EPA is approving a number of nonattainment plan elements included in that submission, specifically a revised 2011 base year emissions inventory for VOC and oxides of nitrogen (NO<sub>x</sub>), a 15% RFP plan, a 3% RFP contingency measure plan, 2017 VOC and NO<sub>x</sub> motor vehicle emissions budgets, a nonattainment NSR certification, a VOC RACT certification, and an enhanced I/M certification. The background for this action is discussed in detail in EPA's proposal, dated August 28, 2018 (83 FR 43825). As discussed in the proposal, final approval of Indiana's nonattainment NSR certification permanently stops the FIP clock triggered by EPA's February 3, 2017 finding that Indiana failed to submit a marginal ozone nonattainment NSR plan.

**II. What comments did we receive on the proposed rule?**

EPA provided a 30-day review and comment period for the August 28, 2018, proposed rule. The comment period ended on September 27, 2018. We received a number of anonymous comments that address subjects outside the scope of our proposed action, do not explain (or provide a legal basis for) how the proposed action should differ in any way, and make no specific mention of the substantive aspects of the proposed action. Consequently, these comments are not germane to this rulemaking and require no further response. In addition, one commenter submitted several comments that do not suggest a change in or specific problems with our proposed action. Therefore, these comments also require no further response.

### **III. What action is EPA taking?**

Based on the above and the information contained in EPA's proposed rule, EPA is approving revisions to Indiana's SIP pursuant to section 110 and part D of the CAA and EPA's regulations because Indiana's February 28, 2017 nonattainment plan submission and January 1, 2018, supplement satisfy the emissions inventory, RFP, RFP contingency measures, transportation conformity, VOC RACT, I/M, and nonattainment moderate area NSR requirements of the CAA for the Indiana portion of the Chicago area for the 2008 ozone NAAQS. Final approval of Indiana's SIP as meeting these nonattainment NSR requirements of the CAA for the 2008 ozone NAAQS permanently

stops the and FIP clock triggered by EPA's February 3, 2017 finding that Indiana failed to submit a marginal ozone nonattainment NSR plan.

#### **IV. Statutory and Executive Order reviews.**

Under the CAA 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, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 (Public Law 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 CAA; 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, the SIP is not approved to apply on any Indian

reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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 **[insert date 60 days after 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 in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: December 21, 2018.

James O. Payne,  
Acting Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

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

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

2. In § 52.770, the table in paragraph (e) is amended by adding an entry in alphabetical order for “Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements” to read as follows:

**§ 52.770 Identification of plan.**

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(e) \* \* \*

**EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS**

Title	Indiana date	EPA approval	Explanation
* * *	* * *	* * *	* * *
Lake and Porter Counties 2008 8-hour Ozone Moderate Planning Elements	2/28/2017 and 1/9/2018	[insert date of publication in the Federal Register], [Insert Federal Register citation]	2011 base year emissions inventory, Reasonable Further Progress (RFP) plan, RFP contingency measure plan, 2017 VOC and NOx motor vehicle emissions budgets, nonattainment new source review certification, VOC reasonable further progress certification, and enhanced motor vehicle inspection and maintenance program certification.
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