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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2015-0700; FRL-9996-34-Region 5]

Air Plan Approval; Indiana; Attainment Plan for the Morgan County Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve as a State Implementation Plan (SIP) revision the Morgan County-related elements of an Indiana submission to EPA dated October 2, 2015, as supplemented on February 8, 2019. The October 2015 submission addresses attainment of the 2010 sulfur dioxide (SO_2) national ambient air quality standard (NAAQS) for four areas. The February 8, 2019 supplement provides additional modeling information regarding the adequacy of the plan for Morgan County. EPA proposes to conclude that Indiana has appropriately demonstrated that the plan provisions provided for attainment of the 2010 SO_2 NAAQS in the Morgan County area by the applicable attainment date and that the plan meets the other applicable requirements under the Clean Air Act.

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register].**

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2015-0700 at http://www.regulations.gov, or via email to aburano.douglas@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the "For Further Information Contact" section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: John Summerhays, 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) 886-6067, summerhays.john@epa.gov.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in locating information in this preamble.

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I. Why was Indiana Required to Submit an SO_2 Plan for Morgan County?

On June 22, 2010, EPA promulgated a new 1-hour primary SO_2 NAAQS of 75 parts per billion (ppb), which is met at an ambient air quality monitoring site when the 3-year average of the annual 99^{th} percentile of daily maximum 1-hour average concentrations does not exceed 75 ppb, as determined in accordance with appendix T of 40 CFR part 50. *See* 75 FR 35520, codified at 40 CFR 50.17(a)-(b). On August 5, 2013, EPA designated a first set of 29 areas of the country as nonattainment for the 2010 SO_2 NAAQS, including the Indianapolis (Marion County), Morgan County, Southwest Indiana (Daviess and Pike Counties), and Terre Haute (Vigo County) areas within Indiana. *See* 78 FR 47191, codified at 40 CFR part 81, subpart C. These area designations were effective October 4, 2013. Section 191(a) of the Clean Air Act directs states to submit SIPs for areas designated as nonattainment for the SO_2 NAAQS to EPA within 18 months of the effective date of the designation, i.e., by no later than April 4, 2015 in this case. Under Clean Air Act section 192(a), the states are required to demonstrate that their respective areas will attain the NAAQS as

expeditiously as practicable, but no later than five years from the effective date of designation, which is October 4, 2018.

In response to the requirement for SO_2 nonattainment plan submittals, Indiana submitted nonattainment plans for the above four areas on October 2, 2015. EPA published proposed action on three of these areas, namely the Indianapolis, Southwest Indiana, and Terre Haute areas on August 15, 2018, at 83 FR 40487, and published final action on two of these areas (Indianapolis and Terre Haute) on March 22, 2019, at 84 FR 10692. Today's action does not address those three areas, but addresses the fourth area, in Morgan County. The remainder of this preamble describes the requirements that SO_2 nonattainment plans must meet in order to obtain EPA approval, provides a review of the state's plan for Morgan County with respect to these requirements, and describes EPA's proposed action on the plan for Morgan County.

In addition to its submittal, Indiana sent multiple supplemental letters addressing the Morgan County SO_2 nonattainment plan. On November 15, 2017, Indiana provided clarifications on the derivation of emissions inventories and on other issues pertinent to the Morgan County plan as well as to the other three plans in the state's October 2, 2015 submittal. On June 7, 2017, Indiana withdrew the control requirements for Hydraulic Press Brick from consideration as part of the Morgan

County SIP. However, on February 12, 2019, Indiana reactivated its request for action on these control requirements. Also, on February 8, 2019, Indiana submitted additional technical information in support of a conclusion that the Morgan County plan provides for attainment even when analyzed with a more conservative background concentration.

II. Requirements for SO_2 Nonattainment Area Plans

Nonattainment SIPs must meet the applicable requirements of the Clean Air Act, specifically Clean Air Act sections 110, 172, 191 and 192. EPA's regulations governing nonattainment SIPs are set forth at 40 CFR part 51, with specific procedural requirements and control strategy requirements residing at subparts F and G, respectively. Soon after Congress enacted the 1990 Amendments to the Clean Air Act, EPA issued comprehensive guidance on SIPs, in a document entitled the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published at 57 FR 13498 (April 16, 1992) (General Preamble). Among other things, the General Preamble addressed SO_2 SIPs and fundamental principles for SIP control strategies. *Id.*, at 57 FR 13545-13549, 13567-13568. On April 23, 2014, EPA issued guidance for meeting the statutory requirements in SO_2 SIPs submitted under the 2010 NAAQS, in a document entitled, "Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions," available at

https://www.epa.gov/sites/production/files/2016-06/documents/20140423guidance_nonattainment_sip.pdf. In this guidance EPA described the statutory requirements for a complete nonattainment area SO_2 SIP, which includes: an accurate emissions inventory of current emissions for all sources of SO_2 within the nonattainment area; an attainment demonstration; demonstration of reasonable further progress (RFP); implementation of reasonably available control measures (RACM) (including reasonably available control techniques (RACT)); new source review (NSR); enforceable emissions limitations and control measures; and adequate contingency measures for the affected area. A synopsis of these requirements is also provided in the notice of proposed rulemaking on the Illinois SO_2 nonattainment plans, published on October 5, 2017 at 82 FR 46434.

In order for EPA to fully approve a SIP as meeting the requirements of Clean Air Act sections 110, 172 and 191-192 and EPA's regulations at 40 CFR part 51, the SIP for the affected area needs to demonstrate to EPA's satisfaction that each of the aforementioned requirements have been met. Under Clean Air Act sections 110(l) and 193, EPA may not approve a SIP that would interfere with any applicable requirement concerning NAAQS attainment and RFP, or any other applicable requirement, and no requirement in effect (or required to be adopted by an order,

settlement, agreement, or plan in effect before November 15, 1990) in any area which is a nonattainment area for any air pollutant, may be modified in any manner unless it ensures equivalent or greater emission reductions of such air pollutant.

III. Requirements for Attainment Demonstrations

Clean Air Act sections 172(c)(1), 172(c)(6) and 192(a) direct states with SO_2 areas designated as nonattainment to demonstrate that the submitted plan provides for attainment of the NAAQS. 40 CFR part 51 subpart G further delineates the control strategy requirements that SIPs must meet, and EPA has long required that all SIPs and control strategies reflect four fundamental principles of quantification, enforceability, replicability, and accountability. General Preamble, at 13567-68. SO_2 attainment plans must consist of two components: (1) emission limits and other control measures that assure implementation of permanent, enforceable and necessary emission controls, and (2) a modeling analysis which meets the requirements of 40 CFR part 51, appendix W (Guideline on Air Quality Models) and demonstrates that these emission limits and control measures provide for timely attainment of the primary SO_2 NAAQS as expeditiously as practicable, but by no later than the attainment date for the affected area. In all cases, the emission limits and control measures must be accompanied by appropriate methods and conditions to determine compliance with

the respective emission limits and control measures and must be quantifiable (i.e., a specific amount of emission reduction can be ascribed to the measures), fully enforceable (specifying clear, unambiguous and measurable requirements for which compliance can be practicably determined), replicable (the procedures for determining compliance are sufficiently specific and objective so that two independent entities applying the procedures would obtain the same result), and accountable (source specific limits must be permanent and must reflect the assumptions used in the SIP demonstrations).

EPA's April 2014 guidance recommends that the emission limits be expressed as short-term average limits (e.g., addressing emissions averaged over one or three hours), but also describes the option to utilize emission limits with longer averaging times of up to 30 days so long as the state meets various suggested criteria. Indiana's plan for Morgan County involves mostly work practice requirements (i.e., requirements that the primary boilers at Indianapolis Power and Light-Eagle Valley burn natural gas and that Hydraulic Press Brick employ sorbent injection generally achieving 50 percent emission control) and does not rely on any longer term average limits.

Preferred air quality models for use in regulatory applications are described in appendix A of EPA's Guideline on

Air Quality Models.[1] In 2005, EPA promulgated AERMOD as the Agency's preferred near-field dispersion modeling for a wide range of regulatory applications addressing stationary sources (for example in estimating SO_2 concentrations) in all types of terrain based on extensive developmental and performance evaluation. Supplemental guidance on modeling for purposes of demonstrating attainment of the SO_2 standard is provided in appendix A to the April 23, 2014 SO_2 nonattainment area SIP guidance document referenced above. Appendix A provides extensive guidance on the modeling domain, the source inputs, assorted types of meteorological data, and background concentrations. Consistency with the recommendations in this guidance is generally necessary for the attainment demonstration to offer adequately reliable assurance that the plan provides for attainment.

As stated previously, attainment demonstrations for the 2010 SO_2 NAAQS must demonstrate future attainment and maintenance of the NAAQS in the entire area designated as nonattainment (*i.e.*, not just at the violating monitor) by using air quality dispersion modeling (*see* Guideline on Air Quality Models) to show that the mix of sources and enforceable control measures and emission rates in an identified area will not lead to a

[1] EPA published revisions to the *Guideline on Air Quality Models* on January 17, 2017.

violation of the SO_2 NAAQS. For a short-term (*i.e.*, 1-hour) standard, EPA believes that dispersion modeling, using allowable emissions and addressing stationary sources in the affected area (and in some cases those sources located outside the nonattainment area which may affect attainment in the area) is technically appropriate, efficient and effective in demonstrating attainment in nonattainment areas because it takes into consideration combinations of meteorological and emission source operating conditions that may contribute to peak ground-level concentrations of SO_2.

The meteorological data used in the analysis should generally be processed with the most recent version of AERMET. Estimated concentrations should include ambient background concentrations, should follow the form of the standard, and should be calculated as described in section 2.6.1.2 of the August 23, 2010 clarification memo on "Applicability of Appendix W Modeling Guidance for the 1-hr SO_2 National Ambient Air Quality Standard".

IV. Review of Indiana's Modeled Attainment Plan for Morgan County

The following discussion evaluates various features of the modeling that Indiana used in its attainment demonstration for Morgan County.

A. Model Selection and General Model Inputs

Indiana's attainment demonstrations used AERMOD, the preferred model for these applications as identified in the Guideline on Air Quality Models. Indiana's October 2015 submittal used version 14134 of this model, which was the most recent version at the time the state conducted its nonattainment planning. However, the supplemental modeling that Indiana submitted in February 2019 used the current version of AERMOD, version 18081. Indiana utilized the regulatory default mode for all air quality modeling runs.

Indiana's receptor grid and modeling domain for the Morgan County area generally followed the recommended approaches from the Guideline on Air Quality Models. Receptor spacing for each modeled facility fence line was every 50 meters, then 100-meter spacing of receptors out to a distance of 0.5 kilometers, every 250 meters out to 2.5 kilometers, every 500 meters out to 5 kilometers, and every 1000 meters out to 10 kilometers from each facility. The resulting receptor grid contained 10,445 receptors. An examination of the modest modeled spatial gradients near the facility boundaries leads to the conclusion that no facility in the area contributes to violations within any other facility's property, so that the exclusion of receptors within facility fencelines was acceptable.

Indiana determined that Morgan County should be modeled with rural dispersion characteristics. Indiana did not provide

an Auer analysis or provide other rationale for this selection. Nevertheless, the nonattainment area, consisting of two townships (Clay and Washington Townships) have a 2016 estimated population of 21,379 people in an area of 232.3 square kilometers, an average population density of 92 people per square kilometer. By comparison, the Guideline on Air Quality Models suggests that areas with less than 750 people per square kilometer warrant being modeled with rural dispersion characteristics. Therefore, EPA concurs with Indiana's determination that this area warrants being modeled with rural dispersion coefficients.

B. Meteorological Data

Indiana used the Indianapolis National Weather Service (NWS) surface data and the Lincoln, Illinois upper air station (WBAN 048233) data for modeling Morgan County. EPA finds these selections appropriate.

C. Emissions Data

Indiana identified two sources in Morgan County emitting over 100 tons per year. Indianapolis Power and Light's Eagle Valley power plant, which conducts continuous SO_2 emissions monitoring, emitted 3,436 tons of SO_2 in 2012. Hydraulic Press Brick, a manufacturer of building aggregate, has a less certain emission rate (in part due to uncertainties in the quantity of sulfur in the shale that is a raw material in the process), but

was estimated to have emitted 350 tons of SO_2 in 2010. Further discussion of the modeled emissions is provided below.

D. Emission Limits

An important prerequisite for approval of an attainment plan is that the emission limits that provide for attainment be quantifiable, fully enforceable, replicable, and accountable. See General Preamble at 13567-68.

In preparing its plans, Indiana adopted revisions to a previously approved state regulation governing emissions of SO_2. These rule revisions were adopted by the Indiana Environmental Rules Board following established, appropriate public review procedures. For Eagle Valley, the revised rule identifies the four primary emission sources and requires these sources to burn natural gas. The nominal compliance date for this requirement is January 1, 2017, but in fact Eagle Valley stopped burning coal in April 2016, after which all electricity generation at this facility has been based on burning natural gas. For Hydraulic Press Brick, the revised rule requires use of a limestone injection system to achieve either 50 percent control efficiency or 2.5 pounds of SO_2 per million British thermal units (lbs/MMBTU), and in no case to emit more than 6.0 lbs/MMBTU. These requirements were also effective on January 1, 2017. These limits are codified in 326 IAC 7, titled "Sulfur Dioxide Rules," specifically in 326 Indiana Administrative Code 7-4-11.1

(326 IAC 7-4-11.1). Indiana also submitted rules specifying the compliance date for these requirements (in 326 IAC 7-1.1-3) and the associated monitoring, testing, and recordkeeping and reporting requirements (in 326 IAC 7-2-1). The rule provisions provide unambiguous, permanent requirements for emission control which, if violated, would be clear grounds for an enforcement action.

Given the requirement for Eagle Valley to burn natural gas, EPA finds the low emission rate that Indiana modeled for this plant to be an appropriate reflection of allowable emissions. Indiana did not explicitly model Hydraulic Press Brick, choosing instead to address this source as part of the background concentration. The adequacy of Indiana's background concentration to reflect the impact of this source and other unmodeled emissions in the area is addressed in the following section.

E. Background Concentrations

Indiana determined background concentrations for Morgan County using hourly measurements at the Centerton School monitor (site number 18-109-1001). In its original analysis, documented in its submittal of October 2, 2015, Indiana determined background concentrations for this area by selecting the 99th percentile of a monitoring data set that excluded values when the monitor was downwind of either the Eagle Valley plant or

Hydraulic Press Brick, except that values below 10 ppb were retained in the analysis. The 99th percentile among the pertinent values was 9.4 ppb, or 24.6 micrograms per cubic meter ($\mu g/m^3$).

The purpose of background concentrations in a model simulation is to represent the impact of emissions from sources that are not explicitly modeled. Indiana explicitly modeled the allowable emissions from Eagle Valley, and so Indiana's approach, determining background concentrations in a manner that excluded occasions with significant impacts from Eagle Valley, was appropriate for avoiding double counting the impacts of this source. However, Indiana did not explicitly model Hydraulic Press Brick, choosing instead to represent this source as part of the background concentration in the modeling. For this reason, EPA found it inappropriate that Indiana excluded occasions with impacts from Hydraulic Press Brick in its determination of a background concentration.

To address this concern, Indiana conducted additional analyses to identify background concentrations that would better represent the impacts of Hydraulic Press Brick and minor other SO_2 sources in the area, which it submitted on February 8, 2019. This analysis used data from the same monitoring site as Indiana's prior analysis (site number 18-109-1001), using data from the most recent available three calendar years of data

(2015 to 2017). Indiana again used meteorological data from the Indianapolis National Weather Service site for this analysis.

Examination of these data led to the finding that aside from occasions when Eagle Valley was upwind of the monitor, the highest concentrations were observed when winds were in a relatively narrow band of wind directions approximately centered on Hydraulic Press Brick being upwind of the monitor. Ordinarily background concentrations are determined by examining concentrations for almost all wind directions, excluding data for a modest set of directions when modeled sources are upwind. However, in this case Indiana followed the reverse approach, excluding occasions when Hydraulic Press Brick was not upwind of the monitor and considering concentrations only for a relatively small band of wind directions in which the largest unmodeled source (Hydraulic Press Brick) was most directly upwind. In particular, the data set used in this analysis included concentrations when the winds were from between 25 degrees and 60 degrees (roughly from NNE to ENE). This approach was designed to estimate the maximum background concentration that could be attributed to unmodeled sources in the area, including a conservative representation of the impacts of Hydraulic Press Brick.

EPA guidance offers both the option to determine a single background concentration, to be used for all seasons and all

hours, and the option to determine separate season- and hour-specific background concentrations. Indiana applied both options in this case. The resulting single background concentration was 96.0 µg/m^3, or 36.7 ppb. The resulting season- and hour-specific background concentrations ranged from 2.8 to 114.5 µg/m^3 (1.1 ppb to 43.7 ppb). Indiana then used these background concentrations in additional model runs to provide a supplemental assessment of whether its plan provides for attainment.

F. Summary of Results

Modeling for Morgan County in Indiana's October 2, 2015 submittal showed a design value of 35.9 µg/m^3 (13.7 ppb). Modeling in Indiana's February 8, 2019 submittal used two approaches that provided a more conservative representation of background concentrations. The modeling run using a single background concentration for all seasons and hours showed a design value of 103.69 µg/m^3 (39.6 ppb). The modeling run using season- and hour-specific background concentrations yielded a design value of 117.33 µg/m^3 (44.8 ppb), slightly higher than the run using a single background concentration. Both of these runs show design values well below 196.4 µg/m^3 (75 ppb). Therefore, EPA concludes that Indiana's plan provides for attainment in this area.

Pursuant to the requirements in Indiana's rules, Hydraulic Press Brick began sorbent injection, to achieve either 50 percent control or 2.5 lbs/MMBTU of SO_2, beginning by January 1, 2017. With this approximate start date, the period from 2015 to 2017 used in Indiana's assessment of background concentrations reflected two years without this control measure and one year with it. While insufficient data are available to estimate the air quality benefits of this control measure, the continued implementation of this measure is expected to result in lower future background concentrations and to assure that background concentrations will not increase above these levels. Indiana's letter of February 12, 2019 requests EPA approval of the control requirements for Hydraulic Press Brick, which will help assure that background concentrations will remain at or below the level in Indiana's estimate, thereby helping assure that Indiana's plan provides for attainment.

V. Review of Other Plan Requirements

A. Emissions Inventory

The emissions inventory and source emission rate data for an area serve as the foundation for air quality modeling and other analyses that enable states to: 1) estimate the degree to which different sources within a nonattainment area contribute to violations within the affected area; and 2) assess the expected improvement in air quality within the nonattainment

area due to the adoption and implementation of control measures. As noted above, the state must develop and submit to EPA a comprehensive, accurate and current inventory of actual emissions from all sources of SO_2 emissions in each nonattainment area, as well as any sources located outside the nonattainment area which may affect attainment in the area. *See* Clean Air Act section 172(c)(3).

Indiana provided a comprehensive, accurate, and current inventory of SO_2 emissions for Morgan County. Indiana identified two sources in the county that emitted over 100 tons of SO_2 per year, namely Eagle Valley and Hydraulic Press Brick. Indiana also summarized emissions in the following source categories: electric-generating units (EGUs), non-EGUs (point), non-point (area), non-road, and on-road sources of SO_2. This summary of emissions is shown in Table 1. Indiana uploads point source emissions to the National Emissions Inventory (NEI) annually. For the 2011 base year inventory, emissions from EGU and non-EGUs are actual reported emissions. Data for airport, area, non-road, and on-road emissions were compiled from the EPA Emissions Modeling Clearinghouse (SO_2 NAAQS Emissions Modeling platform 2007/2007v5) for the 2008 NEI and the 2018 projected inventory year. Data were interpolated between 2008 and 2014 to determine the airport, area, non-road, and on-road emissions 2011 inventory and between 2014-2020 for 2018. These

inventories can be found in appendix H of the submitted attainment demonstration. Also, for each of the four areas addressed in its submittal, including Morgan County, Indiana provided modeling inputs that include a listing of the individual sources with sufficient proximity to and impact on the nonattainment areas to warrant being explicitly included in the modeling analysis.

Indiana's emission inventory indicated that Eagle Valley in 2012 emitted 3,436 tons of SO_2. This precisely matches the emissions quantity that Eagle Valley reported to EPA under applicable emissions monitoring and reporting requirements. Indiana indicated that Hydraulic Press Brick in 2010 emitted 350 tons of SO_2. This is similar to the SO_2 emission rate reported in the 2011 National Emission Inventory, though no emissions of SO_2 are reported in the 2014 National Emission Inventory. Notwithstanding the difficulty of estimating emissions from this source, particularly as it relates to the quantity of SO_2 emissions that arises from sulfur in the shale that the facility uses as a raw material, EPA believes that Indiana's SIP submittal provides a suitable estimate of the emissions from this source for planning purposes.

Table 1. 2011 Actual Emissions Inventory for Morgan County

	2011 Emissions in Morgan County (tpy)
EGU	10,875
Other Point	387

Area	24
Non-road	1
On-road	10
Total	11,297

By providing a comprehensive, accurate, and current inventory of SO_2 emissions for Morgan County, Indiana has met the emission inventory requirement of Clean Air Act section 172(c)(3) for this area. This inventory represents emissions in 2011, a time when the areas were violating the standard. The state also provided allowable attainment year emissions in its modeling analysis.

B. RACM/RACT

In its submission, Indiana discusses its rationale for concluding that the nonattainment plans meet the RACM/RACT requirements in accordance with EPA guidance. For most criteria pollutants, RACT is control technology as needed to meet the NAAQS that is reasonably available considering technological and economic feasibility. However, Indiana cites EPA guidance that the definition of RACT for SO_2 is, simply, "that control technology which is necessary to achieve the NAAQS (40 CFR 51.100(o))". *See* General Preamble, 57 FR 13547 (April 16, 1992), synopsizing the SO_2 RACT requirement in 40 CFR 51.100(o). Indiana in fact requires the control technology that modeling shows to be necessary to ensure attainment of the SO_2 NAAQS by the applicable attainment date.

In addition, Indiana has adopted and submitted limits that require effective control of the most significant sources in Morgan County. The requirement for Eagle Valley to burn natural gas brings the emissions of this source nearly to zero. The requirement for Hydraulic Press Brick to operate a sorbent injection system in a manner that generally achieves 50 percent emission control requires operating a control that is cost effective and achieves a relatively high degree of control for this type of source. Thus, while Indiana did not conduct a cost effectiveness analysis of these controls, and EPA does not require such an analysis, the controls required in this area appear to represent a full set of reasonably available emission control.

Indiana has determined that these measures suffice to provide for timely attainment. EPA concurs and proposes to conclude that the state has satisfied the requirements in sections 172(c)(1) and (6) to adopt and submit all RACT/RACM and emission limitations and control measures as needed to attain the standards as expeditiously as practicable.

C. New Source Review (NSR)

As Indiana's submittal explains, EPA approved Indiana's nonattainment new source review rules on October 7, 1994 (94 FR 24838). As Indiana notes, these rules provide for appropriate new source review for SO_2 sources undergoing construction (or

major modification) in the Morgan County area. No modification of the approved rules is necessary to meet the NSR requirements. Therefore, EPA concludes that this requirement has already been met for these areas.

D. RFP

Indiana's adopted rules in 326 IAC 7 require that control measures be implemented no later than January 1, 2017. Indiana has concluded that this plan requires that affected sources implement appropriate control measures as expeditiously as practicable in order to ensure attainment of the standard by the applicable attainment date. Indiana concludes that this plan therefore provides for RFP in accordance with the approach to RFP described in EPA's guidance. EPA concurs and proposes to conclude that the plan provides for RFP.

E. Contingency Measures

Indiana's approach to contingency measures is one of the subjects of a clarification memo that Indiana submitted on November 15, 2017. In this memo, Indiana explained its rationale for concluding that its plans met the requirement for contingency measures in accordance with EPA guidance. Specifically, Indiana relies on EPA's guidance, noting the special circumstances that apply to SO_2, and explaining on that basis why the contingency measures requirement in Clean Air Act section 172(c)(9) is met for SO_2 by having a comprehensive

program to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive follow-up for compliance and enforcement of applicable emissions limitations. Indiana stated that it has such an enforcement program as codified in Indiana Code Title 13, Articles 14 and 15, identifying violators and taking prompt, appropriate enforcement action. On this basis, EPA proposes to conclude that Indiana's nonattainment plans satisfy contingency measure requirements for the Morgan County nonattainment area.

Indiana's rules also provide for additional contingency measures as necessary, following a review of any air quality problems that become identified and following a review of options for mitigating the problems that arise. However, Indiana is not relying on these provisions to satisfy the requirements for contingency measures.

VI. EPA's Proposed Action

EPA is proposing to approve Indiana's SIP submission, which the state submitted to EPA on October 2, 2015 and supplemented on November 15, 2017, June 7, 2017, February 8, 2019, and February 12, 2019, for attaining the 2010 1-hour SO_2 NAAQS for the Morgan County area. This SO_2 nonattainment plan includes Indiana's attainment demonstration for this area. The nonattainment plan also addresses requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Indiana has previously addressed requirements regarding nonattainment

area NSR. EPA has determined that Indiana's SO_2 nonattainment plan for Morgan County meets the applicable requirements of Clean Air Act sections 110, 172, 191, and 192.

The rules that underpin Indiana's attainment plan for Morgan County include Indiana Administrative Code, Title 326, Rule 7-4-11.1 (326 IAC 7-4-11.1, entitled "Morgan County sulfur dioxide emission limitations"), as well as Rule 326 IAC 7-1.1-3 (entitled "Compliance date") and Rule 326 IAC 7-2-1 (entitled "Reporting requirements; methods to determine compliance"). EPA has already approved the latter two rules, as part of its rulemaking on the plans for Marion and Vigo Counties. These rules provide compliance dates and recordkeeping and compliance determination provisions that apply to all four areas in Indiana's original submittal. Because these latter two rules are already part of the Indiana SIP, and no further action on these rules is necessary, EPA is proposing only to approve 326 IAC 7-4-11.1.

EPA is taking public comments for thirty days following the publication of this proposed action in the Federal Register. EPA will take all comments into consideration in our final action.

VII. Incorporation by Reference

In this rule, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference.

In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference 326 IAC 7-4-11.1, "Morgan County sulfur dioxide emission limitations", effective at the state on October 2, 2015. EPA has made, and will continue to make, these documents generally available through www.regulations.gov, and at the EPA Region 5 Office. (Please contact the person identified in the "For Further Information Contact" section of this preamble for more information.)

VIII. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act 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 Clean Air Act. Accordingly, this proposed 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 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) and 13563 (76 FR 3821, January 21, 2011);

- 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 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, 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).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by Reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: June 26, 2019.

Cheryl L Newton,
Acting Regional Administrator, Region 5.

[FR Doc. 2019-14474 Filed: 7/8/2019 8:45 am; Publication Date: 7/9/2019]