INFORMATION CONTACT section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: For Arizona issues, contact Wienke Tax, Office of Air Planning, U.S. Environmental Protection Agency, Region IX, (520) 622–1622, e-mail: *tax.wienke@epa.gov.* For Nevada issues, contact Karina O'Connor, Office of Air Planning, U.S. Environmental Protection Agency, Region IX, (775) 833–1276, *oconnor.karina@epa.gov.*

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

EPA is proposing to approve state implementation plans submitted by the States of Arizona and Nevada that address interstate transport with respect to the 8-hour ozone and fine particulate matter national ambient air quality standards. In so doing, EPA has determined that the plans submitted by Arizona and Nevada and approved herein satisfy requirements under Clean Air Act section 110(a)(2)(D)(i) for each State to submit a plan containing adequate provisions to prohibit interstate transport with respect to the standards for 8-hour ozone and fine particulate matter. The effect of this proposal would be to approve the Arizona and Nevada state implementation plans addressing interstate transport with respect to the 8-hour ozone and fine particulate standards and to eliminate obligations on the Agency to promulgate Federal Implementation Plans for these States addressing this same requirement.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action to take these actions because we believe that they are not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive comments, no further activity is planned. For further information on this proposal and the rationale underlying our proposed action, please see the direct final rule.

Dated: June 11, 2007.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. E7–14475 Filed 7–30–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2007–0173; FRL–8448–1]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Central Indiana To Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 26, 2007, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA approval of a redesignation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties (the Central Indiana Area) to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS). IDEM also requested EPA approval of an ozone maintenance plan for this area as a revision of the Indiana State Implementation Plan (SIP). EPA proposes to determine that the Central Indiana Area has attained the 8-hour ozone NAAQS. EPA proposes to approve Indiana's request to redesignate the Central Indiana Area to attainment of the 8-hour ozone NAAQS and to approve the State's ozone maintenance plan for this area as a revision of the Indiana SIP. Finally, EPA proposes to approve Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Central Indiana Area, as supported by the ozone maintenance plan for this area, for purposes of transportation conformity determinations.

DATES: Comments must be received on or before August 30, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–0173, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of operation 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–2007–0173. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 e-mail. 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 e-mail comment directly to EPA without going through www.regulations.gov, your e-mail 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 and any form of encryption, and should be free of any defects or viruses. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

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 hardcopy. Publicly available docket materials are available either electronically in www.regulations.gov or in hardcopy 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. It is recommended 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, Criteria Pollutant 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 proposed rule whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA. This supplementary information section is arranged as follows:

I. What Action Is EPA Proposing to Take?

We are proposing to take several related actions for the Central Indiana Area (Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties). First, we are proposing to determine that this area has attained the 8-hour ozone NAAQS. Second, we are proposing to approve Indiana's ozone maintenance plan for this area as a revision of the Indiana SIP. The maintenance plan is designed to keep this area in attainment of the 8-hour ozone NAAQS through 2020. Third, as supported by and consistent with the ozone maintenance plan, we are proposing to approve the 2006 and 2020 VOC and NO_X MVEBs (54.32 tons VOC/day and 106.19 tons NO_X/day in 2006, and 29.52 tons VOC/day and 35.69 tons NO_X/day in 2020) for the nine counties in the Central Indiana Area for transportation conformity determination purposes. Finally, we are proposing to approve the redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS.

II. What Is the Background for This Action?

A. General Background Information

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)).[1] This 8-hour ozone standard replaced a prior 1-hour ozone NAAQS, which was promulgated on February 8, 1979 (44 FR 8202), and which EPA revoked on June 15, 2005 (69 FR 23858).

Ground-level ozone is generally not emitted directly by emission sources. Rather, emitted NO_X and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. NO_X and VOC are referred to as ''ozone precursors.'' Control of ground-level ozone concentrations is achieved through controlling VOC and NO_X emissions.

Section 107 of the CAA requires EPA to designate as nonattainment any area that violates the 8-hour ozone NAAQS. A **Federal Register** notice promulgating 8-hour ozone designations and classifications was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. Both are found in title I, part D of the CAA. Subpart 1 contains general, less prescriptive requirements for all nonattainment areas for any pollutant governed by a NAAQS. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA.

In the April 30, 2004, designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment (''basic'' nonattainment) and subpart 2 nonattainment (''classified'' nonattainment). EPA based this division on the areas' 8-hour ozone design values (i.e., on the three-year averages of the annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the designated areas) and on their 1-hour ozone design values (i.e., on the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas)[2] using ozone data from the period of 2001–2003. EPA classified 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or

[1] This standard is violated in an area when any ozone monitor in the area (or in its nearby downwind environs) records 8-hour ozone concentrations with a three-year average of the annual fourth-highest daily maximum 8-hour ozone concentrations equaling or exceeding 85 ppb. See 40 CFR 50.10.

[2] The 8-hour ozone design value and the 1-hour ozone design value for each area were not necessarily recorded at the same monitoring site. The worst-case monitoring site for each ozone concentration averaging time was considered for each area.

exceeding 121 ppb as subpart 2, classified nonattainment areas. EPA classified all other 8-hour nonattainment areas as subpart 1, basic nonattainment areas. The basis for area classification was defined in a separate April 30, 2004, final rule (the Phase 1 implementation rule) (69 FR 23951). In the April 30, 2004, ozone designation/classification rulemaking, EPA designated the Central Indiana Area, as a subpart 1, basic nonattainment area for the 8-hour ozone NAAQS.

On March 26, 2007, the State of Indiana requested redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS based on ozone data collected in this area during the period of 2004–2006.

B. What Is the Impact of December 22, 2006, and June 8, 2007, United States Court of Appeals Decisions Regarding EPA's Phase 1 Implementation Rule?

1. Summary of Court Decision

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated EPA's Phase 1 implementation rule for the 8-hour ozone standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA,* 472 F.3d 882 (DC Cir. 2006). On June 8, 2007, in *South Coast Air Quality Management Dist.* v. *EPA,* Docket No. 04–1201, in response to several petitions for rehearing, the DC Circuit clarified that the Phase 1 rule was vacated only with regard to those parts of the rule that had been successfully challenged. Therefore, the Phase 1 rule provisions related to classifications for areas currently classified under subpart 2 of title I, part D of the CAA as 8-hour nonattainment areas, the 8-hour attainment dates and the timing of emissions reductions needed for attainment of the 8-hour ozone NAAQS remain effective. The June 8th decision left intact the Court's rejection of EPA's reasons for implementing the 8-hour standard in certain nonattainment areas under subpart 1 in lieu of subpart 2. By limiting the vacatur, the Court let stand EPA's revocation of the 1-hour ozone standard and those anti-backsliding provisions of the Phase 1 rule that had not been successfully challenged. The June 8th decision reaffirmed the December 22, 2006, decision that EPA had improperly failed to retain measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) section 185 penalty fees for 1-hour severe and extreme nonattainment areas; and, (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the CAA, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS. In addition, the June 8th decision clarified that the Court's reference to conformity requirements for anti-backsliding purposes was limited to requiring the continued use of 1-hour motor vehicle emission budgets until 8-hour budgets are available for 8-hour conformity determinations, which is already required under EPA's conformity regulations. The Court, thus, clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

This section sets forth EPA's views on the potential effect of the Court's rulings on this proposed redesignation action. For the reasons set forth below, EPA does not believe that the Court's rulings alter any requirements relevant to this redesignation action so as to preclude redesignation, and do not prevent EPA from proposing or ultimately finalizing this redesignation. EPA believes that the Court's December 22, 2006, and June 8, 2007, decisions impose no impediment to moving forward with redesignation of this area to attainment, because even in light of the Court's decisions, redesignation is appropriate under the relevant redesignation provisions of the CAA and longstanding policies regarding redesignation requests.

2. Requirements Under the 8-Hour Ozone Standard

With respect to the 8-hour ozone standard, EPA notes that the Court's ruling rejected EPA's reasons for classifying areas under subpart 1 for the 8-hour ozone standard, and remanded that matter to the EPA. Consequently, it is possible that the Central Indiana Area could, during a remand to EPA, be reclassified under subpart 2. Although any future decision by EPA to classify this area under subpart 2 might trigger additional future requirements for this area, EPA believes that this does not mean that redesignation of the area cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating redesignation requests in accordance with the requirements due at the time the redesignation request is submitted; and, (2) consideration of the inequity of applying retroactively any future requirements.

First, at the time the redesignation request was submitted by the State, the Central Indiana Area was classified under subpart 1 and was obligated to meet only subpart 1 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the CAA, to qualify for redesignation, states requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. September 4, 1992, Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division). See also September 17, 1993, Michael Shapiro memorandum, 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor), and *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004), which upheld this interpretation. See, e.g. also 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the redesignation request was submitted. The DC Circuit has recognized the inequity in such retroactive rulemaking. See *Sierra Club* v. *Whitman*, 285 F.3d 63 (DC Cir. 2002), in which the DC Circuit upheld a District Court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory timeframe, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' *Id.* at 68. Similarly, here it would be unfair to penalize the area by applying to it, for purposes of redesignation, additional SIP requirements under subpart 2 that were not in effect at the time the State submitted its redesignation request.

3. Requirements Under the 1-Hour Ozone Standard

With respect to the requirements under the 1-hour ozone standard, we note that the Central Indiana Area was made up of two types of areas relative to the 1-hour ozone standard at the time the 8-hour ozone standard was promulgated. First, Marion County was an ozone maintenance area, having been previously designated as a nonattainment area under the 1-hour

ozone standard and having subsequently been redesignated to attainment of the 1-hour ozone standard. Second, all remaining Counties in the Central Indiana Area were designated as attainment/unclassifiable areas under the 1-hour ozone standard, having never been designated as 1-hour ozone nonattainment areas. The Court's ruling on EPA's Phase 1 rule does not impact redesignation requests for either of these types of areas.

First, because Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, and Shelby Counties were designated as attainment/unclassifiable under the 1-hour ozone standard, and were never designated nonattainment for the 1-hour ozone standard, there are no outstanding 1-hour ozone nonattainment requirements that these counties would be required to meet. Thus, we find that the Court's ruling does not result in any additional 1-hour requirements for purposes of redesignation.

Second, with respect to the 1-hour ozone standard requirements for Marion County, this area was an attainment area subject to a Clean Air Act section 175A maintenance plan under the 1-hour ozone standard. The Court's decisions do not impact redesignation requests for these types of areas, except to the extent that the Court in its June 8th decision clarified that for those areas with 1-hour motor vehicle emissions budgets in their 1-hour ozone maintenance plans, anti-backsliding requires that those 1-hour budgets must be used for 8-hour conformity determinations until replaced by 8-hour budgets. To meet this requirement, conformity determinations in such areas must continue to comply with the applicable requirements of EPA's conformity regulations at 40 CFR part 93. The Court clarified that 1-hour conformity determinations are not required for anti-backsliding purposes.

With respect to the three other anti-backsliding provisions for the 1-hour ozone standard that the Court found were not properly retained, Marion County is an attainment area subject to a maintenance plan for the 1-hour ozone standard, and the NSR, contingency measures (pursuant to section 172(c)(9) or 182(c)(9)), and fee provision requirements no longer apply to this area because it has been redesignated to attainment of the 1-hour ozone standard.

Thus, the decision in *South Coast Air Quality Management Dist.* should not preclude EPA from finalizing the redesignation of this area.

III. What Are the Criteria for Redesignations to Attainment?

The CAA provides the basic requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA authorizes the EPA to redesignate an area to attainment of the NAAQS provided that: (1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable SIP for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and, (5) the State containing the area has met all requirements applicable to the area under section 110 and part D of the CAA.

EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1900 on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). The two main policy guidelines affecting the review of ozone redesignation requests are the following: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the September 4, 1992 Calcagni memorandum); and, ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995 (the May 10, 1995 Seitz memorandum). For additional policy guidelines used in the review of ozone redesignation requests, see our proposed rule for the redesignation of the Evansville, Indiana ozone nonattainment area at 70 FR 53606 (September 9, 2005).

IV. What Are EPA's Analyses and Opinions of the State's Requests and What Are the Bases for EPA's Proposed Action?

EPA is proposing to: (1) Determine that the Central Indiana Area has attained the 8-hour ozone standard; (2) approve the ozone maintenance plan for the Central Indiana Area and the VOC and NO_X MVEBs supported by the maintenance plan; and, (3) approve the redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS. The bases for our proposed determination and approvals follow.

A. Has the Central Indiana Area Attained the 8-Hour Ozone NAAQS?

For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations of the NAAQS, as determined in accordance with 40 CFR 50.10 and appendix I, based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at all ozone monitoring sites in the area and in its nearby downwind environs. To attain this standard, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations measured and recorded at each monitor (the monitoring site's ozone design value) within the area and in its nearby downwind environs over the most recent three-year period must not exceed the ozone standard. Based on an ozone data rounding convention described in 40 CFR 50, appendix I, the 8-hour ozone standard is attained if the area's ozone design value [3] is 0.084 ppm (84 ppb) or less. The data must be collected and quality-assured in accordance with 40 CFR 58, and must be recorded in EPA's Air Quality System (AQS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required to demonstrate attainment (for three years or more). The data supporting attainment of the standard must be complete in accordance with 40 CFR 50, appendix I.

As part of the ozone redesignation request, IDEM submitted summarized 2004–2006 peak 8-hour ozone monitoring data for the Central Indiana Area. These ozone concentrations are part of the quality-assured ozone data recorded in the Air Quality System. The annual fourth-high 8-hour daily maximum concentrations for each year, along with the three-year averages,[4] are summarized in Table 1.

[3] The worst-case monitoring site-specific ozone design value in the area and in its nearby downwind environs.

[4] Three-year averages are specified for the last year of each three-year period and specify the monitoring site design values.

TABLE 1.—ANNUAL FOURTH-HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS IN PARTS PER MILLION (PPM)

Site Id	County	Site name	Year	Percent observations ozone season	Fourth-high concentration	Three-year average
18–011–0001	Boone	Whitestown	2004	100	0.072	
		Whitestown	2005	100	0.082	
		Whitestown	2006	100	0.080	0.078
18–057–1001	Hamilton	Noblesville	2004	99	0.075	
		Noblesville	2005	99	0.087	
		Noblesville	2006	100	0.077	0.079
18–059–0003	Hancock	Fortville	2004	100	0.072	
		Fortville	2005	99	0.080	
		Fortville	2006	99	0.075	0.075
18–063–0004	Hendricks	Avon	2004	100	0.071	
		Avon	2005	100	0.078	
		Avon	2006	100	0.073	0.074
18–081–0002	Johnson	Trafalgar	2004	100	0.073	
		Trafalgar	2005	100	0.077	
		Trafalgar	2006	98	0.078	0.076
18–095–0010	Madison	Emporia	2004	100	0.072	
		Emporia	2005	100	0.078	
		Emporia	2006	97	0.073	0.074
18–097–0050	Marion	Ft. Benjamin Harrison	2004	99	0.073	
		Ft. Benjamin Harrison	2005	99	0.080	
		Ft. Benjamin Harrison	2006	100	0.076	0.076
18–097–0057	Marion	Harding St.	2004	100	0.066	
		Harding St.	2005	100	0.081	
		Harding St.	2006	93	0.076	0.074
18–097–0042	Marion	Mann Road	2004	99	0.065	
		Mann Road	2005	100	0.076	
		Mann Road	2006	98	0.074	0.071
18–097–0073	Marion	Naval Air Warfare Center	2004	100	0.071	
		Naval Air Warfare Center	2005	100	0.080	
		Naval Air Warfare Center	2006	93	0.072	0.074
18–109–0005	Morgan	Monrovia	2004	99	0.072	
		Monrovia	2005	100	0.078	
		Monrovia	2006	100	0.077	0.075
18–145–0001	Shelby	Fairland	2004	99	0.071	
		Fairland	2005	100	0.080	
		Fairland	2006	98	0.073	0.074

The above data show that, during the period of 2004–2006, no violations of the 8-hour ozone standard were recorded in the Central Indiana Area. In addition, we find that the ozone data for the years considered meet data completeness requirements of 40 CFR part 50, appendix I. Based on these data, we conclude and find that the Central Indiana Area has attained the 8-hour ozone NAAQS.

B. Has the State of Indiana Committed To Maintain the Ozone Monitoring System in the Central Indiana Area?

IDEM commits to maintain the ozone monitoring network in the Central Indiana Area during the ozone maintenance period. Any necessary changes in the ozone monitoring system will be discussed in advance with the EPA. This commitment is acceptable.

C. Have the Central Indiana Area and the State of Indiana Met All of the Applicable Requirements of Section 110 and Part D of the Clean Air Act, and Does the Central Indiana Area Have a Fully Approved SIP Under Section 110(k) of the Clean Air Act?

We have determined that the Central Indiana Area and the State of Indiana have met all currently applicable SIP requirements for the Central Indiana Area, including the requirements under section 110 of the CAA (general SIP requirements) and the requirements under subpart 1 part D of title I of the CAA (requirements specific to all ozone nonattainment areas). See section 107(d)(3)(E)(v) of the CAA. In addition, EPA has fully approved the pertinent elements of the Indiana SIP. See section 107(d)(3)(E)(ii) of the CAA. We note that SIPs must be fully approved only with respect to currently applicable requirements of the CAA, which were those CAA requirements applicable to the Central Indiana Area at the time the State of Indiana submitted the final, complete ozone redesignation request for this area, March 26, 2007.

1. The Central Indiana Area Has Met All Applicable Requirements of Section 110 and Part D of the Clean Air Act

The September 4, 1992, Calcagni memorandum describes EPA's interpretation of section 107(d)(3)(E) of the CAA. To qualify for redesignation of an area to attainment under this interpretation, the State and the area must meet the relevant CAA requirements that come due prior to the State's submittal of a complete redesignation request for the area. See also the September 17, 1993, Michael Shapiro memorandum and 66 FR 12459, 12465–12466 (March 7, 1995, redesignating Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the State's submittal of a complete redesignation request remain applicable until a redesignation of the area to attainment of the standard is approved, but are not required as

prerequisites to redesignation. See section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 25424, 25427 (May 12, 2003, redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

a. Section 110 and General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP, which include: enforceable emission limitations and other emission control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; programs to enforce the emission limitations; submittal of a SIP that has been adopted by the State after reasonable public notice and a hearing; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and part D requirements (NSR for new sources or major source modifications); criteria for stationary source emission control measures, monitoring, and reporting; provisions for air quality modeling; and provisions for public and local agency participation.

SIP requirements and elements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993. See also other guidance documents listed above.

Section 110(a)(2)(D) of the CAA requires SIPs to contain certain measures to prevent sources in a State from significantly contributing to air quality problems in another State. To implement this provision, EPA required States to establish programs to address transport of air pollutants (NO_X SIP call and Clean Air InterState Rule (CAIR)). EPA has also found, generally, that States have not submitted SIPs under section 110(a)(1) of the CAA to meet the interstate transport requirements of section 110(a)(2)(D)(i) of the CAA (70 FR 21147, April 25, 2005). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular area's designation. EPA believes that the requirements linked with a particular area's nonattainment designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a State regardless of the designation of any one particular area in the State.

We believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and that are not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A State remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with an area's designation and classification are the relevant measures for evaluating this aspect of a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See: Reading, Pennsylvania proposed and final rulemakings (61 FR 53174–53176, October 10, 1996 and 62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Nonetheless, we also note that EPA has previously approved provisions in the Indiana SIP addressing section 110 elements under the 1-hour ozone standard. We have analyzed the Indiana SIP as codified in 40 CFR part 52, subpart P and have determined that it is consistent with the requirements of section 110(a)(2) of the CAA. The SIP, which has been adopted after reasonable public notice and hearing, contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications of existing sources; provisions for adequate funding, staff, and associated resources necessary to implement its requirements; requires stationary source emissions monitoring and reporting; and otherwise satisfies the applicable requirements of section 110(a)(2).

b. Part D SIP Requirements

EPA has determined that the Indiana SIP meets applicable SIP requirements under part D of the CAA. Under part D, an area's classification—either subpart 1 or subpart 2 (marginal, moderate, serious, severe, and extreme)—indicates the requirements to which it will be subject. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment area plan requirements applicable to all nonattainment areas. Subpart 2 of part D, found in section 182 of the CAA, establishes additional specific requirements depending on the area's nonattainment classification. Since the Central Indiana Area is designated as a subpart 1 nonattainment area for the 8-hour ozone standard, the subpart 2 part D requirements do not apply to these Counties.

c. Part D, Subpart 1 SIP Requirements

For purposes of evaluating this redesignation request, the applicable subpart 1 part D requirements are contained in sections 172(c)(1)–(9) and 176. A thorough discussion of the requirements of section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498). See also 68 FR 4852–4853, an ozone redesignation notice of proposed rulemaking for the St. Louis area, for a discussion of section 172 requirements.

No requirements for the 8-hour ozone standard under part D, subpart 1 of the CAA came due for the Central Indiana Area prior to when the State submitted the complete ozone redesignation request. For example, the requirement for an ozone attainment demonstration, as contained in section 172(c)(1), was not yet due when the State submitted the ozone redesignation request for these counties, nor were the requirements for Reasonably Available Control Measures (RACM) and Reasonably Available Control Technology (RACT) (section 172(c)(1)), Reasonable Further Progress (RFP) (section 172(c)(2)), and attainment plan and RFP contingency measures (section 172(c)(9)). All of these SIP elements are required for submittal after Indiana

submitted the complete, adopted ozone redesignation request and maintenance plan for the Central Indiana Area. Therefore, none of the part D requirements for the 8-hour ozone standard are considered to be applicable to the Central Indiana Area for purposes of redesignation.

d. Section 176 Conformity Requirements

Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. and the Federal Transit Act (transportation conformity), as well as to all other Federally-supported or funded projects (general conformity). State conformity SIP revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate.

As with other part D requirements, EPA interprets the conformity requirements as not applying for purposes of evaluating the ozone redesignation request under section 107(d) of the CAA. In addition, please note that conformity rules are required for areas that are redesignated to attainment of a NAAQS, and that Federal conformity rules apply where State rules have not been approved. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida).

e. Part D New Source Review (NSR) Requirements

EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without emission reductions from part D NSR, since Prevention of Significant Deterioration (PSD) requirements will apply after redesignation. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Indiana has demonstrated that the Central Indiana Area will be able to maintain the 8-hour ozone standard without part D NSR in effect, and therefore, we conclude that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in the Central Indiana Area upon redesignation to attainment. See rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

We conclude that the Central Indiana Area has satisfied all applicable requirements under section 110 and part D of the CAA to the extent that these requirements apply for purposes of reviewing the State's ozone redesignation request.

2. The Central Indiana Area Has a Fully Approved SIP Under Section 110(k) of the Clean Air Act (CAA)

EPA has fully approved the Indiana SIP for the Central Indiana Area under section 110(k) of the CAA for all applicable requirements. EPA may rely on prior SIP approvals in approving a redesignation request (See the September 4, 1992, John Calcagni memorandum, page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); and, *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001)), plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003). Since the passage of the CAA of 1970, Indiana has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to the Central Indiana Area for purposes of ozone redesignation. No SIP provisions relevant to the Central Indiana Area are currently disapproved, conditionally approved, or partially approved. As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of review of the State's redesignation request. EPA believes that approval of section 110 SIP elements under the 1-hour ozone standard satisfies the prerequisite for approval of the ozone redesignation request for purposes of attaining and maintaining the 8-hour ozone standard. EPA also believes that since the part D requirements for the 8-hour ozone standard did not become due prior to Indiana's submittal of the final, complete redesignation request, they also are not applicable requirements for purposes of redesignation.

D. Are the Air Quality Improvements in the Central Indiana Area Due to Permanent and Enforceable Emission Reductions Resulting From the Implementation of the Indiana SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Emission Reductions?

We believe that the State of Indiana has adequately demonstrated that the observed air quality improvements in the Central Indiana Area are due to permanent and enforceable emission reductions resulting from the implementation of the SIP, Federal measures, and other State-adopted measures. In making this demonstration, the State has documented the changes in VOC and NO_X emissions from anthropogenic (man-made or man-based) sources in the Central Indiana Area and the changes in NO_X emissions from Electric Generating Units (EGUs) Statewide occurring over the period of 1999–2005. This period includes 2002, an ozone standard violation year, and 2005, the year in the middle of the 2004–2006 attainment period. The State has also identified the emission control regulations that have been implemented in the Central Indiana Area and that have contributed to attainment of the ozone standard.

Table 2 summarizes the VOC and NO_X emissions totals from the anthropogenic sources in the Central Indiana Area for 1999, 2002, and 2005 as documented in the State's redesignation request. Table 3 summarizes the NO_X emissions trend for EGUs in the Central Indiana Area, and Table 4 summarizes the NO_X emissions trend for EGUs Statewide.

TABLE 2.—VOC AND NO_X EMISSIONS TOTALS IN THE CENTRAL INDIANA AREA IN TONS PER SUMMER DAY

Year	VOC	NO_X
1999	290.84	293.15
2002	249.67	264.69
2005	199.25	220.18

TABLE 3.—NO_X EMISSIONS TOTALS FOR EGUS IN THE CENTRAL INDIANA AREA IN TONS PER OZONE SEASON (APRIL–SEPTEMBER)

Year	NO_X emissions
1999	31,815
2000	25,028
2001	27,394
2002	22,661
2003	17,984
2004	11,798

TABLE 3.—NO_X EMISSIONS TOTALS FOR EGUS IN THE CENTRAL INDIANA AREA IN TONS PER OZONE SEASON (APRIL–SEPTEMBER)—Continued

Year	NO_X emissions
2005	10,591

TABLE 4.—NO_X EMISSIONS TOTALS FOR EGUS IN INDIANA STATEWIDE IN TONS PER OZONE SEASON

Year	NO_X emissions
1999	149,827
2000	133,881
2001	136,052
2002	113,996
2003	99,283
2004	66,568
2005	55,486

Information in the above tables indicates that both VOC and NO_X emissions significantly decreased in the Central Indiana Area between 2002 and 2005. In particular, the NO_X emissions from EGUs in this area significantly decreased during this period due to the implementation of EPA's NO_X SIP call and acid rain control requirements. As discussed further below, these emission reductions are primarily due to the implementation of permanent and enforceable emission controls, which are believed to have significantly contributed to the attainment of the 8-hour ozone standard in this area.

The Statewide NO_X emission reductions for EGUs are believed to have significantly reduced ozone transport into the Central Indiana Area, further reducing the peak ozone concentrations in this area. These emission reductions are primarily due to the implementation of the State's NO_X emission control rules stemming from EPA's NO_X SIP call and acid rain control requirements. These NO_X emission control rules are permanent and enforceable. We agree with the State that these NO_X control rules have significantly reduced ozone levels in and ozone transport to the Central Indiana Area.

Besides the NO_X SIP call regulations, IDEM notes that the following VOC emission control regulations have been implemented in the Central Indiana Area (''IAC'' is the Indiana Administrative Code):

326 IAC 8–1–6 Best Available Control Technology (BACT) for non-specific sources

326 IAC 8–2 Surface Coating Emission Limitations

326 IAC 8–3 Organic Solvent Degreasing Operation Controls

326 IAC 8–4 Petroleum Sources Controls

326 IAC 8–5 Miscellaneous Operations Controls

326 IAC 8–6 Organic Solvent Emission Limitations

326 IAC 8–8.1–1 Municipal Solid Waste Landfills Not Located in Clark, Floyd, Lake and Porter Counties Controls.

In addition, because EPA had initially designated Marion County as nonattainment under the 1-hour ozone standard, VOC sources that existed after July 1, 1990, in Marion County are also subject to RACT rules. Sources in the surrounding Counties (Boone, Hancock, Hamilton, Johnson, Morgan, and Shelby Counties) are subject to portions of 326 IAC 8–4 (326 IAC 8–4–4 through 8–4–7 and 8–4–9) that do not apply Statewide. These emission control requirements have led to reduced VOC emissions in the Central Indiana Area.

Finally, the State notes that several nationwide rules have been implemented (or will be implemented in the near future), resulting in VOC and NO_X emission reductions subsequent to 2002 in the Central Indiana Area and Statewide. These emission reduction rules include: (a) Tier II emission standards for vehicles and gasoline sulfur standards; (b) heavy-duty diesel engine standard and low-sulfur diesel fuel standards; and, (c) Clean Air Non-road Diesel Rule. These emission reduction rules will provide additional emission reductions in the future.

The State commits to maintain existing emission control measures after the redesignation of the Central Indiana Area to attainment of the 8-hour ozone NAAQS. If an emission control rule must be changed, the State will submit the rule change as a requested SIP revision to the EPA. IDEM maintains that it has the legal authority and necessary resources to enforce any violations of the existing emission control rules.

E. Does the Central Indiana Area Have a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA?

In conjunction with its request to redesignate the Central Indiana Area to attainment of the 8-hour ozone NAAQS, Indiana submitted a SIP revision request to provide for maintenance of the 8-hour ozone NAAQS in the Central Indiana Area through 2020, exceeding the 10 year minimum maintenance period required by the CAA.

1. What Is Required in an Ozone Maintenance Plan?

Section 175A of the CAA sets forth the required elements of air quality maintenance plans for areas seeking redesignation to attainment of a NAAQS. Under section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves the redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that maintenance of the standard will continue for 10 years following the initial 10-year maintenance period. The maintenance plan must commit the State to submit this revised maintenance plan to the EPA. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary, to assure prompt correction of any future NAAQS violations.

The September 4, 1992, John Calcagni memorandum provides additional guidance on the content of maintenance plans. An ozone maintenance plan should, at minimum, address the following items: (1) The attainment VOC and NO_X emissions inventories; (2) a maintenance demonstration showing maintenance for the first 10 years of the maintenance period; (3) a commitment to maintain the existing monitoring network; (4) factors and procedures to be used for verification of continued attainment; and, (5) a contingency plan to prevent and/or correct a future violation of the NAAQS.

2. What Are the Attainment Emission Inventories for the Central Indiana Area?

IDEM estimated future VOC and NO_X emissions for the Central Indiana Area for 2010, 2015, and 2020 to compare with the 2005 VOC and NO_X emissions for this area and to demonstrate maintenance of the ozone standard in this area. Future emissions were estimated for point (significant stationary sources), area (smaller point and/or widely distributed stationary sources), on-road mobile, and non-road mobile sources for this area. To develop the 2010, 2015, and 2020 emissions, IDEM projected the 2002 base year emissions applying various source category-specific growth factors and emission control factors or growth estimates collected directly from the sources. The following summarizes the procedures and data sources used by IDEM to derive the projected emissions.

a. Point Sources

The primary source of point source information for the base period, 2002, was facility-specific emissions and source activity data collected annually by the State for inclusion in IDEM's annual emissions statement database. This information includes emissions, process rates, source operating schedules, emissions control data, and other relevant source information. Emission growth factors and future emission control factors provided by the Lake Michigan Air Directors Consortium (LADCO) were used to project the point source VOC and non-EGU NO_X emissions to 2005, 2010, 2015, and 2020. The NO_X emissions from EGUs were projected based on the EGU NO_X emission budget contained in the Indiana NO_X rule.

b. Area Sources

Area sources are those sources which are generally small, numerous, and have not been inventoried as specific point, mobile, or non-road mobile sources. The emissions for these sources are generally calculated using various surrogates, such as population by county, estimates of employees in various occupational groups, etc., and grouped by general source types. The area source emissions are typically defined at the county level.

IDEM developed area source emissions for a 2002 periodic emissions inventory submitted to the EPA. The surrogate data used to derive these emissions were grown to 2005, 2010, 2015, and 2020. The projected surrogates or other assumed annual growth rates were used to calculate the projected VOC and NO_X emissions for each area source type.

c. On-Road Mobile Sources

On-road mobile source emissions were calculated using the MOBILE 6.2 emission factor model and other mobile source data, including estimated traffic levels and vehicle type and age distribution data, extracted from the area's travel-demand model.

d. Non-Road Mobile Sources

Non-road mobile source emissions were based on emissions in the 2002 National Emissions Inventory (NEI). The 2005, 2010, 2015, and 2020 non-road mobile source emissions were grown from the 2002 NEI emissions. To address concerns about the accuracy of the emissions derived for some of the non-road mobile source categories in EPA's non-road emissions model, LADCO contracted with several companies to review the base data used in the emissions model. A contractor also estimated emissions for two non-road source categories not included in EPA's non-road emissions model, commercial marine vessels and railroads. Recreational motorboat emissions were significantly updated. The equipment population and spatial surrogate data for other source types were also significantly updated. A new non-road estimation model was also provided by the EPA for the 2002 emissions analysis. The updated 2002 emissions were used to project the emissions to 2005, 2010, 2015, and 2020.

3. Has the State Demonstrated Maintenance of the Ozone Standard in the Central Indiana Area?

As part of the redesignation request submittal, IDEM requested a revision of the Indiana SIP to incorporate an ozone maintenance plan for the Central Indiana Area as required under section 175A of the CAA. The maintenance plan demonstrates maintenance of the 8-hour ozone NAAQS through 2020 by documenting the attainment year (2005) and future VOC and NO_X emissions. Indiana has shown that VOC and NO_X emissions will remain below the attainment year levels through 2020. An ozone maintenance demonstration need not be based on ozone modeling. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), and 68 FR 25430–25432 (May 12, 2003).

Table 5 summarizes the VOC and NO_X emissions projected to occur in the entire Central Indiana Area during the demonstrated maintenance period. The State of Indiana chose 2020 as a maintenance year to meet the 10-year maintenance requirement of the CAA, allowing several years for the EPA to complete the redesignation rulemaking process. The State also chose 2010 and 2015 as interim years to demonstrate that VOC and NO_X emissions will remain below the attainment year levels throughout the maintenance period.

TABLE 5.—VOC AND NO_X EMISSIONS IN THE CENTRAL INDIANA AREA DURING THE OZONE MAINTENANCE PERIOD IN TONS PER SUMMER DAY

Source sector	2005	2010	2015	2020
VOC Emissions				
Area	94.85	99.29	106.31	100.81
Point	13.54	14.34	16.00	14.85
Non-Road Mobile	30.36	28.77	24.06	25.29
On-Road Mobile	60.50	44.19	35.33	26.47
Total	199.25	186.59	181.70	167.42
NO_X Emissions				
Area	24.26	22.39	23.12	22.74
Point	56.63	33.31	32.41	32.77
Non-Road Mobile	22.55	33.05	24.06	18.36
On-Road Mobile	116.74	78.40	55.42	32.45
Total	220.18	167.15	135.01	106.32

IDEM notes that the State's EGU NO_X emissions control rules stemming from EPA's NO_X SIP call and CAIR, to be implemented primarily after 2006, will further lower NO_X emissions throughout the State of Indiana and upwind of the Central Indiana Area. This will result in reduced ozone and ozone precursor transport into the Central Indiana Area, and will support maintenance of the 8-hour ozone NAAQS in this area.

The emissions projections for the Central Indiana Area lead to the conclusion that this area should maintain the 8-hour ozone NAAQS throughout the required 10-year maintenance period and through 2020. The projected decreases in local VOC and local and regional NO_X emissions indicate that peak ozone levels in the Central Indiana Area may further decline during the maintenance period.

We conclude that IDEM has successfully demonstrated that the 8-hour ozone standard will be maintained in the Central Indiana Area.

4. What Is the Contingency Plan for the Central Indiana Area?

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that might occur after redesignation. The maintenance plan must identify the contingency measures to be considered for possible adoption, a schedule and procedure for adoption and implementation of the selected contingency measures, and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a commitment that the State will continue to implement all emission control measures that were included in the SIP before the redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by the CAA, Indiana has adopted a contingency plan to address possible future ozone air quality problems in the Central Indiana Area. The contingency plan has two levels of actions/responses depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level Response) or has actually occurred or appears to be imminent (Action Level Response).

A Warning Level Response will be triggered whenever an annual (1-year) fourth-high monitored 8-hour ozone concentration of 0.089 ppm occurs in a single ozone season, or a 2-year average fourth-high monitored 8-hour ozone concentration of 0.085 ppm or higher occurs within the Central Indiana maintenance area (within the Central Indiana Area). A Warning Level Response will consist of a study to determine whether the high ozone concentration indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will determine if the trend toward high ozone concentrations is likely to continue. If so, the emission control measures necessary to reverse the trend, taking into consideration ease and timing of implementation and economic and social considerations, will be adopted and implemented. Implementation of necessary emission controls will take place no later than 12 months from the conclusion of the most recent ozone season (September 30).

An Action Level Response will be triggered when a violation of the 8-hour ozone standard is monitored, when the three-year average annual fourth-high daily maximum 8-hour concentration is 0.085 ppm or higher at any monitor, in the Central Indiana Area. In the event that an Action Level Response is triggered and is not found to be due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, IDEM will determine the additional emission control measures needed to assure future attainment of the ozone NAAQS. Emission control measures that can be implemented in a short time will be selected in order to be in place within 18 months from the close of the ozone season in which the Action Level Response is triggered.

Assuming that new emission controls are needed, if a new emission control measure is already promulgated and scheduled to be implemented at the Federal or State level and that control measure is determined to be sufficient to address the upward trend in ozone concentrations, additional local emission control measures may be unnecessary. The State will submit to EPA an analysis to demonstrate that the proposed emission control measures are adequate to return the area to attainment or to correct the air quality trend.

The selection of emission control measures for implementation will be based on cost-effectiveness, emission reduction potential, economic and social considerations, and other factors that IDEM deems appropriate. IDEM will solicit input from interested and affected persons in the maintenance area prior to selecting appropriate contingency measures. IDEM has not specified a definitive list of measures that will be considered and may consider emission control measures not included in the list of potential emission control measures summarized in the ozone maintenance plan.

The ozone maintenance plan lists the following emission control measures as possible contingency measures that have been selected and reviewed by the Central Indiana Air Quality Advisory Group (a group of industrial representatives, individuals, and local government representatives from the Central Indiana Area):

- Lower Reid vapor pressure gasoline;
- Broader geographic applicability of existing emission control requirements;
- Tightening of RACT on existing sources covered by EPA control technique guidelines issued in response to the 1990 Clean Air Act revisions;
- Application of RACT to smaller existing sources;
- Vehicle inspection/maintenance program;
- One or more transportation control measure sufficient to achieve at least a half of a percent (0.5 percent) reduction of actual area-wide VOC emissions. Transportation control measures will be selected from the following based on the factors discussed above and after consultation with the affected local governments:

(a) Trip reduction programs, including employer-based transportation management plans, area-wide rideshare programs, work schedule changes, and telecommuting;

(b) Transit improvements;

(c) Traffic flow improvements; and,

(d) Other new or innovative transportation measures;

- Alternative fuel and diesel retrofit programs for fleet vehicle operations;
- VOC or NO_X emission offsets for new and modified major sources;
- VOC or NO_X emission offsets for new and modified minor sources;
- Increase the ratio of emission offsets required for new sources; and,
- VOC or NO_X emission controls on new minor sources.

No contingency measure will be implemented without providing the opportunity for public participation in the selection process, during which the relative costs and benefits of individual emission control measures will be evaluated.

5. Has the State Committed to Update the Ozone Maintenance Plan in Eight Years After the Redesignation of the Central Indiana Area to Attainment of the 8-Hour Ozone NAAQS?

As required by section 175A(b) of the CAA, the State commits to review the maintenance plan 8 years after redesignation of the Central Indiana Area and to submit a revised maintenance plan to the EPA extending the maintenance period for 10 years beyond the initial 10-year maintenance period.

We find Indiana's ozone maintenance demonstration, contingency plan, and commitment to update the maintenance plan to be acceptable.

V. Has the State Adopted Acceptable Motor Vehicle Emissions Budgets for the End Year of the Ozone Maintenance Period Which Can Be Used To Support Conformity Determinations?

A. How Are the Motor Vehicle Emission Budgets Developed, and What Are the Motor Vehicle Emission Budgets for the Central Indiana Area?

Under the CAA, States are required to submit, at various times, SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard or revising existing ozone maintenance plans). These emission control SIP revisions (e.g., reasonable further progress and attainment SIP revisions), including ozone maintenance plans, must create MVEBs based on on-road mobile source emissions that are allocated to highway and transit vehicle use and that, together with emissions from all other sources in the area, will provide for attainment or maintenance of the ozone NAAQS.

Under 40 CFR part 93, MVEBs for an area seeking a redesignation to attainment of the NAAQS are established for the last year of the maintenance period (for the maintenance demonstration year). The MVEBs serve as ceilings on mobile source emissions from an area's planned transportation system, and are used to test planned transportation system changes or projects to assure compliance with the emission limits assumed in the SIP. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEBs in the SIP and how to revise the MVEBs if needed.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the SIP that addresses emissions from cars, trucks, and other on-road vehicles. Conformity to the SIP means that transportation activities should not cause new air quality standard violations, or delay timely attainment of the NAAQS. If a transportation plan does not conform, most new transportation projects that would expand the vehicle capacity of the roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA's policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are used by State and Federal agencies in determining whether proposed transportation projects conform to the SIPs as required by section 176(c) of the CAA. EPA's substantive criteria for determining the adequacy of MVEBs are specified in 40 CFR 93.118(e)(4).

EPA's process of determining adequacy of MVEBs consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEBs during a public comment period; and (3) making a finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Rule Amendments—Response to Court Decision and Additional Rule Change'' published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The Transportation Conformity Rule, in 40 CFR 93.118(f), provides for adequacy findings through two mechanisms. First, 40 CFR 93.118(f)(1) provides for posting a notice to the EPA conformity Web site at: *http://www.epa.gov/otaq/Stateresources/transconf/adequacy.htm* and providing a 30-day public comment period. Second, a mechanism is described in 40 CFR 93.118(f)(2) which provides that EPA can review the adequacy of an implementation plan submission simultaneously with its review of the implementation plan itself.

The Central Indiana Area ozone maintenance plan contains VOC and NO_X MVEBs for 2006 and 2020. An interagency group of consultation partners chose to include MVEBs for 2006 to assist in streamlining the transportation conformity process. The year 2006 was chosen because it represents one of the years the Central Indiana Area attained the 8-hour ozone standard and because the travel demand models used in transportation planning contain a defined mobile source network for 2006.

The 2006 MVEBs are 54.32 tons VOC/day and 106.19 tons NO_X/day. The 2020 MVEBs are 29.52 tons VOC/day and 35.69 tons NO_X/day. Note that the 2020 MVEBs contain safety margins (emission levels exceeding the on-road mobile source emissions levels actually projected for the area and included in the maintenance demonstration). See the 2020 on-road mobile source emissions specified in Table 5 above.

The State is applying safety margins in specifying the 2020 MVEBs to accommodate the assumptions and associated potential estimate errors that are factored into the projection of future emission estimates. Since assumptions change over time or are shown to be incorrect, some errors may actually occur in estimated future emissions. Therefore, it is reasonable, if not necessary, to incorporate safety margins into the setting of MVEBs.

A ''margin of safety'' is the difference between the attainment level emissions from all sources and the projected levels of emissions from all sources in the maintenance plan for the maintenance year. As noted in Table 5 above, the Central Indiana Area is projected to have a VOC margin of safety of 31.83 tons/day and a NO_X margin of safety of 113.86 tons/day in 2020. These margins of safety significantly exceed the safety margins incorporated into the 2020 MVEBs (the 2020 MVEB VOC safety margin is 3.05 tons/day and the 2020 MVEB NO_X safety margin is 3.24 tons/day, the differences between the 2020 MVEBs and the projected on-road mobile source emissions). Therefore, the safety margins incorporated into the 2020 MVEBs will not threaten maintenance of the 8-hour ozone standard in the Central Indiana Area.

No safety margins were applied to the 2006 MVEBs. These MVEBs are the on-road mobile emission estimates for this year.

B. Are the MVEBs Approvable?

EPA, through this rulemaking, is proposing to approve the 2006 and 2020 MVEBs for use in demonstrating transportation conformity in the Central Indiana Area because EPA has determined that the MVEBs are consistent with the emission control measures and future emissions projected in the SIP and because the Central Indiana Area can maintain attainment of the 8-hour ozone NAAQS for the required maintenance period with on-road mobile source emissions at the levels of the MVEBs. The VOC and NO_X MVEBs are approvable because they maintain the total emissions for the

Central Indiana Area at or below the attainment year emission levels, as required by the transportation conformity regulations.

VI. What Are the Effects of EPA's Proposed Actions?

Approval of the redesignation request would change the official designation of Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Marion, Morgan, and Shelby Counties, Indiana for the 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment. Final rulemaking approving the redesignation request would incorporate into the Indiana SIP a plan for maintaining the ozone NAAQS through 2020 in these Counties. The maintenance plan includes contingency measures to remedy possible future violations of the 8-hour ozone NAAQS, and establishes 2006 and 2020 MVEBs for these counties.

VII. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a ''significant regulatory action'', and therefore, is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a ''significant regulatory action'' under Executive Order 12866 or a ''significant regulatory action,'' this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve State choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the State to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

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

Dated: July 23, 2007.

Bharat Mathur,

Acting Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 97

[EPA–R05–OAR–2007–0405; FRL–8446–5]

Approval of Implementation Plans; Wisconsin; Clean Air Interstate Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to partially approve and partially disapprove a revision to the Wisconsin State Implementation Plan (SIP) submitted on June 19, 2007. This revision incorporates provisions related to the implementation of EPA's Clean Air Interstate Rule (CAIR), promulgated on May 12, 2005, and subsequently revised on April 28, 2006, and December 13, 2006, and the CAIR Federal Implementation Plan (FIP) which concerns sulfur dioxide (SO_2), oxides of nitrogen (NO_X) annual, and NO_X ozone season emissions for the State of Wisconsin, promulgated on April 28, 2006, and subsequently revised December 13, 2006. EPA is not proposing to make any changes to the CAIR FIP, but is proposing, to the extent EPA approves Wisconsin's SIP revision, to amend the appropriate appendices in the CAIR FIP trading rules simply to note that approval.

The SIP revision that EPA is proposing to approve is an abbreviated