

programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

#### J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. section 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. section 804(2).

#### K. Petitions for Review of This Action

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *July 12, 2010*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

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

Dated: April 12, 2010.

#### Jared Blumenfeld,

*Regional Administrator, Region IX.*

■ Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(354)(i)(E)(14) and (c)(363)(i)(A)(5) and (6) to read as follows:

##### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(354) \* \* \*

(i) \* \* \*

(E) \* \* \*

(14) Rule 2020, "Exemptions," adopted on September 19, 1991 and amended on December 20, 2007.

\* \* \* \* \*

(363) \* \* \*

(i) \* \* \*

(A) \* \* \*

(5) Rule 2201, "New and Modified Stationary Source Review Rule," adopted on September 19, 1991, and amended on December 18, 2008.

(6) Rule 2530, "Federally Enforceable Potential to Emit," adopted on June 15, 1995, and amended on December 18, 2008.

\* \* \* \* \*

■ 3. Section 52.232 is amended by removing and reserving paragraphs (a)(6), (a)(10), and (a)(11) and by revising paragraph (a)(5)(i) to read as follows:

##### § 52.232 Part D conditional approval.

(a) \* \* \*

(5) \* \* \*

(i) For PM:

(A) By November 19, 1981, the NSR rules must be revised and submitted as an SIP revision. The rules must satisfy section 173 of the Clean Air Act and 40 CFR Subpart I, "Review of new sources and modifications." In revising Kern County's NSR rules, the State/APCD must address all the requirements in EPA's amended regulations for NSR (45 FR 31307, May 13, 1980 and 45 FR 52676, August 7, 1980) which the APCD rules do not currently satisfy including those deficiencies cited in EPA's Evaluation Report Addendum which still apply despite EPA's new NSR requirements (contained in document File NAP-CA-07 at the EPA Library in Washington, DC and the Regional Office).

\* \* \* \* \*

[FR Doc. 2010-10925 Filed 5-10-10; 8:45 am]

**BILLING CODE 6560-50-P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2009-0512; FRL-9147-2]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Lake and Porter Counties to Attainment for Ozone

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

**ACTION:** Final rule.

**SUMMARY:** EPA is taking several related actions affecting Lake and Porter Counties and the State of Indiana for the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS or standard). EPA is approving a request from the State of Indiana to redesignate Lake and Porter Counties, the Indiana portion of the Chicago-Gary-Lake County, Illinois-Indiana (IL-IN) 8-hour ozone nonattainment area, to attainment of the 1997 8-hour ozone NAAQS. In addition, EPA is approving, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 1997 8-hour ozone NAAQS through 2020 in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN ozone nonattainment area. EPA is also approving the 2002 Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>) emission inventories for Lake and Porter Counties as a SIP revision and as meeting the requirements of the Clean Air Act (CAA). Finally, EPA finds adequate and is approving the State's 2010 and 2020 VOC and NO<sub>x</sub> Motor Vehicle Emission Budgets (MVEBs) for Lake and Porter Counties.

**DATES:** This final rule is effective May 11, 2010.

**ADDRESSES:** EPA has established a docket for this action: Docket ID No. EPA-R05-OAR-2009-0512. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77

West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Edward Doty, Environmental Scientist, at (312) 886-6057 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Edward Doty, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6057, [doty.edward@epa.gov](mailto:doty.edward@epa.gov).

**SUPPLEMENTARY INFORMATION:**

Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

**Table of Contents**

- I. What is the background for this rule?
- II. What comments did we receive on the proposed rule?
- III. What actions is EPA taking?
- IV. Statutory and Executive Order Reviews

**I. What is the background for this rule?**

On July 18, 1997 (62 FR 38856), EPA promulgated an 8-hour ozone standard of 0.08 parts per million (ppm). EPA published a final rule designating and classifying areas under the 1997 8-hour ozone NAAQS on April 30, 2004 (69 FR 23857). In that rulemaking, Lake and Porter Counties in Indiana were designated as nonattainment as part of the Chicago-Gary-Lake County, IL-IN 8-hour ozone nonattainment area. The Chicago-Gary-Lake County, IL-IN area was classified as a moderate nonattainment area for the 1997 8-hour ozone standard under subpart 2 of the CAA.

On June 5, 2009, the Indiana Department of Environmental Management (IDEM) requested redesignation of Lake and Porter Counties to attainment of the 1997 8-hour ozone NAAQS based on ozone data for the period 2006–2008.<sup>1</sup> This redesignation request was supplemented by IDEM on July 20, 2009, to demonstrate that attainment of the 1997 8-hour ozone NAAQS could be maintained in the Chicago-Gary-Lake County, IL-IN area through 2020 without emission reductions resulting from implementation of EPA’s Clean Air Interstate Rule (CAIR).

On March 12, 2010, EPA issued a final rulemaking determining that that

the entire Chicago-Gary-Lake County, IL-IN area had attained the 1997 8-hour ozone NAAQS based on three years of complete, quality-assured ozone data for the period of 2006–2008, and continuing through 2009. 75 FR 12088. In that rulemaking, based on its determination of attainment, EPA also approved Indiana’s request for a waiver under CAA section 182(f) from CAA provisions requiring NO<sub>x</sub> Reasonably Available Control Technology (RACT) in Lake and Porter Counties.

Also on March 12, 2010, EPA issued a notice of rulemaking proposing to approve Indiana’s request to redesignate the Indiana portion of the Chicago-Gary-Lake County, IL-IN) 1997 8-hour ozone nonattainment area, as well as proposing approval of a ten-year maintenance plan for the area, VOC and NO<sub>x</sub> MVEB’s, and VOC and NO<sub>x</sub> emissions inventories. 75 FR 12090. This proposed rulemaking sets forth the basis for determining that Indiana’s redesignation request meets the CAA requirements for redesignation for the 1997 8-hour ozone NAAQS. Air quality monitoring data in the Chicago-Gary-Lake County, IL-IN area for 2006–2009 show that this area is currently attaining the 1997 8-hour ozone NAAQS.

The primary background for today’s actions is contained in EPA’s March 12, 2010 proposal to approve Indiana’s redesignation request, and in EPA’s March 12, 2010 final rulemaking determining that the area has attained the 1997

8-hour ozone standard. In these rulemakings, we noted that, under EPA regulations at 40 CFR 50.10 and 40 CFR part 50, appendix I, the 1997 8-hour ozone standard is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm at all ozone monitoring sites in an area. See 69 FR 23857 (April 30, 2004) for further information. To support the redesignation of the area to attainment of the NAAQS, the ozone data must be complete for the three attainment years. The data completeness requirement is met when the three-year average of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness, as determined in accordance with appendix I of 40 CFR part 50. Under the CAA, EPA may redesignate a nonattainment area to attainment if sufficient, complete, quality-assured data are available demonstrating that the area has attained the standard and if the State meets the other CAA redesignation requirements

specified in section 107(d)(E) and section 175A.

The March 12, 2010, proposed redesignation rulemaking provides a detailed discussion of how Indiana’s ozone redesignation request meets the CAA requirements for redesignation of the Indiana portion of the Chicago-Gary-Lake County, IL-IN area. With the final approval of its VOC and NO<sub>x</sub> emissions inventories, Indiana has met all CAA requirements for redesignation to attainment for 1997 8-hour ozone. Air quality monitoring data in the Chicago-Gary-Lake County, IL-IN area for 2006–2009 show that this area is currently attaining the 1997 8-hour ozone NAAQS. Indiana has demonstrated that attainment of 1997 8-hour ozone NAAQS will be maintained in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area through 2020 with or without the implementation of CAIR. Finally, Indiana has adopted 2010 and 2020 VOC and NO<sub>x</sub> MVEBs that are supported by Indiana’s ozone maintenance demonstration and adopted ozone maintenance plan.

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

EPA provided a 30-day review and comment period. The comment period closed on April 12, 2010. During the comment period, we received comments from three individuals. These comments are summarized and addressed below.

*Comment 1*

A commenter recommends that, since the 1997 8-hour ozone standard has been met in Lake and Porter Counties, the vehicle emissions testing should be stopped in these Counties and the State should use the cost savings to address other issues in the State.

Another commenter requests that EPA stop vehicle emissions testing in the area so as not to “continue to penalize” the citizens of Northwest Indiana. The commenter contends that, since air quality has improved and “times are hard for the people in the area” the emissions testing of vehicles should be halted. This commenter believes that emissions must be coming primarily from companies and factories, and contends that it is time for corporations to pay for their pollution.

*Response 1*

These commenters have not directly addressed any portion of EPA’s proposed actions. The March 12, 2010, proposed rule proposes no action with regard to Indiana’s vehicle Inspection/Maintenance (I/M) program (the vehicle emissions testing program) in Lake and

<sup>1</sup> The area continues to attain the 1997 8-hour ozone standard based on quality assured ozone data for 2009. See March 12, 2010, proposed rule (75 FR 12094).

Porter Counties. Nonetheless, we note that EPA based its approval of the redesignation request in part on the existence of an EPA-approved I/M program in the Indiana SIP for Lake and Porter Counties. Since Lake and Porter Counties are part of the Chicago-Gary-Lake County, IL-IN area, which is classified as moderate nonattainment for the 1997 8-hour ozone standard, section 182(b)(4) of the CAA requires Indiana's SIP to provide for vehicle I/M in Lake and Porter Counties. For EPA to approve a State's redesignation request, Section 107(d)(3)(E)(ii) and (v) of the CAA requires EPA to determine that EPA has fully approved the State SIP for all requirements under section 110 and part D (including section 182(b)(4)) that are applicable for purposes of redesignation. EPA thus could not approve Indiana's redesignation request for Lake and Porter Counties, without an I/M SIP provision.

The State of Indiana has relied, in part, on the VOC and NO<sub>x</sub> emission reductions resulting from the implementation of I/M in Lake and Porter Counties to attain the ozone standard in this area. In addition, Indiana's ozone maintenance plan and maintenance demonstration for Lake and Porter Counties include, and, in part, depend on future VOC and NO<sub>x</sub> emission reductions resulting from the continued implementation of the I/M program in Lake and Porter Counties. Thus, EPA could not approve either the attainment or maintenance demonstrations without continued operation of the I/M program or some other control measure that would produce similar emissions reductions.

The State of Indiana has not requested EPA to approve a revision to its SIP to remove the I/M program, nor could EPA approve such a revision without an adequate demonstration that such a revision would not interfere with continued maintenance of the 1997 8-hour ozone standard or with attainment of other applicable air quality requirements pursuant to section 110(l) of the CAA. The requirements for I/M in Lake and Porter Counties remain in place in the Indiana ozone SIP, and there is no basis in this rulemaking to remove I/M as an emission reduction program in these Counties.

With regard to requiring companies and industries to control their emissions, the March 12, 2010, proposed rule (75 FR 12095-12097) makes it clear that Indiana has met all stationary source control requirements for Lake and Porter Counties that are applicable for purposes of redesignation under the CAA. The State has adopted all CAA-required VOC RACT

requirements and New Source Review (NSR) requirements for Lake and Porter Counties, and the subject stationary sources (companies and industries) in Lake and Porter have implemented these required VOC emission reductions. In addition, on October 27, 1998 (63 FR 57356), EPA issued a NO<sub>x</sub> SIP Call requiring the District of Columbia and 22 States to reduce emissions of NO<sub>x</sub> in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO<sub>x</sub> SIP Call, IDEM developed rules governing the control of NO<sub>x</sub> emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, turbines, major cement kilns, and internal combustion engines. EPA approved Indiana's rules as fulfilling requirements of Phase I of the NO<sub>x</sub> SIP Call on November 8, 2001 (66 FR 56465) and December 11, 2003 (68 FR 69025), and of Phase II of the NO<sub>x</sub> SIP Call on October 1, 2007 (72 FR 55664).

#### *Comment 2*

A commenter, apparently in response to EPA's March 12, 2010 (75 FR 12088), final rulemaking approving a NO<sub>x</sub> RACT waiver for Lake and Porter Counties, asks why EPA is waiving the "CAA requirement of at least RACT-level emissions control for the State of Indiana." The commenter asserts that there are numerous coal-fired power plants, and other major pollution sources "just south of Illinois," and contends, based on the findings from the Respiratory Health Association of Metropolitan Chicago, that "Indiana pollution sources contribute significantly to the smog that is visible on the horizon from anywhere in Chicago on summer days, despite EPA's finding that the Chicago area has attained the 1997 8-hour ozone standard." The commenter, referencing an EPA Web site ([http://www.epa.gov/dfe/pubs/pwb/tech\\_rep/fedregs/regsecta.htm](http://www.epa.gov/dfe/pubs/pwb/tech_rep/fedregs/regsecta.htm)), claims that the "Chicago, IL-IN-WI" area is a "severe" ozone nonattainment area.

#### *Response 2*

First, EPA notes that the only waiver that EPA has granted, after notice-and-comment rulemaking that concluded on March 12, 2010, is based on CAA section 182(f)(1)(A) concerning NO<sub>x</sub> RACT. 75 FR 12088. EPA received no comments on that rulemaking, which has been finalized, and is not a part of the March 12, 2010, proposed redesignation rule (75 FR 12090), which is the subject of this final rule. The grounds for that rulemaking were fully set forth in the notices that address it, and comments concerning it are not

timely or germane to this rulemaking. Similarly, on March 12, 2010, EPA issued a determination that the entire Chicago-Gary-Lake County, IL-IN 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard, and reiterates in this rulemaking that the most recent three years of complete, quality-assured monitoring data establish that the area is attaining the standard. Since the area is already attaining the 1997 8-hour ozone NAAQS, imposition of additional NO<sub>x</sub> RACT controls will not contribute to attainment. 74 FR 48706 (September 24, 2009). Moreover, sources of pollution in Indiana that contribute significantly to air quality in the Chicago-Gary-Lake County, IL-IN area are controlled by provisions of the Indiana SIP and by the NO<sub>x</sub> SIP call, as well as by other Federal regulations. See the discussion in EPA's notice of proposed rulemaking. All subject sources in Lake and Porter Counties are required to meet applicable RACT requirements for VOC. With regard to the commenter's assertion that the "Chicago, IL-IN-WI" area is classified as a severe ozone nonattainment area, we note that this classification applied to the area's status under the prior 1-hour ozone standard. On June 15, 2005, EPA revoked the 1-hour ozone standard. 70 FR 44470. As noted above, the Chicago-Gary-Lake County, IL-IN area was classified as a moderate nonattainment area under the current 1997 8-hour ozone standard, which is the ozone standard addressed in this final rule. Moreover, in its proposed redesignation notice, EPA concluded, after a detailed discussion, that Indiana had met all applicable 1-hour ozone anti-backsliding requirements for the area's prior severe classification that applied for purposes of redesignation for the 1997 8-hour ozone standard.

#### *Comment 3*

A commenter is concerned that redesignating Lake and Porter Counties to attainment of the 1997 8-hour ozone standard will loosen new source review requirements for subject sources from Lowest Achievable Emission Rate (LAER) (required in ozone nonattainment areas) to Best Available Control Technology (BACT) (required in ozone attainment areas).

#### *Response 3*

The commenter is correct that major new source requirements in Lake and Porter Counties will change from LAER to BACT after the redesignation of Lake and Porter Counties to attainment of the 1997 8-hour ozone standard becomes effective. This, however, does not mean

that this change in new source emission controls will cause new ozone standard violations, or otherwise interfere with the maintenance of the 1997 8-hour ozone standard in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area. New sources will be subject to the Prevention of Significant Deterioration (PSD) program but existing sources that underwent nonattainment NSR must continue to comply with their permits and operate their control equipment.

IDEM noted in its June 5, 2009, ozone redesignation request that the PSD requirements for the implementation of BACT at applicable new sources would replace the new source review requirements for LAER upon the redesignation of Lake and Porter Counties to attainment of the 1997 8-hour ozone standard. The substitution of PSD for nonattainment NSR was shown by the State, in its ozone maintenance plan, not to interfere with maintenance of the 1997 8-hour ozone standard in Lake and Porter Counties and in the Chicago-Gary-Lake County, IL-IN area as a whole. IDEM factored in projected new source emissions growth under the PSD program as part of the State's ozone maintenance demonstration. Through this ozone maintenance demonstration, new source growth was shown to not cause future ozone standard violations. Therefore, we do not believe that conversion from LAER requirements to BACT requirements for applicable new sources in Lake and Porter Counties will interfere with the maintenance of the 1997 8-hour ozone standard in the Chicago-Gary-Lake County, IL-IN area. As always, contingency measures that are contained in the maintenance plan exist to correct any unanticipated future violations that may occur for any reason.

#### *Comment 4*

A commenter contends that loosening regulations via waivers and redesignation will lead to increases in ozone, augment risks of lung disease and affect asthma sufferers.

#### *Response 4*

As discussed above and in the March 12, 2010, proposed rule (75 FR 12104-12109), IDEM has demonstrated that the area is attaining the 1997 8-hour ozone NAAQS, and that VOC and NO<sub>x</sub> emissions in Lake and Porter Counties will remain below the attainment year (2006) emission levels through 2020. In making this maintenance demonstration, IDEM has estimated the emissions impacts of source growth in Lake and Porter Counties along with the

emissions impacts of continued implementation of existing emission controls. The ozone maintenance demonstration shows that VOC and NO<sub>x</sub> emissions will remain below the 2006 emission levels through 2020. Since the ozone maintenance demonstration has included the emissions impacts of the NO<sub>x</sub> RACT waiver and of source growth subsequent to the redesignation of Lake and Porter Counties to attainment of the 1997 8-hour ozone standard, we conclude that the NO<sub>x</sub> waiver and the redesignation of Lake and Porter Counties should not result in new violations of the 1997 8-hour ozone standard during the ozone maintenance period, through 2020. After redesignation, all control measures that are in place are retained, and contrary to commenter's contention, there is no relaxation of existing controls on sources.

#### *EPA Conclusions Resulting From the Public Comments*

After considering all public comments received and our responses to those comments, we conclude that no issues have been raised that would cause us to alter the conclusions set forth in the March 12, 2010, proposed rule.

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

After reviewing Indiana's redesignation request, EPA has determined that it meets the criteria set forth in section 107(d)(3)(E) of the CAA. Therefore, EPA is approving the redesignation of Lake and Porter Counties to attainment for the 1997 8-hour ozone NAAQS. EPA is also approving Indiana's ozone maintenance plan for Lake and Porter Counties as a SIP revision, based on Indiana's demonstration that the plan meets the requirements of section 175A of the CAA. In addition, EPA is approving the 2002 VOC and NO<sub>x</sub> emission inventories for Lake and Porter Counties as meeting the requirements of section 182(a)(1) of the CAA. Finally, EPA also finds adequate and is approving the State's 2010 and 2020 VOC and NO<sub>x</sub> MVEBs for Lake and Porter Counties. For 2010, these MVEBs are 10.5 tons VOC/day and 40.6 tons NO<sub>x</sub>/day. For 2020, these MVEBs are 6.0 tons VOC/day and 12.6 tons NO<sub>x</sub>/day.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is

authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of planning requirements for this 8-hour ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

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

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

- Are not "significant regulatory actions" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities

under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a

report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 12, 2010. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

*40 CFR Part 81*

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

Dated: April 22, 2010.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

■ Parts 52 and 81, chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart P—Indiana**

■ 2. Section 52.777 is amended by adding paragraphs (pp) and (qq) to read as follows:

**§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).**

\* \* \* \* \*

(pp) Approval—On June 5, 2009, the Indiana Department of Environmental Management submitted a request to redesignate Lake and Porter Counties to attainment of the 1997 8-hour ozone NAAQS. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175A maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years, as required by the Clean Air Act. The 2010 motor vehicle emissions budgets for Lake and Porter Counties are 10.5 tpd for VOC and 40.6 tpd for NO<sub>x</sub>. The 2020 motor vehicle emissions budgets for Lake and Porter Counties are 6.0 tpd for VOC and 12.6 tpd for NO<sub>x</sub>.

(qq) Approval—Indiana’s 2002 VOC and NO<sub>x</sub> emissions inventories satisfy the emission inventory requirements of section 182(a)(1) of the Clean Air Act for Lake and Porter Counties under the 1997 8-hour ozone NAAQS.

**PART 81—[AMENDED]**

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

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

■ 4. Section 81.315 is amended by revising the entry for Chicago-Gary-Lake County, IL-IN in the table entitled “Indiana-Ozone (8-Hour Standard)” to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

**INDIANA—OZONE**  
[8-Hour standard]

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * *	* * *	* * *	* * *	* * *
Chicago-Gary-Lake County, IL-IN:				
Lake County .....	May 11, 2010 .....	Attainment.		
Porter County				
* * *	* * *	* * *	* * *	* * *

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 2010-11009 Filed 5-10-10; 8:45 am]

BILLING CODE 6560-50-P

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R05-OAR-2009-0928; EPA-R05-OAR-2010-0046; FRL-9147-3]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Indiana; Redesignation of the Ohio and Indiana Portions of the Cincinnati-Hamilton Area to Attainment for Ozone****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is approving the requests of Ohio and Indiana to redesignate the Ohio and Indiana portions of the Cincinnati-Hamilton, OH-KY-IN 8-hour ozone nonattainment area, “the Cincinnati-Hamilton area,” to attainment for that standard, because these requests meet the statutory requirements for redesignation under the Clean Air Act (CAA). The Ohio Environmental Protection Agency (Ohio EPA) and the Indiana Department of Environmental Management (IDEM) submitted these requests on December 14, 2009, and January 21, 2010, respectively. (EPA will address the Kentucky portion of the Cincinnati-Hamilton area in a separate rulemaking action.)

These approvals involve several related actions. EPA is making a determination under the CAA that the Cincinnati-Hamilton area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Cincinnati-Hamilton area includes Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio, Lawrenceburg Township in Dearborn County, Indiana, and Boone, Campbell, and Kenton Counties in Kentucky. This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2007–2009 ozone seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the entire Cincinnati-Hamilton area. EPA is also approving, as revisions to the Ohio and Indiana State Implementation Plans (SIPs), the States’ plans for maintaining the 8-hour ozone NAAQS through 2020 in the area.

EPA is approving the 2002 base year emissions inventory submitted by IDEM on June 13, 2007, as meeting the base

year emissions inventory requirement of the CAA for the Indiana portion of the Cincinnati-Hamilton area. EPA is approving the 2005 base year emissions inventory submitted by Ohio EPA as part of its redesignation request as meeting the base year emissions inventory requirements of the CAA for the Ohio portion of the Cincinnati-Hamilton area. Finally, EPA finds adequate and is approving the States’ 2015 and 2020 Motor Vehicle Emission Budgets (MVEBs) for the Ohio and Indiana portion of the Cincinnati-Hamilton area.

**DATES:** This final rule is effective May 11, 2010.

**ADDRESSES:** EPA has established dockets for this action: Docket ID No. EPA-R05-OAR-2009-0928 and ID No. EPA-R05-OAR-2010-0046. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Kathleen D’Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D’Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA. This supplementary information section is arranged as follows:

**Table of Contents**

- I. What is the background for these actions?
- II. What comments did we receive on the proposed rule?
- III. What action is EPA taking?
- IV. Statutory and Executive Order Reviews.

**I. What is the background for these actions?**

The background for today’s actions is discussed in detail in EPA’s February 26, 2010, proposal (75 FR 8871). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm. (See 69 FR 23857 (April 30, 2004) for further information.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E).

The Ohio EPA and IDEM submitted requests to redesignate the Ohio and Indiana portions of the Cincinnati-Hamilton area to attainment for the 8-hour ozone standard on December 14, 2009, and January 21, 2010, respectively. The redesignation requests included three years of complete, quality-assured data for the period of 2007 through 2009, indicating the 8-hour NAAQS for ozone, as promulgated in 1997, had been attained for the Cincinnati-Hamilton area. The February 26, 2010, proposed rule provides a detailed discussion of how Ohio and Indiana met this and other CAA requirements.

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

EPA provided a 30-day review and comment period. The comment period closed on March 29, 2010. We received no comments on the proposed rule.

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

EPA is making a determination that the Cincinnati-Hamilton area has attained the 1997 8-hour ozone NAAQS. EPA is also approving the maintenance plan SIP revisions for the Ohio and Indiana portions of the Cincinnati-Hamilton area. EPA’s approval of the maintenance plans is based on the States’ demonstrations that the plans meet the requirements of section 175A of the CAA. After evaluating the redesignation requests submitted by Ohio and Indiana, EPA believes that the requests meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. Therefore, EPA is approving the redesignation of the Ohio and Indiana portions of the Cincinnati-Hamilton area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is also approving Ohio EPA’s 2005 base year emissions inventory for the Ohio