This document provides early notification of our specific plans and actions for this program.

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Dated: July 8, 2013.

Deborah S. Delisle,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 2013–16668 Filed 7–10–13; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2009–0839; FRL–9832–3]

Approval and Promulgation of Air Quality Implementation Plans; Indiana; Redesignation of the Indianapolis Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving Indiana's request to redesignate the Indianapolis, Indiana nonattainment area (Hamilton, Hendricks, Johnson, Marion, and Morgan Counties) to attainment for the 1997 annual National Ambient Air Quality Standard (NAAQS or standard) for fine particulate matter ($PM_{2.5}$) because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Indiana Department of Environmental Management (IDEM) submitted this request to EPA on October 20, 2009, and supplemented it on May 31, 2011, January 17, 2013, and March 18, 2013. EPA's approval involves several related actions. EPA is making a determination that the Indianapolis area has attained the 1997 annual $PM_{2.5}$ standard. EPA is approving, as a revision to the Indiana State Implementation Plan (SIP), the state's plan for maintaining the 1997 annual $PM_{2.5}$ NAAQS through 2025 in the area. EPA is approving the comprehensive emissions inventories submitted by IDEM for Nitrogen Oxides (NO_X), Sulfur Dioxide (SO_2), primary $PM_{2.5}$, Volatile Organic Compounds (VOC), and ammonia as meeting the requirements of the CAA. Finally, EPA finds adequate and is approving Indiana's NO_X and $PM_{2.5}$ Motor Vehicle Emission Budgets (MVEBs) for 2015 and 2025 for the Indianapolis area.

DATES: This final rule is effective July 11, 2013.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2009–0839. All documents in the docket are listed in the *www.regulations.gov* index. 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, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 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, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *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:

I. What is the background for the actions?

On October 20, 2009, IDEM submitted its request to redesignate the Indianapolis, Indiana nonattainment area (Hamilton, Hendricks, Johnson, Marion, and Morgan Counties) to attainment for the 1997 annual $PM_{2.5}$ NAAQS, and for EPA approval of the SIP revision containing an emissions inventory and a maintenance plan for the area. IDEM supplemented its submission on May 31, 2011, January 17, 2013, and March 18, 2013. On September 27, 2011, EPA published proposed (76 FR 59599) and direct final (76 FR 59512) rules making a determination that the Indianapolis area is attaining the 1997 annual $PM_{2.5}$ standard and that the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA subsequently received adverse comments on the direct final rule and withdrew it on November 27, 2011 (76 FR 70361). The proposal was not withdrawn. EPA published a supplemental proposal on April 8, 2013 (78 FR 20856). EPA received an adverse comment on the supplemental proposal.

II. What actions is EPA taking?

EPA is making a determination that the Indianapolis area has attained and continues to attain the 1997 annual $PM_{2.5}$ standard, that the area has attained this standard by its applicable attainment date of April 5, 2010, and that the area meets the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA proposed this determination based on monitoring data showing attainment of the standard for the 2006–2008, 2007–2009, and 2008–2010 time periods. Quality-assured, certified monitoring data for 2011 show that the area continues to attain the standard, with a 2009–2011 design value of 13.1 $\mu g/m^3$ (see *http://www.epa.gov/pm/2012/20092011table.pdf*). Monitoring data that are now available for 2012 have been certified and are consistent with continued attainment as well (see *http://www.epa.gov/ttn/airs/airsaqs/*).

Because the area continues to attain the standard and meets all other requirements for redesignation under CAA section 107(d)(3)(E), EPA is approving the request from Indiana to change the legal designation of the Indianapolis area from nonattainment to

attainment for the 1997 annual $PM_{2.5}$ NAAQS.

EPA is taking several actions related to Indiana's $PM_{2.5}$ redesignation request, as discussed below.

EPA is approving, pursuant to CAA section 175A, Indiana's 1997 annual $PM_{2.5}$ maintenance plan for the Indianapolis area as a revision to the Indiana SIP (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the Indianapolis area in attainment of the 1997 annual $PM_{2.5}$ NAAQS through 2025.

EPA is approving, pursuant to CAA section 172(c)(3), both the 2006 emission inventories for primary $PM_{2.5}$,[1] NO_X, and SO_2,[2] and the 2007/2008 emission inventories for VOC and ammonia. These emission inventories satisfy the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory.

Finally, for transportation conformity purposes EPA finds adequate and is approving Indiana's NO_X and $PM_{2.5}$ MVEBs for 2015 and 2025 for the Indianapolis area.

III. What is EPA's response to comments?

EPA received adverse comments on the September 27, 2011, proposal from Robert Ukeiley, on behalf of both Midwest Environmental Defense Center Inc. and two citizens. Valley Watch joined these comments. EPA received an adverse comment on the April 8, 2013, supplemental proposal from Thomas Cmar of Earthjustice on behalf of Sierra Club. A summary of the comments received, and EPA's responses, follow.

Comment: The commenter contends that Indiana does not have an adequate prevention of significant deterioration (PSD) program. He further asserts that the PSD program is part of the SIP that an area being redesignated needs to have to ensure that the area will stay in attainment. As a result, the commenter takes the position that EPA cannot approve the redesignation request because Indiana does not have an adequate $PM_{2.5}$ PSD program. The commenter bases his conclusion that Indiana's PSD program is inadequate for $PM_{2.5}$ on the fact that the program does not contain specific ''significant emission rates'' [3] for $PM_{2.5}$ and its precursors, and that the program does not include $PM_{2.5}$ increments.

Response: On October 29, 2012, EPA approved revisions to Indiana's PSD SIP. Specifically, EPA approved changes to 326 Indiana Administrative Code (IAC) 2–2–1(ss), ''Regulated NSR pollutant,'' that explicitly identify SO_2 and NO_X as precursors to $PM_{2.5}$ that will be evaluated in NSR permit contexts. EPA also approved revisions to the definition of ''Significant'' at 326 IAC 2–2–1(ww)(1)(F) to identify the significant emissions rates for primary $PM_{2.5}$, and SO_2 and NO_X as its precursors, consistent with the 2008 NSR Rule.

On July 12, 2012, IDEM submitted $PM_{2.5}$ increments for approval into the Indiana SIP. EPA is currently in the process of taking action on this submission. While Indiana's approved PSD SIP currently lacks $PM_{2.5}$ increments, this does not prevent the program from addressing and helping to assure maintenance of the $PM_{2.5}$ standard in accordance with CAA section 175A. A PSD increment is the maximum increase in concentration that is allowed to occur above a baseline concentration for a pollutant. Even in the absence of an approved PSD increment, Indiana's PSD program prohibits air quality from deteriorating beyond the concentration allowed by the applicable NAAQS. See 326 IAC 2–2–5(a)(1). Thus Indiana's PSD program is adequate for purposes of assuring maintenance of the 1997 annual $PM_{2.5}$ standard as required by section 175A.

For the reasons explained above, EPA concludes that the features of the PSD program in Indiana's SIP do not detract from the program's adequacy for purposes of maintenance of the standard and redesignation of the area. It is, therefore, sufficient for the purposes of maintaining the 1997 annual $PM_{2.5}$ NAAQS in the Indianapolis area.

Comment: The commenter claims that there has not been a sufficient showing that recent decreases in $PM_{2.5}$ concentrations reflected in monitoring data are due to enforceable and permanent emission reductions.

Response: In accordance with longstanding practice and policy,[4] Indiana calculated the change in emissions between 2002, one of the years used to designate the area as nonattainment, and 2008, one of the years the Indianapolis area monitored attainment of the annual $PM_{2.5}$ standard. See Tables 3, 4 and 5 at 76 FR 59518–59519. Because $PM_{2.5}$ concentrations in the Indianapolis area are impacted by the transport of sulfates and nitrates, local controls as well as controls implemented in upwind areas are relevant to the improvement in air quality in the Indianapolis area. The change in emissions in upwind areas over this time period can be found in Table 6 at 76 FR 59519. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of permanent and enforceable regulatory control measures that the Indianapolis area and upwind areas have implemented in recent years and will continue to implement in the future.

Reductions in fine particle precursor emissions have occurred statewide and in upwind areas as a result of several Federal mobile source control measures including: Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards, the Heavy-Duty Diesel Engine Rule, the Nonroad Diesel Rule, and Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. See 76 FR 59517.

The Tier 2 Emission Standards for Vehicles and the associated Gasoline Sulfur Standards were estimated to result in a 69 to 95 percent reduction in NO_X emissions (depending on vehicle type) and a reduction in the sulfur content of gasoline to 30 parts per million (ppm).[5] These Federal rules were phased in from 2004 to 2009.

The Heavy-Duty Diesel Engine Rule reduced the highway diesel fuel sulfur content to 15 ppm, with the total program estimated to achieve a 90 percent reduction in primary $PM_{2.5}$ emissions and a 95 percent reduction in NO_X emissions. This rule took effect in 2007.

The Nonroad Diesel Rule and the associated Gasoline Sulfur Standards are expected to reduce NO_X and PM emissions from large nonroad diesel engines by over 90 percent and have reduced the sulfur content in nonroad diesel fuel by over 99 percent. The engine emission standards required by this rule are being phased in between 2008 and 2014.

The Nonroad Large Spark-Ignition Engine and Recreational Engine Standards are being phased in from 2004 through 2012. Full implementation of these engine standards are projected to result in an overall 80 percent reduction in NO_X emissions.

[1] Fine particulates directly emitted by sources and not formed in a secondary manner through chemical reactions or other processes in the atmosphere.

[2] NO_X and SO_2 are precursors for fine particulates through chemical reactions and other related processes in the atmosphere.

[3] ''Significant'' emissions rates are listed in 326 IAC 2–2–1(ww).

[4] See September 4, 1992 memorandum from John Calcagni entitled ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' (''Calcagni Memorandum'') at 4 and 8–9.

[5] Most gasoline sold in Indiana prior to January 2006 had a sulfur content of about 500 ppm.

For all of the engine standards described above, some of the expected emissions reductions occurred during the 2008–2010 attainment period; however, additional reductions will continue to occur throughout the maintenance period as the fleet of older engines turns over. It should be noted, though, that the reduction in fuel sulfur content yielded an immediate reduction in sulfate particle emissions from all engines using the low-sulfur fuel.

On October 27, 1998 (63 FR 57356), EPA issued a SIP call under CAA section 110(k)(5), commonly referred to as the NO_X SIP Call. This rule required the District of Columbia and 22 states to reduce emissions of NO_X in order to comply with CAA section 110(a)(2)(D)(i)(I)—the ''good neighbor'' provision of the CAA. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. Overall, sources covered by the NO_X SIP Call reduced NO_X emissions 62 percent between 2000 (prior to implementation of the NO_X SIP call) and 2008. Emission reductions requirements from the NO_X SIP Call still exist. Most states that were subject to the NO_X SIP Call, including Indiana, are now complying with those requirements through participation in the Clean Air Interstate Rule (CAIR) ozone-season NO_X trading program. However, while EPA has acknowledged that participation in the CAIR ozone-season NO_X trading program is one acceptable way for states to meet their NO_X SIP Call obligations, the NO_X SIP Call obligations exist independent of CAIR and are independently permanent and enforceable.

On May 12, 2005, EPA published CAIR, which requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). In response to the Court's decision, EPA issued the Cross-State Air Pollution Rule (CSAPR) to address interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011).

On December 30, 2011, the D.C. Circuit issued an order addressing the status of CSAPR and CAIR in response to motions filed by numerous parties seeking a stay of CSAPR pending judicial review. In that order, the Court stayed CSAPR pending resolution of the petitions for review of that rule in *EME Homer City Generation, L.P.* v. *EPA* (No. 11–1302 and consolidated cases). The Court also indicated that EPA was expected to continue to administering CAIR.

On August 21, 2012, the D.C. Circuit issued the decision in *EME Homer City,* to vacate and remand CSAPR and ordered EPA to continue administering CAIR ''pending . . . development of a valid replacement.'' *EME Homer City at* 38.[6] To the extent that attainment is due to emission reductions associated with CAIR, as explained in greater detail in the subsequent comment response, EPA is determining that those reductions are sufficiently permanent and enforceable for purposes of CAA sections 107(d)(3)(E)(iii) and 175A.

As directed by the D.C. Circuit, CAIR remains in place and enforceable until EPA promulgates a valid replacement rule to substitute for CAIR. Indiana's SIP revision lists CAIR as a control measure that was adopted by the State in 2006 and required compliance by January 1, 2009. CAIR was thus in place and getting emission reductions when Indianapolis began monitoring attainment of the 1997 annual $PM_{2.5}$ standard during the 2006–2008 time period. The quality-assured, certified monitoring data continues to show the area in attainment of the 1997 $PM_{2.5}$ standard through 2011.

Comment: The commenter urges EPA not to rely upon future emissions reductions from CAIR as permanent and enforceable for purposes of approving the Indianapolis redesignation and maintenance plan. The commenter argues that reliance on CAIR would be arbitrary, capricious, and contrary to law, because of the D.C. Circuit's decision in *North Carolina* v. *EPA,* which found CAIR to be legally defective and remanded the rule to EPA. Thus, the commenter argues that CAIR is temporary. The commenter notes that EPA's decision to rely on CAIR reductions as sufficiently permanent and enforceable for the purposes of the Indianapolis redesignation is a change in EPA's position, and, contrary to EPA's assertion, that decision is in tension with the D.C. Circuit's order to replace CAIR as expeditiously as practicable in *EME Homer City Generation, LLP* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012).

Furthermore, the commenter states that EPA has not provided ''a specific analysis of the extent to which redesignation of the Indianapolis area to attainment and Indiana's plan for maintaining that attainment status depend upon future emission reductions from CAIR.'' The commenter argues that without such an analysis it is impossible to evaluate whether CAIR's sunsetting and replacement by a different rule would have an impact on the attainment status of Indianapolis. The commenter points out that a replacement rule may require a different distribution of reductions than CAIR, and states that the agency's ''implied promise'' that a future replacement rule will be comparable to CAIR ''does not withstand scrutiny in the absence of an area-specific analysis.'' The commenter urges the agency to act quickly to promulgate a new rule to replace CAIR if it wants to rely on emission reductions in this context for purposes of redesignation.

Response: EPA disagrees with the commenter that it is arbitrary, capricious, or contrary to law to approve the Indianapolis redesignation because CAIR cannot be relied upon in this context. Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation, and states in relevant part that the Administrator must ''determine[] that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions.'' 42 U.S.C. 7407(d)(3)(E)(iii).

EPA recognizes that the D.C. Circuit's instruction in both *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008), and *EME Homer City Generation L.P.* v. *EPA,* 696 F.3d 7 (D.C. Cir. 2012), that CAIR must be replaced necessarily means that CAIR will at some point cease to be in effect. However, EPA disagrees that the Court's instruction in those two cases forecloses the Agency and states from relying on CAIR for purposes such as redesignating an area from nonattainment to attainment. Subsection (iii) of section 107(d)(3)(E) is a backwards looking requirement; it requires that the attainment air quality in the area is ''due to'' permanent and enforceable emissions reductions. The purpose of this requirement is to ensure that in redesignating areas from nonattainment to attainment, EPA does not rely on ephemeral, temporarily improved air quality that results from circumstances such as temporary shutdowns of plants or reduced

[6] On June 24, 2013, the Supreme Court granted certiorari and agreed to review the D.C. Circuit's decision in *EME Homer City.* The Supreme Court's grant of certiorari, by itself, does not alter the status of CAIR or CSAPR. At this time, CAIR remains in place.

emission rates because of slowed production. *See* ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni memorandum) at 4. The structure of section 107(d)(3)(E)(iii) indicates that the CAA generally considers reductions resulting from SIPs and Federal regulations as permanent and enforceable. It references ''other'' reductions that are comparable to measures adopted into SIPs or Federally adopted regulations and can therefore *also* qualify as permanent and enforceable reductions, indicating that, in general, SIP reductions and reductions from Federal regulations are the types of reductions that the CAA views in the first instance as having the requisite permanence and enforceability for purposes of redesignation.

EPA acknowledges that prior to the *EME Homer City* decision, it did not rely solely on CAIR to meet section 107(d)(3)(E)(iii)'s requirements, but rather the combination of CAIR being in place through the time period of the area coming into attainment, with CSAPR achieving similar or greater emission reductions in the area in 2012 and beyond. *See, e.g.,* Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of the Kentucky Portion of the Cincinnati-Hamilton 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment, 76 FR 65458, 65460 (Oct. 21, 2011); Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans, 77 FR 33642, 33645 (June 7, 2012). It is not unreasonable or arbitrary for the agency to reassess its position about whether the reductions of CAIR alone can be considered sufficiently permanent and enforceable for purposes of redesignation, in light of the D.C. Circuit's vacatur of CSAPR in *EME Homer City* and related decision that EPA should continue administering CAIR.

Contrary to the commenters' assertions, EPA's decision to rely on CAIR for purposes of redesignating the Indianapolis area is not in tension with the Court's instruction in *EME Homer City* to act expeditiously on remand. *EME Homer City,* 696 F.3d at 38 n.35. The D.C. Circuit in *EME Homer City* held that ''a SIP logically cannot be deemed to lack a ''required submission'' before EPA quantifies the good neighbor obligation.'' *Id. at* 32. Under this holding states have no obligation to submit ''good neighbor'' SIPs until EPA has quantified their ''good neighbor'' obligations and EPA may not promulgate a FIP to address such obligations until the Agency first quantifies the state's obligations, and provides the state an opportunity to submit a plan consistent with that defined obligation. 696 F.3d at 28–37. The *EME Homer* City decision thus significantly lengthens the time it will take to get in place regulations to replace the remanded CAIR. Under the *EME Homer City* decision SIP provisions to replace CAIR could not go into effect until EPA has undertaken analysis and rulemaking to define states' obligations in accordance with the other statutory requirements identified by the *EME Homer City* court, provided states adequate time to develop implementation plans consistent with the defined obligations, and EPA has reviewed and approved the SIP submissions in notice-and-comment rulemakings. Similarly, no FIP to replace CAIR could go into effect unless EPA found a state failed to submit a SIP within the time given to develop such implementation plans or disapproved such a SIP submittal. It is not unreasonable for EPA to determine that in light of these circumstances, CAIR will be in place for a significant amount of time. The commenter suggests that EPA may not redesignate Indianapolis until it has completed all of the steps required by *EME Homer City* to promulgate a replacement rule. EPA disagrees. As noted in the April 8, 2013, supplemental proposal (78 FR 20856), EPA believes that relying on CAIR emission reductions in order to redesignate the Indianapolis area, which has been attaining the NAAQS for many years and continues to maintain the standard, is precisely the type of ''reliance interest'' that the D.C. Circuit was concerned about in ordering the agency to continue administering CAIR. *EME Homer City,* 696 F.3d at 38.

EPA also disagrees that it must conduct the type of specific analysis requested by the commenter in order to approve Indianapolis' maintenance plan under section 175A. Section 175A requires states to submit a maintenance plan that provides for the maintenance of the NAAQS for the relevant air pollutant for ten years following redesignation. 42 U.S.C. 7505a(a). In the April 8, 2013, supplemental proposal, EPA provided projected emissions of direct $PM_{2.5}$, SO_2, NO_X, VOCs and ammonia in the Indianapolis area for the relevant maintenance period. *See* 78 FR 20864, tbls. 1–4. Under its existing suite of control measures, including CAIR, Indianapolis is attaining the 1997 $PM_{2.5}$ NAAQS. Over the maintenance period, emissions for each pollutant and precursor are expected to further decrease in the Indianapolis area. EPA therefore does not believe that an ''area-specific analysis'' as requested by the commenter is necessary or appropriate in order to redesignate the Indianapolis area.

The anticipation that CAIR may be replaced during the maintenance period by another rule requiring upwind sources to reduce emissions does not require EPA to disapprove the redesignation request for Indianapolis currently before it. EPA's longstanding interpretation of section 107(d)(3)(E) in the Calcagni Memorandum contemplates that some reductions required by existing control measures may be replaced in the future by other measures. Specifically, it states that ''the State will be expected to maintain its implemented control strategy despite redesignation to attainment, unless such measures are shown to be unnecessary for maintenance or are replaced with measures that achieve equivalent reductions.'' Calcagni Memorandum at 10. As noted in the supplemental proposal, upon promulgation of the replacement rule for CSAPR and CAIR, EPA will review existing SIPs as appropriate, including maintenance plans, to identify whether discrepancies in emission reductions from the control measures will pose a threat to the maintenance of the NAAQS for that pollutant. Therefore, the commenter's concern that a future replacement rule might not require the same reductions as CAIR is not a bar to approving Indiana's redesignation request today. The commenter's statement that ''if EPA wants to rely on emissions reductions for a CAIR replacement rule to support the redesignation of areas such as Indianapolis and their maintenance plans, then EPA should move without delay to develop and promulgate a legally defensible rule to replace CAIR'' misstates EPA's position. EPA is not relying on emissions reductions from a CAIR replacement rule in approving the maintenance plan for Indianapolis. Rather, EPA is relying on CAIR, which is currently in place and will remain in place for a significant period of time, in approving the maintenance plan. EPA further notes that any rule promulgated to replace CAIR with respect to $PM_{2.5}$ will need to ensure that the ''good neighbor'' provisions have been

satisfied with regard to the 1997 annual $PM_{2.5}$ NAAQS.

IV. Why is EPA taking these actions?

EPA has determined that the Indianapolis area has attained and continues to attain the 1997 annual $PM_{2.5}$ NAAQS and that the area has attained this standard by its applicable attainment date of April 5, 2010. EPA has also determined that all other criteria have been met for the redesignation of the Indianapolis area from nonattainment to attainment of the 1997 annual $PM_{2.5}$ NAAQS and for approval of Indiana's maintenance plan for the area. *See* CAA sections 107(d)(3)(E) and 175A. The detailed rationale for EPA's findings and actions is set forth in the proposed and direct final rulemakings of September 27, 2011 (76 FR 59599 and 76 FR 59512), in the supplemental proposed rulemaking of April 8, 2013 (78 FR 20856) and in this final rulemaking.

V. Final Action

EPA is making a determination that the Indianapolis area has attained the 1997 annual $PM_{2.5}$ standard by its attainment date and that the area continues to attain the standard. EPA is determining that the area has met the requirements for redesignation under section 107(d)(3)(E) and 175A of the CAA. EPA is thus approving the request from Indiana to change the legal designation of the Indianapolis area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is also approving Indiana's $PM_{2.5}$ maintenance plan for the Indianapolis area as a revision to the Indiana SIP because the plan meets the requirements of section 175A of the CAA. EPA is approving 2006 emissions inventories for primary $PM_{2.5}$, NO_X, and SO_2, and 2007/2008 emission inventories for VOC and ammonia as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, EPA finds adequate and is approving 2015 and 2025 primary $PM_{2.5}$ and NO_X MVEBs for the Indianapolis area. These MVEBs will be used in future transportation conformity analyses for the area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions 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 these actions to become effective on the date of publication of these actions.

VI. Statutory and Executive Order Reviews

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

- Are not ''significant regulatory actions'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions 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 a determinations of attainment is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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**. These actions are not ''major rules'' 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 September 9, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of these actions 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. These actions may not be challenged later in proceedings to enforce their requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

40 CFR Part 81

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

Dated: June 26, 2013.

Susan Hedman,

Regional Administrator, Region 5.

40 CFR Parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

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

§ 52.776 Control strategy: Particulate matter.

* * * * *

(v) * * *

(2) The Indianapolis area (Hamilton, Hendricks, Johnson, Marion and Morgan Counties), as submitted on October 20, 2009, and supplemented on May 31, 2011, January 17, 2013, and March 18, 2013. The maintenance plan establishes 2015 motor vehicle emissions budgets for the Indianapolis area of 853.76 tpy for primary $PM_{2.5}$ and 25,314.49 tpy for NO_X and 2025 motor vehicle emissions budgets of 460.18 tpy for primary $PM_{2.5}$ and 13,368.60 tpy for NO_X.

(w) * * *

(2) Indiana's 2006 NO_X, primary $PM_{2.5}$, and SO_2 emissions inventories and 2007/2008 VOC and ammonia emission inventories, as submitted on October 20, 2009 and supplemented on May 31, 2011 and March 18, 2013, satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for the Indianapolis area.

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PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 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 Indianapolis, IN in the table entitled ''Indiana $PM_{2.5}$ (Annual NAAQS)'' to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA $PM_{2.5}$ (ANNUAL NAAQS)

Designated area	Designation [a]	
	Date [1]	Type
* * * * * * *		
Indianapolis, IN:		
Hamilton County	7/11/2013	Attainment.
Hendricks County	7/11/2013	Attainment.
Johnson County	7/11/2013	Attainment.
Marion County	7/11/2013	Attainment.
Morgan County	7/11/2013	Attainment.
* * * * * * *		

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

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[FR Doc. 2013–16478 Filed 7–10–13; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[EPA–HQ–OAR–2011–0542; FRL–9822–7]

RIN 2060–AR85

Regulation of Fuels and Fuel Additives: Additional Qualifying Renewable Fuel Pathways Under the Renewable Fuel Standard Program; Final Rule Approving Renewable Fuel Pathways for Giant Reed (Arundo Donax) and Napier Grass (Pennisetum Purpureum)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule approves pathways for production of renewable fuel from giant reed (*Arundo donax*) and napier grass (*Pennisetum purpureum*) as feedstocks. These pathways are for cellulosic biofuel, for purposes of the Renewable Fuel Standard Program (RFS), under Clean Air Act (CAA) as amended by the Energy Independence and Security Act of 2007 (EISA). EPA has determined that renewable fuel made from napier grass and giant reed meet the greenhouse gas (GHG) reduction requirements for cellulosic biofuel under the requirements of the RFS program. In response to comments on the proposal concerning the potential for these crops to behave as invasive species, EPA is adopting additional registration, recordkeeping, and reporting requirements that were developed to address the potential for GHG emissions related to these concerns. Approval of