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Rules and Regulations

ENVIRONMENTAL PROTECTION AGENCY (EPA)

40 CFR Parts 52 and 81

[IN15-2-6326A; FRL-5008-5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; State of Indiana

59 FR 35044

DATE: Friday, July 8, 1994

ACTION: Final rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is approving three requests to redesignate marginal ozone nonattainment areas in the State of Indiana to attainment. The USEPA is also approving their accompanying maintenance plans as State Implementation Plan (SIP) revisions. The redesignation requests and maintenance plans were submitted by the Indiana Department of Environmental Management (IDEM) for the following ozone nonattainment areas: St. Joseph and Elkhart, Vanderburgh, and Marion Counties. The State has met the requirements for redesignation contained in the Clean Air Act (the Act), as amended in 1990. The redesignation requests are based on ambient monitoring data that show no violations of the ozone National Ambient Air Quality Standard (NAAQS) during the three-year period from 1990 through 1992. In the proposed rules section of this Federal Register, USEPA is proposing approval of and soliciting public comment on these requested redesignations and SIP revisions. If adverse comments are received on this direct final rule, USEPA will withdraw this final rule and address these comments in a final rule on the related proposed rule which is being published in the proposed rules section of this Federal Register. Adverse comments received concerning a specific geographic area, St. Joseph and Elkhart, Vanderburgh, or Marion Counties, will only affect this final rule as it pertains to that area and only the portion of this final rule concerning the area receiving adverse comments will be withdrawn.

EFFECTIVE DATES: This action will be effective September 6, 1994, unless notice is received by August 8, 1994, that someone

wishes to submit adverse comments. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Copies of the SIP revision and USEPA's analyses are available for inspection at the following address: (It is recommended that you telephone Edward Doty at (312) 886-6057 before visiting the Region 5 Office.)

United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of these SIP revisions is available for inspection at the following location: Office of Air and Radiation (OAR) Docket and Information Center (Air Docket 6102), Room M1500, United States Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 260-7548.

Written comments can be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section (AR-18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Edward Doty, Regulation Development Section (AR-18J), Regulation Development Branch, Air and Radiation Division, United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886-6069.

SUPPLEMENTARY INFORMATION: The redesignation requests and maintenance plans considered in this rulemaking were submitted by the Indiana Department of Environmental Management (IDEM) for the following ozone nonattainment areas: South Bend/Elkhart (St. Joseph and Elkhart Counties, submitted on September 22, 1993); Evansville (Vanderburgh County, submitted on November 4, 1993); and Indianapolis (Marion County, submitted on November 12, 1993).

I. USEPA Redesignation Policy

The Act's requirements for redesignation to attainment are contained in section 107(d)(3)(E) of the Act, and discussed in a September 4, 1992 memorandum from the Director of the Air Quality Management Division, Office of Air Quality Planning and Standards, to Directors of Regional Air Divisions. As outlined in this memorandum, section 107(d)(3)(E) of the Act requires that the following conditions be met for redesignation to attainment:

1. The USEPA must determine that the areas subject to the redesignation request have attained the National Ambient Air Quality Standard (NAAQS);
2. The USEPA must have fully approved the applicable SIP for the areas under section 110(k) of the Act;
3. The USEPA must determine that the improvements in air quality are due to permanent and enforceable reductions in emissions resulting from the implementation of the applicable SIP, Federal air pollution control regulations, and other federally enforceable emission reductions;
4. The USEPA must have fully approved maintenance plans for the areas as meeting the requirements of section 175A of the Act; and
5. The State must have met all requirements applicable to the areas under section 110 and Part D of the Act.

To demonstrate that the areas have attained the ozone NAAQS, the State must show that the ozone data representative of the highest ozone concentrations in the areas do not indicate violations of the NAAQS at any monitoring site in the areas during the most recent three years of monitoring at the sites. In accordance with 40 CFR 50.9, the annual average number of expected exceedances of the ozone standard (0.12 parts per million [ppm], one-hour averaged) at any monitor can not exceed 1.0 during the preceding three year period. The data used in this demonstration must be quality assured, in accordance with 40 CFR part 58, and collected in accordance with 40 CFR part 50, appendix H. The data should be recorded in USEPA's Aerometric Information Retrieval System (AIRS).

The SIP for the areas must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply to the areas. These requirements include new requirements added by the 1990 Act amendments. The State must meet all requirements of section 110 and Part D of the Act that were applicable prior to the submittal of the complete, finally adopted redesignation request(s). (It should be noted that, based on section 175A of the Act, other requirements of Part D of the Act remain in effect until the USEPA approves the maintenance plan and redesignation to attainment. If the USEPA disapproves the request to redesignate an area, these requirements remain in effect with no delay.) A SIP which meets the pre-redesignation request submittal requirements must be fully approved by the USEPA prior to USEPA's approval of the redesignation of the areas to attainment of the NAAQS. The requirements of Title I of the Act, which includes section 110 and Part D of the Act, are discussed

in the General Preamble to Title I (57 FR 13498, April 16, 1992).

The State must be able to reasonably attribute the improvements in air quality to permanent and enforceable emission reductions. Attainment resulting from temporary emission reductions or from favorable (not conducive to high ozone concentrations) meteorology would not qualify as a permanent air quality improvement. The State should demonstrate that the emission reductions from a past high ozone period (generally the year or period for which the area ozone classification design values were determined), to the period of attainment were due to permanent and enforceable emission control measures and were sufficient to explain the attainment of the ozone NAAQS.

Prior to the redesignation of an area to attainment, the USEPA must fully approve a maintenance plan (as a SIP revision) which meets the requirements of section 175A of the Act. The maintenance plan must provide for maintenance of the NAAQS attainment in the area(s) for at least 10 years after the USEPA approval of the redesignation request. The maintenance plan must contain additional emission control measures as necessary to assure maintenance of the NAAQS (generally this means maintaining the ozone precursor emissions at or below the attainment year levels). The Act also requires (section 175A(b)) a second SIP revision 8 years after an area is redesignated to attainment to assure maintenance of the NAAQS for an additional 10 years beyond the first 10 year maintenance period.

The maintenance plan must contain such contingency measures as the USEPA deems necessary to ensure prompt correction of any violation of the NAAQS occurring after an area is redesignated to attainment or exceedance of other triggering levels, such as emissions exceeding attainment levels (this could be caused by emission increases not anticipated in the maintenance plan). At a minimum, the maintenance plan should contain the following elements:

1. Attainment Inventory

The State must develop an emissions inventory for the initial period of attainment to identify the level of emissions in each area which is associated with attainment of the NAAQS. This emissions inventory must be consistent with USEPA's most recent guidance on preparation and documentation of emission inventories. For ozone nonattainment areas, the inventory should be based on actual, typical summer weekday emissions of ozone precursors (Volatile Organic Compounds [VOC], Oxides of Nitrogen [NO_x], and Carbon Monoxide [CO]).

2. Maintenance Demonstration

A State may generally demonstrate maintenance of the NAAQS by either showing that future emissions of the ozone precursors will not exceed the levels of the emissions in the attainment inventory or by modeling to demonstrate that the future mix of sources and emission rates will not cause a violation of the NAAQS. The maintenance plan should be based on the same type and level of modeling used to demonstrate attainment of the NAAQS in the SIP. Regardless of which approach is used, the State must project the emissions for the 10 year period following the anticipated time of the USEPA approval of the redesignation request (the State should assume that the USEPA will take two years to complete the rulemaking on the redesignation request). The projected emissions must reflect the expected actual emissions based on enforceable emission rates and typical source activity rates (such as production rates) adjusted for expected source growth. Projected emission reductions must reflect the impacts of permanent, enforceable emission control measures. The assumptions of emission reductions and source growth and techniques used to project the emissions must be clearly documented.

3. Monitoring Network

The maintenance plan must contain provisions for the continued operation of air quality monitors of the applicable type (ozone monitors in this case) in the areas to be redesignated to attainment. This is needed to provide verification of the maintenance of the NAAQS attainment, and is also needed to provide triggering data for the possible activation of the contingency measures in the event of a future violation or exceedance of the NAAQS (the State may choose to activate some contingency measures even when the NAAQS is simply exceeded but not yet violated to prevent future NAAQS violations).

4. Verification of Continued Attainment

The State must assure that it has the legal authority to implement and enforce all measures necessary to attain and maintain the NAAQS. In addition, the maintenance plan must indicate how the State will track the progress and success of the maintenance plan. This includes tracking air quality levels and emissions.

5. Contingency Plan

Section 175A of the Act requires that a maintenance plan include contingency provisions, as necessary, to promptly correct any violation of the NAAQS that occurs after the redesignation of an area

to attainment. For the purposes of section 175A, a State is not required to fully adopt contingency measures that will take effect without further action by the State. The contingency plan, however, is considered to be an enforceable part of the SIP and must ensure that the contingency measures will be adopted and implemented expeditiously after they are triggered. The plan must clearly identify the measures that will be adopted, a schedule and procedure for their adoption and implementation, and a specific time limit for action by the State. The plan must also identify the specific indicators or triggers that will be used to determine when the contingency measures will be required.

II. Summary of the Indiana Redesignation Submittals

Summarized below are the contents of the three IDEM redesignation requests and maintenance plans.

A. Current Designations and Area Definitions

On November 6, 1991 (56 FR 56694) the USEPA formally designated the Evansville, (Vanderburgh County); Indianapolis, (Marion County); and South Bend/Elkhart (Elkhart and St. Joseph Counties) areas as marginal ozone nonattainment areas. These designations and classifications were based on ozone standard violations monitored in these areas in 1988.

B. Monitored Attainment of the NAAQS

B.1. Evansville Area

During the most recent three years with quality assured monitoring data as addressed in the Evansville area redesignation request (1990 through 1992), ozone was monitored at six sites in Indiana and at two sites in Kentucky. No exceedance of the ozone standard was monitored during this period, with the highest monitored ozone concentration being 0.122 ppm, one-hour averaged, at the Mount Vernon monitoring site in 1990.

The worst-case historical sites (AIRS site 19-173-0002 in Warrick County and the Old State Road site in Vanderburgh County) recorded a number of ozone standard exceedances in 1988 and 1989. The Warrick County site recorded three exceedances in 1988, 0.133 ppm, 0.132 ppm, and 0.128 ppm. The Old State Road site recorded two exceedances in 1988, 0.146 ppm and 0.127 ppm, and one exceedance, 0.146 ppm, in 1989. The exceedances recorded in Warrick County are believed by the State to be due to the impact of emissions from Vanderburgh County, which is an adjoining county just west of Warrick County. The 1990 through 1992 data for these sites show no

exceedances of the ozone standard (0.12 ppm one-hour averaged), with the peak ozone concentration at the Warrick County site being 0.118 ppm and that at the Old State Road site being 0.115 ppm.

These data show that attainment of the ozone NAAQS has been monitored in the Evansville area based on the most recent air quality data available at the time of the redesignation request submittal. To further support this case, the 1993 data showed no exceedances of the ozone standard.

B.2. Indianapolis Area

During the most recent three years with quality assured monitoring data prior to the redesignation submittal (1990 through 1992), ozone was monitored at seven sites in the Indianapolis area. Only one exceedance, 0.125 ppm, was recorded (recorded at the Trailer Court Road site in Indianapolis in 1990) in this area during this period.

The worst-case historical sites (1321 South Harding in Indianapolis and Noblesville in Hamilton County) recorded a number of exceedances of the ozone standard during the 1987 through 1989 period. The Noblesville monitor recorded three exceedances, 0.130 ppm, 0.130 ppm, and 0.127 ppm, during this period. The 1321 South Harding monitor also recorded three exceedances, 0.147 ppm, 0.142 ppm, and 0.137 ppm, during this period. The 1990 through 1992 data for these sites show no exceedances of the ozone standard (0.12 ppm one-hour averaged), with the peak concentration at the Noblesville site being 0.117 ppm and that at the 1321 South Harding site being 0.104 ppm.

These data show that attainment of the ozone NAAQS has been monitored in the Indianapolis area. To further support this case, the 1993 data showed no exceedances of the ozone standard at any of the monitoring sites in the Indianapolis area.

B.3. South Bend/Elkhart Area

During the 1990 through 1992 period, ozone was monitored at five sites in the South Bend/Elkhart area. No exceedance of the ozone standard was monitored during this period, with the maximum monitored concentration being 0.124 ppm, monitored at the Ross Beatty High School in Cass County, Michigan in 1991.

The worst-case historical site, Childrens Hospital in South Bend, recorded three ozone standard exceedances, 0.137 ppm, 0.135 ppm, and 0.130 ppm, in 1988. The 1990 through 1992 data for this site show no exceedances of the ozone standard (0.12 ppm one-hour averaged), with the peak monitored ozone concentration being 0.107

ppm.

These data show that attainment of the ozone NAAQS has been monitored in the South Bend/Elkhart area. To further support this case, the 1993 data showed no exceedances of the ozone standard at any of the monitoring sites in the area.

C. Meeting Applicable Requirements of Section 110 and Part D

As noted in 40 CFR 52.773, the USEPA has approved Indiana's ozone SIP as meeting the requirements of section 110(a)(2) and Part D of the Act, as amended in 1977, for Elkhart, Marion, and St. Joseph Counties. (Since Vanderburgh County was designated as attainment for ozone prior to the 1990 amendment of the Act and prior to the submittal deadlines covered under other requirements of the pre-1990 Act, Vanderburgh County was subject only to Prevention of Significant Deterioration (PSD) regulations, which the USEPA has promulgated for Indiana and has delegated to the State of Indiana for implementation. Vanderburgh County, however, is subject to the amended requirements of Part D as addressed below.) The 1990 Act amendments, however, modified section 110(a)(2) and, under Part D, revised sections 172 and 182 adding new requirements for all nonattainment areas. Therefore, for purposes of redesignation, to satisfy the requirement that the SIP meet all applicable requirements under the Act, USEPA has reviewed the SIP to ensure that it contains all measures and information that were due under the Act, as amended in 1990, prior to or at the same time Indiana submitted its redesignation requests as considered here. The USEPA interprets section 107(d)(3)(E)(V) of the Act to mean that, for a redesignation request to be approved, the State must have met all requirements that applied to the subject areas prior to or at the same time of the submission of the complete redesignation requests. Requirements of the Act that come due subsequently continue to be applicable to the areas at later dates (see section 175A(c)) and, if the redesignation of any of the areas is disapproved, the State remains obligated to fulfill those requirements.

C.1. Section 110 Requirements

Although section 110 was amended in 1990, the Indiana SIP for the areas addressed in this rulemaking meets the requirements of amended section 110(a)(2). A number of the requirements in section 110(a)(2) did not change in substance and, therefore, USEPA believes that the pre- amendment SIP meets these requirements. As to those requirements that were amended (57 FR 27936 and 23939, June 23, 1993), many duplicate other requirements of the Act, which are addressed below.

C.2. Part D Requirements

Before the subject Indiana areas may be redesignated to attainment, the areas must meet the applicable requirements of Part D. Under Part D, an area's classification indicates the requirements to which it will be subject. Subpart 1 of Part D sets forth the basic requirements applicable to all nonattainment areas. Subpart 2 of Part D establishes additional requirements for nonattainment areas classified under table 1 of section 181(a). As described in the General Preamble for the Implementation of Title I, specific requirements of Subpart 2 may override Subpart 1's general provisions (57 FR 13501, (April 16, 1992)). Elkhart, Marion, St. Joseph, and Vanderburgh Counties were classified as marginal ozone nonattainment areas (56 FR 56694, (November 6, 1991)). Therefore, in order to be redesignated to attainment, the State, for these Counties, must meet the applicable requirements of subpart 1 of Part D, as well as the applicable requirements of Subpart 2 of Part D.

C.2.a. Subpart 1 of Part D-Section 172(c) Provisions

Section 172(c) sets forth general requirements applicable to all nonattainment areas. Under section 172(b), the section 172(c) requirements are applicable on a schedule as determined by the Administrator, but no later than three years after an area has been designated as nonattainment under the amended Act. The USEPA has not determined that these requirements were applicable to ozone nonattainment areas on or before November 12, 1993-the date by which the State of Indiana submitted the complete redesignation requests considered here. Therefore, the State of Indiana was not required to meet these requirements for redesignation purposes. In addition, as discussed below, Indiana has either satisfied the section 172(c) requirements or, as is the case for several of them, they lose their continued force once an area has demonstrated attainment and maintenance of the ozone NAAQS.

The requirements of section 172(c) are discussed below along with their relevancy to the redesignation requests at hand:

(1) Section 172(c)(1) requires SIPs to provide for all Reasonably Available Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the NAAQS. As discussed elsewhere in this rulemaking, Indiana has completed the adoption of stationary source Reasonably Available Control Technology (RACT) require for the Indianapolis and South Bend/Elkhart ozone nonattainment areas. The USEPA has approved these RACT regulations in prior rulemaking.

In addition, the USEPA notes that, with respect to all three of the areas that are the subject of this notice, no additional RACM controls beyond what may already be required in the SIP are necessary upon redesignation to attainment. The General Preamble (57 FR 13560, (April 16, 1992)) explains that section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of RACM as expeditiously as practicable. The USEPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in the area components of the areas' attainment demonstrations. Because attainment has been reached in all three areas, no additional measures are needed to provide for attainment.

(2) Section 172(c)(2) requires the SIP to provide for Reasonable Further Progress (RFP) towards attainment of the NAAQS. This requirement only has relevance during the time it takes an area to attain the NAAQS. Because the areas covered by this rulemaking have already attained the NAAQS, the SIP has already achieved the necessary RFPs toward that goal for the three areas.

(3) Section 172(c)(3) requires the SIP to contain a comprehensive, accurate, current inventory of actual emissions from all source of the relevant pollutants. As noted elsewhere in this rulemaking, the State of Indiana has developed and submitted such an emissions inventory for the areas covered here. As also noted elsewhere in this rulemaking, the USEPA has approved this emissions inventory.

(4) Section 172(c)(4) requires the SIP to identify and quantify the emissions which will be allowed to result from the construction of major new or modified stationary sources in each of the areas. This requirement has been addressed in Indiana's revised New Source Review (NSR) regulations, which have been submitted to the USEPA (see a discussion of this submittal below). The approval of Indiana's NSR regulations would also satisfy section 172(c)(5) NSR provisions.

Although the USEPA has not completed approval of Indiana's NSR regulations, it should be noted that once an area is redesignated to attainment, nonattainment NSR requirements are not generally applicable. The redesignated area(s) then becomes subject to Prevention of Significant Deterioration (PSD) requirements instead of the NSR requirements. The USEPA has promulgated acceptable PSD regulations for Indiana and has delegated the implementation of these regulations to the State.

(5) Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the USEPA believes the Indiana SIP meets the requirements of section 110(a)(2).

(6) Section 172(c)(9) requires the SIP to contain contingency measures to be undertaken if an area fails to make RFP or fails to attain the NAAQS. Since the areas covered by this rulemaking have attained the NAAQS, the section 172(c)(9) contingency measure requirements are not applicable unless the redesignation requests and maintenance plans are not fully approved. It should be noted that section 175A contingency measures apply to areas that are redesignated to attainment.

C.2.b. Other Part D Requirements

See the discussion below concerning the implementation of the new requirements of Part D of the 1990 amended Act.

D. Improvement of Air Quality Due to Permanent and Enforceable Emission Reductions

Indiana has developed and submitted 1990 base year ozone precursor emission inventories for all of the State's ozone nonattainment areas. Indiana used the 1990 base year emissions data available at the time the redesignation requests were prepared to backcast (the use of source category annual growth factors, emission control impacts, and other source-specific data to estimate past year emissions) to 1988 emission levels. The 1988 backcasted emissions were compared to the 1990 emissions to show that emission reductions could explain the observed improvement in ozone concentrations between 1988 and the 1990-1992 period.

D.1. Evansville Area

A listing of major source VOC emissions for 1988 and 1990 shows that stationary source VOC emissions in Vanderburgh County declined by 339 tons per year (approximately 1.1 tons per day) between 1988 and 1990. Permanent VOC emission reductions due to source closures and implementation of emission controls totalled 570 tons per year in the same period (some of this emission reduction was offset by source growth). Indiana asserts that these point source emission reductions are permanent and enforceable. Indiana will not renew the source permits of closed sources, will require these sources to undergo review under PSD or NSR requirements if they seek to restart, and will prohibit these facilities from banking the pre-closure emissions against future source growth. Documentation is also given in the redesignation submittal showing that NO_x emissions declined

by approximately 17.5 tons per day at stationary point sources between 1988 and 1990, due primarily to source closures.

In addition to emission reductions from the major stationary source closures and emission controls, Vanderburgh County has also experienced VOC emission reductions as the result of the implementation of the Federal Motor Vehicle Emission Control Program (FMVCP) and the implementation of gasoline Reid Vapor Pressure (RVP) reduction requirements.

D.2. Indianapolis Area

Revised VOC point source emissions for 1988 and 1990 were included in the redesignation submittal. VOC emission reductions due to permanent source closures (see discussion above for the Evansville area regarding Indiana's approach to dealing with source closures) and application of emission controls have reduced point source VOC emissions by 2,239.22 tons per year between 1988 and 1990.

In addition to emission reductions from the major stationary source closures and emission controls, Marion County has also experienced VOC emission reductions as the result of the implementation of the Federal Motor Vehicle Emission Control Program (FMVCP) and the implementation of gasoline RVP reduction requirements.

D.3. South Bend/Elkhart Area

IDEM has provided emissions data for individual stationary point source facilities in St. Joseph and Elkhart Counties showing that a permanent, enforceable VOC emission reduction of 857 tons per year (2.7 tons per day assuming 312 days per year of source operation) occurred between 1988 and 1990.

In addition to emission reductions from the major stationary source closures and emission controls, Elkhart and St. Joseph Counties have also experienced VOC emission reductions as the result of the implementation of the Federal Motor Vehicle Emission Control Program (FMVCP) and the implementation of gasoline RVP reduction requirements.

E. Maintenance Plans

The redesignation requests for all three areas contain common maintenance plan elements. First, the State commits to continue monitoring of ozone during the 10-year maintenance period following the redesignation of the areas. Any changes in the monitoring systems will be subject to USEPA approval. Second, the State commits to revise the maintenance plans 8 years after the areas are redesignated

to cover an additional 10-year period beyond the initial 10-year maintenance period. The State has selected 2006 as the year ending the initial 10-year maintenance period. Third, to help verify maintenance of the standard, the State commits to require major stationary sources to annually submit information on their emissions in accordance with the State's emission statement rule (326 IAC 2-6). Finally, the State has selected a joint set of possible contingency emission control measures and a common approach to triggering the need for contingency measures in each area.

Indiana plans on a two-level approach for the triggering of contingency measures. A Level I response would occur in the event that the ozone NAAQS is violated. This response would entail conducting an analysis to determine the level of the control measures needed to assure expeditious future attainment of the ozone NAAQS. Measures that could be implemented quickly would be selected so as to be in place within 12 months after the State becomes aware of a NAAQS violation. This will require the State to adopt the regulations prior to and in time to achieve the 12-month implementation deadline.

A Level II response would be implemented in the event that:

- a. The monitored ambient levels of ozone exceed 0.115 ppm more than once in any year at any site in any one of the redesignated areas;
- b. The level of VOC, CO, or NO_x emissions increase above the level of the 1990 emissions, corrected for any errors found prior to the approval to the redesignation requests. (The State is in a continual process of upgrading the emissions inventory as a result of updated emission factors and ongoing quality assurance procedures. Significant future changes in the base year emission inventories resulting from this process must be addressed in SIP revisions); or
- c. The level of total VOC emissions for any area determined for any future year has increased above the level recorded in the prior year sufficiently so that an increase of the same magnitude in the following year would result in a level of emissions exceeding those recorded in 1990 by 5 percent or more.

A Level II response would consist of a study to determine whether the noted trends are likely to continue, and, if so, to determine control measures necessary to reverse the trends, taking into consideration ease and timing of implementation as well as economic and social considerations. Implementation of necessary controls in response to a Level II trigger will take place as expeditiously as practicable but no later than 18 months after the State is aware that a contingency

measure trigger level has been exceeded. This will require the State to adopt the required emission reduction regulations prior to and in time to achieve the 18 month implementation deadline.

The analysis technique used to select emission control measures under Level I and Level II will be mutually agreed upon by the State and the USEPA.

The maintenance plan contingency measures to be considered and selected will be chosen from the following list or any other emission control measures deemed appropriate based on a consideration of cost-effectiveness, VOC reduction potential, economic and social considerations, or other factors that the State deems to be appropriate:

- a. Lower Reid Vapor Pressure for gasoline;
- b. Reformulated gasoline program;
- c. Stage II gasoline vapor recovery;
- d. Vehicle anti-tampering program;
- e. Broader geographic coverage of existing regulations;
- f. Application of RACT on sources covered by new control techniques guidelines issued in response to the 1990 Act amendments;
- g. Application of RACT to smaller existing sources;
- h. Vehicle inspection/maintenance program;
- i. Implementation of one or more transportation control measures sufficient to achieve at least a 0.5 percent reduction in actual area wide VOC emissions. The transportation control measures to be considered would include: (1) Trip reduction programs, including but not limited to employer-based transportation management programs, area wide rideshare programs, work schedule changes, and telecommuting; (2) transit improvements; (3) traffic flow improvements; and (4) other measures;
- j. Alternative fuel programs for fleet vehicle operations;
- k. Controls on consumer products consistent with those adopted elsewhere in the United States;
- l. Enhanced vehicle inspection/maintenance program;
- m. VOC offsets for new or modified major sources;

- n. VOC offsets for new or modified minor sources;
- o. Increased ratio of VOC offsets required for new sources; and
- p. Require VOC controls on new minor sources.

The demonstration of maintenance differs for each area as discussed below.

E.1. Evansville Area

Indiana has projected 2006 mobile source emissions using USEPA's MOBILE 5.0 model and documented growth factors for Vehicle Miles Travelled (VMT). Emissions for the year 2006 were determined for the other source categories using documented growth factors, including growth data supplied by the United States Department of Commerce, Bureau of Economic Analysis (BEA), and accounting for known post-1990 source closures. Indiana also used guidance and techniques provided in the USEPA guideline "Procedures for Preparing Emission Projections" (EPA-450/4-91-019). The year 2006 was assumed to be 10 years after the anticipated time for USEPA's approval of the redesignation request. Emission estimates have been updated to reflect Indiana's current estimates of the 1990 base year ozone precursor emissions inventory. Emissions estimates for the attainment base year (1990), 2006, and several interim years are given below:

VOC Emissions (Tons Per Day)

1990 1995 2000 2006

Point 12.76 13.74 14.73 15.91 sources Area sources 12.46 12.82
 13.18 13.61 On-road 25.25 20.77 16.29 10.91 mobile sources Off-
 road 7.50 7.74 8.00 8.28 mobile sources Biogenic 8.37 8.37 8.37 8.37
 sources

Total 66.34 63.44 60.57 57.08

CO Emissions (Tons Per Day)

1990 1995 2000 2006

Point 1.20 1.28 1.36 1.46 sources Area sources 1.71 1.77 1.84 1.91
 On-road 155.33 131.15 106.96 77.94 mobile sources Off-road 41.00
 42.93 44.86 47.18 mobile sources Biogenic N.A. N.A. N.A. N.A.
 sources

Total 199.24 177.13 155.02 128.49

NOx Emissions (Tons Per Day)

1990	1995	2000	2006	Point	2.78	2.98	3.18	3.42	sources	Area sources
2.14	2.27	2.41	2.57	On-road	14.11	13.31	12.52	11.56	mobile sources	Off-road
7.70	7.86	8.02	8.21	mobile sources	Biogenic	N.A.	N.A.	N.A.	N.A.	sources
Total				26.73	26.42	26.13	25.76			

It should be noted that the interim year emissions above were determined by the USEPA based on discussions with IDEM. USEPA and IDEM agreed that the interim year emission estimates should be based on linear interpolation between the 1990 and 2006 emission estimates for all three areas subject to this redesignation rulemaking. This is consistent with the source growth estimation procedure used by the State to estimate the 2006 emission levels, and the USEPA believes that this method is appropriate and reasonable for estimating the interim year emissions. The USEPA believes that this method provides reasonable estimates of the emission levels in those years and does not underestimate those emissions.

Based on the 1990 base year and 2006 projected emissions, VOC emissions are projected to decrease by 14.0 percent, CO emissions are projected to decrease by 35.5 percent, and NOx emissions are projected to decrease by 3.7 percent over the 16 year period. Interim year emissions are expected to remain below the attainment year emission level. IDEM believes maintenance of the ozone standard has been demonstrated because VOC emissions are projected to decrease between 1990 and 2006.

E.2. Indianapolis Area

The City of Indianapolis, which was responsible for the 1990 base year emission estimates for Marion County, used the same approach followed by IDEM for Evansville to project 1990 base year emissions to 2006. The following emissions for 1990 and 2006 (expressed in tons per summer weekday) are contained in a March 21, 1994 supplement to the Indianapolis redesignation request (Indiana revised its attainment year and projected emission estimates based on comments on the States 1990 base year emission inventories received during public hearings). The interim year emissions were determined by the USEPA based on linear interpolation between the 1990 and 2006 emission estimates.

VOC Emissions (Tons Per Day)

	1990	1995	2000	2006
Point	29.2	29.9	30.6	31.5

sources				
Area sources	48.7	52.3	55.9	60.2
On-road	107.2	96.1	85.0	71.7
mobile sources				
Off-road	19.2	20.6	22.0	23.6
mobile sources				
Biogenic	N.A.	N.A.	N.A.	N.A.
sources				
Totals	204.3	198.9	193.5	
	187.0			

CO Emissions (Tons Per Day)

	1990	1995	2000	2006
Point	124.4	127.9	131.3	
135.5				
sources				
Area sources	37.9	39.2	40.5	42.0
On-road	731.5	665.9	600.3	
521.6				
mobile sources				
Off-road	147.7	158.1	168.5	
181.0				
mobile sources				
Biogenic	N.A.	N.A.	N.A.	N.A.
sources				
Totals	1041.5	991.1	940.6	
	880.1			

NOx Emissions (Tons Per Day)

	1990	1995	2000	2006
Point	53.6	49.7	45.8	41.1
sources				
Area sources	30.9	32.6	34.5	36.6
On-road	63.4	63.3	63.2	63.1
mobile				

sources				
Off-road	28.6	29.0	29.4	29.8
mobile				
sources				
Biogenic	N.A.	N.A.	N.A.	N.A.
sources				
Totals	176.5	174.6	172.9	
	170.6			

Based on the 1990 base year and 2006 projected emissions, VOC emissions are projected to decrease by 8.5 percent, CO emissions are projected to decrease by 15.5 percent, and NOx emissions are projected to decrease by 3.3 percent over the 16 year period. IDEM and the City of Indianapolis believe maintenance of the ozone standard has been demonstrated because VOC emissions are projected to decrease between 1990 and 2006.

E.3. South Bend/Elkhart Area

Indiana has projected the 2006 mobile source emissions using USEPA's MOBILE 5.0 model and documented growth factors for VMT. Emissions for 2006 were determined for the other source categories using documented growth factors, including growth data supplied by the Bureau of Economic Affairs (BEA), and known source closures occurring after 1990. Indiana also used guidance and techniques provided in the USEPA guideline "Procedures for Preparing Emission Projections" (EPA-450/4-91-019). Emission estimates have been updated to reflect Indiana's current estimates of the 1990 base year ozone precursor emissions inventory.

The following 1990 and 2006 emissions for Elkhart and St. Joseph Counties in tons per summer weekday are contained in a February 25, 1994, supplement to the Evansville and South Bend/Elkhart redesignation requests (Indiana revised its attainment year and projected emission estimates based on comments on the States 1990 base year emission inventories received during public hearings). The interim year emissions were linearly interpolated by the USEPA.

VOC Emissions (Tons Per Day)

	1990	1995	2000	2006
Point	14.44	15.79	17.13	
18.75				
sources				
Area sources	41.83	43.64	45.45	
47.62				
On-road	39.83	33.85	27.86	
20.68				
mobile				
sources				

Off-road 11.56 mobile sources	10.13	10.58	11.02
Biogenic 19.62 sources	19.62	19.62	19.62
Totals 118.23	125.85	123.48	121.08

CO Emissions (Tons Per Day)

	1990	1995	2000	2006
Point sources	1.06	1.14	1.23	1.33
Area sources	5.47	5.64	5.80	6.00
On-road 142.24 mobile sources	249.95	216.29	182.63	
Off-road 65.70 mobile sources	56.42	59.32	62.22	
Biogenic sources	N.A.	N.A.	N.A.	N.A.
Totals 215.27	312.90	282.39	251.88	

NOx Emissions (Tons Per Day)

	1990	1995	2000	2006
Point 13.38 sources	10.81	11.61	12.42	
Area sources	6.32	6.70	7.08	7.53
On-road 27.24 mobile sources	31.36	30.07	28.78	
Off-road 17.44 mobile sources	17.82	17.70	17.58	
Biogenic sources	N.A.	N.A.	N.A.	N.A.
Totals 65.59	66.31	66.08	65.86	

Based on the 1990 base year and 2006 projected emissions, VOC emissions are projected to decrease by 6.1 percent, CO emissions are projected to decrease by 31.2 percent, and NOx emissions are projected to decrease by 1.1 percent over the 16 year period. These emission decreases between 1990 and 2006 demonstrate maintenance of the ozone standard.

F. Implementation of New Requirements of Section 110 and Part D of the Act

Although the SIPs for the three areas were previously approved by the USEPA under section 110 of the Act, the Act, as amended in 1990, has added new requirements. Below is a summary of the status of Indiana's compliance with the requirements for marginal nonattainment areas, such as the areas covered by this rulemaking.

F.1. Submittal of a Comprehensive Base Year Emissions Inventory

Indiana has submitted final, adopted 1990 base year emission estimates and associated documentation for the subject areas. The emission inventories for these areas have been reviewed in a separate technical support document and have been found to be acceptable. A direct final rulemaking approving these emission inventories was published on June 20, 1994 (59 FR 31544).

F.2. Emission Statement SIP Revision

Indiana has submitted a SIP revision covering regulations requiring the submittal of annual emission statements by facilities with potential VOC emissions equal to or exceeding 25 tons per year. This SIP revision has been reviewed in a separate rulemaking. A direct final rulemaking approving this SIP revision was published on June 10, 1994 (59 FR 29953).

F.3. New Source Review Regulations

The State of Indiana has submitted NSR regulations in compliance with section 182(a)(2)(C) of the Act. The USEPA is in the process of reviewing these regulations. Although the USEPA has not approved these regulations, it should be noted that the USEPA does not consider compliance with these requirements to be a prerequisite to the redesignation of an area to attainment of the ozone NAAQS. The USEPA believes that the applicability of the Part C PSD program to maintenance areas makes it unnecessary to require that an area have obtained full approval of NSR revisions required by Part D of the Act in order to be redesignated. The USEPA believes that this interpretation of the Act is appropriate notwithstanding section

175A(d)'s requirement that the contingency provisions of a maintenance plan include a commitment on the part of the State to implement all measures to control the relevant air pollutants that were contained in the SIP prior to redesignation. The term "measure" is not defined in section 175A(d) and it appears that Congress utilized the terms "measure" or "control measure" differently in different provisions of the Act that concern the PSD and NSR permitting programs. Compare section 110(a)(2)(A) and (C) with section 161. In light of this ambiguity in the use of the term "measure," USEPA believes that term "measure" as used in section 175A(d) may be interpreted so as not to include NSR permitting programs. That this is an appropriate interpretation is further supported by USEPA's historical practice, dating back even before the 1990 amendment of the Act, of not requiring redesignating areas to demonstrate through modeling or to otherwise justify replacing the nonattainment NSR program with the PSD program once the areas were redesignated. Rather, the USEPA has historically allowed the NSR programs to be automatically replaced by the PSD programs upon redesignation.

F.4. RACT Corrections

As required by section 182(a)(2)(A) of the Act, Indiana has corrected RACT deficiencies previously identified by the USEPA. These RACT corrections were approved by the USEPA on March 6, 1992 (57 FR 8086).

F.5. Conformity of Federal Actions With the SIP

Section 176(c) of the CAA requires States to revise their SIPs to establish criteria and procedures to ensure that Federal actions, before they are taken, conform to the air quality 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. or the Federal Transit Act ("transportation conformity"), as well as to all other Federal actions ("general conformity"). Section 176 further provides that the conformity revisions to be submitted by States must be consistent with Federal conformity regulations that the CAA required USEPA to promulgate. Congress provided for the State revisions to be submitted one year after the date for promulgation of final USEPA conformity regulations. When that date passed without such promulgation, USEPA's General Preamble for the Implementation of Title I informed States that its conformity regulations would establish a submittal date (see 57 FR 13498, 13557 (April 16, 1992)).

The USEPA promulgated final transportation conformity regulations on November 24, 1993 (58 FR 62188) and general conformity

regulations on November 30, 1993 (58 FR 63214). These conformity rules require the States to adopt both transportation and general conformity provisions in the SIP for areas designated nonattainment or subject to a maintenance plan approved under section 175A of the CAA. Pursuant to | 51.396 of the transportation conformity rule and | 51.851 of the general conformity rule, the State of Indiana is required to submit a SIP revision containing transportation conformity criteria and procedures consistent with those established in the Federal rule by November 25, 1994. Similarly, Indiana is required to submit a SIP revision containing general conformity criteria and procedures consistent with those established in the Federal rule by December 1, 1994. Because the deadlines for these submittals have not yet come due, they are not applicable requirements under section 107(d)(3)(E)(v) and, thus, do not affect approval of the redesignation request. It should be noted, however, that the State of Indiana has committed to the submittal of these SIP revisions by the required submittal deadlines.

F.6. Vehicle Inspection and Maintenance

Section 182(a)(2)(B) of the Act presents the savings clause for vehicle inspection and maintenance, requiring the adoption and implementation of a vehicle inspection and maintenance program if already included in the SIP (prior to the 1990 amendments of the Act) or if required by section 172(b)(11)(B) of the pre-1990 Act. The USEPA fully approved Indiana vehicle inspection and maintenance plan on July 31, 1990 (55 FR 31048). The approved plan only applied to Clark, Floyd, Lake, and Porter Counties. The areas subject to this redesignation rulemaking were not required to implement a vehicle inspection and maintenance program.

III. Summary of USEPA Review of Redesignation Requests

1. Monitored Attainment of the NAAQS

IDEM has collected quality assured ozone data in all three areas showing attainment of the ozone standard at all monitoring sites during the most recent three years of monitoring (1990-1992). These data are recorded in AIRS. These data show compliance with this redesignation requirement. Additionally, the 1993 data show continued monitored attainment of the ozone NAAQS.

2. Approved State Implementation Plans

All three areas are covered by a SIP approved under section 110 and Part D of the Act. Indiana has implemented this SIP in all three areas. This implementation includes the adoption and implementation of

USEPA approved RACT regulations and other required reasonably available control measures required by the pre-1990 Act. Indiana has corrected all previously noted RACT deficiencies, and USEPA has fully approved Indiana's RACT regulations.

3. Improvement of Air Quality Due to Permanent and Enforceable Emission Reductions

In all three areas, implementation of VOC emission control requirements and permanent, enforceable emission reductions from source closures have led to VOC emission reductions.

4. Maintenance Plans

The contingency portions of the maintenance plans were found to be acceptable. In addition, demonstrations of maintenance have been made for all three areas through emission projections to 2006.

One issue concerning the contingency measures, however, must be noted. As discussed above, Indiana has chosen to include the implementation of tighter gasoline RVP (requiring lower RVP) requirements as a contingency measure. At the same time Indiana was finalizing its maintenance plans, the USEPA issued new guidance concerning the use of lower RVP as contingency measures in maintenance plans. This new guidance was provided in a November 8, 1993 memorandum from Michael Horowitz, Office of General Counsel, to Directors of Air and Radiation Divisions. The guidance indicates that, for States to include lower RVP as a contingency measure in maintenance plans, the maintenance plan must include several things with respect to this contingency measure. First, the maintenance plan must indicate that if the former nonattainment area fell back into nonattainment, the State would submit a request to the USEPA to find under section 211(c)(4)(C) of the Act that the lower RVP requirement is necessary for the area to achieve the ozone NAAQS. Second, since the implementation of a lower RVP would rely upon USEPA's determination of whether it was necessary to achieve attainment, the State must provide for the possibility that a lower RVP could not be implemented. To do so, the State would need to provide for a backup measure in the maintenance plan. The maintenance plan could also include a commitment to adopt, as an alternative to the specified measure, measures identified by the USEPA as practicable in its denial of the State's request for a lower RVP requirement. If the State chooses to adopt measures specified by the USEPA and the USEPA has provided several options for acceptable measures, the State must adopt the requisite number of these measures as is necessary to again achieve the standard. The State would need to include a schedule for submittal of the section

211(c)(4)(C) request to the USEPA and a schedule for final adoption and implementation of a lower RVP standard, or the back-up measure(s), or the alternative measures selected by the USEPA. The schedule would need to be tied to the triggering event for the contingency measure, not to USEPA action on the 211(c)(4)(C) request.

Notwithstanding the November 8, 1993 policy discussed above, which was not available to Indiana at the time the State was finalizing and submitting its maintenance plans to the USEPA, USEPA is approving Indiana's maintenance plans as they currently exist. This is because Indiana has identified a wide range of contingency measures to choose from in the maintenance plan and is, therefore, not relying exclusively on lower RVP requirements as a contingency measure. If Indiana, however, upon the triggering of the need to implement contingency measures, chooses to implement requirements for lower RVP, Indiana must submit the section 211(c)(4)(C) request in compliance with the Act.

5. Implementation of All Requirements of Section 110 and Part D of the Act

As indicated above, all requirements of the Act applicable to these areas have been met through SIP revision submittals. These SIP revisions must be approved through final rulemaking before or at the same time as final rulemaking on the redesignation of the areas.

IV. Final Rulemaking Action

The State of Indiana has met the requirements of the Act revising the Indiana ozone SIP. The USEPA approves the redesignation of Evansville (Vanderburgh County); Indianapolis (Marion County); and South Bend/Elkhart (St. Joseph and Elkhart Counties) to attainment for ozone.

Because USEPA considers this action to be noncontroversial and routine, the USEPA is approving it without prior approval. This action will become effective on September 6, 1994. However, if the USEPA receives adverse comments by August 8, 1994, then the USEPA will publish a notice that withdraws the action, and will address these comments in the final rule on the requested redesignation and SIP revision which has been proposed for approval in the proposed rules section of this Federal Register. The comment period will not be extended or reopened. This withdrawal will be done on a geographic basis if the adverse comments received do not concern all three geographic areas. For example, if USEPA receives adverse comments concerning the South Bend/Elkhart Area

redesignation request, only that portion of the final rule concerning the South Bend/Elkhart Area will be withdrawn.

The OMB has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any SIP. Each request for revision to any SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, USEPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

The SIP approvals under section 110 and subchapter I, part D, of the Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA*, 427 U.S. 246, 256-66 (1976).

List of Subjects in 40 CFR Parts 52 and 81

Air pollution control, Carbon monoxide, Environmental protection, Hydrocarbons, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 21, 1994.

Valdas V. Adamkus, Regional Administrator.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52-[AMENDED]

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

Authority: 42 U.S.C. 7401-7671q.

Subpart P-Indiana

2. Section 52.777 is amended by adding paragraph (f) to read as follows:

| 52.777 -- Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(f) Approval-The Indiana Department of Environmental Management submitted three ozone redesignation requests and maintenance plans requesting the ozone nonattainment areas to be redesignated to attainment for ozone: South Bend/Elkhart (St. Joseph and Elkhart Counties), submitted on September 22, 1993; Evansville (Vanderburgh County), submitted on November 4, 1993; Indianapolis (Marion County), submitted on November 12, 1993. The redesignation requests and maintenance plans meet the redesignation requirements in section 107(d)(3)(d) of the Act as amended in 1990. The redesignations meet the Federal requirements of section 182(a)(1) of the Clean Air Act as a revision to the Indiana ozone State Implementation Plan for the above mentioned counties.

* * * * *

PART 81-[AMENDED]

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

Authority: 42 U.S.C. 7401-7871q.

2. In Section 81.315 the attainment status designation table for ozone is amended by revising the following; designated areas to read as follows:

| 81.315 -- Indiana.

* * * * *

Designated Classification areas	Indiana-Ozone Designation		
	Date	Type	Date
Type			
		* * * * *	
Evansville area: Vanderburgh	(*)	Attainment	

County

Indianapolis

area:

Marion (*) Attainment
County

* * * * *

South Bend-

Elkhart

area:

Elkhart (*) Attainment
County

St. Joseph (*) Attainment
County

* * * * *

fn *September 6, 1994.

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