

## VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations (42 U.S.C. 7410(k), 40 CFR 52.02(a)). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves some state law as meeting federal requirements and disapproves other state law because it does not meet federal requirements; this proposed action does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999); is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and,
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

costs on Tribal governments or preempt Tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: May 16, 2011.

**James B. Martin,**

*Regional Administrator, Region 8.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R05-OAR-2008-0396; FRL-9307-1]

### Approval, and Promulgation of Air Quality Implementation Plans; Indiana; Redesignation of the Evansville Area to Attainment of the Fine Particulate Matter Standard

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 3, 2008, the Indiana Department of Environmental Management (IDEM) submitted a request for EPA to approve the redesignation of the Evansville, Indiana nonattainment area to attainment of the 1997 annual fine particulate matter (PM<sub>2.5</sub>) standard. The air quality improvement in this area and maintenance of the standard in this area is attributable in substantial part to power plant emission reductions in the Eastern United States prompted by the Clean Air Interstate Rule (CAIR). The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) has remanded CAIR, but EPA has proposed a replacement rule known as the Transport Rule. The Evansville area has attained the standard with only a fraction of the reductions that the proposed Transport Rule proposed to require. Therefore, EPA is proposing to approve the redesignation request for the Evansville area, along with related SIP revisions, if and when EPA takes final action to promulgate the Transport Rule, provided that the final Transport Rule requires emission reductions that are at least substantially equivalent to those of the proposed Transport Rule for purposes of maintaining the standard in the Evansville area.

**DATES:** Comments must be received on or before June 22, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2008-0396, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

3. *Fax:* (312) 692-2551.

4. *Mail:* John M. Mooney, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* John M. Mooney, Chief, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R05-OAR-2008-0396. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov> your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of

the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* All documents in the docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the U.S. 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 John Summerhays, Environmental Scientist, at (312) 886-6067 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** John Summerhays, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6067, [summerhays.john@epa.gov](mailto:summerhays.john@epa.gov).

**SUPPLEMENTARY INFORMATION:** This supplementary information section is arranged as follows:

- I. What should I consider as I prepare my comments for EPA?
- II. What actions is EPA proposing to take?
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#### **I. What should I consider as I prepare my comments for EPA?**

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date, and page number).
2. Follow directions—The EPA may ask you to respond to specific questions

or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

#### **II. What actions is EPA proposing to take?**

On November 27, 2009, at 74 FR 62243, EPA made a final determination that the Evansville area has attained the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS). EPA here is proposing to determine that the area continues to attain that standard. EPA is also proposing to take several additional actions related to Indiana's request to redesignate the area to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS.

First, EPA is proposing to approve Indiana's 1997 annual PM<sub>2.5</sub> maintenance plan for the Evansville area as a revision to the Indiana SIP, subject to the proviso that EPA promulgates a final Transport Rule requiring power plant emission reductions substantially equivalent for purposes of maintaining the PM<sub>2.5</sub> standard in Evansville to those proposed in EPA's Transport Rule proposal. Since maintenance of the standard in Evansville is based in large part on maintaining substantial control of power plant emissions, promulgation of such a Transport Rule is necessary to help make recent reductions in power plant emissions (or equivalent reductions at other power plants) permanent and enforceable.

Second, EPA is proposing to approve the 2005 emission inventory in Indiana's maintenance plan as satisfying the requirement of section 172(c)(3) for a comprehensive emission inventory.

Third, EPA is proposing to find that, subject to final approval of the emissions inventory and the proviso set forth above with respect to EPA's proposed Transport Rule, Indiana meets the requirements for redesignation of the Evansville area to attainment of the 1997 PM<sub>2.5</sub> NAAQS under section

107(d)(3)(E) of the Clean Air Act. Because CAIR was remanded, the reductions associated with that rule cannot be considered permanent and enforceable. For this reason, the submissions from Indiana do not currently demonstrate satisfaction of the requirement of section 107(d)(3)(E)(iii), that the area's air quality improvement be due to permanent and enforceable measures. However, EPA proposes that this requirement will be met if and when EPA finalizes a Transport Rule which, for purposes of this action, is substantially equivalent to the Transport Rule that EPA proposed on August 2, 2010. Therefore, subject to this proviso, EPA is proposing to approve the request from the State of Indiana to change the designation of the Evansville area, consisting of Dubois, Vanderburgh, and Warrick Counties along with Montgomery Township in Gibson County, Ohio Township in Spencer County, and Washington Township in Pike County, from nonattainment to attainment of the 1997 PM<sub>2.5</sub> NAAQS.

Finally, EPA is proposing to approve the 2015 and 2022 motor vehicle emission budgets (MVEBs) for the Evansville area into the Indiana SIP. EPA proposes to take final action on this and the other proposed actions delineated in this section if and when EPA takes final action promulgating a Transport Rule substantially equivalent for purposes of air quality in the Evansville area to the Transport Rule proposed on August 2, 2010.

#### **III. What is the background for these actions?**

The first air quality standards for PM<sub>2.5</sub> were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (µg/m<sup>3</sup>), based on a three-year average of annual mean PM<sub>2.5</sub> concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m<sup>3</sup>, based on a three-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, at 71 FR 61144, EPA retained the annual average standard at 15 µg/m<sup>3</sup> but revised the 24-hour standard to 35 µg/m<sup>3</sup>, based again on the three-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005, at 70 FR 944, as supplemented on April 14, 2005, at 70 FR 19844, EPA designated the Evansville area as nonattainment for the 1997 PM<sub>2.5</sub> air quality standards. In that action, EPA defined the Evansville nonattainment area to include the entirety of Dubois, Vanderburgh, and Warrick Counties and portions of three other counties, specifically including

Montgomery Township in Gibson County, Ohio Township in Spencer County, and Washington Township in Pike County. On November 13, 2009, at 74 FR 58688, EPA promulgated designations for the 24-hour standard set in 2006, designating the Evansville area as attaining this standard. In that action, EPA also clarified the designations for the NAAQS promulgated in 1997, stating that the Evansville area remained designated nonattainment for the 1997 annual PM<sub>2.5</sub> standard, but was designated attainment for the 1997 24-hour standard. Thus today's action does not address attainment of either the 1997 or the 2006 24-hour standards.

In response to legal challenges of the annual standard promulgated in 2006, the D.C. Circuit remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 annual standards are essentially identical, attainment of the 1997 annual standard would also indicate attainment of the remanded 2006 annual standard. Since the Evansville area is designated nonattainment only for the annual standard promulgated in 1997, today's action addresses redesignation to attainment only for this standard.

Indiana has provided multiple submittals in support of its request for redesignation of the Evansville area. On April 3, 2008, Indiana submitted its original request that EPA redesignate the Evansville area to attainment of the 1997 annual PM<sub>2.5</sub> standard. This request was based on 2004 to 2006 monitoring data indicating that no monitor violated the annual standard. A public hearing was held on March 27, 2008, and the comment period closed on March 31, 2008. Indiana completed the redesignation request by submitting documentation of the public hearing conducted by the State for the PM<sub>2.5</sub> redesignation request and additional regional air quality analysis on October 20, 2008. On March 6, 2009, Indiana provided updated monitoring data for the 2006 to 2008 period. On April 7, 2009, Indiana submitted supplemental information on regional emissions. On December 7, 2009, Indiana submitted modeling intended to show that the Evansville area would attain and maintain the standard even in the absence of the emission reductions prompted by CAIR. On January 28, 2011, Indiana submitted updated emissions data (including updated MVEBs) to show that maintenance extended further into the future, to 2022. On April 8, 2011, Indiana

resubmitted the information submitted on January 28, 2011, in conjunction with evidence that the State provided a public comment period and held a public hearing on the information and received no public comments.

Fine particle pollution can be emitted directly or formed secondarily through chemical reactions in the atmosphere. Sulfates are a type of secondary particle formed from sulfur dioxide (SO<sub>2</sub>) emissions from power plants and industrial facilities. Nitrates, another common type of secondary particle, are formed from emissions of nitrogen oxides (NO<sub>x</sub>) from power plants, automobiles, and other combustion sources.

Given the significance of sulfates and nitrates in the Evansville area, the area's air quality is strongly affected by regulations of SO<sub>2</sub> and NO<sub>x</sub> emissions from power plants. EPA proposed CAIR on January 30, 2004, at 69 FR 4566, promulgated CAIR on May 12, 2005, at 70 FR 25162, and promulgated associated federal implementation plans (FIPs) on April 28, 2006, at 71 FR 25328, in order to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions and improve air quality in many areas across the eastern part of the United States. However, on July 11, 2008, the D.C. Circuit Court of Appeals issued a decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety (*North Carolina v. EPA*, 531 F.3d 836 (D.C. Cir. 2008)). EPA petitioned for rehearing, and the court issued an order remanding CAIR and the CAIR FIPs to EPA without vacatur (*North Carolina v. EPA*, 550 F.3d 1176 (D.C. Cir. 2008)). The Court, thereby, left CAIR in place in order to "temporarily preserve the environmental values covered by CAIR" until EPA replaces it with a rule consistent with the court's opinion. *Id.* at 1178. The court directed EPA to "remedy CAIR's flaws" consistent with its July 11, 2008, opinion, but declined to impose a schedule on EPA for completing that action. *Id.* As a result of these court rulings, the power plant emission reductions that have resulted from the development, promulgation, and implementation of CAIR, and the associated air quality improvement that has occurred in the Evansville area and elsewhere, cannot be considered permanent.

On August 2, 2010, EPA published its proposal of the Transport Rule to address interstate transport of emissions with respect to the 1997 ozone and the 1997 and 2006 PM<sub>2.5</sub> NAAQS, to replace CAIR. (See 75 FR 45210.) This rule, as proposed, would require substantial reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions from electric generating units (EGUs)

across most of the Eastern United States. In particular, it would require reductions of these emissions to levels well below the levels that led to attainment in the Evansville area. The proposed Transport Rule proposed to establish permanent and enforceable limits on EGU emissions across most of the Eastern United States. Since the Transport Rule as proposed would require EGU emissions to be well below the levels that have led to attainment in the Evansville area. If EPA finalizes a Transport Rule that similarly requires EGU emissions to be below the levels that led to attainment in the Evansville area, that rule would provide support for a determination that the air quality improvement may be considered permanent and enforceable.

#### **IV. What are the criteria for redesignation to attainment?**

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

#### **V. What is EPA's analysis of the State's request?**

EPA is proposing to approve the redesignation of the Evansville area to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS and is proposing to approve the maintenance plan for the area and other related SIP revisions, subject to the provisos discussed in this notice. The bases for these proposed actions follow.

##### *1. Attainment*

As noted above, in a final rulemaking dated November 27, 2009, at 74 FR 62243, EPA determined that the Evansville area is attaining the 1997 annual PM<sub>2.5</sub> NAAQS. Further

discussion of pertinent air quality issues underlying this determination was provided in the notice of proposed rulemaking, published on September 24, 2009, at 74 FR 49690. This determination was based primarily on air quality data from 2006 to 2008.

EPA has reviewed more recent data, including certified, quality-assured data for 2009 and data for all of 2010. These data show that the Evansville area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS. Table 1 provides an historical summary of air quality data

for the area. This summary is based on quality assured data that have been entered into the EPA Air Quality System, though the data for 2010 have not yet been certified.

TABLE 1—PM<sub>2.5</sub> DESIGN VALUES FOR EVANSVILLE AREA SITES

County	Site name	Site No.	2004–2006	2006–2008	2007–2009	2008–2010
Dubois (ended 2008)	Jasper Sport	180370004	*13.6	*13.4	*13.4	.....
Dubois (ended 2008)	Jasper Golf	180370005	*13.7	13.7	*13.7	.....
Dubois	6th Street	180372001	15.0	13.6	*13.3	12.1
Gibson (began 2009)	Oakland City	180510012	.....	.....	.....	12.2
Spencer	Dale	181470009	13.9	13.0	12.6	13.0
Vanderburgh (ended 2009)	Civic Center	181630006	14.5	13.4	*12.8	.....
Vanderburgh	West Mill Road	181630012	14.6	13.7	*13.0	.....
Vanderburgh	U. of Evansville	181630016	14.8	13.6	13.1	12.8
Vanderburgh	Post Office	181630020	.....	.....	.....	*12.9
Vanderburgh	Buena Vista	181630021	.....	.....	.....	*13.0

\* Less than 75 percent complete data in at least one quarter.

Several of these sites had less than 75 percent complete data for one or more of the applicable recent quarters. From 2008 to 2009, four monitoring sites ended operation, and three new sites began operating. In its prior determination of attainment, EPA determined that prior to ending operation, these monitoring sites recorded data indicating attainment of the annual PM<sub>2.5</sub> standard.

From 2008 to 2009, three additional sites began operating: Site 18–051–0012 in Gibson County starting in 2008, and sites 18–163–0020 and 18–163–0021 in Vanderburgh County starting in 2009. As a result of their short operating history, these monitors have incomplete data for purposes of comparison to the NAAQS, but the data that are available, summarized in Table 1 above, indicate concentrations well below the NAAQS, consistent with other data showing continued attainment in the area.

Although the monitoring network was in flux during this latter period, the area has been and continues to be monitored at numerous locations addressing the range of locations in the area with potential to violate the standard. EPA has approved these various revisions to Indiana’s monitoring network, including approval most recently on October 29, 2010, reflecting its belief that the revised network remains adequate to assess air quality in the Evansville area.

For this and related reasons, EPA proposes to approve the use of these incomplete data, pursuant to Subpart 4.1(c) of 40 CFR part 50, Appendix N, as supplemental evidence for evaluating whether the Evansville area is attaining the standard.

Indiana’s request to redesignate the Evansville area was predicated on monitoring data from 2004 to 2006 showing that the area meets the 1997 PM<sub>2.5</sub> NAAQS. Subsequently, EPA determined that the area is meeting the 1997 PM<sub>2.5</sub> NAAQS, based primarily on 2006 to 2008 data. According to more recent data, average concentrations for all sites, including these sites with incomplete data as well as the sites with complete data, remain well below the PM<sub>2.5</sub> NAAQS. Indeed, EPA believes that the Evansville area has been attaining the PM<sub>2.5</sub> NAAQS for five consecutive three-year periods. Therefore, EPA proposes to determine that the Evansville area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS.

2. Fully Approved SIP Meeting All Pertinent Requirements

a. General Requirements

Sections 107(d)(3)(E)(ii) and 107(d)(3)(E)(v) set forth related requirements for the State to have a fully approved SIP meeting all pertinent requirements, and the following discussion addresses Indiana’s satisfaction of both of these portions of section 107(d)(3)(E). Since the passage of the Clean Air Act in 1970, Indiana has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements addressing particulate matter in the Evansville area and elsewhere in Indiana. Indiana submitted the “State of Indiana Air Pollution Control Implementation Plan,” its SIP, on January 31, 1972. EPA approved Indiana’s SIP on May 31, 1972, at 37 FR 10863. These rules addressed total

suspended particulate (TSP), reflecting the particulate size range regulated under the 1971 standards. EPA designated Evansville as nonattainment for TSP on March 3, 1978, at 43 FR 8962. Indiana submitted general TSP Reasonably Available Control Technology emission limits and regulations for process sources on October 6, 1980. On January 29, 1981, Indiana submitted its source specific limits for Vanderburgh County with amendments on October 28, 1981. These elements were approved into the Indiana SIP on July 16, 1982. On July 1, 1987, EPA replaced the TSP standard with a standard for finer-sized particulate matter, specifically for particles up to a nominal aerodynamic diameter of ten micrometers, a set of particles known as PM<sub>10</sub>. EPA promulgated designations under the PM<sub>10</sub> NAAQS on March 15, 1991, at 56 FR 11101. The Evansville area was designated as attaining the PM<sub>10</sub> standards. Consequently, Indiana had no obligation to submit PM<sub>10</sub> attainment plans for the Evansville area.

b. Section 110(a) Requirements

EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area’s nonattainment status are not applicable requirements for purposes of review of the State’s redesignation request.

On December 7, 2007, September 19, 2008, and October 20, 2009, Indiana made submittals addressing “infrastructure SIP” elements required under Clean Air Act section 110(a)(2). EPA has published proposed rulemaking on these submittals

(published on April 28, 2011, at 76 FR 23757), but has not completed final rulemaking on these submittals. However, the requirements of section 110(a)(2) are statewide requirements that are not linked to the PM<sub>2.5</sub> nonattainment status of or requirements for the Evansville area. EPA believes that section 110 elements not linked to an area's nonattainment status are not applicable for purposes of redesignation. See the Reading, Pennsylvania proposed and final rulemakings (October 10, 1996, at 61 FR 53174–53176, and May 7, 1997, at 62 FR 24826), the Cleveland-Akron-Loraine, Ohio final rulemaking (May 7, 1996, at 61 FR 20458), and the Tampa, Florida final rulemaking (December 7, 1995, at 60 FR 62748). Therefore, notwithstanding the fact that EPA has not yet completed rulemaking on Indiana's submittals for the "infrastructure SIP" elements of section 110(a)(2), EPA believes that these elements are not applicable requirements for purposes of review of the State's redesignation request.

#### c. Emission Inventories

Under section 172(c)(3), Indiana is required to submit a comprehensive, accurate and current inventory of actual emissions. As part of Indiana's redesignation request for the Evansville area, the State submitted a maintenance plan that included emissions inventories for the area for SO<sub>2</sub> and NO<sub>x</sub> (which are precursors for secondarily formed PM<sub>2.5</sub>) and for directly emitted PM<sub>2.5</sub> for 2005, 2015, 2020, and 2022. The inventories for 2005 address the requirement under section 172(c)(3) for a base year emission inventory, and the other inventories help address the requirement for a demonstration that the area can expect to maintain the standard for at least 10 years after approval of a redesignation.

For each of the applicable pollutants and years, Indiana prepared emission estimates by county and by five source types, namely onroad mobile sources, nonroad mobile sources, area sources, EGUs, and other point sources. Onroad and nonroad mobile source emissions were estimated by the Evansville Metropolitan Planning Organization and by the Indiana Department of Transportation. The onroad emission estimates were derived using EPA's MOBILE6.2 emission model. When Indiana submitted updated emissions data on April 8, 2011, which showed

that the area continued to maintain the annual PM<sub>2.5</sub> standard to 2022, it continued to use MOBILE6.2 rather than MOVES2010a to estimate the onroad emissions.<sup>1</sup> EPA is proposing to approve Indiana's continued use of MOBILE6.2 in this maintenance plan. Air quality data indicates that the area has attained the annual PM<sub>2.5</sub> standard and large emissions reductions are expected in the coming years, which will allow the area to continue to meet the annual PM<sub>2.5</sub> standard. If MOVES2010a had been used to estimate onroad emissions for the new last year of this maintenance plan, it would not change this conclusion. In addition, the recent submittal only extended the maintenance period by two years and it was not necessary for the submittal to revisit earlier years of the maintenance period. This extension was necessary because EPA could not act on the submittal at an earlier date due to issues related to the remand of the CAIR rule and the Clean Air Act's requirement that maintenance plans address a period that covers 10 years after EPA approves the submitted maintenance plan. Also, consistent with Question 5 in EPA's "Policy Guidance on the Use of MOVES 2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes" (<http://www.epa.gov/otaq/models/moves/420b09046.pdf>) we believe that since the bulk of the work on the maintenance plan was performed in 2008, which well before MOVES2010 was released, the continued use of MOBILE6.2 in this maintenance plan is warranted. Even the supplemental work performed by Indiana to support the April 2011 revision was done relatively soon after MOVES was officially released for use in SIPs on March 2, 2010, at 75 FR 9411. It is also worth noting that the area has been attaining the standard for several years, and future anticipated emissions reductions will ensure that the area will continue to maintain the standard through the maintenance period. Based on all of these factors we believe that Indiana's continued use of MOBILE6.2 is justified because it avoids an adverse impact on state resources as is also described in Question 5 of the MOVES SIP and Conformity guidance document.

Most of the nonroad emission estimates were derived using EPA's NONROAD model. Nonroad activity levels reflect information compiled by the Lake Michigan Air Directors

Consortium (LADCO), described at [http://www.ladco.org/reports/technical\\_support\\_document/references/round\\_5\\_emissions\\_summary-february\\_2008.pdf](http://www.ladco.org/reports/technical_support_document/references/round_5_emissions_summary-february_2008.pdf). In addition, the inventory includes emission estimates for marine and railroad sources under contract to LADCO. Area source emissions were developed using local activity level estimates and EPA emission factors as reflected in the 2005 National Emissions Inventory.

Base year emissions for EGUs for SO<sub>2</sub> and NO<sub>x</sub> were obtained from continuously monitored emission data that the facilities reported to EPA's Clean Air Markets Division. Projections of these emissions were based on simulations using the Integrated Planning Model (IPM) premised on implementation of CAIR and the associated allowance allocations and trading programs. Indiana's April 2011 submittal states that these emission projections rely on an expectation that the Transport Rule that EPA proposed on August 2, 2010, will require EGUs to achieve a similar set of reductions as has been required by CAIR. EGU emissions of PM<sub>2.5</sub> were estimated using the same information on activity levels (i.e., baseline heat inputs reported to EPA and projected heat inputs forecast by IPM) in conjunction with EPA emission factors and current emission control levels. For other point sources, baseline emissions were obtained from routine source reports to the State, and projections were based on growth factors developed by LADCO based on appropriate economic indicators.

Table 2 summarizes the 2005 base year emissions estimates, subdivided by source type, that Indiana provided in its maintenance plan as submitted on January 28, 2011. The area has a modest number of people—the 2009 population estimate for the Evansville Metropolitan Statistical Area according to the U.S. Census Bureau is 351,911. The PM<sub>2.5</sub> nonattainment area includes several large power plants that serve a broad area within the industrial Midwest and beyond. Therefore, point sources (in particular power plants) emit a very high fraction of the area's emissions. Indeed, point sources are estimated to emit over 99 percent of the area's SO<sub>2</sub> emissions, about 86 percent of the area's NO<sub>x</sub> emissions, and about 71 percent of the area's PM<sub>2.5</sub> emissions, and most of the point source emissions are from power plants. EPA proposes to find that

<sup>1</sup> MOVES2010a is EPA's most recent model for estimating on-road mobile source emissions. It was officially released for use in SIPs and regional

transportation conformity determinations on March 2, 2010, at 75 FR 9411.

the inventory satisfies the requirements of section 172(c)(3).

TABLE 2—SUMMARY OF 2005 EMISSIONS ESTIMATES FOR THE EVANSVILLE AREA BY SOURCE TYPE  
[Tons per year]

	SO <sub>2</sub>	NO <sub>x</sub>	PM <sub>2.5</sub>
EGUs .....	360,822	85,320	8,240
Point .....	3,685	774	1,427
On-road .....	237	6,528	118
Non-road .....	537	5,676	337
Area .....	674	1,624	37
<b>Total .....</b>	<b>365,954</b>	<b>99,922</b>	<b>10,160</b>

Table 3 shows the 2005 base year emission estimates and the 2015 and 2022 emission projections for the

Evansville area that Indiana provided in its April 8, 2011, submission.

TABLE 3—EVANSVILLE AREA EMISSION PROJECTIONS  
[Tons per year]

	SO <sub>2</sub>	NO <sub>x</sub>	PM <sub>2.5</sub>
2005 .....	365,954	99,922	10,160.
2015 .....	117,830	59,897	13,892.
2022 .....	94,627	51,885	12,604.
Change 2005–2022 .....	–271,327	–48,037	+2,444.
	74% decrease	48% decrease	24% increase.

c. Other Nonattainment Area Requirements

EPA is proposing to determine that, if EPA issues final approval of the emission inventories discussed above, the Indiana SIP will meet the SIP requirements for the Evansville area applicable for purposes of redesignation under Part D of the Clean Air Act. Subpart 1 of Part D, sections 172 to 176 of the Clean Air Act, set forth the basic nonattainment plan requirements applicable to PM<sub>2.5</sub> nonattainment areas.

Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. However, pursuant to 40 CFR 51.1004(c), EPA’s November 27, 2009, determination that the Evansville area is attaining the PM<sub>2.5</sub> standard suspended Indiana’s obligation to submit most of the attainment planning requirements that would otherwise apply. Specifically, the determination of attainment suspended Indiana’s obligation to submit an attainment demonstration, and requirements to provide for reasonable further progress, reasonable available control measures, and contingency measures under section 172(c)(9).

The General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) also discusses the evaluation of these requirements in the

context of EPA’s consideration of a redesignation request. The General Preamble sets forth EPA’s view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining the standard. General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

Because attainment has been reached, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the area continues to attain the standard until redesignation. See also 40 CFR 51.1004(c). The RFP requirement under section 172(c)(2) and contingency measures requirement under section 172(c)(9) are similarly not relevant for purposes of redesignation.

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. As part of Indiana’s redesignation request for the Evansville area, the State submitted a 2005 emissions inventory. As discussed above, EPA is proposing to approve this inventory as meeting the section 172(c)(3) emissions inventory requirement.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and

modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since prevention of significant deterioration (PSD) requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a nonattainment new source review (NSR) program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, “Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.” Indiana has demonstrated that emissions will remain sufficiently low even without part D NSR in effect for the Evansville area to be able to maintain the standard; therefore, the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State’s PSD program will become effective in the Evansville area upon redesignation to attainment. See rulemakings for Detroit, Michigan (March 7, 1995, at 60 FR 12467–12468); Cleveland-Akron-Lorain, Ohio (May 7,

1996, at 61 FR 20458, 20469–20470); Louisville, Kentucky (October 23, 2001, at 66 FR 53665); and Grand Rapids, Michigan (June 21, 1996, at 61 FR 31834–31837).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Indiana SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs.

EPA believes that it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CLEAN AIR ACT continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally-approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and, because they must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See also* 60 FR 62748, 62749–62750 (Dec. 7, 1995) (Tampa, Florida).

EPA approved Indiana's general and transportation conformity SIPs on January 14, 1998, at 63 FR 2146, and August 17, 2010, at 75 FR 50730, respectively. Indiana has submitted onroad motor vehicle budgets for the Evansville area for 2015 and 2022. The area must use the MVEBs from the maintenance plan in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

No SIP provisions relevant to the Evansville area are currently disapproved, conditionally approved, or

partially approved. If EPA approves the Evansville area emission inventory as proposed, EPA believes that Indiana will have a fully approved SIP for all requirements applicable for purposes of redesignation.

### 3. Permanent and Enforceable Emission Reductions

Indiana's original redesignation submission cited a number of regulatory programs that it believed resulted in the air quality improvement in the Evansville area between the period that was the basis of the area's 1997 PM<sub>2.5</sub> nonattainment designation (2002 to 2004), and the period that the Evansville area began attaining the 1997 annual PM<sub>2.5</sub> standard (2004 to 2006). These programs included the EPA NO<sub>x</sub> Budget Trading Program, the acid rain program, mobile source rules such as Heavy-duty Highway Vehicle standards and Non-road Diesel Engine standards, and CAIR.

Indiana subsequently supplemented its request with submittals intended to demonstrate that the Evansville area could be expected to continue to attain the standard even if the emission reductions associated with the promulgation of CAIR did not continue. In particular, on December 7, 2009, Indiana submitted the results of modeling purporting to show PM<sub>2.5</sub> concentrations that Indiana estimated would occur in the Evansville area in the absence of CAIR. For most power plants, this modeling was based on projections derived from actual emission rates for 2007. For the power plants within the Evansville nonattainment area, this modeling used the highest emission rates from 2000 to 2007. Indiana's modeling showed that these emission rates yielded Evansville area concentrations below the PM<sub>2.5</sub> NAAQS.

EPA has reviewed Indiana's submission and believes that Indiana's modeling does not properly reflect power plant emissions that would occur in the absence of CAIR. Although the compliance deadlines in CAIR were 2009 for the first phase of NO<sub>x</sub> reductions and 2010 for the first phase of SO<sub>2</sub> reductions, CAIR provided significant incentives for earlier emission reductions. Indeed, especially for SO<sub>2</sub>, a comparison of 2007 emissions for states in the CAIR region against 2003 emissions shows a significant decline in emissions. For example, according to continuous emission monitoring data submitted by EGUs to EPA's Clean Air Markets Division, EGU emissions of SO<sub>2</sub> in Indiana declined from 804,800 tons per year in 2003 to 714,500 tons per year in 2007, a decline of 93,000 tons per year. Similarly,

according to the same set of data, EGU emissions of NO<sub>x</sub> in Indiana declined from 261,000 tons per year to 196,600 tons per year, a decline of 64,400 tons per year. Similar declines occur in other states influencing Evansville area air quality. These declines can reasonably be attributed to the incentives of CAIR, such that even the 2004 to 2006 air quality data underlying Indiana's request would reflect benefits from EPA's development, proposal, and promulgation of CAIR.

Given that the DC Circuit has now remanded CAIR to EPA, it will not remain in force indefinitely. As a consequence, the emission reductions associated with CAIR cannot be considered to be permanent.

EPA's proposed Transport Rule would, in a manner consistent with the D.C. Circuit opinion on CAIR, among other things identify emission reductions in the Eastern United States necessary to address significant interference with attainment and maintenance pursuant to section 110(a)(2)(d)(i)(I) of the Clean Air Act with respect to the 1997 ozone and 1997 and 2006 PM<sub>2.5</sub> NAAQS. The comment period on this proposed rule closed on October 1, 2010. EPA is reviewing all comments received. EPA may not prejudice the requirements of the final Transport Rule, and so cannot complete final rulemaking on Indiana's redesignation request in a manner that relies on Transport Rule requirements unless and until EPA has promulgated a final Transport Rule.

In the proposed Transport Rule, EPA proposed to quantify the reductions needed in specific states to address each covered state's significant contribution to nonattainment and interference with maintenance of specific NAAQS. In that action, EPA also proposed to establish FIPs to ensure that the significant contribution to nonattainment and interference with maintenance identified by EPA is prohibited.

The Evansville area is notable for having several sizable electric generating facilities, and most of these facilities are operating with new or upgraded SO<sub>2</sub> and NO<sub>x</sub> controls for their coal-fired units. Vectron's A.B. Brown facility operates a dual alkali system for SO<sub>2</sub> control and select catalytic reduction (SCR) of NO<sub>x</sub>. Alcoa's Warrick Power Plant uses wet lime scrubbing to control SO<sub>2</sub> emissions and combustion controls, and uses SCR for one unit and low NO<sub>x</sub> burners (LNB) and over-fire air (OFA) for all units to limit its NO<sub>x</sub> emissions. Vectron's F.B. Culley generating station uses wet limestone scrubbing for SO<sub>2</sub> control and SCR with LNB for NO<sub>x</sub> control at its two

units. Hoosier Energy uses LNB to reduce NO<sub>x</sub> emissions from both Frank E. Ratts Generating Station units. Duke Energy's Gibson plant uses wet limestone scrubbing with SCR, LNB, and OFA on all five units. Indianapolis Power and Light operates wet limestone scrubbers along with SCR, LNB, and OFA on the four units of its Petersburg power plant. Indiana-Michigan Power uses LNB on the two coal-fired units at the Rockport plant.

These emission controls, along with similar controls at many other plants in the Eastern United States, are providing substantial air quality benefits. As explained above, some of the reductions were associated with the now-remanded CAIR. The proposed Transport Rule, if finalized, would similarly require

reductions in NO<sub>x</sub> and SO<sub>2</sub> from EGUs. The reductions associated with the Transport Rule, if and when it is finalized, may be considered permanent and enforceable.

The modeling for the proposed Transport Rule identified 13 states, including Indiana, that have emissions that significantly affect Evansville area air quality. Table 4 shows state-wide emission estimates for SO<sub>2</sub> and NO<sub>x</sub> for 2005, 2012, and 2014 for these states. The values for 2005 reflect base year emissions estimates. Given the timing of attainment in the Evansville area, these values reflect an approximation of statewide emission levels at which the Evansville area attained the PM<sub>2.5</sub> standard. The values for 2012 reflect estimates for a scenario in which neither

CAIR nor a replacement Transport Rule is in effect, reflecting a baseline that EPA used in developing its proposed rule. The values for 2014 reflect estimates for a scenario in which the proposed Transport Rule is finalized as proposed. These estimates are taken from Tables 6–1 (NO<sub>x</sub>) and 6–2 (SO<sub>2</sub>) of the emissions technical support document for the proposed Transport Rule, available at [http://www.epa.gov/airquality/transport/pdfs/TR\\_Proposal\\_Emissions\\_TSD.pdf](http://www.epa.gov/airquality/transport/pdfs/TR_Proposal_Emissions_TSD.pdf). These estimates exclude emissions from fires, which are a small fraction of the inventory (well under 0.1 percent) that is projected to remain constant and does not materially affect the comparison here.

TABLE 4—SO<sub>2</sub> AND NO<sub>x</sub> EMISSIONS FOR STATES IDENTIFIED IN THE PROPOSED TRANSPORT RULE AS SIGNIFICANTLY CONTRIBUTING TO NONATTAINMENT OR INTERFERING WITH MAINTENANCE IN THE EVANSVILLE AREA  
[Tons per year]

State	SO <sub>2</sub> emissions			NO <sub>x</sub> emissions		
	2005	2012 (w/o Transport Rule)	2014 (w/ Transport Rule)	2005	2012 (w/o Transport Rule)	2014 (w/ Transport Rule)
Indiana .....	1,047,371	986,601	396,403	614,861	505,039	386,251
Alabama .....	592,389	461,314	296,138	443,748	360,357	280,763
Georgia .....	748,020	674,183	214,726	577,858	405,825	337,889
Illinois .....	516,950	866,376	304,834	773,276	542,886	480,743
Iowa .....	221,877	250,930	182,875	312,015	251,632	221,442
Kentucky .....	572,424	780,885	182,630	435,837	345,073	247,270
Michigan .....	490,190	415,042	300,560	638,546	478,625	410,319
Missouri .....	421,979	570,575	315,283	505,195	353,407	317,092
Ohio .....	1,276,270	1,076,470	361,138	816,239	552,864	453,167
Pennsylvania .....	1,173,296	1,119,680	303,071	704,936	566,301	454,248
Tennessee .....	388,191	708,905	218,065	471,705	338,154	270,171
West Virginia .....	535,586	645,431	184,341	294,016	206,630	144,970
Wisconsin .....	263,615	181,760	159,927	358,787	257,290	228,637
Total .....	8,250,163	8,740,164	3,419,991	6,949,024	5,166,095	4,232,962

In Table 4, 2005 emissions represent an approximation of emissions at which Evansville attains the standard. Table 4 shows that, in comparison, the proposed Transport Rule would establish enforceable emission restrictions that would be expected to result in emissions in the most pertinent states (as listed in Table 4) that for SO<sub>2</sub> are 4,830,172 tons per year (59 percent) lower and that for NO<sub>x</sub> are 2,716,062 tons per year (39 percent) lower. That is, the proposed Transport Rule would provide for permanent and enforceable emission reductions in the Eastern United States that are significantly greater than the reductions needed to assure maintenance in the Evansville area.

Similar results are obtained by comparing emission estimates in 2012 without the proposed Transport Rule to

emission estimates in 2014 with the proposed Transport Rule. In the proposed Transport Rule, EPA estimated that total emissions across these states would reflect 5,320,173 tons per year lower SO<sub>2</sub> emissions and 933,133 tons per year lower NO<sub>x</sub> emissions in the 2014 controlled case than in the 2012 base case, i.e., emissions that are 61 percent and 18 percent lower, respectively. According to EPA modeling for the proposed Transport Rule, comparing concentrations projected in 2014 with the proposed Transport Rule in place against concentrations projected in 2012 in the absence of a Transport Rule, the Transport Rule achieves approximately a 4 µg/m<sup>3</sup> air quality improvement in the Evansville area, yielding concentrations well below the annual PM<sub>2.5</sub> NAAQS and below the

concentrations that have been achieved by power plant emission reductions to date.

The modeling for the proposed Transport Rule also projects an Evansville area concentration of about 11 µg/m<sup>3</sup> in 2014 based on implementation of the proposed Transport Rule, whereas for purposes of this proposed redesignation it is only necessary for the Transport Rule to help provide for the Evansville area to maintain a concentration at or below 15 µg/m<sup>3</sup>.

This proposal is premised on the expectation that the final Transport Rule will be similarly effective as the proposed Transport Rule would be in providing for maintenance of the 1997 PM<sub>2.5</sub> standard in the Evansville area. Given the substantial margin by which EPA expects the Evansville area to maintain the standard, numerous details

of the final Transport Rule could differ from corresponding features of the proposed Transport Rule without causing changes in the impact on Evansville air quality that are significant for purposes of this proposal to redesignate the Evansville area. This proposal to redesignate the Evansville area is predicated on the final Transport Rule being substantially equivalent for purposes of air quality in the Evansville area to the Transport Rule proposed on August 2, 2010. In EPA's view, this premise will be met if the emission levels expected under the final Transport Rule in states most pertinent to Evansville, and the associated expected air quality benefits in Evansville, are sufficiently similar to the emission levels and associated Evansville air quality benefits expected under the proposed rule so as to provide a comparable degree of confidence that the Evansville area will maintain the standard.

In summary, a limited set of reductions of EGU emissions of SO<sub>2</sub> and NO<sub>x</sub> contributed significantly to the air quality improvement in the Evansville area. Given the remanded status of CAIR, this air quality improvement cannot be considered permanent. However, the proposed Transport Rule proposed to mandate even greater reductions than have already occurred and, more importantly, proposed to mandate more reductions than are needed to maintain the standard in the Evansville area. Therefore, with the final promulgation of a Transport Rule that is substantially equivalent to the proposed rule for purposes of maintaining the standard in the Evansville area, in combination with the other measures cited by Indiana, EPA believes that the emission reductions that led the Evansville area to attain the PM<sub>2.5</sub> air quality standard could be considered as permanent and enforceable for purposes of section 107(d)(3)(E)(iii).

#### 4. Maintenance Plan

Sections 107(d)(3)(E)(iv) and 175A require that the State demonstrate that the area to be redesignated will continue to meet the PM<sub>2.5</sub> NAAQS for at least a ten-year maintenance period after redesignation in 2011. Indiana's maintenance plan includes emission inventories discussed in section V.2.c above.

The sizeable reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions by 2015 and 2022 shown in Table 3 above are due in significant part to restrictions mandated by EPA to reduce power plant emissions of SO<sub>2</sub> and NO<sub>x</sub> in the Eastern United States in order to reduce pollutant transport in

this region. In this inventory, Indiana used emission projections premised on the implementation of CAIR requirements as an approximation of the emissions levels the State projects to occur following the promulgation of the Transport Rule. As explained above, the DC Circuit found CAIR unlawful and remanded it to EPA. Because CAIR is not in place permanently, and because EPA has not completed final promulgation of the Transport Rule, EPA cannot currently grant final approval to a maintenance plan that relies in significant part on either of these rules.

On the other hand, as noted above, EPA's recently proposed Transport Rule would, if finalized, achieve substantial regional reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions. While EPA has not made emission estimates for 2022 that are premised on the implementation of the proposed Transport Rule, Table 4 above shows emission estimates that EPA has made for 2014 that assume the implementation of the proposed Transport Rule. These emission estimates show a substantial decline in SO<sub>2</sub> and NO<sub>x</sub> emissions comparable to that shown in Indiana's maintenance plan. Given the substantial degree of control of the various EGUs in the Evansville area both currently and projected into the future, EPA finds Indiana's projection of such emission declines through 2022 to be appropriate forecasts of future emissions, provided EPA promulgates a final Transport Rule whose requirements are substantially equivalent to those in the proposed rule with respect to continued maintenance of the PM<sub>2.5</sub> annual standard in the Evansville area.

In conjunction with the projections for dramatic declines in Evansville area emissions of SO<sub>2</sub> and NO<sub>x</sub> emissions, Indiana's maintenance plan shows an increase in PM<sub>2.5</sub> emissions. Therefore, further evaluation is needed to judge whether the increase in PM<sub>2.5</sub> emissions, in combination with the decreases in SO<sub>2</sub> and NO<sub>x</sub> emissions, is likely to provide for maintenance of the standard.

Each of these pollutants is characterized by a different relationship between emissions and air quality. Therefore, simply summing up the emissions of these various pollutants does not provide a meaningful indicator of the combined air quality impact of these emission changes. Instead, a more appropriate indicator is the percentage change in emissions for each emitted pollutant, weighted according to the air quality impact for each.

For this purpose, EPA examined speciation data available from its Air

Explorer Web site for 2007 and 2008 for the Evansville area. These data suggest that PM<sub>2.5</sub> in the Evansville area consists of approximately 54 percent sulfate, 7 percent nitrate, 32 percent organic particulate, 4 percent miscellaneous inorganic particulate (sometimes labeled "crustal particles"), and 4 percent other types of particulate matter.

EPA used a conservative approach that assumes that the full ambient concentration of organic particulate matter plus miscellaneous inorganic particulate matter will vary in accordance with changes in total nonattainment area emissions of directly emitted PM<sub>2.5</sub>. This analysis thus assumes that the entirety of this component of ambient PM<sub>2.5</sub> will increase by the 24 percent that Indiana's maintenance plan projects that directly emitted PM<sub>2.5</sub> emissions will increase. In this analysis, the baseline concentration is conservatively assumed to be 15.0 µg/m<sup>3</sup>, of which directly emitted PM<sub>2.5</sub> is estimated to include 32 plus 4 or 36 percent, or 5.4 µg/m<sup>3</sup>. Indiana estimates that emissions of directly emitted PM<sub>2.5</sub> will increase by 24 percent from 2005. EPA's assessment assumes that this increase will cause a corresponding increase in ambient concentrations of PM<sub>2.5</sub>, which would suggest an increase in the concentration of this component by 1.3 µg/m<sup>3</sup>. However, EPA believes that this potential increase will be fully compensated by a greater decrease in sulfate and nitrate concentrations. The precise decrease in sulfate and nitrate concentrations is a complicated result of emission reductions not just in the Evansville area but also in many other parts of the Eastern United States. Nevertheless, modeling conducted by EPA for the proposed Transport Rule estimated that future Evansville area concentrations with the Transport Rule as proposed in place would be about 4 µg/m<sup>3</sup> below the standard, and the emission reductions that have already occurred have already brought Evansville area concentrations to about 13.0 µg/m<sup>3</sup> (as shown in Table 4 above). Therefore, the 1.3 µg/m<sup>3</sup> increase in the components associated with directly emitted PM<sub>2.5</sub> would not be expected to yield concentrations above the standard. That is, EPA expects that the trends in direct emissions of PM<sub>2.5</sub> in the Evansville area will not prevent the area from maintaining the standard.

Maintenance of the 1997 annual PM<sub>2.5</sub> air quality standard in the Evansville area is a function of regional as well as local emissions trends. The regional impacts are dominated by the impacts of SO<sub>2</sub> and NO<sub>x</sub> emissions. The previous section (discussing permanent and

enforceable emission reductions) showed that the proposed Transport Rule could be expected to provide for substantial SO<sub>2</sub> and NO<sub>x</sub> emission reductions through 2014, reductions that would be maintained throughout and well beyond the period (through 2022) addressed in Indiana's maintenance plan. While EPA in its Transport Rule rulemaking developed emission projections extending to 2020 only for a scenario without regional emission limitations and not for a scenario with a Transport Rule in place, the ongoing downward emission trend evident in EPA's 2020 emission projections in absence of regional emission limitations lends support to Indiana's projection that the scenario with regional emission limitations in place will continue to have low emissions in 2022. With a Transport Rule as proposed, the caps on emissions of SO<sub>2</sub> and NO<sub>x</sub> from the power sector will ensure against growth in SO<sub>2</sub> and NO<sub>x</sub> emissions from these sources, and in combination with motor vehicle rules and other rules will assure a continuing decline in SO<sub>2</sub> and NO<sub>x</sub> emissions. Therefore, EPA believes that available emissions data indicate that, with a Transport Rule substantially equivalent to the one proposed, for purposes of maintaining the standard in the Evansville area, the Evansville area can be expected to maintain the standard through 2022.

Under section 175A of the Clean Air Act, maintenance plans must demonstrate attainment through at least 10 years beyond the date of EPA approval of a state's redesignation request. Indiana's maintenance plan, demonstrating maintenance through 2022, satisfies this requirement.

EPA also has modeling evidence indicating that the Evansville area will continue to attain the PM<sub>2.5</sub> NAAQS well into the future, provided that EPA promulgates a Transport Rule substantially equivalent for purposes of demonstrating maintenance in the Evansville area to its recently proposed rule. The first modeling evidence is the modeling analysis, referenced above, that Indiana has submitted. As discussed above, EPA disputes Indiana's contention that its modeling demonstrates attainment in the Evansville area in the absence of CAIR, insofar as the analysis was predicated on 2007 emission levels that already include a set of emission reductions attributable to CAIR. However, EPA believes that Indiana's modeling analysis, showing attainment with implementation of a subset of the emission reductions expected from CAIR, supports the conclusion that

implementation of the full set of reductions that were expected from CAIR (or a relatively similar set of reductions from a Transport Rule) will also assure that the standard is maintained.

EPA has also conducted its own modeling, provided in support of the Transport Rule proposed rulemaking. This modeling projects that the Evansville area will achieve a PM<sub>2.5</sub> concentration of 11.1 µg/m<sup>3</sup> by 2014 if the Transport Rule as proposed is made final. Although EPA did not perform modeling for years later than 2014, the Transport Rule as proposed would provide for utility emissions in 2022 to be similar and in fact slightly lower than emissions in 2014, and more generally EPA expects total emissions to be similar or slightly lower in 2022 than in 2014, so that air quality in 2022 is likely to be similar or slightly better than air quality in 2014 as well. Therefore, these two modeling analyses support the conclusion that should EPA finalize a transport rule that provides for relatively similar air quality in the Evansville area, the Evansville area will maintain the PM<sub>2.5</sub> standard throughout the maintenance plan period.

Indiana's maintenance plan includes additional elements. These include a commitment to continue to operate an EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Indiana currently operates six PM<sub>2.5</sub> monitors in the Evansville area. Indiana remains obligated to continue to quality assure monitoring data in accordance with 40 CFR part 58 and enter all data into the Air Quality System in accordance with Federal guidelines. Indiana will use these data, supplemented with additional information if necessary, to assure that the area continues to attain the standard. Indiana will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (codified at 40 CFR part 51 subpart A) to track future levels of emissions.

Indiana's maintenance plan also includes a contingency plan as required by section 175A(d). The contingency plan provisions are designed to correct promptly or to prevent a violation of the NAAQS that might occur after redesignation. Section 175A of the Clean Air Act requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation, including all measures that were in the plan prior to redesignation. Under

Indiana's plan, if a violation occurs, Indiana will implement an "Action Level Response" to evaluate what measures are warranted to address the violation, in particular considering implementing one or more measures from a list of candidate measures given in the plan. Indiana's candidate contingency measures include diesel retrofit projects, idling restrictions, a wood stove change out program, additional transportation control measures, and additional NO<sub>x</sub> and SO<sub>2</sub> emission controls. Under Indiana's plan, control measures are to be adopted and implemented within 18 months from the end of the season in which air quality triggering the Action Level Response occurred. Indiana further commits to conduct ongoing review of its monitored data, and if monitored concentrations or emissions are trending upward, Indiana commits to take appropriate steps to avoid a violation if possible. EPA believes that Indiana's contingency plan satisfies the pertinent requirements of section 175A(d).

As required by section 175A(b) of the Clean Air Act, Indiana commits to submit to the EPA an updated PM<sub>2.5</sub> maintenance plan eight years after redesignation of the Evansville area to assure maintenance for an additional ten-year period beyond the initial maintenance plan. As required by section 175A of the Clean Air Act, Indiana has also committed to retain the PM<sub>2.5</sub> control measures contained in the SIP prior to redesignation.

For all of the reasons outlined above, EPA is proposing to approve Indiana's maintenance plan for the Evansville area following the establishment of requirements substantially equivalent to the requirements of EPA's proposed Transport Rule for purposes of maintaining the 1997 annual PM<sub>2.5</sub> standard in the Evansville area.

##### 5. Motor Vehicle Emission Budgets

Under section 176(c) of the Clean Air Act, transportation plans and transportation improvement programs (TIPs) must be evaluated for conformity with State Implementation Plans. Consequently, Indiana's redesignation request provides MVEBs, conformance with which will assure that motor vehicle emissions are at or below levels that can be expected to provide for attainment and maintenance of the PM<sub>2.5</sub> NAAQS. Indiana's submittal of April 2008 included emission budgets for NO<sub>x</sub> and PM<sub>2.5</sub> for 2010 and 2020. EPA initiated an adequacy review of the budgets that Indiana included in its April 2008 submittal. As such, a notice of the submission of these budgets was posted on its adequacy web page (<http://www.epa.gov/adequacy>):

[//www.epa.gov/otaq/stateresources/transconf/currstips.htm](http://www.epa.gov/otaq/stateresources/transconf/currstips.htm)). The public comment period closed on July 2, 2008. There were no public comments.

However, Indiana then submitted a replacement set of budgets in its submittals of January and April 2011. These updated budgets address the years 2015 and 2022. (See section V.2.c

of this proposal for a discussion related to the development of the onroad inventory for 2022.) Since these budgets replace the budgets submitted in April 2008, EPA will no longer conduct rulemaking on the April 2008 budgets.

Table 5 shows the updated budgets as well as the 2005, 2015, and 2022 emission projections on which these

budgets are based. Indiana did not provide emission budgets for SO<sub>2</sub>, VOCs, and ammonia because it concluded, consistent with EPA's presumptions regarding these precursors, that emissions of these precursors from motor vehicles are not significant contributors to the area's PM<sub>2.5</sub> air quality problem.

TABLE 5—MOBILE SOURCE EMISSION PROJECTIONS  
[Tons per year]

	NO <sub>x</sub>		PM <sub>2.5</sub>	
	Emissions estimate	Budget	Emissions estimate	Budget
2005 .....	6,528.04	.....	117.67	.....
2015 .....	2,503.19	2628.35	54.33	57.05
2022 .....	1,699.86	1869.84	48.93	53.83

Table 5 shows substantial decreases in on-road NO<sub>x</sub> and PM<sub>2.5</sub> emissions from 2005 to 2015 and additional reductions between 2015 and 2022. The emission reductions are expected because newer vehicles, subject to more stringent emission standards, are continually replacing older, dirtier vehicles. Indiana provided emission budgets that for 2015 include a safety margin of 5 percent above projected levels and that for 2022 include a safety margin of 10 percent above projected levels.

In the Evansville area, the motor vehicle budgets and motor vehicle emission projections for both NO<sub>x</sub> and PM<sub>2.5</sub> are lower than base year levels, but the overall emissions of PM<sub>2.5</sub> summed across all source types is projected to increase. This requires further examination of the question of whether an increase in PM<sub>2.5</sub> emissions by the amounts requested by Indiana as safety margins would still provide for maintenance of the PM<sub>2.5</sub> standard.

The discussion of the maintenance plan above describes EPA's rationale for believing that the impact of the projected increase in PM<sub>2.5</sub> emissions will be more than compensated by the projected decreases in emissions of SO<sub>2</sub> and NO<sub>x</sub>. EPA examined whether the same conclusion would apply if the Evansville area used the entire safety margin, i.e., if mobile source PM<sub>2.5</sub> emissions were higher than projected levels by an amount equal to the safety margin. Using the first approach above, EPA found that if mobile source PM<sub>2.5</sub> are five tons per year higher than baseline projections, the expected impact of the overall PM<sub>2.5</sub> emissions increase still rounds to 1.3 µg/m<sup>3</sup>, which EPA again believes is more than compensated by the decrease in sulfate

and nitrate concentrations resulting from reductions in SO<sub>2</sub> and NO<sub>x</sub> emissions. Similar results are obtained from the second approach for assessing the impact of PM<sub>2.5</sub> emission trends discussed above. Therefore, EPA believes that the requested budgets, including the requested safety margins, provide for a quantity of mobile source emissions that would be expected to maintain the PM<sub>2.5</sub> standard.

EPA has posted Indiana's more recently submitted recommended budgets (for 2015 and 2022) on its adequacy findings web page, to provide parallel opportunities for review of these budgets. These budgets have been submitted by IDEM with the intent that these budgets replace the budgets submitted in 2008 that were subject to previous adequacy review. See (<http://www.epa.gov/otaq/stateresources/transconf/currstips.htm>).

EPA is not able to complete its adequacy review for the Evansville MVEBs for 2015 and 2022 at this time because EPA has not yet taken final action on the proposed Transport Rule. In the absence of a final Transport Rule, we cannot determine if other emissions sources and the budgets, when considered together, are consistent with applicable requirements for maintenance as required by 40 CFR 93.118(e)(4)(iv). Therefore, EPA cannot at this time find the MVEBs adequate. However, EPA is proposing to approve the Evansville MVEBs into the Indiana SIP because, based on our review of the submitted maintenance plan, we have determined that the maintenance plan and motor vehicle emissions budgets will be approvable if the Transport Rule as finalized is substantially equivalent to the proposed rule in terms of its impact on the maintenance of the

standard in the Evansville area. This is consistent with EPA's intentions for acting on the rest of the maintenance plan as described above in this proposal.

The budgets that Indiana submitted were calculated using the MOBILE6.2 motor vehicle emissions model. EPA is proposing to approve the inventory and the conformity budgets calculated using this model because this model was the most current model available at the time Indiana was performing its analysis. Separate from today's proposal, EPA has issued an updated motor vehicle emissions model known as the Motor Vehicle Emission Simulator or MOVES. In its announcement of this model, EPA established a two-year grace period for continued use of MOBILE6.2 in transportation conformity determinations for transportation plans and TIPs (extending to March 2, 2012), after which states and metropolitan planning organizations (other than California) must use MOVES for transportation plan and TIP conformity determinations. (See 75 FR 9411, March 2, 2010.)

Additional information on the use of MOVES in SIPs and conformity determinations can be found in the December 2009 Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes. This guidance document is available at: <http://www.epa.gov/otaq/models/moves/420b09046.pdf>. During the conformity grace period, the State and MPO(s) should use the interagency consultation process to examine how MOVES2010 will impact their future transportation plan and TIP conformity determinations, including regional emissions analyses. For example, an

increase in emission estimates due to the use of MOVES2010 may affect an area's ability to demonstrate conformity for its transportation plan and/or TIP. Therefore, state and local planners should carefully consider whether the SIP and motor vehicle emissions budget(s) should be revised with MOVES2010 or if transportation plans and TIPs should be revised before the end of the conformity grace period, since doing so may be necessary to ensure conformity determinations in the future.

We would expect that states and metropolitan planning organizations would work closely with EPA and the local Federal Highway Administration and Federal Transit Administration offices to determine an appropriate course of action to address this type of situation if it is expected to occur. If Indiana chooses to revise the Evansville maintenance plan, it should consult Question 7 of the December 2009 Policy Guidance on the Use of MOVES2010 for State Implementation Plan Development, Transportation Conformity, and Other Purposes for information on requirements related to such revisions.

#### 6. Summary of Proposed Actions

In its rulemaking of November 27, 2009, EPA determined that the Evansville area is attaining the 1997 annual PM<sub>2.5</sub> NAAQS. EPA's review of more recent data indicates that the area continues to attain this standard. Thus EPA is proposing to determine that the area continues to attain the 1997 annual PM<sub>2.5</sub> standard. EPA is proposing to approve Indiana's maintenance plan, provided EPA promulgates a final Transport Rule substantially equivalent to the Transport Rule as proposed with respect to maintenance of the standard in the Evansville area. EPA proposes to approve the emissions inventory included in Indiana's maintenance plan as satisfying the requirement in section 172(c)(3) for a comprehensive emission inventory. With respect to two criteria for redesignation—permanent enforceable emissions reductions and a fully approvable maintenance plan—EPA believes that Indiana is currently relying on CAIR for a significant portion of the air quality improvement leading to attainment and a significant portion of the reductions needed to maintain the standard. EPA believes, however, that these two prerequisites for redesignation will be satisfied if and when the Transport Rule that EPA proposed on August 2, 2010 is finalized in a form that is substantially equivalent to the rule as proposed, for purposes of maintenance of the annual PM<sub>2.5</sub>

standard in Evansville. Therefore, EPA proposes that the Evansville area will qualify for redesignation to attainment at such time as the Transport Rule in such a form is finalized and takes effect. Finally, EPA is proposing to approve motor vehicle emission budgets for the Evansville area.

#### VI. What are the effects of EPA's proposed actions?

If finalized, approval of the redesignation request would change the legal designation of the Evansville area for the 1997 annual PM<sub>2.5</sub> NAAQS, found at 40 CFR part 81, from nonattainment to attainment. EPA is also proposing to approve several revisions to the Indiana SIP for the Evansville area, including the maintenance plans, the emission inventory submitted with the maintenance plan, and the 2015 and 2022 MVEBs. EPA is proposing to take these actions if and when EPA promulgates the Transport Rule limiting SO<sub>2</sub> and NO<sub>x</sub> emissions in the Eastern United States to an extent substantially equivalent in pertinent respects to the Transport Rule proposed August 2, 2010 for purposes of maintaining air quality in Evansville.

#### VII. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act 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 Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);

- 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 Clean Air Act; and

- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

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

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

Dated: May 6, 2011.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

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