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

[EPA-R05-OAR-2008-0396; FRL-9469-5]

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:** Final 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_{2.5}) standard. This request also included emissions information and related material to address related State Implementation Plan (SIP) requirements. On May 23, 2011, EPA proposed to approve the SIP submittals and to act as requested to redesignate the Evansville PM_{2.5} nonattainment area to attainment. The submittals included emissions inventories, a maintenance plan for the Evansville area for the 1997 annual PM_{2.5} standard and accompanying motor vehicle emissions budgets. EPA received one set of adverse comments and one set of supportive comments. After review and consideration of these comments and of the emission reduction mandates of the final Cross-State Air Pollution Rule promulgated recently, EPA is taking final action to approve the requested SIP revisions and to redesignate the Evansville PM_{2.5} nonattainment area to attainment for the annual 1997 PM_{2.5} standard.

DATES: This final rule is effective on October 27, 2011.**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2008-0396. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form.

Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone 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-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6067, summerhays.john@epa.gov.

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

- I. What actions did EPA propose?
- II. What is the background for these actions?
- III. What comments did EPA receive and what are EPA's responses?
- IV. How does the CSAPR compare to the proposed Transport Rule as it affects Evansville area air quality?
- V. What is EPA's final analysis of Indiana's request?
- VI. Statutory and Executive Order Reviews

I. What actions did EPA propose?

Indiana submitted a request for redesignation of the Evansville area to attainment for the 1997 annual PM_{2.5} National Ambient Air Quality Standards (NAAQS) on April 3, 2008, supplemented by additional subsequent submittals on various dates including submittal of a replacement maintenance plan on April 8, 2011. On May 23, 2011, at 76 FR 29695, EPA published a notice of proposed rulemaking addressing these submittals. In the May 23 action, EPA first referred to EPA's prior final determination that the Evansville area had attained the 1997 annual PM_{2.5} NAAQS (published November 27, 2009, at 74 FR 62243), and proposed to determine that the area continues to attain that standard. Second, EPA proposed to approve Indiana's 1997 annual PM_{2.5} maintenance plan for the Evansville area as a revision to the Indiana SIP, subject to the proviso that EPA promulgate a final Transport Rule requiring power plant emission reductions substantially equivalent for purposes of maintaining the PM_{2.5} standard in Evansville to those proposed in EPA's Transport Rule proposal. Third, EPA proposed to approve the 2005 emission inventory in Indiana's maintenance plan as satisfying the requirement of section 172(c)(3) for

a comprehensive and accurate emissions inventory. Fourth, EPA proposed 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_{2.5} NAAQS under section 107(d)(3)(E) of the Clean Air Act. Finally, EPA proposed to approve the 2015 and 2022 Motor Vehicle Emission Budgets (MVEBs) for the Evansville area into the Indiana SIP. These proposals were generally contingent on EPA finalizing a Transport Rule which, for purposes of this action, was substantially equivalent to the Transport Rule that EPA proposed on August 2, 2010.

II. What is the background for these actions?

The first air quality standards for PM_{2.5} 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/m³), based on a three-year average of annual mean PM_{2.5} concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m³, 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/m³ but revised the 24-hour standard to 35 µg/m³, 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_{2.5} 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_{2.5} 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 DC 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.

The notice of proposed rulemaking identifies multiple submittals that Indiana provided in support of its request for redesignation of the Evansville area. Given the significance of sulfates and nitrates in the Evansville area, several of these submittals focused on the sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from power plants and the regulations governing these emissions.

EPA proposed the Clean Air Interstate Rule (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 SO₂ and NO_x emissions and improve air quality in many areas across the eastern part of the United States. However, as a result of rulings by the Court of Appeals for the District of Columbia Circuit, 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_{2.5} NAAQS, to replace CAIR. (See 75 FR 45210.) In that rulemaking action, EPA proposed to require substantial reductions of SO₂ and NO_x emissions from electric generating units (egus) across most of the Eastern United States. Indeed, EPA's rulemaking notice proposing the Evansville redesignation expressed the view that the Transport Rule as proposed would require reductions of these emissions to levels well below the levels that led to attainment in the Evansville area. On this basis, EPA proposed to conclude that EPA's promulgation of a final Transport Rule would make permanent and enforceable the power plant emission reductions to

which Evansville's air quality improvement were attributable, provided the final Transport Rule was substantially equivalent to the proposed rule for purposes of maintaining the PM_{2.5} air quality standard in the Evansville area.

Final rulemaking for the Transport Rule, also known as the Cross-State Air Pollution Rule (CSAPR), was published on August 8, 2011, at 76 FR 48208. The discussion below addresses the question of whether CSAPR may be considered to be substantially equivalent to the proposed Transport Rule for purposes of maintaining the standard in the Evansville area.

III. What comments did EPA receive and what are EPA's responses?

EPA received two sets of comments on its proposal to redesignate Evansville to attainment for PM_{2.5}. John Blair, on behalf of Valley Watch ("Valley Watch"), opposed the redesignation, and Joanne Alexandrovich, on behalf of the Vanderburgh County Health Department ("Vanderburgh County"), supported the redesignation. The following discussion summarizes the comments and provides EPA's responses.

Comment: Valley Watch states: "Monitors in the region have shown levels of PM_{2.5} to be 'moderate' on many more days than they have been in the range considered 'good' by EPA in 2011."

Response: The air quality index that is cited by the commenter is designed to characterize 24-hour average concentrations in terms such as "good" or "moderate" levels. This index is not designed to report the 1997 annual PM_{2.5} values that are at issue in this redesignation, and is in fact a weak indicator of annual average concentrations. Furthermore, the air quality index that is the focus of the comment often relies on reporting from continuous instruments that, although capable of providing air quality information on a timely basis, may provide less reliable air quality information. For these reasons, and given the imprecise, non-quantitative nature of the information cited by the commenter, we conclude that it is not pertinent to the determination addressed in this rulemaking—whether the Evansville area is meeting the 1997 annual average PM_{2.5}.

As we have previously shown, based on comprehensive and quality-assured air monitoring data presented in the proposed and final determinations of attainment and in the proposed redesignation notice, the Evansville area has been meeting the 1997 annual

average PM_{2.5} standard since 2004 to 2006, and continues to meet that standard. The most recent air quality data available for 2011 is consistent with continued attainment. The information regarding the 24-hour values referred to by the commenter does not bear upon nor detract from EPA's determinations regarding the area's longstanding attainment of the 1997 annual standard.

Comment: Valley Watch claims that the recent air quality improvement "is more likely due to the fact that overall energy production in the region has been about 25% lower than previous years due to the deep recession * * * rather than permanent and enforceable emission limits."

Response: EPA disagrees with the commenter's opinion regarding the cause of the Evansville area's attainment of the standard. The commenter is evidently referring to a recession that the National Bureau of Economic Research found to extend from December 2007 to June 2009. However, EPA determined that the Evansville area attained the standard before this period, as established by air quality data for 2004 to 2006 and for 2005 to 2007. As shown in Table 1 of the notice of proposed rulemaking (see 76 FR 29698, May 23, 2011), data for 2010 indicate that the area continues to attain the standard by a substantial margin, notwithstanding some economic recovery. Thus, as set forth in the proposal and in today's action, EPA continues to believe that the air quality improvement is largely attributable to substantial reductions in power plant emissions. CAIR mandated substantial reductions in power plant emissions. These requirements address emissions through 2011 and EPA has now promulgated CSAPR, which requires similar or greater reductions in the relevant areas in 2012 and beyond. Because the emission reduction requirements of CAIR are enforceable through the 2011 control period, and because CSAPR has now been promulgated to address the requirements previously addressed by CAIR and gets similar or greater reductions in the relevant areas in 2012 and beyond, EPA has determined that the emission reductions that led to attainment in the Evansville area can now be considered permanent and enforceable and that the requirement of Clean Air Act section 107(d)(3)(E)(iii) has now been met.

Comment: Valley Watch contends that some of the numerous power plants in the region near Evansville have indeed installed scrubbers for the control of SO₂, "but those reductions are not

required by permanent and enforceable emission limits. The reductions are mainly undertaken to satisfy cap and trade programs like Clean Air Interstate Rule.” Valley Watch asserts, as a result, that the sources may choose to purchase credits and emit more.

Furthermore, Valley Watch notes that “CAIR was overturned by the DC Court of Appeals”, and so contends that the reductions that it cause cannot be considered permanent or enforceable. It also asserts that the “D.C. Circuit already held that CAIR does not require enforceable reductions in any particular state.”

Response: While EPA views CAIR as likely one of the motivations for the power plant emission reductions that it considers the primary cause for the air quality improvement in the Evansville area, EPA is not relying solely on CAIR as the basis for redesignating the Evansville area to attainment. As explained in the notice of proposed rulemaking, CAIR was ultimately remanded to EPA without vacatur. EPA has now responded to that remand with the promulgation of CSAPR. CAIR limits emissions through the end of the 2011 control periods, and the new Transport Rule limits emissions in 2012 and beyond. With these regulations, EPA is requiring a level of power plant emission control that exceeds the level of reductions that resulted in attainment in the Evansville area.

Several factors contribute to EPA’s expectation that CSAPR will provide even better air quality in the Evansville area than has occurred to date. First, given the mandates under CSAPR, any utility that has already spent the hundreds of millions of dollars to install scrubbers will clearly find continued effective operation of these scrubbers to be far more cost-effective than disregarding this investment and either spending more hundreds of millions of dollars installing replacement scrubbers elsewhere or purchasing credits at a price equivalent to spending those hundreds of millions of dollars. In short, any utility in a state covered by CSAPR provisions related to PM_{2.5} that has installed scrubbers is almost certain under CSAPR to retain the scrubbers and operate them effectively. Second, any action by a utility that increases its emissions, requiring the purchase of allowances, thereby necessitates a corresponding emission reduction by the utility that sells the allowances. Given the regional nature of particulate matter, this corresponding emission reduction will have an air quality benefit that will compensate at least in part for the impact of any emission increase from Evansville area utilities.

Third, in response to the opinion of the Court of Appeals for the District of Columbia Circuit, CSAPR trading programs include assurance provisions to ensure that the necessary emission reductions occur within each covered state.

Comment: Valley Watch argues that, while the Transport Rule “is supposed to be finalized in a matter of weeks,” EPA has encountered delays in several of its rulemakings, and EPA may not rely on a rule that has not yet been promulgated.

Response: EPA stated in its notice of proposed rulemaking that it would not publish final rulemaking until the Transport Rule was made final. CSAPR has now been promulgated. EPA notes that, along with promulgation of CSAPR, EPA issued a supplemental notice of proposed rulemaking to include six additional states in the summer season NO_x trading program. (See 76 FR 40662, published July 11, 2011.) EPA is not relying, in this redesignation, on reductions that would be achieved if that supplemental proposal is finalized as proposed.

Comment: Valley Watch states that “EPA has offered no analysis, under Clean Air Act 110(l), of what impact this redesignation would have on compliance with the 1997 and 2008 ozone NAAQS, the 2006 PM_{2.5} NAAQS and the 2010 1-hour SO₂ and NO_x NAAQS.”

Response: This redesignation does not relax any existing control requirements, nor does it affect any existing control requirements. On this basis, EPA concludes that this redesignation will not interfere with attainment or maintenance of any of these air quality standards.

Valley Watch attached comments dated March 27, 2008, that it submitted to Indiana during the State’s comment period on a State proposal to request redesignation. Since these comments were summarized in Indiana’s submittal, EPA has already considered them as part of that review process. Nevertheless, since the commenter has resubmitted these comments, EPA will provide responses to those comments as well.

Comment: Valley Watch commented that the air quality standard of 15 µg/m³ is not protective of community health.

Response: Comments regarding the appropriateness or adequacy of the 1997 PM_{2.5} air quality standard are not germane to this rulemaking. At issue here is whether the Evansville area meets the criteria in section 107(d)(3)(E) for being redesignated as attaining the 1997 annual average PM_{2.5} air quality standard that was established in a prior

rulemaking that cannot be challenged here.

Comment: Valley Watch reviews emission controls by power plants in the Evansville area. It claims that one plant (Gibson Station) is controlling only about 50 percent of the SO₂ emissions from three of its five units, and that another plant (Rockport Station) has no plans to control either NO_x or SO₂ emissions until at least 2018.

Response: Data available on the Clean Air Markets public data repository show that emissions for all five units at Gibson Station declined by well more than 50 percent from 2002 to 2010, adding up to a reduction by over 80 percent. The dates when the commenter expects control of Rockport Station are similar to the dates by which a federal consent decree requires control, though other requirements may result in earlier installation of these controls. However, the commenter does not explain the relevance of these comments.

The relevant issues for this rulemaking are whether current emission control levels suffice for the area to attain the standard, whether the air quality improvement leading to attainment is attributable to permanent and enforceable emission reductions, and whether the area is assured of continuing to attain the standard. Redesignation is not contingent on achieving all possible emission controls. The emission controls that have occurred to date have sufficed for the Evansville area to attain the standard, EPA finds that the air quality improvement may be attributed to a permanent and enforceable set of emission reductions, and Indiana has demonstrated that sufficient control requirements are in place to assure that the Evansville area will maintain the standard.

Comment: Valley Watch states that Indiana should not use data from 2004 to 2006 and should instead wait to collect another year of data to see if air quality in Evansville is “clean and healthy.” The commenter claims that 13 percent of the data is missing in 2006 and 16 percent is missing in 2007, “mostly during periods when high levels of fine particles are historically formed.” Valley Watch states that, “if our design value was approaching the level recommended by [the Clean Air Science Advisory Committee] of 14 µg/m³, * * * data missing on days of high levels would not be such an issue.”

Response: EPA has examined and evaluated quality-assured data for more than four years beyond 2006 and concludes that the area continues to attain the standard. As a general matter,

under 40 CFR part 50 Appendix N, data sets that include at least 75 percent of the scheduled data are deemed complete and may be considered to provide an adequate representation of PM_{2.5} concentrations. This topic was addressed specifically for the Evansville area in EPA's determination of attainment and in the proposed redesignation. Furthermore, Valley Watch provided no analysis in support of its allegation that the data are unrepresentative. Data meeting the quality assurance requirements in EPA's regulations show that the area has been continuously in attainment with the 1997 annual average PM_{2.5} standard since 2006. The design value for the area is now well below 14 µg/m³, so that Valley Watch's comment suggests that it must now concede that differences between actual data capture rates in the area and 100 percent data capture may be considered insignificant.

Comment: Valley Watch includes critical comments questioning the integrity of certain State and local officials.

Response: The comments do not raise issues relevant to redesignation, and are not germane to this rulemaking.

Comment: Vanderburgh County comments that it believes the State of Indiana has submitted a redesignation package that "meets all statutory, regulatory, and guidance requirements" for Evansville to be redesignated to attainment.

Response: EPA agrees.

Comment: Vanderburgh County contends that "redesignation should not be contingent on final promulgation of the [Transport Rule]." The commenter adds that the area was meeting the air quality standard by 2006, and disagrees with EPA's statement "that air quality monitoring between 2004 and 2006 'would reflect the benefits from EPA's development, proposal, and promulgation of CAIR.'" The commenter provides emissions data for power plants within 100 kilometers of Evansville and elsewhere in Indiana and Kentucky, to support a claim that attainment cannot be attributed to CAIR. The emissions data, derived from the EPA Clean Air Markets Web site from 1995 to 2010, suggest that regional power plant emissions of SO₂ were relatively constant from 2001 to 2006 and only declined significantly thereafter. The commenter believes that the emissions data indicate that NO_x emissions steadily and significantly declined from 1998 to 2004 and then held relatively steady until declining again starting in 2009.

The commenter agrees that power plant emissions dominate air quality in

the Evansville area. Indeed, the commenter finds that "PM_{2.5} annual design values are highly correlated with the SO₂ and NO_x emissions from coal fired EGUs located within 100 km of Evansville (R² coefficients ≈ 0.80)."

However, the commenter expresses doubt in the view that CAIR caused significant emission reductions by 2006, when the Evansville area came into attainment. The commenter expresses the view that the area's air quality improvement is attributable to power plant emission reductions resulting from the Acid Rain Program.

Response: EPA has now promulgated CSAPR, which limits emissions in the relevant area and will replace CAIR. As explained above, CAIR limits emissions through the end of the 2011 control periods, and CSAPR will limit emission in 2012 and beyond.

The commenter does well to consider power plant emissions data for a region that extends beyond the boundaries of the Evansville nonattainment area. Indeed, EPA's notice of proposed redesignation addressed emissions for 13 states including Indiana, and EPA continues to believe that it is appropriate to examine pertinent emissions trends in this broad area. The trends across this 13-state region are similar to those identified by the commenter in the less broad region.

In conjunction with its Transport Rule rulemaking, EPA conducted an extensive examination of pertinent emissions data and, because the Transport Rule was to replace CAIR, EPA evaluated air quality under a baseline that did not include CAIR. EPA's final Transport Rule analysis, which took into account comments received on the proposal, projected that the Evansville area would attain the annual PM_{2.5} standard in 2012 even in the absence of reductions due solely to CAIR and not required by other Federal or state regulations or consent decrees). EPA did not conduct a direct assessment of whether the Evansville area would have attained in 2004 to 2006 in absence of CAIR, and any extrapolation from EPA's 2012 analysis is complicated by consideration of other emission controls mandated by 2012 (e.g., by the settlement of enforcement cases and the imposition of state mandates) that are independent of CAIR and CSAPR that mostly occurred after Evansville attained the standard. Furthermore, the motivations for power plant emission reductions are difficult to discern. In any case, the promulgation of CSAPR makes it no longer necessary to determine what originally motivated the power plant emission reductions that yielded

attainment. The CAIR emission reduction requirements limit emissions through 2011 and EPA has now promulgated CSAPR which requires similar or greater reductions in the relevant areas in 2012 and beyond. In particular, CSAPR requires reduction of these emissions to levels well below the levels that led to attainment of the 1997 annual PM_{2.5} standard in the Evansville area.

EPA and the commenter agree that the air quality improvement is attributable to emission reductions that are enforceable and now permanently required. The requirements of the Acid Rain Program are permanent and enforceable and the requirements of CSAPR, which replaces CAIR and requires equivalent or greater reductions in the relevant areas, are also permanent and enforceable. Thus, the emission reductions that led to attainment in the Evansville area can be said to be permanent and enforceable emission reductions. As noted above, CSAPR, while not requiring identical reductions to CAIR, mandated sufficient reductions in the relevant areas to guarantee that any reductions originally associated with CAIR that may have been necessary for the Evansville area to demonstrate attainment are now permanently required.

IV. How does CSAPR compare to the proposed Transport Rule as it affects Evansville area air quality?

EPA's proposal to redesignate the Evansville area to attainment was contingent in some respects on the final Transport Rule being substantially equivalent to the proposed Transport Rule with respect to air quality in the Evansville area. For example, EPA stated that it proposed to conclude that the air quality could be attributed to permanent and enforceable measures once EPA promulgated the final Transport Rule, provided EPA issued "final promulgation of a Transport Rule that is substantially equivalent to the proposed rule for purposes of maintaining the standard in the Evansville area". EPA included a similar proviso in the review of Indiana's maintenance plan. Therefore, the following discussion compares the final against the proposed Transport Rule.

Table 1 shows the proposed and final annual NO_x and annual SO₂ budgets for the 13 states that EPA had proposed to find significantly contribute to or interfere with maintenance of the 1997 annual PM_{2.5} NAAQS in the Evansville area. EPA ultimately did not conclude that these states significantly contribute to, or interfere with, maintenance of

these NAAQS in the Evansville area, because it determined that even in the absence of CAIR, the Evansville area

would attain the standard in 2012. Nonetheless, EPA continues to believe that these 13 states are the most relevant

with respect to Evansville area air quality.

TABLE 1—SO₂ AND NO_x EMISSION BUDGETS FOR 2012 IN PROPOSED AND FINAL TRANSPORT RULE [tons]

State	SO ₂ Budgets		Annual NO _x Budgets	
	Proposed TR 2012	Final TR 2012	Proposed TR 2012	Final TR 2012
Indiana	400,378	285,424	115,687	109,726
Alabama	161,871	216,033	69,169	72,691
Georgia	233,260	158,527	73,801	62,010
Illinois	208,957	234,889	56,040	47,872
Iowa	94,052	107,085	46,068	38,335
Kentucky	219,549	232,662	74,117	85,086
Michigan	251,337	229,303	64,932	60,193
Missouri	203,689	207,466	57,681	52,374
Ohio	464,964	310,230	97,313	92,703
Pennsylvania	388,612	278,651	113,903	119,986
Tennessee	100,007	148,150	28,362	35,703
West Virginia	205,422	146,174	51,990	59,472
Wisconsin	96,439	79,480	44,846	31,628
Total	3,028,537	2,634,074	893,909	867,779

This comparison supports EPA’s conclusion that the final Transport Rule requires power plant emission reductions that are, for purposes of maintaining the PM_{2.5} standard in Evansville, at least substantially equivalent to those proposed.

V. What is EPA’s final analysis of Indiana’s request?

EPA continues to believe that the Evansville area meets the criteria of Clean Air Act section 107(d)(3)(E) for redesignation to attainment for the 1997 annual PM_{2.5} air quality standard. First, EPA has determined that the air quality in the area meets the 1997 annual PM_{2.5} standard. Second, with the approval today of a comprehensive emission inventory (in satisfaction of the requirement in section 172(c)(3)), EPA has fully approved the applicable implementation plan. Third, with the final promulgation of CSAPR, in conjunction with the Federal motor vehicle control program and other emission reductions, EPA believes that the air quality improvement in the Evansville area may be attributed to measures that are permanent and enforceable. Fourth, EPA believes that Indiana has provided a maintenance plan for the PM_{2.5} standard through 2022 that meets the requirements of section 175A. Fifth, EPA believes that Indiana has met all pertinent planning requirements for the Evansville area under section 110 and Part D.

Therefore, EPA is taking several actions. EPA is approving Indiana’s PM_{2.5} emission inventory for the

Evansville area as meeting the requirements of section 172(c)(3). Pursuant to section 175A, EPA is approving the State’s maintenance plan as providing for maintenance through 2022. EPA is redesignating the Evansville area to attainment of the 1997 annual PM_{2.5} air quality standard. Finally, EPA is establishing transportation conformity budgets for the area, specifically budgets for NO_x of 2,628.35 tons per year in 2015 and 1869.84 tons per year in 2022 and budgets for direct emissions of PM_{2.5} of 57.05 tons per year in 2015 and 53.83 tons per year in 2022.

VI. 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 Clean Air 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.

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United

States Court of Appeals for the appropriate circuit by November 28, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 12, 2011.
Susan Hedman,
Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart P—Indiana

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

§ 52.776 Control strategy: Particulate matter.

* * * * *

INDIANA PM_{2.5}
 [Annual NAAQS]

(v) Approval—The 1997 annual PM_{2.5} maintenance plans for the following areas have been approved:

(1) The Evansville area (Dubois, Vanderburgh, and Warrick Counties, and portions of Gibson, Pike, and Spencer Counties), as submitted on April 8, 2011. The maintenance plan establishes 2015 motor vehicle emission budgets for the Evansville area of 2628.35 tons per year for NO_x and 57.05 tons per year for PM_{2.5}, and 2022 motor vehicle emission budgets of 1869.84 tons per year for NO_x and 53.83 tons per year for PM_{2.5}.

(2) [Reserved]

(w) Approval—The 1997 annual PM_{2.5} comprehensive emissions inventories for the following areas have been approved:

(1) Indiana’s 2005 NO_x, directly emitted PM_{2.5}, and SO₂ emissions inventory satisfies the emission inventory requirements of section 172(c)(3) for the Evansville area.

(2) [Reserved]

PART 81—[AMENDED]

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

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

- 4. Section 81.315 is amended by revising the entry for “Evansville, IN” in the table for Indiana PM_{2.5} (Annual NAAQS) to read as follows:

§ 81.315 Indiana.

* * * * *

Designated area	Designation ^a	
	Date ¹	Type
* * * * *		
Evansville, IN	10/27/2011	Attainment.
Dubois County.		
Gibson County (part).		
Montgomery Township.		
Pike County (part).		
Washington Township.		
Spencer County (part).		
Ohio Township.		
Vanderburgh County.		
Warrick County.		
* * * * *		

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

* * * * *
 [FR Doc. 2011-24371 Filed 9-26-11; 8:45 am]
 BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 98

[EPA-HQ-OAR-2011-0417; FRL-9469-4]

RIN 2060-AP99

Mandatory Reporting of Greenhouse Gases: Petroleum and Natural Gas Systems: Revisions to Best Available Monitoring Method Provisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing amendments to certain provisions related to the use of best available monitoring methods for the Petroleum and Natural Gas Systems source category of the Greenhouse Gas Reporting Rule. Specifically, EPA is extending the time period during which owners and operators of facilities would be permitted to use best available monitoring methods in 2011, without submitting a request to the Administrator for approval. EPA is also expanding the list of types of emissions sources for which owners and operators are not required to submit a request to the Administrator to use best available

monitoring methods during 2011 and extending the deadline by which owners and operators of facilities can request use of best available monitoring methods for beyond 2011.

DATES: This final rule is effective on September 30, 2011.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2011-0417. All documents in the docket are listed in the <http://www.regulations.gov> index.

Although listed in the index, some information may not be publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available in hard copy only. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA's Docket Center, EPA/DC, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the Air Docket is (202) 566-1742.

FOR FURTHER INFORMATION CONTACT: Carole Cook, Climate Change Division, Office of Atmospheric Programs (MC-

6207), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 343-9263; fax number: (202) 343-2342; e-mail address: GHGReportingRule@epa.gov. For technical information and implementation materials, please go to the Web site <http://www.epa.gov/climatechange/emissions/subpart/w.html>. To submit a question, select Rule Help Center, followed by "Contact Us."

Worldwide Web (WWW). In addition to being available in Docket ID No. EPA-HQ-OAR-2011-0417, following the Administrator's signature, an electronic copy of this final rule will also be available through the WWW on EPA's Greenhouse Gas Reporting Program Web site at <http://www.epa.gov/climatechange/emissions/ghrulemaking.html>.

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The Administrator determined that this action is subject to the provisions of Clean Air Act (CAA) section 307(d). See CAA section 307(d)(1)(V) (the provisions of section 307(d) apply to "such other actions as the Administrator may determine"). This final rule affects owners or operators of petroleum and natural gas systems. Regulated categories and entities may include those listed in Table 1 of this preamble:

TABLE 1—EXAMPLES OF AFFECTED ENTITIES BY CATEGORY

Source category	NAICS	Examples of affected facilities
Petroleum and Natural Gas Systems	486210	Pipeline transportation of natural gas.
	221210	Natural gas distribution facilities.
	211	Extractors of crude petroleum and natural gas.
	211112	Natural gas liquid extraction facilities.

Table 1 of this preamble is not intended to be exhaustive, but rather provides a guide for readers regarding facilities likely to be affected by this action. Table 1 of this preamble lists the types of facilities of which EPA is aware could be potentially affected by the reporting requirements. Other types of facilities not listed in the table could also be affected. To determine whether you are affected by this action, you should carefully examine the applicability criteria found in 40 CFR part 98, subpart W or the relevant criteria in the sections related to petroleum and natural gas systems. If you have questions regarding the applicability of this action to a particular facility, consult the person

listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

What is the effective date? The final rule is effective on September 30, 2011. Section 553(d) of the Administrative Procedure Act (APA), 5 U.S.C. Chapter 5, generally provides that rules may not take effect earlier than 30 days after they are published in the **Federal Register**. EPA is issuing this final rule under section CAA 307(d)(1), which states: "The provisions of section 553 through 557 * * * of Title 5 shall not, except as expressly provided in this section, apply to actions to which this subsection applies." Thus, section 553(d) of the APA does not apply to this rule. EPA is nevertheless acting consistently with the purposes underlying APA section 553(d) in

making this rule effective on September 30, 2011. Section 5 U.S.C. 553(d)(3) allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." As explained below, EPA finds that there is good cause for this rule to become effective on or before September 30, 2011, even though this will result in an effective date fewer than 30 days from the date of publication in the **Federal Register**.

The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. That purpose, to provide affected parties a reasonable time to adjust to the rule