the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994).

5. ''PM–10 Guideline Document,'' EPA 452/R–93–008, April 1993.

6. ''Fugitive Dust Background Document and Technical Information Document for Best Available Control Measures,'' EPA 450/2–92–004, September 1992.

B. Do the rules meet the evaluation criteria?

These rules are consistent with CAA and regulatory requirements and relevant guidance regarding enforceability, BACM, RACM/RACT, and SIP revisions. EPA's TSDs include more information on our evaluation of the rules.

C. EPA Recommendations To Further Improve the Rules

The TSDs include recommendations for the next time the ICAPCD modifies the rules.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules (except for Rule 428 section E.4.2) because they fulfill all relevant requirements. We will accept comments from the public on this proposal until June 3, 2019. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the ICAPCD rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

IV. 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, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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 Clean Air Act; and
- does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: April 18, 2019.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2019–08975 Filed 5–2–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2018–0733; FRL–9993–26–Region 5]

Air Plan Approval; Indiana; Redesignation of the Terre Haute Sulfur Dioxide Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to redesignate the Terre Haute area from nonattainment to attainment for the 2010 sulfur dioxide (SO_2) standard. The area consists of Fayette and Harrison Townships in Vigo County, Indiana. EPA is also proposing to approve Indiana's maintenance plan for this area.

DATES: Comments must be received on or before June 3, 2019.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0733 at *http://www.regulations.gov,* or via email to *aburano.douglas@epa.gov.* For comments submitted at *Regulations.gov,* follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing

system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Samantha Panock, 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)353–8973, *panock.samantha@epa.gov.*

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

I. Background

On June 22, 2010 (75 FR 35520), EPA published a revised primary SO_2 national ambient air quality standard (NAAQS) of 75 parts per billion (ppb), which is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour concentrations does not exceed 75 ppb. This NAAQS was codified at 40 CFR 50.4. On July 25, 2013 (78 FR 47191), EPA published its initial air quality designations for the SO_2 NAAQS based upon air quality monitoring data for calendar years 2009–2011. In that action, the Vigo County area comprised of Fayette and Harrison Townships was designated nonattainment for the SO_2 NAAQS (Terre Haute nonattainment area).

Indiana was required to submit a nonattainment State Implementation Plan (SIP) that meets the requirements of sections 172(c) and 191–192 of the Clean Air Act (CAA) and provide for attainment of the SO_2 NAAQS as expeditiously as practicable, but no later than October 4, 2018, which represents five years after the area was originally designated as nonattainment under the 2010 SO_2 NAAQS. SO_2 emissions from all sources within the nonattainment area totaled 56,238 tons in 2011, and 2,662 tons in 2017. Due to a variety of factors, including the retirement of all coal-fired electric generating units at Wabash River Generating Station, there has been a significant, permanent, and enforceable reduction in SO_2 emissions within the Terre Haute nonattainment area. In addition, the area's SO_2 monitors' 3-year SO_2 design values [1] for 2015–2017 had fallen below the SO_2 NAAQS. Consequently, the Indiana Department of Environmental Management (IDEM) submitted a redesignation request on October 24, 2018. For the reasons set forth in this document, EPA is proposing to redesignate the area to attainment.

II. Redesignation requirements

Under CAA section 107(d)(3)(E), there are five criteria which must be met before a nonattainment area may be redesignated to attainment.

1. EPA has determined that the relevant NAAQS has been attained in the area.

2. The applicable implementation plan has been fully approved by EPA under section 110(k).

3. EPA has determined that improvement in air quality is due to permanent and enforceable reductions in emissions resulting from the SIP, Federal regulations, and other permanent and enforceable reductions.

4. EPA has fully approved a maintenance plan, including a contingency plan, for the area under section 175A of the CAA.

5. The State has met all applicable requirements for the area under section 110 and part D.

A. Determination of Attainment

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). As stated in the April 2014 ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' for SO_2, there are two components needed to support an attainment determination: A review of representative air quality monitoring data, and a further analysis, generally requiring air quality modeling, to demonstrate that the entire area is attaining the applicable standard, based on current actual emissions or the fully implemented control strategy. Indiana has addressed both components.

Under EPA regulations at 40 CFR 50.17, the SO_2 standard is met at an ambient air quality monitoring site when the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations is less than or equal to 75 ppb, as determined in accordance with appendix T of 40 CFR part 50, at all relevant monitoring sites in the subject area. EPA has reviewed the ambient air monitoring data for the Terre Haute nonattainment area. The Terre Haute nonattainment area has two SO_2 monitoring sites located in Terre Haute—the Lafayette Avenue site and the Ft. Harrison Road site. This review addresses air quality data collected in the 2015–2017 period, which are the most recent quality assured data available. All data considered are complete, quality assured, certified, and recorded in EPA's Air Quality System database.

Table 1 shows the 2014–2017 design values for the Terre Haute nonattainment area. The 3-year average design values for 2014–2016 are 71 ppb and 114 ppb, respectively, for the Lafayette Avenue and Ft. Harrison Road monitoring sites. The 2015–2017 design values are 44 ppb and 75 ppb, respectively. All design values for 2015–2017 are at or below the SO_2 standard. Therefore, the Terre Haute SO_2 monitors clearly show attainment. Preliminary data for 2018 indicate that the area continues to attain the SO_2 standard.

TABLE 1—MONITORING DATA FOR THE TERRE HAUTE NONATTAINMENT AREA FOR 2014–2017

Site	Site name	Year and 99th percentile value (ppb)				3-Year design values 2014–2016 (ppb)	3-Year design values 2015–2017 (ppb)
		2014	2015	2016	2017		
18–167–0018	Lafayette Ave	85	71	58	3	71	44

[1] The design value is a statistic computed according to the data handling procedures of the NAAQS (in 40 CFR part 50 appendix T) that, by comparison to the level of the NAAQS, indicates whether the area is violating the NAAQS. For SO_2, the design value is the 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations.

TABLE 1—MONITORING DATA FOR THE TERRE HAUTE NONATTAINMENT AREA FOR 2014–2017—Continued

Site	Site name	Year and 99th percentile value (ppb)				3-Year design values 2014–2016 (ppb)	3-Year design values 2015–2017 (ppb)
		2014	2015	2016	2017		
18–167–1014	Ft. Harrison Rd	120	103	120	3	114	75

Regarding the second component of the attainment determination, IDEM has performed extensive modeling of the Terre Haute nonattainment area to determine the effect of local and national emission control strategies on SO_2 and to demonstrate attainment of the SO_2 NAAQS.

A total of seven sources were included in the SO_2 attainment demonstration and technical support document for the Terre Haute nonattainment area submitted to EPA for review and approval on October 2, 2015. These facilities are: (1) Duke Energy—Wabash River Generating Station, (2) Wabash Valley Power Authority—Wabash River CC Plant, (3) sqSolutions, (4) Sony DADC, (5) Taghleef Industries, (6) Terre Haute Regional Hospital, and (7) Terre Haute Union Hospital.

The American Meteorological Society/Environmental Protection Agency Regulatory Model (AERMOD version 14134) was the regulatory air quality model used for the 2010 SO_2 attainment demonstration modeling for the Terre Haute nonattainment area. Five years, 2008–2012, of surface meteorological data from the Indianapolis, IN National Weather Service (NWS) site was used in conjunction with five years of concurrent upper-air meteorological data from Lincoln, Illinois.

Several Federal rulemakings established allowable limits for the seven sources listed previously. These rulemakings include the Cross State Air Pollution Rule (CSAPR), Mercury and Air Toxics Standards (MATS), and National Emission Standards for Hazardous Air Pollutants for Major Sources (NESHAP): Industrial, Commercial, and Institutional Boilers and Process Heaters. These limits, which were adopted at 326 Indiana Administrative Code (IAC) 7–4–3.1, have been applied to the seven sources.

The AERMOD modeling results for the Terre Haute nonattainment area showed a maximum 1-hour SO_2 concentration of 167.0 micrograms per cubic meter (µg/m3). When added to a background concentration value of 23.0 µg/m3, a total 1-hour SO_2 concentration of 189.9 µg/m3 is achieved. This is below the 1-hour SO_2 NAAQS of 75 ppb or 196.2 µg/m3 and, therefore, demonstrates attainment of the NAAQS for SO_2.

In summary, the monitored data show attainment for 2015–2017, and IDEM has demonstrated, via modeling, that sources within the area are not expected to cause future violations in the area because of the permanent and enforceable limits that apply to those sources. Therefore, EPA agrees that the Terre Haute nonattainment area is currently attaining the SO_2 NAAQS.

B. Permanent and Enforceable Emission Reductions

To support the redesignation of an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the attainment demonstration and applicable Federal air pollution control regulations as well as any other permanent and enforceable emission reductions. As previously stated, the reduction in emissions from the seven sources in the area has led to a decrease in monitored levels. The controls and operational changes that were made by the seven facilities, as well as unit retirements, resulted in emission reductions for the nonattainment area between the 2011 nonattainment base year and the 2017 attainment year.

Table 2 compares SO_2 emissions for all sources (*i.e.,* EGU sources, non-EGU point sources, non-point sources (area), non-road sources, and on-road sources) for the 2011 nonattainment year and the 2017 attainment year for the Terre Haute area. SO_2 emissions within Terre Haute declined by 99.7% between the nonattainment year (2011) and the attainment year (2017) resulting in attainment of the 2010 SO_2 NAAQS.

TABLE 2—COMPARISON OF 2011 (NONATTAINMENT YEAR) AND 2017 (ATTAINMENT YEAR) SO_2 EMISSIONS, ALL SOURCES, TERRE HAUTE, INDIANA

[Tons per year]

	2011	2017	Change	% Change
SO_2	56,238	191	−56,046	−99.7

As indicated above, the seven facilities identified in the attainment plan have reduced their emissions from the 2011 nonattainment year to the 2017 attainment year. Table 3, below, shows the reductions that took place from 2011 to 2017.

TABLE 3—EMISSION REDUCTION COMPARISON OF 2011 (NONATTAINMENT YEAR) AND 2017 (ATTAINMENT YEAR) FOR SO_2 EMISSIONS, TERRE HAUTE, INDIANA

[Tons per year]

Affected source	Type of reduction	Effective date of reduction	2011 Emissions (tpy)	2017 Emissions (tpy)	Change (tpy)
Duke Energy—Wabash River	Facility Retirement	2016	55,343	0	−55,343

TABLE 3—EMISSION REDUCTION COMPARISON OF 2011 (NONATTAINMENT YEAR) AND 2017 (ATTAINMENT YEAR) FOR SO_2 EMISSIONS, TERRE HAUTE, INDIANA—Continued

[Tons per year]

Affected source	Type of reduction	Effective date of reduction	2011 Emissions (tpy)	2017 Emissions (tpy)	Change (tpy)
Wabash Valley PA—Wabash River CC Plant.	Operational Limits	1/1/17	267	<1	−266
sgSolutions	Operational Limits	1/1/17	50	0	−50
Sony DADC	Fuel Switch (coal to natural gas)	1/1/17	168	18	−150
Taghleef Industires	Unit Retirement & Fuel Switch (coal to natural gas).	1/1/17	238	<1	−237
Terre Haute Regional Hospital	None—Existing Operational Limits	1/1/17	49	49	0
Terre Haute Union Hospital	None—Existing Operational Limits	1/1/17	123	123	0

EPA agrees that the improvement in air quality in the nonattainment area is due to permanent and enforceable emission reductions, as described more fully in EPA's March 22, 2019 approval of Indiana's attainment demonstration [84 FR 10692]. In preparing its attainment plan, Indiana adopted revisions to the previously approved SO_2 regulations at 326 IAC 7. These rule revisions were adopted by the Indiana Environmental Rules Board following established, appropriate public review procedures. In addition, the rule revisions provide unambiguous, permanent emission limits, expressed in lbs/hour of allowable SO_2 emissions, that, if exceeded by a source, would be clear grounds for an enforcement action.

Revised limits for the seven facilities identified above are codified in 326 IAC 7, titled ''Sulfur Dioxide Rules.'' These are: ''Compliance date'' (326 IAC 7–1.1–3, which contains a compliance date of January 1, 2017), ''Reporting requirements; methods to determine compliance'' (7–2–1), ''Vigo County sulfur dioxide emission limitations'' (7–4–3.1). The rules also include associated monitoring, testing, and recordkeeping and reporting requirements. For example, continuous emission monitoring will be conducted for assessing compliance with the 30-day average limits. Specifically, 326 IAC 7–1–10.1 is being replaced by 326 IAC 7–4–3.1 for Vigo County. EPA finds these limits to be enforceable. An additional summary of the limits is provided in EPA's March 22, 2019 approval of Indiana's attainment demonstration (84 FR 10692). The attainment plan also satisfies requirements for emission inventories, RACT/RACM, RFP, and contingency measures. Additionally, Indiana has previously addressed requirements regarding nonattainment area NSR rules. Therefore, EPA has determined that Indiana's SO_2 attainment plan meet the applicable requirements of CAA sections 110, 172, 191, and 192.

C. Requirements for the Area Under Section 110 and Part D

As a criterion for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA). Indiana's submission meets section 110 and part D requirements. EPA approved Indiana's infrastructure SIP for SO_2 on August 3, 2015 (80 FR 48733). In this infrastructure SIP approval, EPA determined that Indiana's SIP meets the requirements of CAA section 110(a)(1) and 110(a)(2) and contains the basic program elements, such as an active enforcement program and permitting program.

With the redesignation request of October 24, 2018, Indiana submitted information addressing the SIP requirements under section 172 and part D. Indiana submitted an attainment inventory of the SO_2 emissions from sources in the nonattainment area on October 2, 2015. Indiana chose 2011 for its base year emissions inventory, as comprehensive emissions data was available and updated that year, which satisfies the 172(c)(3) requirements. The seven facilities identified in the previous section were the main sources in the nonattainment area.

Table 4 compares SO_2 emissions for all sources for the 2017 attainment year and the 2030 maintenance year for Terre Haute, Indiana. SO_2 emissions within the Terre Haute area are projected to decline by 71% between 2017 and 2030, primarily due to facility and unit retirement, fuel switching (coal to natural gas), and operational limits (SIP approved emission limits based on 1-hour SO_2 rates in pounds per hour identified for each facility in 326 IAC 7–4–3.1). The decrease in emissions shown between the attainment year (2017) and the maintenance year (2030) in Table 3 illustrates that continued maintenance of the 2010 1-hour SO_2 NAAQS is expected.

TABLE 4—COMPARISON OF 2017 (ATTAINMENT YEAR) AND 2030 (MAINTENANCE YEAR) SO_2 EMISSIONS, ALL SOURCES, TERRE HAUTE, INDIANA

[Tons per year]

	2017	2030	Change	% Change
SO_2	9,231	2,662	−6,569	−71

Section 172(c)(1) requires nonattainment area SIPs to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and to provide for attainment of the NAAQS. EPA's longstanding interpretation of the nonattainment planning requirements of section 172 is that once an area is attaining the NAAQS, those requirements are not applicable for purposes of CAA section 107(d)(3)(E)(ii) and therefore need not be approved into the SIP before EPA can redesignate the area. In the 1992 General Preamble for

Implementation of Title I, EPA set forth its interpretation of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard. *See* 57 FR 13498, 13564 (April 16, 1992). EPA noted that the requirements for reasonable further progress (RFP) and other measures designed to provide for attainment do not apply in evaluating redesignation requests because those nonattainment planning requirements ''have no meaning'' for an area that has already attained the standard. EPA's understanding of section 172 also forms the basis of its Clean Data Policy, which was articulated with regard to SO_2 in the April 2014 ''Guidance for 1-Hour SO_2 Nonattainment Area SIP Submissions,'' and suspends a State's obligation to submit most of the attainment planning requirements that would otherwise apply, including an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under section 172(c)(9). Courts have upheld EPA's interpretation of section 172(c)(1) for ''reasonably available'' control measures and control technology as meaning only those controls that advance attainment, which precludes the need to require additional measures where an area is already attaining. *NRDC* v. *EPA,* 571 F.3d 1245, 1252 (D.C. Cir. 2009); *Sierra Club* v. *EPA,* 294 F.3d 155, 162 (D.C. Cir. 2002); *Sierra Club* v. *EPA,* 314 F.3d 735, 744 (5th Cir. 2002); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004).[2] Therefore, because the Terre Haute nonattainment area has attained the SO_2 standard, no additional measures are needed to provide for attainment, and section 172(c)(1) requirements for an attainment demonstration and RACM are not part of the ''applicable implementation plan'' required to have been approved prior to redesignation per CAA section 107(d)(3)(E)(ii). EPA believes that Indiana has satisfied the reasonably available control measures/reasonably available control techniques (RACM/RACT) requirement for this area.

The other section 172 requirements that are designed to help an area achieve attainment are the section 172(c)(2) requirement that nonattainment plans contain provisions promoting RFP, the requirement to submit the section 172(c)(9) contingency measures, and the section 172(c)(6) requirement for the SIP to contain control measures necessary to provide for attainment of the NAAQS. These are also not required to be approved as part of the ''applicable implementation plan'' for purposes of satisfying CAA section 107(d)(3)(E)(ii).

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources to be allowed 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 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 the Terre Haute nonattainment area will be able to maintain the 2010 SO_2 NAAQS without part D NSR in effect, and therefore Indiana does not need to have a fully approved part D NSR program prior to approval of the redesignation request. Indiana's PSD program will become effective in the nonattainment area upon redesignation to attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes that 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 projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA. On June 4, 2010, Indiana submitted documentation establishing transportation conformity procedures in its SIP. EPA approved these procedures on August 17, 2010 (75 FR 50708). Moreover, EPA interprets the conformity SIP requirements as not applying for purposes of evaluating a redesignation request under section 107(d) because, like other requirements listed above, State conformity rules are still required after redesignation and Federal conformity rules apply where State rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

As discussed above, EPA is proposing to find that Indiana has satisfied all applicable requirements for purposes of redesignation of the Terre Haute nonattainment area under section 110 and part D of title I of the CAA.

D. Fully Approved SIP Under Section 110(k)

As a criterion for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). SIPs must be fully approved only with respect to currently applicable requirements of the CAA. EPA has determined that Indiana has a fully approved SIP under section 110(k). As discussed above in section II.C., Indiana has submitted, and EPA has approved all applicable requirements under section 110 and part D of title I of the CAA. Indiana has implemented its SO_2 SIP regulations at 326 IAC 7–4–3, and Indiana maintains an active enforcement program to ensure ongoing compliance. Indiana's new source review/prevention of significant deterioration program will address emissions from new sources. Indiana's current SO_2 SIP rule for Vigo County, which contains the Terre Haute SO_2 area, is codified at 326 IAC 7–4–3 which was approved into the SIP on March 22, 2019 (84 FR 10692).

E. Maintenance Plan

CAA section 175A sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the nonattainment area is redesignated to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan

[2] Although the Court of Appeals for the Sixth Circuit has issued a contrary opinion in the context of redesignations for ozone and $PM_{2.5}$, EPA believes that these opinions, interpreting the applicability of the ozone and $PM_{2.5}$ RACM/RACT requirements for redesignations for those pollutants, do not address the applicability of the RACM/RACT requirement for SO_2. See *Sierra Club* v. *EPA,* 793 F.3d 656 (6th Cir. 2015).

demonstrating that attainment will continue to be maintained for the ten years following the initial ten year period. To address the possibility of future 2010 SO_2 NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2010 SO_2 NAAQS violations. Specifically, the maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan.

Indiana's October 24, 2018 redesignation request contains its maintenance plan, which Indiana has committed to review eight years after redesignation. Indiana submitted an attainment emission inventory which addresses current emissions and projections of future emissions for point, area, and mobile sources. Indiana has demonstrated that the area is attaining and is expected to maintain the SO_2 NAAQS. Indiana has committed to continue monitoring at its monitoring sites in accordance with the requirements of 40 CFR part 58. These data will be used to verify continued attainment. Indiana has the authority to adopt, implement and enforce any subsequent emissions control measures deemed necessary to correct any future SO_2 violations. Regarding contingency measures to implement in the case of a future violation of the 2010 SO_2 standard, Indiana provided a list of five potential measures for the sources within the nonattainment area, including requiring: Alternative fuel, SO_2 emissions add-on control technologies for existing emission units, reduced operating hours, SO_2 emission offsets for new and modified major sources and SO_2 emission offsets for new and modified minor sources.

Indiana commits to study SO_2 emission trends and identify areas of concern if the annual average 99th percentile maximum daily 1-hour SO_2 concentration of 79 ppb or greater occurs in a single year, or if a 2-year average of 76 ppb or greater occurs in the maintenance area. Indiana will adopt and implement corrective actions as necessary to address such trends of increasing emissions or ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process. EPA proposes to find that Indiana's maintenance plan adequately addresses the five basic components necessary to maintain the SO_2 standard in the Terre Haute nonattainment area.

III. What action is EPA taking?

As requested by Indiana on October 24, 2018, EPA is proposing to redesignate the Terre Haute nonattainment area from nonattainment to attainment of the 2010 SO_2 NAAQS. Indiana has demonstrated that the area is attaining the SO_2 standard, and that the improvement in air quality is due to permanent and enforceable measures. EPA is also proposing to approve the maintenance plan that Indiana submitted to ensure that the area will continue to maintain the SO_2 standard.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- 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, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

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

Dated: April 24, 2019.

Cheryl L. Newton,

Acting Regional Administrator, Region 5.

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