

of CAA sections 172(c)(9) and 182(c)(9) for RFP contingency measures. Our proposed approval is based on commitments by the Districts and CARB to supplement the element through submission, as a SIP revision (within one year of final conditional approval action), of new or revised Districts' rules that would amend or adopt specific rules with more stringent requirements sufficient to produce near to one year's RFP if an RFP milestone is not met.

The EPA is soliciting public comments on the issues discussed in this proposed rule. We will accept comments from the public on this proposal for the next 30 days and will consider comments before taking final action.

## V. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this proposed action merely proposes to approve, or conditionally approve, state plans 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 proposed 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, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: October 10, 2020.

**John Busterud,**

*Regional Administrator, Region IX.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

**[EPA-R05-OAR-2018-0732; FRL-10016-04-Region 5]**

### Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of the Southwest Indiana Sulfur Dioxide Nonattainment Area

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

**ACTION:** Proposed rule.

**SUMMARY:** In accordance with the Clean Air Act, the Environmental Protection Agency (EPA) is proposing to redesignate the Southwest Indiana nonattainment area, which consists of a

portion of Daviess County and a portion of Pike County (Veale Township in Daviess County and Washington Township in Pike County), to attainment for the 2010 primary, health-based 1-hour sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). EPA is also proposing to approve Indiana's maintenance plan for the Southwest Indiana SO<sub>2</sub> nonattainment area. Indiana submitted the request for approval of the Southwest Indiana nonattainment area's redesignation and maintenance plan on October 24, 2018, and supplemental information on August 25, 2020. EPA has previously approved Indiana's attainment plan for the Southwest Indiana area.

**DATES:** Comments must be received on or before November 30, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2018-0732 at <http://www.regulations.gov> or via email to [aburano.douglas@epa.gov](mailto: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:** Abigail Teener, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-7314, [teener.abigail@epa.gov](mailto:teener.abigail@epa.gov). The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding

Federal holidays and facility closures due to COVID-19.

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

- I. Background and Redesignation Requirements
- II. Determination of Attainment
- III. Indiana's State Implementation Plan (SIP)
- IV. Permanent and Enforceable Emission Reductions
- V. Maintenance Plan
- VI. Requirements for the Area Under Section 110 and Part D
- VII. What action is EPA taking?
- VIII. Statutory and Executive Order Reviews

## I. Background and Redesignation Requirements

In 2010, EPA established a revised primary, health-based 1-hour SO<sub>2</sub> NAAQS of 75 parts per billion (ppb) (75 FR 35520, June 22, 2010). On August 5, 2013 (78 FR 47191), EPA designated the Southwest Indiana area as nonattainment for the 2010 SO<sub>2</sub> NAAQS based on air quality monitoring data for calendar years 2009–2011. The Southwest Indiana nonattainment area is comprised of Veale Township in Daviess County and Washington Township in Pike County. EPA approved Indiana's plan for bringing the Southwest Indiana area into attainment on August 17, 2020 (85 FR 49967). The approved attainment plan includes SO<sub>2</sub> emission limits for facilities in the area and modeling to show that compliance with emission limits results in attainment of the standard and ongoing maintenance. On October 24, 2018, Indiana submitted a request to redesignate the Southwest Indiana area to attainment. Indiana sent a letter to EPA, dated August 25, 2020, with information supplementing the previously submitted redesignation request. The letter provided information showing that the most recent data from both the Pike County monitor and the Daviess County monitor indicate

attainment of the standard, and confirmed, based on first quarter 2020 emission data, that the Indianapolis Power & Light Company (IPL) Petersburg Generating Station continues to meet the emission limits. The August 25, 2020 letter is included in the docket for this action.

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

## II. Determination of Attainment

The first requirement for redesignation is to demonstrate that the NAAQS has been attained in the area. As stated in EPA's April 2014 "Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area SIP Submissions," 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 NAAQS, 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<sub>2</sub> NAAQS is met at an ambient air quality monitoring site when the three-year average of the annual 99th percentile of one-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. The Southwest Indiana nonattainment area had two SO<sub>2</sub> monitoring sites: One located in Daviess County (AES/IPL Petersburg—West off SR 57; Site ID#18–027–0002), and one located in Pike County (Petersburg—Arda Lane; Site ID# 18–125–0005). Both monitors were operated by IPL. The monitor in Pike County was approved by EPA for discontinuation on August 22, 2019. The Daviess County monitor is still in operation. EPA has reviewed the ambient air monitoring data for both sites, focusing on air quality data collected from 2012 through 2019. Through the end of 2019 for the Daviess County site, and through the morning of August 22, 2019 for the Pike County site, these data are complete, quality-assured, certified, and recorded in EPA's Air Quality System database.

Table 1 shows the 99th percentile results and three-year average design values for the Southwest Indiana nonattainment area monitors for 2012–2019. The 2016–2018 design values for Southwest Indiana are 17 ppb for the Daviess County monitor and 23 ppb for the Pike County monitor, which are both below the SO<sub>2</sub> NAAQS. Using the full year of 2019 data collected at the Daviess County monitor and the partial year of data at the Pike County monitor, the 2017–2019 design values are 14 ppb and 19 ppb for the monitors, respectively, which are also below the NAAQS. Therefore, EPA finds that Indiana has demonstrated that Southwest Indiana's SO<sub>2</sub> monitors show attainment.

TABLE 1—INDIANA'S MONITORING DATA FOR THE SOUTHWEST INDIANA SO<sub>2</sub> NONATTAINMENT AREA FOR 2012–2019 [ppb]

Site ID	Location	99th percentile values								3-Year design values					
		2012	2013	2014	2015	2016	2017	2018	2019	2012–2014	2013–2015	2014–2016	2015–2017	2016–2018	2017–2019
18–027–0002 .....	Daviess County .....	78	150	107	93	22	16	13	12	112	117	74	44	17	14
18–125–0005 .....	Pike County .....	140	169	157	74	26	24	19	*13	155	133	86	41	23	*19

\* Includes partial 2019 data before the Pike County monitor was approved by EPA for discontinuation on August 22, 2019.

In addition to ambient air quality monitoring data, Indiana utilized an approach based on computer modeling which relied on allowable emissions in Indiana's attainment SIP to additionally characterize the attainment status of the

SO<sub>2</sub> NAAQS and to provide for maintaining SO<sub>2</sub> emissions in Southwest Indiana below the SO<sub>2</sub> NAAQS through 2030. This modeling was approved by EPA on August 17, 2020 as part of Indiana's attainment SIP.

Indiana evaluates the emissions from the IPL Petersburg Generating Station, the remaining SO<sub>2</sub> source in the Southwest Indiana area, to demonstrate compliance with its emission limits. Table 2 shows Indiana's emission limits

and data for the IPL Petersburg Generating Station for the first quarter of 2020, using 30-day rolling average limits

and emissions. EPA has verified that the IPL Petersburg Generating Station is currently complying with its emission

limits based on data from the first and second quarters of 2020.

TABLE 2—INDIANA’S 30-DAY AVERAGE EMISSION LIMITS AND DATA FOR THE IPL PETERSBURG GENERATING STATION—1ST QUARTER 2020

	Unit 1	Unit 2	Unit 3	Unit 4
SO <sub>2</sub> Emission Limit (lb/hr) <sup>1</sup> .....	263	495.4	1633.7	1548.2
IPL—SO <sub>2</sub> Maximum (lb/hr) .....	153	262	639	717
SO <sub>2</sub> Emission Limit (lb/MMBtu) .....	0.10	0.10	0.25	0.24
IPL—SO <sub>2</sub> Maximum (lb/MMBtu) .....	0.07	0.06	0.17	0.17

<sup>1</sup> These lb/hr limits were not incorporated into the SIP, in part due to questions about the adjustment factor used to derive these 30-day average limits. Nevertheless, evidence of compliance with these state limits supplements the evidence of compliance with the lb/MMBtu limits in support of the finding that the IPL Petersburg Generating Station is emitting at levels low enough for the area to attain the SO<sub>2</sub> NAAQS.

Although the predominant emissions at the IPL Petersburg Generating Station are from the coal fired units, the state also restricts the emissions from the diesel generating units at the source, in

part by limiting the allowable number of operating hours. Table 3 shows Indiana’s diesel generator operating limits and data for the IPL Petersburg Generating Station. Based on the 2019

and partial 2020 data, the IPL Petersburg Generating Station diesel generator operating durations are well under the limits.

TABLE 3—INDIANA’S DIESEL GENERATOR DATA FOR THE IPL PETERSBURG GENERATING STATION

Diesel generator	2019 Operating hours	2020 1st quarter operating hours	Operating limit
PB-2 .....	33.8	4.7	500-hour calendar year operating limit (each).
PB-3 .....	3.4	0.0	
PB-4 .....	20.3	3.3	

Due to a Federal Consent Decree (Civil Action No. 3:20-cv-202-RLY-MPB) lodged by the United States and Indiana against IPL on August 31, 2020, EPA expects that emissions will be limited to levels even lower than those EPA found adequate to provide for attainment.

As described above, Indiana has addressed both the modeling and monitoring components needed to support an attainment determination. EPA proposes to find that this modeling analysis and the monitored air quality data demonstrate that the Southwest Indiana area has attained the 2010 SO<sub>2</sub> NAAQS.

### III. Indiana’s State Implementation Plan (SIP)

EPA’s approval of Indiana’s attainment SIP for the Southwest Indiana area (85 FR 49967) included revised emission limits for the IPL Petersburg Generating Station and emission limits for the Hoosier Energy Ratts Generating Station, which were the two SO<sub>2</sub> sources (both Electrical Generating Units (EGUs)) in Southwest Indiana before the Ratts Generating Station was shut down in 2015. In that action, EPA found that Indiana had satisfied requirements for providing for attainment of the 1-hour SO<sub>2</sub> NAAQS in the Southwest Indiana area. Indiana has

adopted its SO<sub>2</sub> SIP regulations, including those which cover the Southwest Indiana area, at Indiana Administrative Code (IAC) Title 326, consisting of 326 IAC 7-4-15 (entitled “Pike County sulfur dioxide emission limitations”); 326 IAC 7-1.1-3 (“Compliance date”); and 326 IAC 7-2-1 (“Reporting requirements; methods to determine compliance”). These rules are supplemented with Commissioner’s Order 2019-02 limiting emissions from the IPL Petersburg Generating Station described above. Indiana has shown that it maintains an active enforcement program to ensure ongoing compliance with these requirements. Indiana’s new source review/prevention of significant deterioration program will address emissions from potential new sources in the area.

### IV. Permanent and Enforceable Emission Reductions

For an area to be redesignated, the state must be able to reasonably attribute the improvement in air quality to emission reductions which are permanent and enforceable. Indiana has established SO<sub>2</sub> emission limits for each of the four units at the IPL Petersburg Generating Station. In 2017, these emission limits resulted in an actual decrease of 26,761 tons per year (tpy) of SO<sub>2</sub> (77.06 percent) from 2011 actual

emissions. EPA included the revised limits in the approval of Indiana’s SIP on August 17, 2020 (85 FR 49967), which renders the limits federally enforceable.

The other SO<sub>2</sub> source in the Southwest Indiana area, Hoosier Energy Ratts Generating Station, was permanently shut down in March 2015 and dismantled in late 2016. Thus, its emissions are zero.

As shown in Table 1, the monitored design values in the Southwest Indiana area at the time of its nonattainment designation were above the NAAQS of 75 ppb. Subsequent monitoring data in the Southwest Indiana area indicate that the 99th percentile ambient SO<sub>2</sub> levels dropped below the NAAQS after the imposition of enforceable limits at the IPL Petersburg Generating Station and the shutdown of Hoosier Energy Ratts Generating Station. EPA proposes to find that the improvement in air quality in the Southwest Indiana area can be attributed to permanent and enforceable emission reductions at the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station.

### V. Maintenance Plan

Clean Air Act 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 demonstrating that attainment will continue to be maintained for the ten years following the initial ten-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future one-hour 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.

In their redesignation request, Indiana provided an emission inventory which addresses the 2011 base year actual emissions of 34,728 tpy for EGU sources. Indiana chose 2017 as an attainment year in order to demonstrate actual emissions reductions that have occurred in an attaining year. The 2017 attainment year inventory included actual reductions due to the shutdown of the Hoosier Energy Ratts Generating Station. Total actual SO<sub>2</sub> emissions in the Southwest Indiana area for the attainment year were 7,967 tpy.

Indiana calculated allowable emissions inventories, both including and excluding the Hoosier Energy Ratts Generating Station, by multiplying the 1-hour pound per hour (lb/hr) emission limits by the number of hours in a year. However, as the IPL Petersburg Generating Station is subject to 30-day average limits instead of 1-hour limits, which allow less emissions in a year than the 1-hour limits, EPA believes that the 30-day average limits are a more appropriate basis for calculating allowable emissions. Indiana determined its 30-day average limits on pounds per million British Thermal Units (lb/MMBtu) by multiplying the 1-hour average limits by an adjustment factor of 68 percent. At maximum heat inputs for the four units at the IPL Petersburg Generating Station, the 1-hr limits in lb/MMBtu result in the quantity of emissions given in the 1-hr lb/hr limits. Indiana has not calculated a 30-day average lb/hr limit using EPA guidance. Nevertheless, the establishment of appropriately adjusted 30-day average lb/MMBtu limits,

determined by multiplying the 1-hr lb/MMBtu limits by 68 percent, will result in emissions at maximum heat input that equal 68 percent of the 1-hr lb/hr limits. Therefore, the allowable emissions as calculated by EPA are 68 percent of the allowable emissions as calculated by Indiana, and thus the allowable emissions for the area are even lower than those on which Indiana based its request.

EPA's calculated allowable emissions for the Southwest Indiana area, which are equivalent to the projected emissions for the maintenance year of 2030, are 14,729 tpy, all allowable from the IPL Petersburg Generating Station. This quantity is 57.59 percent lower than actual emissions in 2011. Indiana demonstrated a 77.06 percent reduction in actual emissions between 2011 and 2017, which is more than sufficient to attain the SO<sub>2</sub> NAAQS in the Southwest Indiana area.

Indiana's maintenance demonstration consists of the nonattainment SIP air quality analysis showing that the emission reductions now in effect in the Southwest Indiana area will provide for attainment of the SO<sub>2</sub> NAAQS. The permanent and enforceable SO<sub>2</sub> emission reductions described above ensure that area emissions will be equal to or less than the emission levels which were evaluated in the air quality analysis, and Indiana's enforceable emission requirements will ensure that the Southwest Indiana SO<sub>2</sub> emission limits are met continuously.

For continuing verification, Indiana has committed to track the emissions and compliance status of the major facilities in the Southwest Indiana area so that future emissions will not exceed the allowable emissions-based attainment inventory. All major sources in Indiana are required to submit annual emissions data, which the State uses to update its emission inventories as required by the Clean Air Act.

The requirement to submit contingency measures in accordance with section 172(c)(9) of the Clean Air Act can be adequately addressed for SO<sub>2</sub> by the operation of a comprehensive enforcement program which can quickly identify and address sources that might be causing exceedances of the NAAQS. Indiana's enforcement program is active and capable of prompt action to remedy compliance issues. In particular, Indiana's October 24, 2018 redesignation request discusses its two-tiered plan to respond to reported emissions that would cause modeled exceedances of the SO<sub>2</sub> NAAQS in the maintenance area. Indiana commits to study SO<sub>2</sub> emission trends and identify areas of concern and potential

additional measures, and if necessary, Indiana will consider additional control measures which can be implemented quickly. Indiana has the authority to expeditiously adopt, implement, and enforce any subsequent emissions control measures deemed necessary to correct any future SO<sub>2</sub> violations.

Indiana commits to adopt and implement such corrective actions as necessary to address trends of increasing emissions or modeled ambient impacts. The public will have the opportunity to participate in the contingency measure implementation process. Based on the foregoing, EPA proposes to find that Indiana has addressed the contingency measure requirement. Further, EPA proposes to find that Indiana's maintenance plan adequately addresses the five basic components necessary to maintain the SO<sub>2</sub> NAAQS in the Southwest Indiana nonattainment area.

## **VI. Requirements for the Area Under Section 110 and Part D**

Indiana has submitted information demonstrating that it meets all of the SIP requirements of the Clean Air Act for the Southwest Indiana nonattainment area. EPA approved Indiana's infrastructure SIP for SO<sub>2</sub> on August 14, 2015 (80 FR 48733). This infrastructure SIP approval confirms that Indiana's SIP meets the requirements of Clean Air Act section 110(a)(1) and 110(a)(2) to contain the basic program elements, such as an active enforcement program and permitting program.

Section 191 of the Clean Air Act requires Indiana to submit a part D SIP for the Southwest Indiana nonattainment area by April 4, 2015. Indiana submitted its part D SIP on October 2, 2015 and supplemented it on November 15, 2017 and September 18, 2019. The SIP included a demonstration of attainment and the emission limits for the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station. EPA approved the Southwest Indiana attainment plan on August 17, 2020 (85 FR 49967) with revised limits for the IPL Petersburg Generating Station. In that rulemaking, EPA concluded that Indiana had satisfied the various requirements under Clean Air Act section 110 and part D for the Southwest Indiana SO<sub>2</sub> nonattainment area. For example, EPA concluded that Indiana satisfied requirements for an attainment inventory of the SO<sub>2</sub> emissions from sources in the nonattainment area (required under section 173(c)(3)), reasonably available control measures (required under section 173(c)(1)), and

reasonable further progress (required under section 173(c)(2)).

Indiana chose 2011 for its base year emissions inventory, as comprehensive emissions data were available and updated that year, which satisfies the 172(c)(3) requirements. In that year, two EGU sources (the IPL Petersburg Generating Station and the Hoosier Energy Ratts Generating Station) were the main sources in the nonattainment area.

Table 4 compares Indiana's SO<sub>2</sub> emissions data for EGU sources for 2011 (the base nonattainment year identified by Indiana) and 2017 (the most recent certified attainment year at the time of

the redesignation request submission), as well as EPA's projected allowable emissions for the maintenance year of 2030. Although Indiana calculated allowable 2030 emissions for the IPL Petersburg Generating Station by multiplying the 1-hour lb/hr emission limits by the number of hours in a year, EPA calculated the allowable 2030 emissions by multiplying Indiana's projected emissions by the adjustment factor needed for the 30-day average limits to be comparably stringent to 1-hour limits, as the IPL Petersburg Generating Station is subject to 30-day average emission limits.

By providing actual emissions from the two main SO<sub>2</sub> sources from a time period when the area was not meeting the SO<sub>2</sub> NAAQS, and from a time period when the area was attaining the NAAQS, Indiana demonstrates a 77.06 percent reduction in actual SO<sub>2</sub> emissions. Indiana's submittal shows that actual 2017 EGU SO<sub>2</sub> emissions in the Southwest Indiana area were 22.94 percent of the actual emissions in 2011. Indiana also shows by modeling that continued compliance with now federally enforceable emission limits for the remaining contributing SO<sub>2</sub> source will result in the area maintaining attainment of the SO<sub>2</sub> NAAQS.

TABLE 4—ACTUAL AND PROJECTED EGU POINT SOURCES IN THE SOUTHWEST INDIANA AREA

[Tons per year]

Affected source	Type of reduction	2011 Nonattainment year (actual)	2017 Attainment year (actual)	2011–2017 Change (actual)	2030 Maintenance year (projected)
IPL—Petersburg Generating Station Hoosier Energy—Ratts Generating Station.	Emission Limits/Improved Controls Facility Closed .....	25,232 9,496	7,967 0	– 17,265 – 9,496	14,729 0
Total .....	.....	34,728	7,967	– 26,761	14,729

Section 176(c) of the Clean Air Act 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 Clean Air Act. 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).

Based on the above, EPA is proposing to find that Indiana has satisfied the applicable requirements for the redesignation of the Southwest Indiana nonattainment area under section 110 and part D of title I of the Clean Air Act.

#### VII. What action is EPA taking?

In accordance with Indiana's October 24, 2018 request and August 25, 2020

supplemental letter, EPA is proposing to redesignate the Southwest Indiana nonattainment area from nonattainment to attainment of the 2010 SO<sub>2</sub> NAAQS. EPA finds that Indiana has demonstrated that the area is attaining the 2010 SO<sub>2</sub> NAAQS and that the improvement in air quality is due to permanent and enforceable SO<sub>2</sub> emission reductions in the area. EPA is also proposing to approve Indiana's maintenance plan, which is designed to ensure that the area will continue to maintain the SO<sub>2</sub> NAAQS.

#### VIII. 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, 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 it is not a significant regulatory action 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 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), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

## 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: October 19, 2020.

**Kurt Thiede,**

*Regional Administrator, Region 5.*

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**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 62

[EPA-R08-OAR-2020-0516; FRL-10015-82—Region 8]

### Approval and Promulgation of State Plans for Designated Facilities and Pollutants; South Dakota; Control of Emissions From Existing Municipal Solid Waste Landfills

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve a Clean Air Act (CAA or the “Act”) section 111(d) state plan submitted by the South Dakota Department of Environment and Natural Resources (DENR or the “Department”) on January 3, 2020. This plan was submitted to fulfill the requirements of the CAA and is responsive to the EPA’s promulgation of Emission Guidelines and Compliance Times for existing municipal solid waste (MSW) landfills. The South Dakota state plan establishes performance standards and other operating requirements for existing MSW landfills within the State of South Dakota and provides for the implementation and enforcement of those standards and requirements by the Department.

**DATES:** Written comments must be received on or before November 30, 2020.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R08-OAR-2020-0516, to the Federal Rulemaking Portal: <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [www.regulations.gov](https://www.regulations.gov). The 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. The 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, 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>.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](https://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 [www.regulations.gov](https://www.regulations.gov) or in hard copy at the Air and Radiation Division, Environmental Protection Agency (EPA), Region 8, 1595 Wynkoop Street, Denver, Colorado 80202-1129. The EPA requests that if at all possible, you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8:00 a.m. to 4 p.m., excluding federal holidays and facility closures.

**FOR FURTHER INFORMATION CONTACT:** Gregory Lohrke, Air and Radiation Division, EPA, Region 8, Mailcode 8ARD-TRM, 1595 Wynkoop Street, Denver, Colorado, 80202-1129, (303) 312-6396, [lohrke.gregory@epa.gov](mailto:lohrke.gregory@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

## I. Background

On August 29, 2016, the EPA finalized revised Standards of Performance (NSPS) for new MSW landfills and Emission Guidelines and Compliance Times (EG) for existing MSW landfills in 40 CFR part 60, subparts XXX and Cf, respectively. See 81 FR 59331 and 59313. These rulemaking actions were taken in accordance with section 111 of the CAA. Section 111(d) of the Act requires the EPA establish procedures for a state to submit a plan to the Agency that establishes standards of performance for any ‘existing’ source for any air pollutant, (1) for which air quality criteria have not been issued or which is not included on a list published under CAA section 108, or emitted from a source category which is regulated under CAA section 112, but (2) to which a new source performance standard under section 111(b) would apply if such existing source were a ‘new’ source. The EPA established general provisions for submittal of state plans for 111(d) sources in 40 CFR part 60,