

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)). This action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it 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). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be

inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the “Attorney General’s Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings” issued under the executive order.

This proposed rule to repeal Maryland’s NO_x Budget Trading Program under COMAR 29.11.27 and 29.11.28 does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

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

Dated: July 22, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[R05–OAR–2005–IN–0004; FRL–7946–3]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Lake County Sulfur Dioxide Regulations, Redesignation and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision for the control of sulfur dioxide (SO₂) emissions in Lake County,

Indiana. The SIP revision submitted by the Indiana Department of Environmental Management (IDEM) on April 8, 2005, and supplemented on July 6, 2005, amends 326 Indiana Administrative Code (IAC) Article 7. Indiana’s revised SO₂ rule consists of changes to 326 IAC 7–4 which sets forth facility-specific SO₂ emission limitations and recordkeeping requirements for Lake County. The rule revision also reflects updates to company names, updates to emission limits currently in permits, deletion of facilities that are already covered by natural gas limits, or other corrections or updates. Due to changes in section numbers, references to citations in other parts of the rule have also been updated. EPA is also proposing to approve a request to redesignate the Lake County nonattainment area to attainment of the SO₂ National Ambient Air Quality Standards (NAAQS), which was submitted for parallel processing by IDEM on June 21, 2005. In conjunction with these actions, EPA is also proposing to approve the maintenance plan for the Lake County nonattainment area to ensure that attainment of the NAAQS will be maintained. The SIP revision, redesignation request and maintenance plan are approvable because they satisfy the requirements of the Clean Air Act (Act). The rationale for the approval and other information are provided in this notice.

DATES: Comments must be received on or before August 29, 2005.

ADDRESSES: Submit comments, identified by Regional Material in EDocket (RME) ID No. R05–OAR–2005–IN–0004, by one of the following methods:

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

Agency Web site: <http://docket.epa.gov/rmepub/>. Regional RME, EPA’s electronic public docket and comments system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

E-mail: mooney.john@epa.gov.

Fax: (312) 886–5824.

Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR–18J),

U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to RME ID No. R05–OAR–2005–IN–0004. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the Federal regulations.gov Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available either electronically in RME or in hard copy at Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Christos Panos, Environmental Engineer, at (312) 353–8328 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

Christos Panos, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8328. panos.christos@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This supplemental information section is arranged as follows:

- I. General Information
 1. What action is EPA taking today?
 2. Why is EPA taking this action?
- II. Review of the State Submittals
 1. What is the background for this action?
 2. What information did Indiana submit, and what were its requests?
 3. What changes did Indiana make to the Lake County SO₂ rules?
 4. What are the results of the modeled attainment demonstration?
- III. State Implementation Plan Approval
 1. What requirements do SO₂ nonattainment areas have to meet?
 2. How does the State's SIP revision meet the requirements of the Act?
- IV. Redesignation Evaluation
 1. What are the criteria used to review redesignation requests?
 2. How are these criteria satisfied for Lake County?
- V. Maintenance Plan
 - What are the maintenance plan requirements?
- VI. Proposed Rulemaking Action and Solicitation of Public Comment
- VII. Statutory and Executive Order Reviews

I. General Information

1. What Action Is EPA Taking Today?

In this action, EPA is proposing to approve into the Indiana SIP SO₂ emission limitations applicable in Lake County, Indiana. Specifically, EPA is proposing to approve amendments to rules 326 IAC 7–1.1–1, 326 IAC 7–1.1–2, 326 IAC 7–2–1, and newly created 326 IAC 7–4.1. The revised rules were adopted by the Indiana Air Pollution Control Board on March 2, 2005, and were submitted by IDEM to EPA on April 8, 2005. IDEM submitted a supplement to its submission on July 6, 2005, indicating that the revised rules became effective June 24, 2005 and were published in the Indiana Register on July 1, 2005. EPA is also proposing to approve the SO₂ redesignation request submitted by the State of Indiana to redesignate the Lake County SO₂ nonattainment area to attainment of the SO₂ NAAQS. Finally, EPA is proposing to approve the maintenance plan submitted for this area.

2. Why Is EPA Taking This Action?

EPA is taking this action because the State's submittal for the Lake County

SO₂ nonattainment area is fully approvable. The revised rules amend SO₂ requirements for many sources in the nonattainment area, and reflect a reduction of over 30,000 tons of SO₂ per year of allowable emissions compared to the emission limits in the previously approved 1989 SIP. The SIP revision provides for attainment and maintenance of the SO₂ NAAQS and satisfies the requirements of part D of the Act applicable to SO₂ nonattainment areas. Further, EPA is approving the maintenance plan and redesignating the Lake County SO₂ nonattainment area to attainment because the State has met the redesignation and maintenance plan requirements of the Act. Under the Act, EPA may redesignate nonattainment areas to attainment if sufficient data are available to warrant such changes and the area meets the criteria contained in section 107(d)(3)(E). This includes full approval of a maintenance plan for the area. The requirements for a maintenance plan are found in section 175A of the Act. A more detailed explanation of how the State's submittal meets these requirements is contained below.

II. Review of the State Submittals

1. What Is the Background for This Action?

Lake County is located in northwest Indiana and is surrounded by the Indiana counties of Porter, Jasper and Newton. On March 3, 1978, at 43 FR 8962, EPA designated a portion of Lake County as a primary SO₂ nonattainment area, based on monitored violations of the primary SO₂ NAAQS. The SO₂ nonattainment area of Lake County is bounded by Lake Michigan to the north, the Indiana-Illinois State line to the west, the Lake-Porter County line on the east, and on the south it is bounded by U.S. 30 from the State line to the intersection of I–65, then following I–65 to the intersection of I–94, then following I–94 to the Lake-Porter County line. EPA approved a SO₂ SIP revision for Lake County on January 19, 1989 (54 FR 2112), consisting of source specific emission limits and other requirements in Indiana's county-specific rules. There are numerous SO₂ sources in Lake County, including steel mills, an oil refinery, and other industrial processes, that have SO₂ limits established in 326 IAC 7–4–1.1. Because these limits were outdated and did not demonstrate attainment, IDEM worked with the affected sources to update their emission limits in the rule, and performed emission modeling based on these limits that demonstrates

attainment of the SO₂ NAAQS in the Lake County area.

2. What Information Did Indiana Submit, and What Were Its Requests?

The SIP revision submitted by IDEM on April 8, 2005, and supplemented on July 6, 2005, consists of amendments to rules previously approved as part of the Lake County SO₂ SIP. In this submittal the State requested that we:

Amend 326 IAC 7-1.1-1 concerning applicability;
Amend 326 IAC 7-1.1-2 concerning SO₂ limitations;
Amend 326 IAC 7-2-1 concerning reporting requirements and methods to determine compliance;
Add 326 IAC 7-4.1 concerning Lake County SO₂ emission limitations; and,
Repeal 326 IAC 7-4-1.1.

The June 21, 2005, submittal requests that we use parallel processing to redesignate the Lake County SO₂ nonattainment area to attainment of the SO₂ NAAQS and classify it as a maintenance area.

3. What Changes Did Indiana Make to the Lake County SO₂ Rules?

The amendments to 326 IAC 7-1.1-1, 326 IAC 7-1.1-2, and 326 IAC 7-2-1 consist of clerical corrections and updates to citations made for consistency.

Section 326 IAC 7-4-1.1 is repealed and is being replaced by 326 IAC 7-4.1 as follows:

326 IAC 7-4.1-1 Lake County SO₂ emission limitations
326 IAC 7-4.1-2 Sampling and analysis protocol
326 IAC 7-4.1-3 BP Products North America Inc. SO₂ emission limitations
326 IAC 7-4.1-4 Buckco Construction SO₂ emission limitations
326 IAC 7-4.1-5 Cargill, Inc. SO₂ emission limitations
326 IAC 7-4.1-6 Carmeuse Lime SO₂ emission limitations
326 IAC 7-4.1-7 Cokerenergy Inc. SO₂ emission limitations
326 IAC 7-4.1-8 Indiana Harbor Coke Company SO₂ emission limitations
326 IAC 7-4.1-9 Ironside Energy, LLC SO₂ emission limitations
326 IAC 7-4.1-10 ISG Indiana Harbor Inc. SO₂ emission limitations
326 IAC 7-4.1-11 Ispat Inland Inc. SO₂ emission limitations
326 IAC 7-4.1-12 Methodist Hospital SO₂ emission limitations
326 IAC 7-4.1-13 National Recovery Systems SO₂ emission limitations
326 IAC 7-4.1-14 NIPSCO Dean H. Mitchell Generating Station SO₂ emission limitations
326 IAC 7-4.1-15 Rhodia SO₂ emission limitations

326 IAC 7-4.1-16 Safety-Kleen Oil Recovery Company SO₂ emission limitations

326 IAC 7-4.1-17 SCA Tissue North America LLC SO₂ emission limitations

326 IAC 7-4.1-18 State Line Energy, LLC SO₂ emission limitations

326 IAC 7-4.1-19 Unilever HPC USA SO₂ emission limitations

326 IAC 7-4.1-20 U.S. Steel-Gary Works SO₂ emission limitations

326 IAC 7-4.1-21 Walsh and Kelly SO₂ emission limitations

A. 326 IAC 7-4.1-1 *Lake County SO₂ emission limitations*. This section restricts all new and existing fossil fuel-fired combustion sources and facilities located in Lake County to burning only natural gas unless an alternate SO₂ emission limit is provided in the rule. Facilities with fuel combustion units that have a maximum capacity of less than twenty (20) million British thermal units (MMBtu) per hour actual heat input not located at a source specifically listed in the rule, may burn distillate oil with SO₂ emissions limited to three-tenths (0.3) pound per MMBtu. The restriction to natural gas for new and existing units that are not listed in the rule is necessary for protection of the SO₂ NAAQS.

B. 326 IAC 7-4.1-2 *Sampling and analysis protocol*. This section requires facilities owned and/or operated by Cargill, Inc., BP Products North America Inc., Ispat Inland Inc., ISG Indiana Harbor Inc., Carmeuse Lime, and U.S. Steel-Gary Works to maintain a sampling and analysis protocol that specifies the frequency of sampling, analysis, and measurement for each fuel and material. This protocol will be incorporated into each facility's operating permit. The protocol may be revised as necessary to establish acceptable sampling, analysis, and measurement procedures and frequency, but the revised protocol must be submitted to IDEM for approval. The source may also be required to conduct a stack test at any facility listed in this section, subject to a thirty day written notification.

C. 326 IAC 7-4.1-3 through 326 IAC 7-4.1-21. The remaining sections of 326 IAC 7-4.1 revise the format and style from the Table in 326 IAC 7-4-1.1(c) for clarity and ease of future revision by placing facility-specific requirements into the separate sections as listed above. Since the last time the rule was amended, certain facilities are operating under new permits, variances, or other agency actions, including new or updated information or emission limits. IDEM has updated the rule to reflect the

current information in these documents. The changes made in the revised rule include the following:

i. Emission limits in pounds per hour and operating and production restrictions consistent with the modeled attainment demonstration have been added for all facilities.

ii. Changes to facility names have been updated as follows: BP Products North America Inc. (formerly AMOCO), Carmeuse Lime (formerly Marblehead Lime), Cerestar USA (formerly AMAIZO), ISG Indiana Harbor Inc. (formerly LTV Steel), Ispat Inland Inc. (formerly Inland Steel), National Recovery Systems (formerly National Briquette), SCA Tissue North America LLC (formerly Georgia Pacific), Rhodia (formerly Stauffer), Unilever (formerly Lever Brothers), and U.S. Steel-Gary Works (formerly USX).

iii. Specific changes to emission limits have been made to be consistent with permitted limits or to demonstrate attainment, through modeling, with the SO₂ NAAQS. Facilities with emission limit changes include: BP Products North America Inc., Carmeuse Lime, Cerestar USA, ISG Indiana Harbor Inc., Ispat Inland Inc., Methodist Hospital, Safety Kleen Oil Recovery Company, Rhodia, and U.S. Steel-Gary Works.

iv. New facilities that were previously part of a facility listed in the Table in 326 IAC 7-4-1.1 have been added. These include: Indiana Harbor Coke Company and Cokerenergy (both affiliated with Ispat Inland Inc.)

v. Closed facilities have been removed. These facilities include: C&A Wallcovering, East Chicago Incinerator, Kaiser, Lehigh Portland Cement, and U.S. Reduction.

vi. Units that burn only natural gas and facilities with only natural gas units listed are subject to the natural gas emission limit in 326 IAC 7-4.1-1 and are no longer listed individually in the rule. Facilities removed from the rule for this purpose include: ASF-Keystone (formerly American Steel-Hammond), Ferro Corporation (formerly Keil Chemical), Horace Mann School, Huhtamaki Foods (formerly Keyes Fibre), Premiere Candy, Resco Products (formerly Harbison Walker), Silgan Containers Corporation (formerly American Can Company), and U.S. Gypsum.

vii. Equipment inventories have been updated, either adding or deleting units.

viii. Source codes for each facility have been added.

ix. Other minor corrections and clarifications have been made, such as correcting unit descriptions.

4. What Are the Results of the Modeled Attainment Demonstration?

The ambient impact of the SO₂ sources in Lake County was determined using the ISCST3 regulatory dispersion model (version 02035) with surface meteorological data from Hammond, Indiana from 1991 through 1995. The State ran the model with 1987 meteorological data as well, to show that the new SIP would be protective of the NAAQS using the worst-case year from the previous Lake County SO₂ SIP demonstration. The emission inventory for the Lake County attainment demonstration includes all the SO₂ emission points from the facilities subject to 326 IAC 7, and reflects an up-to-date inventory of the Lake County area's SO₂ emissions. For some facilities, the State performed separate modeling runs to evaluate alternate operating scenarios. This ensured that the facilities could be more flexible in their day-to-day operations, while still protecting the NAAQS. Representative background SO₂ concentrations were developed from monitored data at seven monitoring locations in Lake, LaPorte, and Porter Counties, and added to the final modeling results. The Lake County modeling demonstration, including background SO₂ levels, showed that the 3-hour, 24-hour, and annual SO₂ NAAQS would be protected under the current SO₂ rules.

III. State Implementation Plan Approval

1. What Requirements Do SO₂ Nonattainment Areas Have To Meet?

The Part D SIP requirements for SO₂ nonattainment areas are contained in section 172(c) of the Act, and pertain to: Reasonably Available Control Measures; Reasonable Further Progress; Inventory; Identification and Quantification; Permits for New and Modified Major Stationary Sources; Other Measures; Compliance with section 110(a)(2); Equivalent Techniques; and, Contingency Measures.

2. How Does the State's SIP Revision Meet the Requirements of the Act?

With this submission, Indiana will have a fully approvable SO₂ SIP. As described below, Indiana's submitted revision to its SO₂ SIP for the Lake County nonattainment area fully complies with the Part D requirements as set forth in section 172(c) of the Act.

A. *Reasonably Available Control Measures (RACM)*. The plan complies with the requirements to implement RACM by providing for immediate attainment of the SO₂ NAAQS through the emission limits and operating

restrictions imposed on the relevant sources by the revised rules.

B. *Reasonable Further Progress*. Reasonable further progress is achieved due to the immediate effect of the emission limits required by the plan.

C. *Inventory*. An inventory of the SO₂ emissions in the Lake County nonattainment area was provided by the State and has been found to be acceptable.

D. *Identification and Quantification*. This information is unnecessary because the area has not been identified as a zone for which economic development should be targeted.

E. *Permits for New and Modified Major Stationary Sources*. Any new or modified sources constructed in the area must comply with a state submitted and federally approved New Source Review (NSR) program. The Federal requirements for NSR in nonattainment areas are contained in section 172(c)(5) of the Act. EPA guidance indicates the requirements of the part D NSR program will be replaced by the Prevention of Significant Deterioration (PSD) program when an area has reached attainment and been redesignated, provided there are assurances that PSD will become fully effective upon redesignation. Indiana's PSD program was approved into the Indiana SIP on May 20, 2004 (69 FR 29071). The PSD program will become fully effective in the Lake County area immediately upon redesignation.

F. *Other Measures*. The plan provides for immediate attainment of the SO₂ NAAQS through the emission limitations, operating requirements, and compliance schedules that are set forth within state rules.

G. *Compliance with section 110(a)(2)*. This submission complies with section 110(a)(2) of the Act, which identifies the requirements that a SIP shall meet. All of the applicable provisions of section 110(a)(2) are already required by the statutory provisions discussed in this plan, or they have already been met by Indiana's original SIP submission to EPA.

H. *Equivalent Techniques*. The modeling for this SIP submittal was conducted using EPA's "Guideline on Air Quality Models (Revised)." No equivalent techniques were used for modeling, emission inventory, or planning procedures.

I. *Contingency Measures*. Section 172(c)(9) of the Act defines contingency measures as measures in a SIP which are to be implemented if an area fails to make RFP or fails to attain the NAAQS by the applicable attainment date and shall consist of other control measures that are not included in the control

strategy. However, the General Preamble to the 1990 Amendments to the Act (57 FR 13498), states that SO₂ measures present special considerations because they are based upon what is necessary to attain the NAAQS. Because SO₂ control measures are well established and understood, they are far less prone to uncertainty. It is considered unlikely that an area would fail to attain the standards after it has demonstrated, through modeling, that attainment is reached after the limits and restrictions are fully implemented and enforced. Therefore, for SO₂ programs, contingency measures mean that the state agency has the ability to identify sources of violations of the SO₂ NAAQS and to undertake an aggressive follow-up for compliance and enforcement. In order to respond to NAAQS violations IDEM will: (1) Determine whether an exceedance could be classified as an exceptional event; (2) evaluate available meteorological data and conduct modeling studies to determine which SO₂ sources, if any, are the cause of the problem; and (3) review the operating records of SO₂ sources to identify equipment malfunctions or permit or rule violations. Although the point sources listed in the State's inventory will be the primary focus, the study will not be limited to only those sources but will encompass all potential sources of SO₂. IDEM has the necessary enforcement and compliance programs, as well as the means to identify violators as described above, thus satisfying the contingency measures requirement.

IV. Redesignation Evaluation

1. What Are the Criteria Used To Review Redesignation Requests?

Section 107(d)(3)(E) of the Act establishes the requirements to be met before an area may be redesignated from nonattainment to attainment. Approvable redesignation requests must meet the following conditions: The area has attained the applicable NAAQS; the area has a fully approved SIP under section 110(k) of the Act; the air quality improvement in the area is due to permanent and enforceable emission reductions; the maintenance plan for the area has met all the requirements of section 175A of the Act; and, the state has met all the requirements applicable to the area under section 110 and part D of the Act.

2. How Are These Criteria Satisfied for Lake County?

A. *Demonstrated Attainment of the NAAQS*. Indiana's June 21, 2005, submittal includes a table summarizing

ambient air monitoring data showing no exceedances of the SO₂ NAAQS in Lake County since 1996. There are currently two monitors operating within the Lake County area, one in Gary and one in Hammond. The redesignation request is based upon air quality data collected and quality assured for the most recent three whole calendar years (2002–2004). This data indicates that the ambient air quality attains the annual and 24-hour health-based primary standards, and the 3-hour secondary standard.

Dispersion modeling is commonly used to demonstrate attainment of the SO₂ NAAQS. The State's modeling analysis was included in the April 8, 2005, submittal. The modeling demonstrates that, under all the operating scenarios allowed for in the SIP, the SO₂ emission limits for the relevant sources in Lake County are adequate to show attainment and maintenance of the SO₂ standards. A more detailed discussion of the modeling evaluation is included elsewhere in this notice.

B. Fully Approved SIP. The SIP for the area must be fully approved under section 110(k) of the Act and must satisfy all requirements that apply under section 110 and part D of the Act. To satisfy these requirements, EPA is proposing to approve the State's April 8, 2005, submittal containing Lake County SO₂ limits into the SIP, as discussed in other sections of this rulemaking. Therefore, both the SIP revision and the redesignation request for Lake County will comply with the section 110(k) and part D requirements of the Act upon final approval of these actions.

EPA approval of a transportation conformity SIP revision for the area is not required for this redesignation because the nature of the area's previous SO₂ nonattainment problem has been determined to be overwhelmingly attributable to stationary sources. The April 8, 2005, submittal contains a detailed emissions inventory of the allowable emissions for all of the major SO₂ sources in the area. Area and mobile source SO₂ emissions are insignificant in comparison to the emissions from stationary sources and estimated background concentrations used in the modeled attainment demonstration.

C. Permanent and Enforceable Reductions in Emissions. Lake County was designated nonattainment of the SO₂ NAAQS based on violations that occurred prior to 1978. Air quality improvement in the Lake County SO₂ nonattainment area is attributed to SO₂ emission limits and operating restrictions imposed on the facilities that contributed to the nonattainment

status in Lake County. These limits are permanent and enforceable by means of non-expiring state regulations. Emissions from these sources were modeled with the control measures in place. The data submitted by the State shows modeled attainment of the SO₂ NAAQS in Lake County.

D. Fully Approved Maintenance Plan. EPA has concluded that the SO₂ emissions limitations contained in the plan submitted by the State will assure maintenance of the SO₂ standards. EPA is proposing to approve the maintenance plan in today's action as discussed below.

E. Part D and Other Section 110 Requirements. Section 107(d)(3)(E)(v) of the Act states that the Administrator may not redesignate an area to attainment unless the area has met the applicable requirements under section 110 and Part D. As, discussed above, the requirements under section 110 and Part D will be met upon final approval of the SIP revision submitted by the State on April 8, 2005, and supplemented on July 6, 2005.

V. Maintenance Plan

What Are the Maintenance Plan Requirements?

Section 175A of the Act requires states to submit a SIP revision which provides for the maintenance of the NAAQS in the area for at least 10 years after approval of the redesignation. Consistent with the Act's requirements, EPA developed procedures for redesignation of nonattainment areas that are contained in a September 4, 1992, memorandum titled, "Procedures for Processing Requests to Redesignate Areas to Attainment." This EPA guidance document contains a number of maintenance plan provisions that a State should consider before it can request a change in designation for a federally designated nonattainment area. The basic components needed to ensure proper maintenance of the NAAQS are: Attainment inventory, maintenance demonstration, ambient air monitoring network, verification of continued attainment, and a contingency plan.

A. Attainment Inventory. The air dispersion modeling included in the State's submittal contains the emission inventory of SO₂ sources for Lake County.

B. Maintenance Demonstration. The modeled attainment demonstration submitted by Indiana on April 8, 2005, shows attainment and maintenance of the SO₂ NAAQS. Steel mills, an oil refinery, and other industrial processes are the primary sources of SO₂ in the

Lake County area. Permanent and enforceable reductions of SO₂ emissions in Lake County contributed to the attainment of the SO₂ standards. Reductions of SO₂ emissions between the year that violations occurred (pre-1979) and the year attainment was achieved (2004) are attributable to the closure of stationary sources or emissions units, substantial emissions reductions at U.S. Steel-Gary Works, and reduced emission limits for certain units at Cargill, Ispat Inland, and Carmeuse Lime facilities. Subsequent to redesignation, any future increases in emissions and/or significant changes to the stack configuration parameters from those modeled in the attainment demonstration due to new or modifying stationary sources, would be subject to the Indiana SIP's NSR and/or PSD requirements including a demonstration that the NAAQS and applicable PSD increments are protected. Although total SO₂ emissions from all sources are projected to increase between 2004 and 2015 due to economic growth, the submitted modeling results indicate future NAAQS maintenance of the area. Emissions in 2015 are projected to be higher than 2002 and 2003, however, emissions in 2001 and prior years were higher than the projections for 2015, and there were no exceedances of the SO₂ NAAQS recorded in 2001. Further, the attainment modeling assumes a potential to emit of 120,800 tons per year of SO₂. This therefore confirms that the projected growth in actual emissions to 43,568 tons of SO₂ in 2015, will not cause a violation of the SO₂ NAAQS.

C. Monitoring Network. Indiana has indicated in the submitted maintenance plan that it will continue to monitor SO₂ in the Lake County area in accordance with 40 CFR parts 53 and 58 to verify continued attainment with the NAAQS for SO₂. The data will continue to be entered into the Air Quality Subsystem (AQS) of the Aerometric Information Retrieval System (AIRS). IDEM will consult with EPA Region 5 staff prior to making any changes to the existing monitoring network should changes be necessary in the future.

D. Verification of Continued Attainment. Indiana has committed in the maintenance plan to review the monitored data annually, and to submit a maintenance plan update eight years after redesignation which will contain IDEM's plan for maintaining the SO₂ NAAQS for 10 years beyond the first 10-year period after redesignation (2015–2025). Further, IDEM commits to maintain the control measures listed above after redesignation and that any changes to its rules or emission limits applicable to SO₂ sources, as required

for maintenance of the SO₂ standards in Lake County, will be submitted to EPA for approval as a SIP revision. This will include, where appropriate, a demonstration based on modeling that the standard will be maintained.

E. Contingency Plan. Section 175A of the Act requires that the maintenance plan include contingency provisions to correct any violation of the NAAQS after redesignation of the area. These contingency measures are distinguished from those generally required for nonattainment areas under section 172(c)(9). IDEM will rely on ambient air monitoring data in the Lake County area to track compliance with the SO₂ NAAQS and to determine the need to implement contingency measures. In the event that an exceedance of the SO₂ NAAQS occurs, the State will expeditiously investigate and determine the source(s) that caused the exceedance and/or violation, and enforce any SIP or permit limit that is violated. If there is a violation of the SO₂ NAAQS, and it is not due to an exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, IDEM will determine additional control measures needed to assure future attainment of the SO₂ NAAQS. Control measures that can be implemented in a short time will be selected in order to be in place within eighteen (18) months from the time that IDEM is aware that the violation occurred. Although the point sources listed in the inventory will be the primary focus, the possibility that the problem is attributable to new or previously unknown SO₂ sources will also be considered. Indiana will submit to EPA an analysis to demonstrate the proposed measures are adequate to return the area to attainment. Adoption of any additional control measures is subject to the necessary administrative and legal process. This process will include publication of notices, an opportunity for public hearing, and other measures required by Indiana law for rulemaking by state environmental boards.

VI. Proposed Rulemaking Action and Solicitation of Public Comment

EPA is proposing to approve the SIP revision for the control of SO₂ emissions in Lake County, Indiana, as requested by the State on April 8, 2005, and supplemented on July 6, 2005. The revision consists of the amended rule at 326 Indiana Administrative Code (IAC) Article 7. In this rule, the requirements in the Table in 326 IAC 7-4-1.1 have been divided into separate sections for each facility for clarity and ease of future rule actions. The new rule, 326 IAC 7-4.1, replaces 326 IAC 7-4-1.1,

which will be repealed. Because the State has complied with the requirements of section 107(d)(3)(E) of the Act, EPA is also proposing to approve the redesignation of the Lake County nonattainment area to attainment of the SO₂ NAAQS, as requested by the State on June 21, 2005. In conjunction with these actions, EPA is also proposing to approve Indiana's maintenance plan for the Lake County SO₂ nonattainment area as a SIP revision because it meets the requirements of section 175A of the Act.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking Region 5 Air Docket R05-OAR-2005-IN-0004" in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

VII. Statutory and Executive Order Reviews

Executive Order 12866; Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget.

Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

Because it is not a "significant regulatory action" under Executive Order 12866 or a "significant energy action," this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

Regulatory Flexibility Act

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it 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).

Executive Order 13175 Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (59 FR 22951, November 9, 2000).

Executive Order 13132 Federalism

This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13045 Protection of Children From Environmental Health and Safety Risks

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

National Technology Transfer Advancement Act

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the

requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

Paperwork Reduction Act

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: July 21, 2005.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 05-15058 Filed 7-28-05; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR-2003-0048; FRL-7943-1]

RIN 2060-AN05

National Emission Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products; List of Hazardous Air Pollutants, Lesser Quantity Designations, Source Category List; Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reconsideration of final rule; request for public comment; notice of public hearing.

SUMMARY: On July 30, 2004, EPA promulgated national emission standards for hazardous air pollutants (NESHAP) for the plywood and composite wood products (PCWP) source category. The Administrator subsequently received a petition for reconsideration of certain provisions in the final rule. By a letter dated December 6, 2004, the Assistant Administrator for Air and Radiation granted the petition for reconsideration, explaining that we would publish a notice in the **Federal Register** to respond to the petition. We are issuing that notice and requesting comment on the approach used to delist a low-risk subcategory of PCWP affected sources, as outlined in the final rule, and on an

issue related to the final rule's start-up, shutdown, and malfunction (SSM) provisions. We are not requesting comments on any other provisions of the final PCWP rule or any other rule. The petitioners also requested that we stay the effectiveness of the risk-based provisions of the final rule, pending reconsideration of those provisions. As stated in the December 6, 2004 letter, we are declining to take that action at the present time.

DATES: *Comments.* Comments must be received on or before September 12, 2005.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by August 8, 2005, a public hearing will be held on August 15, 2005. For further information on the public hearing and requests to speak, see the **ADDRESSES** section of this preamble.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. OAR-2003-0048 (Legacy Docket ID No. A-98-44) by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- *Agency Web Site:* <http://www.epa.gov/edocket>. EDOCKET, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

- *E-mail:* a-and-r-docket@epa.gov.
- *Fax:* (202) 566-1741.
- *Mail:* Air and Radiation Docket and Information Center, EPA, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

- *Hand Delivery:* Air and Radiation Docket and Information Center, EPA, Room B102, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions. Direct your comments to Docket ID No. OAR-2003-0048 (Legacy Docket ID No. A-98-44). EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.epa.gov/edocket>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through EDOCKET, [regulations.gov](http://www.regulations.gov), or e-mail. EPA EDOCKET and the Federal [regulations.gov](http://www.regulations.gov) Web sites are

"anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through EDOCKET or [regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Public Hearing. If a public hearing is held, it will be held on August 15, 2005 at EPA's RTP campus, Research Triangle Park, NC or an alternative site nearby. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Mary Tom Kissell at least 2 days in advance of the public hearing (see **FOR FURTHER INFORMATION CONTACT** section of this preamble). The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning this notice.

Docket. EPA has established an official public docket for today's notice, including both Docket ID No. OAR-2003-0048 and Legacy Docket ID No. A-98-44. The official public docket consists of the documents specifically referenced in today's notice, any public comments received, and other information related to the notice. All items may not be listed under both docket numbers, so interested parties should inspect both docket numbers to ensure that they have received all materials relevant to today's notice. Although listed in the index, some information is not publicly available, *i.e.*, 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 in EDOCKET or in hard copy at the Air and Radiation Docket and Information Center, EPA, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal