

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R05-OAR-2009-0120; FRL-8968-1]

**Approval and Promulgation of Air Quality Implementation Plans; Indiana; Carbon Monoxide Maintenance Plan Updates; Limited Maintenance Plan****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The Indiana Department of Environmental Management (IDEM) submitted Carbon Monoxide (CO) "Limited Maintenance Plan" updates for Lake and Marion Counties on January 12, 2009. These Limited Maintenance Plans demonstrate continued attainment of the CO National Ambient Air Quality Standard (NAAQS) for Lake and Marion counties for an additional ten years. EPA is, therefore, approving it into Indiana's State Implementation Plan (SIP).

**DATES:** This direct final rule will be effective December 14, 2009, unless EPA receives adverse comments by November 16, 2009. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R05-OAR-2009-0120, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail*: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).
3. *Fax*: (312) 692-2551.
4. *Mail*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. *Hand Delivery*: John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

**Instructions:** Direct your comments to Docket ID No. EPA-R05-OAR-2009-0120. EPA's policy is that all comments

received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *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.

**Docket:** All documents in the docket are listed in the *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* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886-6031 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:**

Charles Hatten, 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) 886-6031, [hatten.charles@epa.gov](mailto:hatten.charles@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. Why did the State make this submittal to EPA?
- II. What is a Limited Maintenance Plan?
- III. What is EPA's analysis of the submittal?
- IV. What action is EPA taking?
- V. Statutory and Executive Order Reviews

**I. Why did the State make this submittal to EPA?**

On December 21, 1999, the State of Indiana submitted redesignation requests and limited CO maintenance plans for the Lake County (East Chicago) and Marion County (Indianapolis) CO nonattainment areas. EPA subsequently approved the redesignation request and limited maintenance plans for CO attainment in Lake and Marion Counties on January 19, 2000 (65 FR 2883).

Section 175A of the Clean Air Act (CAA) sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten year period.

As part of the original redesignation request and limited CO maintenance plan, IDEM committed to review, and revise its limited maintenance plan eight years after the areas were redesignated to attainment of the CO standard, as required by section 175A(b) of the CAA. On January 12, 2009, Indiana satisfied its commitment by submitting a revision to its SIP to update the limited CO maintenance plans for both the Lake County and Marion County CO attainment areas. The update to the limited CO maintenance plan for Lake County and Marion County supplements, and does not replace, the original approved maintenance plans. The commitments in the approved maintenance plans continue to apply for a second 10 year period.

**A. Has public notice been provided?**

Indiana published a public notice on November 19, 2008, for the limited maintenance plan update for the Lake and Marion Counties CO attainment areas. No public comments were received during the 30-day comment period ending on December 19, 2008.

**B. Geographic Boundaries**

The CO maintenance areas are much smaller than Lake County and Marion County, respectively. The following is a brief description of the two maintenance counties included in this update.

**Lake County**

Lake County is located in northwest Indiana. The Lake County CO maintenance area is in the City of East Chicago (area bounded by Columbus Drive on the north, the Indiana Harbor Canal on the west, 148th St., if extended, on the south and Euclid Avenue on the east).

**Marion County**

Marion County is located in central Indiana, and is part of the Indianapolis metropolitan area. However, only a small area located in the center of Marion County, bounded by 11th St. on to the north, Capitol Avenue to the west, Georgia Street to the south and Delaware to the east is classified as maintenance for CO.

**II. What is a Limited Maintenance Plan?**

“Limited Maintenance Plans” are applicable in certain areas that EPA had formerly designated as nonclassifiable and nonattainment for CO. As discussed in an October 6, 1995, memorandum entitled “Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas,” EPA will consider the maintenance demonstration satisfied if the design value (the second highest 8-hour non-overlapping monitored value) is at or below 7.65 parts per million (ppm), or 85 percent of the level of the eight hour CO NAAQS of 9.0 ppm. The design value must be based on eight consecutive quarters of data. For such areas, there is no requirement to project

emissions of air quality over the maintenance period. EPA believes that if the area begins the maintenance period at, or below, 85 percent of the CO 8-hour NAAQS, then the applicability of Prevention of Significant Deterioration (PSD) requirements, the control measures already in the SIP, and Federal measures should provide adequate assurance of maintenance over the ten year maintenance period. In addition, the design value for the area must continue to be at or below 7.65 ppm until the time of final EPA action.

The core provisions that are required in a limited maintenance plan for CO are: an attainment emissions inventory, a maintenance demonstration (which is satisfied by the air quality demonstration described in the previous paragraph), continued operation of an EPA approved CO monitoring network, a contingency plan, and a demonstration of transportation conformity. Each of these components has been adequately addressed by in IDEM’s submittal.

**III. What is EPA’s Analysis of the submittal?**

*Attainment/Emission Inventory*

The State is required to develop an attainment emission inventory to identify a level of emissions in the area which is sufficient to attain the CO NAAQS. In its submittal, IDEM provided a comprehensive emission inventory of major sources permitted in Lake and Marion Counties from the original maintenance plan’s emissions (1997) compared to the most recent emissions inventory (2006). The State demonstrated that the CO emissions from major sources in Lake County and Marion County have decreased by 2,126.86 tons per year, and 22,679.12 tons per year, respectively, from 1997 to

2006. This decrease can be attributed to a number of factors, including Federally mandated programs, closings of permitted stationary sources, and source-specific operating provisions.

By opting to comply with the requirements of the limited maintenance plan option, IDEM is not required to project CO emissions for Lake and Marion Counties as part of the updates to these limited maintenance plans.

*Maintenance Demonstration*

To qualify for the limited CO maintenance plan option, the CO design value for the area (the second highest eight hour non-overlapping monitored value), based on eight consecutive quarters (2 years of data) must be at or below, 7.65 ppm, or 85 percent of the level of the eight hour CO NAAQS. To assess whether the area meets the applicability cutoff for the limited maintenance plan, a separate design value must be developed for every monitoring site. The highest of these design values is the design value for the whole area.

In Lake County, there is one monitoring site collecting CO data for maintenance of the CO NAAQS located at the East Chicago Post Office. The 2007 eight hour CO design value for the monitor in Lake County area is 3.0 ppm.

In Marion County, there are two CO monitoring sites in operation, one located at 50 North Illinois Street, and one at the Naval Avionics Center. The 2007 eight hour CO design values for these two monitors are 3.6 ppm (North Illinois Street), and 2.1 ppm (Naval Avionics Center). This makes the Marion County CO maintenance area’s design value 3.6 ppm. The CO design values for Lake and Marion Counties are presented in the table below.

**CURRENT CO DESIGN VALUE FOR LAKE AND MARION COUNTIES**

Site ID	County	Site name	Year	1st Max 8-hour (ppm)	2nd Max 8-hour (ppm)	Design value (ppm)
18-089-0001 .....	Lake .....	East Chicago .....	2006	3.2	2.4	2.4
18-089-0001 .....	Lake .....	East Chicago .....	2007	3.1	3.0	3.0
18-097-0072 .....	Marion .....	50 North Illinois .....	2006	2.1	2.0	2.4
18-097-0072 .....	Marion .....	50 North Illinois .....	2007	4.3	3.6	3.6
18-097-0073 .....	Marion .....	Naval Avionics Center .....	2006	2.3	2.1	2.1
18-097-0073 .....	Marion .....	Naval Avionics Center .....	2007	2.3	2.0	2.1

The eight hour design values from the AIRS (Aerometric Information Retrieval System) Quick Look data report were examined for Lake County and Marion

County and have not exceeded the 7.65 ppm level for the 1998 to 2007 time interval.

Current data in AIRS for 2008 show that the CO monitoring values for Lake County

and Marion County continue to be below 7.65 ppm. See table below.

## CURRENT CO AMBIENT MONITORING DATA FOR LAKE AND MARION COUNTIES

Site ID	County	Site name	Year	1st Max 8-hour (ppm)	2nd Max 8-hour (ppm)
18-089-0001 .....	Lake .....	East Chicago .....	2008	3.3	3.0
18-097-0072 .....	Marion .....	50 North Illinois .....	2008	3.2	2.1
18-097-0073 .....	Marion .....	Naval Avionics Center .....	2008	1.3	1.2

EPA also examined at CO monitoring data for 2009. While this data has yet to be quality assured, it shows CO levels continue to be low for Lake County and Marion County.

Based on ambient air monitoring data, Lake and Marion Counties are eligible to update their maintenance plan under the limited maintenance plan policy. IDEM will continue to maintain a continuous CO monitoring network, meeting the requirements of 40 CFR Part 58, that provides adequate coverage to verify continued compliance with the CO NAAQS.

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

EPA is approving a SIP revision request submitted by the State of Indiana. This SIP revision meets the requirements for a second ten year limited CO maintenance plan for Lake County and Marion County, Indiana. The SIP revision supplements the current approved limited CO maintenance plans for Lake County and Marion County, and continues to demonstrate maintenance of the CO NAAQS for an additional ten years.

We are publishing this action without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comments. However, in the Proposed Rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the state plan if relevant adverse written comments are filed. This rule will be effective December 14, 2009 without further notice unless we receive relevant adverse written comments by November 16, 2009. If we receive such comments, we will withdraw this action before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on the proposed action. The EPA will not institute a second comment period, therefore, any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective December 14, 2009.

#### 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, 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

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

action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 14, 2009. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, and Intergovernmental relations.

Dated: September 29, 2009.

**Walter W. Kovalick Jr.,**

*Acting Regional Administrator, Region 5.*

■ For the reasons stated in the preamble, part 52, chapter I, of title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart P—Indiana

- 2. Section 52.785 is amended by adding paragraph (c) to read as follows:

#### § 52.785 Control Strategy: Carbon Monoxide.

\* \* \* \* \*

(c) Approval—The Indiana Department of Environmental Management (IDEM) submitted Carbon Monoxide (CO) Limited Maintenance Plan Updates for Lake and Marion Counties on January 12, 2009. The updated Limited Maintenance Plans

demonstrate attainment of the CO National Ambient Air Quality Standard (NAAQS) for Lake and Marion Counties for an additional ten years.

[FR Doc. E9-24695 Filed 10-14-09; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R09-OAR-2009-0473; FRL-8956-8]

**Revisions to the California State Implementation Plan, San Joaquin Valley Air Pollution Control District**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is finalizing approval of revisions to the San Joaquin Valley Air Pollution Control District portion of the California State Implementation Plan

(SIP). These revisions were proposed in the **Federal Register** on July 13, 2009 and concern volatile organic compound (VOC) emissions from graphic arts printing operations, digital printing operations, adhesives, cleaning solvents, transfer of organic liquids, and facilities engaged in coating of wood products, flat paneling, paper, film, foil, and fabric. We are approving local rules that regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

**DATES:** *Effective Date:* This rule is effective on November 16, 2009.

**ADDRESSES:** EPA has established docket number EPA-R09-OAR-2009-0473 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy

location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

**FOR FURTHER INFORMATION CONTACT:** Nicole Law, EPA Region IX, (415) 947-4126, [law.nicole@epa.gov](mailto:law.nicole@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, “we,” “us” and “our” refer to EPA.

**Table of Contents**

- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Statutory and Executive Order Reviews

**I. Proposed Action**

On July 13, 2009 (74 FR 33399), EPA proposed to approve the following rules into the California SIP.

Local agency	Rule #	Rule title	Adopted	Submitted
SJVAPCD .....	4606	Wood Products and Flat Wood Paneling Product Coating Operations.	10/16/08	12/23/08
SJVAPCD .....	4607	Graphic Arts and Paper, Film, Foil, and Fabric Coatings .....	12/18/08	03/17/09
SJVAPCD .....	4624	Transfer of Organic Liquid .....	09/20/07	03/07/08
SJVAPCD .....	4653	Adhesives .....	12/20/07	03/07/08

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

**II. Public Comments and EPA Responses**

EPA’s proposed action provided a 30-day public comment period. During this period, we received no comments.

**III. EPA Action**

No comments were submitted that change our assessment that the submitted rules comply with the relevant CAA requirements. Therefore, as authorized in section 110(k)(3) of the Act, EPA is fully approving these rules into the California SIP.

**IV. 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, 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 Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the 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, this rule does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the