

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Ozone, Reporting and recordkeeping requirements.

Dated: April 6, 2020.

Dennis Deziel,

Regional Administrator, EPA Region 1.

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

[EPA-R05-OAR-2020-0125; FRL-10007-91-Region 5]

Air Plan Approval; Indiana; Lake and Porter Counties Redesignation to Attainment of the 2008 Ozone Standard and Section 182(f) NO_x RACT Waiver

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Chicago-Naperville, IL-IN-WI area (Chicago Area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and to approve a request from the Indiana Department of Environmental Management (IDEM or Indiana) to redesignate the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Indiana portion of the Chicago 2008 ozone area consists of Lake and Porter Counties in Northwest Indiana. Indiana submitted this request on February 27, 2020. EPA is also proposing to approve, as a revision to the Indiana State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone NAAQS through 2030 in the Chicago area. EPA is also proposing to approve a waiver, for the Indiana portion of the Chicago area (Lake and Porter Counties), from the oxides of nitrogen (NO_x) requirements of section 182(f) of the CAA. Finally, EPA finds adequate and is proposing to approve Indiana's 2025 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_x) Motor Vehicle Emission Budgets (MVEBs) for the Indiana portion of the Chicago area (Lake and Porter Counties).

DATES: Comments must be received on or before May 20, 2020.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2020-0125 at [http://](http://www.regulations.gov)

www.regulations.gov or via email to aburano.douglas@epa.gov. For comments submitted at [Regulations.gov](http://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](http://www.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:

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SUPPLEMENTARY INFORMATION:

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

- I. What is EPA proposing?
- II. What is the background for these actions?
- III. What are the criteria for redesignation?
- IV. What is EPA's analysis of Indiana's redesignation request?
- V. Has the state adopted approvable motor vehicle emission budgets?
- VI. Section 182(f) NO_x Exemption
- VII. Proposed Actions
- VIII. Statutory and Executive Order Reviews

I. What is EPA proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Chicago-Naperville, IL-IN-WI area (Chicago Area) is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017-2019 and that the Indiana portion of the Chicago area (Lake and Porter Counties) has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is

proposing to change the legal designation of the Indiana portion of the Chicago area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Indiana SIP, the state's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Chicago area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2025 and 2030 MVEBs for the Indiana portion of the Chicago area (Lake and Porter Counties).

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 27, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. See 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent 3 years of quality assured ozone monitoring data. The Chicago area was originally designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 31, 2012 (77 FR 34221), effective July 20, 2012. EPA reclassified the Chicago area from marginal to moderate nonattainment on April 11, 2016 (81 FR 26697), effective June 3, 2016. The Chicago area was again reclassified to serious on August 7, 2019 (84 FR 44238), effective September 23, 2019.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from

implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignations in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498) and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What is EPA's analysis of Indiana's redesignation request?

A. Has the Chicago area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the entire Chicago-Naperville, IL-IN-WI 2008 ozone area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone

NAAQS, as determined in accordance with 40 CFR 50.15 and appendix U of part 50, based on 3 complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,¹ on average, for the 3-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the 3-year period. See section 4 of appendix U to 40 CFR part 50.

EPA has reviewed the available ozone monitoring data from monitoring sites in the Chicago-Naperville, IL-IN-WI 2008 ozone area for the 2017-2019 period. These data have been quality assured, are recorded in the AQS, and have been certified. These data demonstrate that the Chicago area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CHICAGO-NAPERVILLE, IL-IN-WI 2008 OZONE AREA

Site	County	Year			Average
		2017	2018	2019	
Wisconsin					
55-059-0019	Kenosha	0.079	0.079	0.067	0.075
55-059-0025	Kenosha	0.076	0.080	0.063	0.073
Illinois					
17-031-0001	Cook	0.078	0.079	0.070	0.075
17-031-0032	Cook	0.074	0.076	0.071	0.073
17-031-0076	Cook	0.078	0.074	0.065	0.072
17-031-1003	Cook	0.060	0.073	0.069	0.067
17-031-1601	Cook	0.070	0.068	0.068	0.068
17-031-3103	Cook	0.061	0.065	0.064	0.063
17-031-4002	Cook	0.068	0.072	0.064	0.068

¹ The ozone season is defined by state in 40 CFR 58 appendix D. The ozone season for Indiana is

March-October. See, 80 FR 65292, 65466-67 (October 26, 2015).

TABLE 1—ANNUAL FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE FOURTH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CHICAGO-NAPERVILLE, IL-IN-WI 2008 OZONE AREA—Continued

Site	County	Year			Average
		2017	2018	2019	2017–2019
17-031-4007	Cook	0.071	0.075	0.066	0.070
17-031-4201	Cook	0.070	0.083	0.069	0.074
17-031-7002	Cook	0.073	0.084	0.069	0.075
17-043-6001	DuPage	0.069	0.071	0.070	0.070
17-089-0005	Kane	0.069	0.072	0.071	0.070
17-097-1007	Lake	0.074	0.074	0.066	0.071
17-111-0001	McHenry	0.070	0.074	0.070	0.071
17-197-1011	Will	0.068	0.071	0.060	0.066
Indiana					
18-089-0022	Lake	0.070	0.071	0.065	0.068
18-089-2008	Lake	0.069	0.062	0.065	0.065
18-127-0024	Porter	0.072	0.071	0.068	0.070
18-127-0026	Porter	0.077	0.071	0.071	0.073

The Chicago area's 3-year ozone design value for 2017–2019 is 0.075 ppm,² which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the Chicago area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Chicago area is attaining the NAAQS nor to approve the redesignation of the Indiana portion of the Chicago area if the design value of a monitoring site in the area violates the NAAQS after proposal but prior to final approval of the redesignation. As discussed in section IV.D.3. below, Indiana has committed to continue monitoring ozone in this area to verify maintenance of the 2008 ozone NAAQS.

B. Has Indiana met all applicable requirements of section 110 and part D of the CAA for the Indiana portion of the Chicago area, and does Indiana have a fully approved SIP for the area under section 110(k) of the CAA?

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (see section 107(d)(3)(E)(v) of the CAA). In addition, with the exception of the section 182(f) NO_x exemption, the state has a fully approved SIP under section 110(k) of the CAA (see section 107(d)(3)(E)(ii) of the CAA). EPA finds that Indiana has met all applicable SIP requirements, for purposes of redesignation, under section 110 and

part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, EPA finds that all applicable requirements of the Indiana SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Indiana portion of the Chicago area, if applicable, whether the required Indiana SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum describes EPA's interpretation of section 107(d)(3)(E) of the CAA. Under this interpretation, a state and the area it wishes to redesignate must meet the relevant CAA requirements that are due prior to the state's submittal of a complete redesignation request for the area. See also the September 17, 1993, Michael Shapiro memorandum and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St.

Louis area to attainment of the 1-hour ozone NAAQS).

1. Indiana Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Indiana Portion of the Chicago Area for Purposes of Redesignation

a. Section 110 General Requirements for Implementation Plans

Section 110(a)(2) of the CAA delineates the general requirements for a SIP. Section 110(a)(2) provides that the SIP must have been adopted by the state after reasonable public notice and hearing, and that, among other things, it must: (1) Include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; (2) provide for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; (3) provide for implementation of a source permit program to regulate the modification and construction of stationary sources within the areas covered by the plan; (4) include provisions for the implementation of part C prevention of significant deterioration (PSD) and part D new source review (NSR) permit programs; (5) include provisions for stationary source emission control measures, monitoring, and reporting; (6) include provisions for air quality modeling; and, (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from

² The monitor ozone design value for the monitor with the highest 3-year averaged concentration.

significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.*, NO_x SIP call, Clean Air Interstate Rule (CAIR), Cross-State Air Pollution Rule (CSAPR). However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–27 (May 13, 2003).

In addition, EPA believes that other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's ozone attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated to attainment of the 2008 ozone NAAQS. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania proposed and final rulemakings, 61 FR 53174–53176 (October 10, 1996) and 62 FR 24826 (May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking, 61 FR 20458 (May 7, 1996); and Tampa, Florida final rulemaking, 60 FR 62748 (December 7, 1995). *See also* the discussion of this issue in the Cincinnati, Ohio ozone redesignation (65 FR 37890, June 19, 2000), and the Pittsburgh, Pennsylvania ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed Indiana's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those

requirements are applicable for purposes of redesignation.³

b. Part D Requirements

Section 172(c) of the CAA sets forth the basic requirements of air quality plans for states with nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the areas' nonattainment classifications.

The Chicago area is classified as serious under subpart 2 for the 2008 ozone NAAQS. As such, the area is subject to the subpart 1 requirements contained in section 172(c) and section 176. Similarly, the area is subject to the subpart 2 requirements contained in section 182(a), (b), and (c) (marginal, moderate, and serious nonattainment area requirements). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

i. Subpart 1 Section 172 Requirements

CAA Section 172(b) requires states to submit SIPs meeting the requirements of section 172(c) no later than 3 years from the date of the nonattainment designation. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all reasonably available control measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS. Under this requirement, a state must consider all available control measures, including reductions that are available from adopting reasonably available control technology (RACT) on existing sources, for a nonattainment area and adopt and implement such measures as are reasonably available in the area as components of the area's attainment demonstration. EPA approved Indiana's VOC RACT plan on February 13, 2019 (84 FR 3711). Because attainment has been reached in the Chicago area, no additional measures are needed to provide for attainment and section 172(c)(1) requirements are no longer considered to be applicable, as long as the area continues to attain the standard until redesignation. *See* 40 CFR 51.918.

The reasonable further progress (RFP) requirement under section 172(c)(2) is the progress that must be made toward attainment. EPA approved Indiana's

RFP plan and RFP contingency measures on February 13, 2019 (84 FR 3711).

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. This requirement was superseded by the inventory requirement in section 182(a)(1) discussed below.

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has previously approved Indiana's nonattainment NSR program on February 13, 2019 (84 FR 3711). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that the NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Indiana has demonstrated that the Indiana portion of the Chicago area will be able to maintain the 2008 ozone NAAQS without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Indiana's PSD program will become effective in the Indiana portion of the Chicago area upon redesignation to attainment. EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the standard. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, we believe the Indiana SIP meets the

³ EPA has previously approved provisions of the Indiana SIP addressing section 110 elements under the 2008 ozone NAAQS; 80 FR 23713. 84 FR 46889.

requirements of section 110(a)(2) for purposes of redesignation.

Section 172(c)(9) requires the SIP to provide for the implementation of contingency measures if the area fails to make reasonably further progress or to attain the NAAQS by the attainment deadline. As noted previously, EPA approved Indiana's contingency measures for purposes of RFP on February 13, 2019 (84 FR 3711). With respect to contingency measures for failure to attain the NAAQS by the attainment deadline, this requirement is not relevant for purposes of redesignation because the Chicago area has demonstrated monitored attainment of the 2008 ozone NAAQS. (General Preamble, 57 FR 13564). See also 40 CFR 51.918.

ii. Section 176 Conformity Requirements

Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs and projects that are developed, funded or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements⁴ as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Indiana has an approved conformity SIP for the Indiana portion of the Chicago area. See 84 FR 3711 (February 13, 2019).

⁴ CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from SIPs requiring the development of Motor Vehicle Emission Budgets (MVEBs), such as control strategy SIPs and maintenance plans.

iii. Subpart 2 Section 182(a), (b), and (c) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the ozone nonattainment area. EPA approved Indiana's base year emissions inventory for the Indiana portion of the Chicago area on April 7, 2017 (82 FR 16934) and February 13, 2019 (84 FR 3711).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Indiana portion of the Chicago area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS. See 57 FR 8082 (March 6, 1992).

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented or was required to implement a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision for an I/M program no less stringent than that required prior to the 1990 CAA amendments or already in the SIP at the time of the CAA amendments, whichever is more stringent. For the purposes of the 2008 ozone standard and the consideration of Indiana's redesignation request for this standard, the Indiana portion of the Chicago area is not subject to the section 182(a)(2)(B) requirement because the area was designated as nonattainment for the 2008 ozone standard after the enactment of the 1990 CAA amendments and because Indiana complied with this requirement for the Indiana portion of the Chicago area under the prior 1-hour ozone NAAQS.

Section 182(a)(3)(B) requires the submission of an emission statement SIP. EPA approved Indiana's emission statement SIP for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on April 7, 2017 (82 FR 16934) and on February 13, 2019 (84 FR 3711).

Section 182(b)(1) requires the submission of an attainment demonstration and RFP plan. Indiana submitted an attainment demonstration

and RFP plan for the Indiana portion of the Chicago 2008 ozone NAAQS moderate nonattainment area on February 13, 2019 (84 FR 3711).

EPA approved Indiana's RFP plan and RFP contingency measures for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711). Because attainment has been reached, section 182(b)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard. If EPA finalizes approval of the redesignation of the area, EPA will take no further action on the attainment demonstration submitted by Indiana.

Section 182(b)(2) requires states with moderate nonattainment areas to implement VOC RACT with respect to each of the following: (1) All sources covered by a Control Technology Guideline (CTG) document issued between November 15, 1990, and the date of attainment; (2) all sources covered by a CTG issued prior to November 15, 1990; and, (3) all other major non-CTG stationary sources. If no major non-CTG sources of VOC emissions or no sources in a CTG category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. Indiana has adopted and submitted VOC RACT rules and negative source declarations to cover all applicable CTGs, and major non-CTG sources. EPA approved Indiana's Negative Declaration for the Oil and Gas CTG for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on December 13, 2019 (84 FR 68050). In a final rulemaking published on February 13, 2019 (84 FR 3711), we concluded that Indiana has complied with all section 182(b)(2) RACT requirements for the 2008 ozone NAAQS.

Section 182(b)(3) requires states to adopt Stage II gasoline vapor recovery regulations. On May 16, 2012 (77 FR 28772), EPA determined that the use of onboard vapor recovery technology for capturing gasoline vapor when gasoline-powered vehicles are refueled is in widespread use throughout the highway motor vehicle fleet and waived the requirement that current and former ozone nonattainment areas implement Stage II vapor recovery systems on gasoline pumps.

The requirements for an I/M program for a moderate ozone nonattainment area are found in Section 182(b)(4). EPA approved Indiana's I/M program certification for the Indiana portion of the Chicago area for the 2008 ozone NAAQS on February 13, 2019 (84 FR 3711).

Regarding the new source permitting and offset requirements of sections 182(a)(2)(C), 182(a)(4), and 182(b)(5), Indiana currently has a fully-approved part D NSR program in place. EPA approved Indiana's NSR SIP on February 13, 2019 (84 FR 3711). EPA approved Indiana's PSD program on May 20, 2004 (69 FR 29071). The state's PSD program will become effective in the Indiana portion of the Chicago area if EPA approves the state's redesignation request.

Section 182(f) establishes NO_x requirements for ozone nonattainment areas. However, it provides that these requirements do not apply to an area if the Administrator determines that NO_x reductions would not contribute to attainment. As discussed in section VI. below, we are proposing such a determination for the Indiana portion of the Chicago area as requested by Indiana. If the NO_x waiver is approved as a final rule, Indiana need not have fully approved NO_x control measures under section 182(f) for the Chicago-Naperville, IL-IN-WI area to be redesignated to attainment.

Section 182(c) contains the requirements for areas classified as serious. On August 23, 2019 (84 FR 44238), EPA reclassified the Chicago area from moderate to serious and established August 3, 2020 as the due date for serious area SIP revisions. No requirements under section 182(c) became due prior to Indiana's submission of the complete redesignation request for the Indiana portion of the Chicago area, and, therefore, none are applicable to the area for purposes of redesignation.

Thus, as discussed above, if EPA approves the section 182(f) NO_x exemption, the Indiana portion of the Chicago area will satisfy all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Indiana Portion of the Chicago area (Lake and Porter Counties) has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Indiana has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, if EPA finalizes the section 182(f) NO_x exemption, EPA will have fully approved the Indiana SIP for the Chicago-Naperville, IL-IN-WI nonattainment area under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on

prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

C. Are the air quality improvements in the Chicago area due to permanent and enforceable emission reductions?

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. EPA has determined that Indiana has demonstrated that the observed ozone air quality improvement in the Indiana portion of the Chicago area is due to permanent and enforceable reductions in VOC and NO_x emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the state has calculated the change in emissions between 2011 and 2017. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Indiana portion of the Chicago area and other portions of the area have implemented in recent years. In addition, Indiana provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, EPA finds that Indiana has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_x Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR). Under the “good neighbor provision” of CAA section 110(a)(2)(D)(i)(I), states are required to address interstate transport of air pollution. Specifically, the good neighbor provision provides that each state's SIP must contain provisions prohibiting emissions from within that state which will contribute significantly to nonattainment of the NAAQS, or

interfere with maintenance of the NAAQS, in any other state.

On May 12, 2005, EPA published CAIR, which required eastern states, including Indiana, to prohibit emissions consistent with annual and ozone season NO_x budgets and annual sulfur dioxide (SO₂) budgets (70 FR 25152). CAIR addressed the good neighbor provision for the 1997 ozone NAAQS and 1997 fine particulate matter (PM_{2.5}) NAAQS and was designed to mitigate the impact of transported NO_x emissions, a precursor of both ozone and PM_{2.5}, as well as transported SO₂ emissions, another precursor of PM_{2.5}. The United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) remanded CAIR to EPA for replacement in 2008. *North Carolina v. EPA*, 531 F.3d 896, modified, 550 F.3d 1176 (2008). While EPA worked on developing a replacement rule, implementation of the CAIR program continued as planned with the NO_x annual and ozone season programs beginning in 2009 and the SO₂ annual program beginning in 2010.

On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA published CSAPR to replace CAIR and to address the good neighbor provision for the 1997 ozone NAAQS, the 1997 PM_{2.5} NAAQS, and the 2006 PM_{2.5} NAAQS. Through Federal Implementation Plans (FIPs), CSAPR required electric generating units (EGUs) in eastern states, including Indiana, to meet annual and ozone season NO_x budgets and annual SO₂ budgets implemented through new trading programs. After delays caused by litigation, EPA started implementing the CSAPR trading programs in 2015, simultaneously discontinuing administration of the CAIR trading programs. On October 26, 2016, EPA published the CSAPR Update, which established, starting in 2017, a new ozone season NO_x trading program for EGUs in eastern states, including Indiana, to address the good neighbor provision for the 2008 ozone NAAQS (81 FR 74504). The CSAPR Update is estimated to result in a 20 percent reduction in ozone season NO_x emissions from EGUs in the eastern United States, a reduction of 80,000 tons in 2017 compared to 2015 levels. The reduction in NO_x emissions from the implementation of CAIR and then CSAPR occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

c. Federal Emission Control Measures

Reductions in VOC and NO_x emissions have occurred statewide and

in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_x emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_x and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_x and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. As projected by these estimates and demonstrated in the on-road emission modeling for the Indiana portion of the Chicago area, the majority of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as remaining older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule will be phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NO_x and for particulate matter. The VOC and NO_x tailpipe standards for light-duty vehicles represent approximately an 80 percent reduction from today's fleet average and a 70 percent reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60 percent reduction in both fleet average VOC and NO_x and per-vehicle PM standards. The evaporative

emissions requirements in the rule will result in approximately a 50 percent reduction from current standards and apply to all light-duty and on-road gasoline-powered heavy-duty vehicles. Finally, the rule lowers the sulfur content of gasoline to an annual average of 10 ppm by January 2017. As projected by these estimates and demonstrated in the on-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-road heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_x, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 ppm by 2007, leading to additional reductions in combustion NO_x and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NO_x and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that by 2030 NO_x and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Non-road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO₂ limits for non-road diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_x emissions from these non-road diesel engines by approximately 90 percent. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and

additional emission reductions will occur throughout the maintenance period.

Non-road Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards are phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_x emissions. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896) EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NO_x emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_x from these engines. As projected by these estimates and demonstrated in the non-road emission modeling for the Indiana portion of the Chicago area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

2. Emission Reductions

Indiana is using a 2011 emissions inventory as the nonattainment year. This is appropriate because it was one of the years used to designate the area as nonattainment. Indiana is using 2017 as the attainment year, which is appropriate because it is one of the years in the 2017–2019 period used to demonstrate attainment.

Area and non-road mobile emissions were collected from data available on EPA's Air Emissions Modeling website.⁵ For the 2017 attainment year, area and non-road source emissions inventory estimates were based on the data interpolation between 2016 base year

⁵ <https://www.epa.gov/air-emissions-modeling/2016v1-platform>.

and the 2023 and 2028 projection years of EPA’s 2016 version 1 Emissions Modeling Platform.

IDEM compiled 2011 and 2017 actual point source and EGU-point source emissions from state inventory databases.

On-road mobile source emissions were developed in conjunction with the Northwestern Indiana Regional Planning Commission (NIRPC), the Metropolitan Planning Organization for the area that includes Lake, Porter, and LaPorte Counties. NIRPC maintains a travel demand forecast model that is used to identify where travel capacity will be needed and to determine the infrastructure requirements necessary to meet that need. The travel demand forecast model predicts the total daily vehicle miles traveled.

Indiana used the Motor Vehicle Emission Simulator (MOVES), the EPA’s

recommended mobile source model, to develop on-road emissions rates. The version used was MOVES2014b. The modeling inputs to MOVES, which include detailed transportation data (e.g., vehicle-miles of travel by vehicle class, road class and hour of day, and average speed distributions), were provided by NIRPC.

On-road mobile source emissions were then calculated from emissions factors produced by EPA’s Motor Vehicle Emission Simulator model, MOVES2b, and data extracted from the region’s travel-demand forecast model.

The annual emissions provided by this inventory are then used to calculate average summer day emissions using EPA guidance on how the model estimates daily emissions. The monthly profile percentages for June, July, and August were added together and then divided by the number of days in the

season (92). This is applied at the process level using the profiles that are specified for each source classification code (SCC) that is assigned to the process.

Emissions for Illinois and Wisconsin were based on inventories developed by those states in 2016 for an earlier round of redesignation requests. For the current document, 2011 and 2030 emissions are directly taken from these earlier inventories, whereas 2017 and 2025 emissions were determined by interpolation from these inventories.

Using the inventories described above, Indiana’s submittal documents changes in VOC and NO_x emissions from 2011 to 2017 for the Indiana portion of the Chicago area. Emissions data are shown in Tables 2 and 3.

TABLE 2—EMISSIONS REDUCTION OF NO_x EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2017

[Tons/day]

Sector	2011 Nonattainment year	2017 Attainment year	Emission reductions
Illinois			
EGU Point	67.41	29.23	38.18
Point	52.57	47.59	4.98
Area	27.14	33.60	– 6.46
Non-Road	188.34	142.64	45.70
On-road	296.38	177.66	118.72
Total	631.84	430.72	201.12
Indiana			
EGU Point	30.15	3.73	26.42
Point	66.46	55.42	11.04
Area	9.69	8.06	1.63
Non-road	12.69	6.73	5.96
On-road	24.70	12.85	11.85
Total	143.69	86.79	56.90
Wisconsin			
EGU Point	8.71	8.55	0.16
Point	0.11	0.13	– 0.02
Area	1.09	1.02	0.07
Non-Road	2.08	1.67	0.41
On-road	5.35	2.81	2.54
Total	17.34	14.18	3.16
Chicago-Naperville, IL–IN–WI 2008 ozone area			
Illinois	631.84	430.72	201.12
Indiana	143.69	86.79	56.90
Wisconsin	17.34	14.18	3.16
Total	792.87	531.69	261.18

TABLE 3—EMISSIONS REDUCTION OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2011–2017

[Tons/day]

Sector	2011	2017	Emission reductions
Illinois			
EGU Point	0.62	0.78	–0.16
Point	47.63	44.53	3.10
Area	210.04	226.69	–16.65
Non-Road	169.58	80.56	89.02
On-road	91.04	81.49	9.55
Total	518.91	434.05	84.86
Indiana			
EGU Point	0.63	0.20	0.43
Point	17.07	10.16	6.91
Area	18.07	19.56	–1.49
Non-Road	14.19	4.06	10.13
On-road	9.58	6.07	3.51
Total	59.54	40.05	19.49
Wisconsin			
EGU Point	0.38	0.32	0.06
Point	0.18	0.07	0.11
Area	3.76	3.49	0.27
Non-Road	1.13	0.74	0.39
On-road	2.53	1.42	1.11
Total	7.98	6.04	1.94
Chicago-Naperville, IL–IN–WI 2008 ozone area			
Illinois	518.91	434.05	84.86
Indiana	59.54	40.05	19.49
Wisconsin	7.98	6.04	1.94
Total	586.43	480.14	106.29

As shown in Tables 2 and 3, NO_x and VOC emissions in the Indiana portion of the Chicago area declined by 56.90 tons/day and 19.49 tons/day, respectively, between 2011 and 2017. NO_x and VOC emissions throughout the entire Chicago area declined by 261.18 tons/day and 106.29 tons/day, respectively, between 2011 and 2017.

3. Meteorology

To further support IDEM's demonstration that the improvement in air quality between the year violations occurred and the year attainment was achieved is due to permanent and enforceable emission reductions and not unusually favorable meteorology, an analysis was performed by the Lake Michigan Air Directors Consortium (LADCO). A classification and regression tree (CART) analysis was conducted with 2005 through 2018 data from nine Chicago-area ozone sites. The goal of the analysis was to determine the meteorological and air quality

conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

Regression trees were developed for the nine monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed that, reducing the impact of meteorology, the resulting trends in ozone concentrations declined over the period examined, supported the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

D. Does Indiana have a fully approvable ozone maintenance plan for the Chicago area?

As one of the criteria for redesignation to attainment, section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA

deems necessary, to ensure prompt correction of the future NAAQS violation.

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan. In conjunction with its request to redesignate the Indiana portion of the Chicago area to attainment for the 2008 ozone NAAQS, IDEM submitted a SIP revision to provide for maintenance of the 2008 ozone NAAQS through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that Indiana’s ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision of the Indiana SIP.

1. Attainment Inventory

EPA is proposing to determine that the Indiana portion of the Chicago area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2017–2019. IDEM selected 2017 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_x. The attainment emissions inventory identifies the levels of emissions in the Indiana portion of

the Chicago area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions was discussed above in section IV.C.2. of this proposed rule. The attainment level emissions, by source category, are summarized in Tables 2 and 3 above.

2. Has the state documented maintenance of the ozone standard in the Indiana portion of the Chicago area (Lake and Porter Counties)?

Indiana has demonstrated maintenance of the 2008 ozone NAAQS through 2030 by assuring that current and future emissions of VOC and NO_x for the Indiana portion of the Chicago area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001), 68 FR 25413, 25430–25432 (May 12, 2003).

Indiana is using emissions inventories for the years 2025 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment and 2025 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

Area and non-road mobile emissions were collected from data available on EPA’s Air Emissions Modeling website. Using Emissions Modeling platform 2016v1, IDEM collected data for the 2023 and 2028 projected inventories.

Indiana’s 2025 area, point, EGU-point, and non-road source emissions were estimated primarily by interpolating between EPA’s 2023 and 2028 modeling inventories. 2030 emissions for point, area, and non-road source sectors were derived by extrapolating using the TREND function in Excel. If the trend function resulted in a negative value, the emissions were assumed not to change. EGU-point emissions for 2030 were estimated from the Eastern Regional Technical Advisory Committee (ERTAC) model. Summer day inventories were derived for these sectors using the methodology described in section IV.V.2. above.

On-road mobile source emissions were developed through the combined effort of IDEM and the NIRPC and were calculated from emission factors produced by EPA’s MOVES2014b model and data extracted from the region’s travel-demand model. The on-road 2025 and 2030 emission estimates are based on the actual travel demand model network runs generating estimated emissions to exist for those years under the Northwest Indiana 2050 Transportation Plan.

Emissions data are shown in Tables 4 through 5 below.

TABLE 4—PROJECTED EMISSIONS OF NO_x EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030

[Tons/day]

Sector	2017 Attainment year	2025 Interim year	2030 Maintenance year	Difference 2017–2030
Illinois				
EGU Point	29.23	49.56	60.75	– 31.52
Non-EGU	47.59	47.68	48.54	– 0.95
Area	33.60	33.83	33.97	– 0.37
On-Road	177.66	85.04	65.66	112.00
Non-road	142.64	114.83	106.92	35.72
Total	430.72	330.94	315.84	114.88
Indiana				
EGU Point	3.73	0.34	0.34	3.39
Non-EGU	55.42	58.49	59.30	– 3.88
Area	8.06	7.13	6.68	1.38
On-road	12.85	8.53	6.62	6.23
Non-road	6.73	4.28	3.22	3.51
Total	86.79	78.77	76.16	10.63
Wisconsin				
EGU Point	8.55	0.00	0.00	8.55
Non-EGU	0.13	0.16	0.16	– 0.03
Area	1.02	1.00	0.99	0.03

TABLE 4—PROJECTED EMISSIONS OF NO_x EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030—Continued
[Tons/day]

Sector	2017 Attainment year	2025 Interim year	2030 Maintenance year	Difference 2017–2030
On-Road	2.81	1.47	1.14	1.67
Non-road	1.67	1.24	1.15	0.52
Total	14.18	3.87	3.44	10.74
Chicago-Naperville, IL-IN-WI 2008 ozone area				
Illinois	430.72	330.94	315.84	114.88
Indiana	86.79	78.77	76.16	10.63
Wisconsin	14.18	3.87	3.44	10.74
Total	531.69	413.58	395.44	136.25

TABLE 5—PROJECTED EMISSIONS OF VOC EMISSIONS FOR THE ILLINOIS, INDIANA AND WISCONSIN PORTIONS OF THE CHICAGO NONATTAINMENT AREA 2025 AND 2030
[Tons/day]

Sector	2017 Attainment year	2025 Interim year	2030 Maintenance year	Difference 2017–2030
Illinois				
EGU Point	0.78	2.12	2.64	–1.86
Non-EGU	44.53	43.67	43.57	0.96
Area	226.69	221.71	221.40	5.29
On-Road	81.49	52.85	42.64	38.85
Non-road	80.56	79.07	82.27	–1.71
Total	434.05	399.42	392.52	41.53
Indiana				
EGU Point	0.20	0.07	0.06	0.14
Non-EGU	10.16	11.7	11.57	–1.41
Area	19.56	19.76	19.86	–0.30
On-road	6.07	4.91	3.77	2.30
Non-road	4.06	3.58	3.38	0.68
Total	40.05	40.02	38.64	1.41
Wisconsin				
EGU Point	0.32	0.00	0.00	0.32
Non-EGU	0.07	0.15	0.15	–0.08
Area	3.49	3.48	3.50	–0.01
On-Road	1.42	0.95	0.73	0.69
Non-road	0.74	0.64	0.62	0.12
Total	6.04	5.22	5.00	1.04
Chicago-Naperville, IL-IN-WI 2008 ozone area				
Illinois	434.05	399.42	392.52	41.53
Indiana	40.05	40.02	38.64	1.41
Wisconsin	6.04	5.22	5.00	1.04
Total	480.14	444.66	436.16	43.98

In summary, Indiana's maintenance demonstration for the Indiana portion of the Chicago area shows maintenance of the 2008 ozone NAAQS by providing emissions information to support the demonstration that future emissions of NO_x and VOC will remain at or below

2017 emission levels when considering both future source growth and implementation of future controls. Tables 4 and 5 show NO_x and VOC emissions in the Chicago area are projected to decrease by 136.25 tons/day and 43.98 tons/day, respectively,

between 2017 and 2030. Emissions in the Indiana portion of the Chicago area are projected to decrease by 10.63 tons/day and 1.41 tons/day, respectively, between 2017 and 2030.

Although EPA's redesignation guidance does not require modeling for

ozone nonattainment areas, IDEM is providing its most recent photochemical modeling, which was performed for the Interstate Transport “Good Neighbor” Provision for the 2015 8-hour ozone NAAQS of 0.070 ppm. While this modeling was conducted under a more stringent 8-hour ozone NAAQS, it shows the monitors in the nonattainment area are projected to have 2023 ozone design values below both the 2008 and 2015 ozone NAAQS. Paired with current monitoring data, this analysis demonstrates the area has attained and will continue to maintain compliance with the 2008 8-hour ozone NAAQS well into the future with an increased margin of safety over time.

3. Continued Air Quality Monitoring

Indiana has committed to continue to operate the ozone monitors listed in Table 1 above. Indiana has committed to consult with EPA prior to making changes to the existing monitoring network should changes become necessary in the future. Indiana remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into the AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

Indiana has confirmed that it has the legal authority to enforce and implement the requirements of the maintenance plan for the Indiana portion of the Chicago area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area’s emissions inventory. IDEM will continue to operate the current ozone monitors located in the Indiana portion of the Chicago area. There are no plans to discontinue operation, relocate, or otherwise change the existing ozone monitoring network other than through revisions in the network approved by the EPA.

In addition, to track future levels of emissions, Indiana will continue to develop and submit to EPA updated emission inventories for all source categories at least once every 3 years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual

Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Indiana was compiled for 2014, and 2017 is in progress. Point source facilities covered by Indiana’s emissions statements rule, 326 IAC 2–6–1, will continue to submit VOC and NO_x emissions on an annual basis.

5. What is the contingency plan for the Indiana portion of the Chicago area (Lake and Porter Counties)?

Section 175A of the CAA requires that the state must adopt a maintenance plan, as a SIP revision, that includes such contingency measures as EPA deems necessary to ensure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area to attainment of the NAAQS. The maintenance plan must identify: The contingency measures to be considered and, if needed for maintenance, adopted and implemented; a schedule and procedure for adoption and implementation; and, a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be considered, adopted, and implemented. The maintenance plan must include a commitment that the state will implement all measures with respect to the control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted a contingency plan for the Indiana portion of the Chicago area to address possible future ozone air quality problems. The contingency plan adopted by Indiana has two levels of response, a warning level response and an action level response.

In Indiana’s plan, a warning level response will be triggered when an annual (1-year) fourth high monitored value of 0.079 ppm occurs in a single ozone season or when a two-year average fourth high monitored value of 0.076 ppm or higher occurs within the maintenance area. A warning level response will consist of Indiana conducting a study to determine whether the ozone value indicates a trend toward higher ozone values or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The study will consider ease and timing of implementation as well as economic and social impacts. Implementation of

necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Indiana’s plan, an action level response is triggered when a three-year average fourth high value of 0.076 ppm or greater is monitored within the maintenance area. When an action level response is triggered, Indiana, will determine what additional control measures are needed to ensure future attainment of the 2008 ozone NAAQS. Control measures selected will be adopted and implemented within 18 months from the close of the ozone season that prompted the action level. IDEM may also consider if significant new regulations not currently included as part of the maintenance provisions will be implemented in a timely manner and would thus constitute an adequate contingency measure response.

Indiana included the following list of potential contingency measures in its maintenance plan:

1. Enhancements to the vehicle emissions testing program (increased weight limit, addition of diesel vehicles, etc.)
2. Asphalt paving (lower VOC formulation)
3. Diesel exhaust retrofits
4. Traffic flow improvements
5. Idle reduction programs
6. Portable fuel container regulation (statewide)
7. Park and ride facilities
8. Rideshare/carpool program
9. VOC cap/trade program for major stationary sources
10. NO_x Reasonably Available Control Technology

However, Indiana is not limited to the contingency measures listed above. To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan. Indiana notes that because it is not possible to determine what control measures will be appropriate in the future, the list is not comprehensive.

EPA has concluded that Indiana’s maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, Indiana has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Indiana portion of the Chicago area to cover an additional ten years beyond the

initial 10-year maintenance period. Thus, EPA finds that the maintenance plan SIP revision submitted by IDEM for the Indiana portion of the Chicago area meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Indiana SIP.

V. Has the state adopted approvable motor vehicle emission budgets?

A. Motor Vehicle Emission Budgets

Under section 176(c) of the CAA, new transportation plans, programs, or projects that receive Federal funding or support, such as the construction of new highways, must “conform” to (*i.e.*, be consistent with) the SIP. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality problems, or delay timely attainment of the NAAQS or interim air quality milestones. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of transportation activities to a SIP. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS, but that have been redesignated to attainment with an approved maintenance plan for the NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2015 ozone NAAQS in EPA’s December 6, 2018 implementation rule (83 FR 62998). These control strategy SIPs (including RFP plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_x for ozone) to address pollution from on-road

transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment must be established, at minimum, for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB serves as a ceiling on emissions from an area’s planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB, if needed, subsequent to initially establishing a MVEB in the SIP.

B. What is the status of EPA’s adequacy determination for the proposed VOC and NO_x MVEBs for the Indiana portion of the Chicago area (Lake and Porter Counties)?

When reviewing submitted control strategy SIPs or maintenance plans containing MVEBs, EPA must affirmatively find that the MVEBs contained therein are adequate for use in determining transportation conformity. Once EPA affirmatively finds that the submitted MVEBs are adequate for transportation purposes, the MVEBs must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA’s substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA’s adequacy determination. This process for

determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA’s May 14, 1999 guidance, “Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.” EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the “New 8-Hour Ozone and PM_{2.5} National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,” on July 1, 2004 (69 FR 40004).

Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, “Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,” 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Indiana’s maintenance plan includes NO_x and VOC MVEBs for the Indiana portion of the Chicago area for 2030 and 2025, the last year of the maintenance period and an interim year, respectively. EPA has reviewed Indiana’s VOC and NO_x MVEBs for the Indiana portion of the Chicago area and, in this action, is proposing to find them adequate for approval into the Indiana SIP. Indiana’s February 27, 2020 maintenance plan SIP submission, including the VOC and NO_x MVEBs for the Chicago area, is open for public comment via this proposed rulemaking. The submitted maintenance plan, which includes the MVEBs, was endorsed by the Governor’s designee and was subject to a state public hearing. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

TABLE 6—MVEBs FOR THE INDIANA PORTION OF THE CHICAGO AREA 2008 OZONE MAINTENANCE PLAN
[Tons/year]

	Attainment year 2017 on-road emissions	2025 Estimated on-road emissions	2025 Mobile safety margin allocation (percent)	2025 MVEBs	2030 Estimated on-road emissions	2030 Mobile safety margin allocation (percent)	2030 MVEBs
VOC	6.07	4.91	15	4.94	3.77	15	4.34
NO _x	12.85	8.53	15	9.81	6.62	15	7.61

As shown in Table 6, the 2025 and 2030 MVEBs exceed the estimated 2025 and 2030 on-road sector emissions. To

accommodate future variations in travel demand models and VMT forecast, Indiana allocated a portion of the safety

margin (described further below) to the mobile sector. Indiana has demonstrated that with mobile source emissions at or

below 4.94 tons per summer day (TPSD) and 4.34 TPSD of VOC and 9.81 TPSD and 7.61 TPSD of NO_x in 2025 and 2030, respectively, including partial allocation of the safety margin, emissions will remain under attainment year emission levels. EPA finds adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs in conjunction with the levels of the projected emissions inventories for the upwind areas discussed above.

C. What is a safety margin?

A “safety margin” is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Tables 4 and 5, the emissions in the Indiana portion of the Chicago area are projected to have safety margins of 10.63 tons/day for NO_x and 1.41 tons/day for VOC in 2030 (the difference between the attainment year, 2017, emissions and the projected 2030 emissions for all sources in the Indiana portion of the Chicago area). Similarly, there is a safety margin of 8.02 tons/day for NO_x and 0.03 tons/day for VOC in 2025. Even if emissions exceeded projected levels by the full amount of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

Indiana is not allocating any of the safety margin to the mobile source sector. Indiana can request an allocation to the MVEBs of the available safety margins reflected in the demonstration of maintenance in a future SIP revision.

VI. Section 182(f) NO_x Exemption

Section 182(f) establishes NO_x emission control requirements for ozone nonattainment areas. It provides that these emission control requirements, however, do not apply to an area if the Administrator determines that NO_x emission reductions would not contribute to attainment of the ozone standard. EPA’s January 2005 document, “Guidance on Limiting Nitrogen Oxides Requirements Related to 8-Hour Ozone Implementation,” provides guidance for demonstrating that further NO_x reduction in an ozone nonattainment area will not contribute to ozone attainment. The guidance provides that three consecutive years of monitoring data showing attainment of the standard without implementation of

section 182(f) NO_x provisions is adequate to demonstrate that “additional reductions of oxides of nitrogen would not contribute to attainment” CAA section 182(f)(1)(A). As described in the guidance document, approval of this type of NO_x exemption is contingent on continued monitored attainment of the standard.

On January 22, 2020, Indiana submitted a request for a waiver from the section 182(f) NO_x requirements for the Indiana portion of the Chicago area based on monitoring data for the years 2017–2019 showing attainment of the 2008 ozone standard in the area. Based on these data, EPA is proposing to approve Indiana’s request for an exemption from the section 182(f) NO_x requirements in the Indiana portion of the Chicago area. Upon final approval of the NO_x waiver, Indiana will not be required to adopt and implement NO_x emission control regulations pursuant to section 182(f) for the Indiana portion of the Chicago area to qualify for redesignation. If the Chicago area violates before redesignation, then EPA would not be able to finalize approval of a NO_x waiver.

VII. Proposed Actions

EPA is proposing to determine that the Chicago-Naperville, IL–IN–WI nonattainment area is attaining the 2008 ozone NAAQS, based on quality-assured and certified monitoring data for 2017–2019. EPA is proposing to approve Indiana’s January 22, 2020 NO_x Exemption Request as meeting the moderate SIP requirements of section 182(f) of the CAA. EPA is proposing to determine that upon final approval of Indiana’s NO_x Exemption Request, the area will have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to change the legal designation of the Indiana portion of the Chicago-Naperville, IL–IN–WI area from nonattainment to attainment for the 2008 ozone NAAQS. EPA is also proposing to approve, as a revision to the Indiana SIP, the state’s maintenance plan for the area. The maintenance plan is designed to keep the Indiana portion of the Chicago area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly established 2025 and 2030 MVEBs for the Indiana portion of the Chicago area.

VIII. Statutory and Executive Order Reviews

Under the CAA, 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 CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications 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, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

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

Dated: April 13, 2020.

Kurt Thiede,

Regional Administrator, Region 5.

[FR Doc. 2020-08031 Filed 4-17-20; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 431, 433, 435, 441, and 483

[CMS-2418-N]

RIN 0938-AT95

Medicaid Program; Preadmission Screening and Resident Review; Extension of Comment Period

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: This document extends the comment period for the proposed rule entitled “Medicaid Program; Preadmission Screening and Resident Review” that appeared in the February 20, 2020 **Federal Register**. The comment

period for the proposed rule, which would end on April 20, 2020, is extended 30 days to May 20, 2020.

DATES: The comment period for the proposed rule (85 FR 9990) is extended to 5 p.m., eastern daylight time, on May 20, 2020.

ADDRESSES: You may submit comments as outlined in the February 20, 2020 proposed rule (85 FR 9990). Please choose only one method listed.

FOR FURTHER INFORMATION CONTACT:

Anne Blackfield, (410) 786-8518.

SUPPLEMENTARY INFORMATION: In the “Medicaid Program; Preadmission Screening and Resident Review” proposed rule that appeared in the February 20, 2020 **Federal Register** (85 FR 9990), we solicited public comments on proposed policies that aim to modernize the requirements for Preadmission Screening and Resident Review (PASRR), currently referred to in regulation as Preadmission Screening and Annual Resident Review, by including statutory changes, reflecting updates to diagnostic criteria for mental illness and intellectual disability, reducing duplicative requirements and other administrative burdens on State PASRR programs, and making the process more streamlined and person-centered.

Since the issuance of the proposed rule, the United States and its citizens have endured a dramatic upheaval to our way of life as a result of the COVID-19 global pandemic. The federal and state governments, as well as private businesses, have made drastic but necessary decisions to restrict access to buildings, businesses, and transportation to slow the spread of the disease. As a result, many workplaces are dealing with changed priorities, new work procedures, and a limited workforce. We acknowledge the difficulties the current situation presents, including the limited ability of states and stakeholders to analyze and respond to our proposed rule. To maximize the opportunity for the public to provide meaningful input to CMS, we believe that it is important to allow additional time for the public to prepare comments on the proposed rule. In addition, we believe that granting an extension to the public comment period in this instance would further our overall objective to obtain public input on the proposed provisions to modernize PASRR requirements. Therefore, we are extending the comment period for the proposed rule for an additional 30 days.

The Administrator of the Centers for Medicare & Medicaid Services (CMS), Seema Verma, having reviewed and

approved this document, authorizes Evell J. Barco Holland, who is the Federal Register Liaison, to electronically sign this document for purposes of publication in the **Federal Register**.

Evell J. Barco Holland,

Federal Register Liaison, Department of Health and Human Services.

[FR Doc. 2020-08329 Filed 4-17-20; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF VETERANS AFFAIRS

48 CFR Parts 802, 809, 841, 842, and 852

RIN 2900-AQ38

VA Acquisition Regulation: Contractor Qualifications; Acquisition of Utility Services; and Contract Administration and Audit Services

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend and update its VA Acquisition Regulation (VAAR) in phased increments to revise or remove any policy superseded by changes in the Federal Acquisition Regulation (FAR), to remove any procedural guidance internal to VA into the VA Acquisition Manual (VAAM), and to incorporate any new agency specific regulations or policies. These changes seek to streamline and align the VAAR with the FAR and remove outdated and duplicative requirements and reduce burden on contractors. The VAAM incorporates portions of the removed VAAR as well as other internal agency acquisition policy. VA will rewrite certain parts of the VAAR and VAAM, and as VAAR parts are rewritten, will publish them in the **Federal Register**. VA will combine related topics, as appropriate. This rulemaking revises VAAR coverage concerning Contractor Qualifications, Acquisition of Utility Services, and Contract Administration and Audit Services, as well as affected parts concerning Definitions of Words and Terms and Solicitation Provisions and Contract Clauses.

DATES: Comments must be received on or before June 19, 2020 to be considered in the formulation of the final rule.

ADDRESSES: Written comments may be submitted through

www.Regulations.gov; by mail or hand-delivery to Director, Office of Regulation Policy and Management (00REG), Department of Veterans Affairs, 810