



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R05-OAR-2023-0482; FRL-11618-02-R5]

**Air Plan Approval; Indiana; Lake and Porter 2008 Ozone NAAQS
Maintenance Plan Revision**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving Indiana's September 21, 2023, state implementation plan (SIP) submission which revises the 2008 ozone maintenance plan for the Indiana portion (Lake and Porter Counties) of the Chicago Naperville, IL-IN-WI area (Chicago Naperville area). This SIP submission updates onroad vehicle emissions inventories for oxides of nitrogen (NO_x) and volatile organic compounds (VOC) for the years 2019, 2030 and 2035. In addition to updated emissions inventories, this SIP submission updates the Motor Vehicle Emissions Budgets (budgets) for NO_x and VOC for the years 2030 and 2035. EPA is approving the allocation of a portion of the safety margins for VOC and NO_x in the ozone maintenance plan to the 2030 and 2035 budgets. Total year 2030 and 2035 emissions of NO_x and VOC for the area will remain below the attainment level required by the transportation conformity regulations.

DATES: This direct final rule will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, unless EPA receives adverse comments by **[INSERT DATE 30 DAYS AFTER DATE**

OF PUBLICATION IN THE FEDERAL REGISTER]. 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-2023-0482 at <https://www.regulations.gov> or via email to leslie.michael@epa.gov. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT: Emily Crispell, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8512, *crispell.emily@epa.gov*. The EPA Region 5 office is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays and facility closures due to COVID-19.

SUPPLEMENTARY INFORMATION: Throughout this document whenever "we," "us," or "our" is used, we mean EPA.

I. Background.

On May 20, 2022 (87 FR 30821), EPA determined that the Chicago Naperville area was attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS), based on quality-assured and certified monitoring data for 2019-2021, and changed the legal designation of the Indiana portion from nonattainment to attainment for the 2008 ozone NAAQS, effective May 20, 2022. At that time, EPA also approved Indiana's maintenance plan for the area along with 2030 and 2035 budgets to keep the Indiana portion of the Chicago Naperville area in attainment of the 2008 ozone NAAQS through 2035.

Budgets are the projected levels of controlled emissions from the transportation sector (mobile sources) that are estimated in the SIP to provide for maintenance of the ozone standard. The transportation conformity rule (40 CFR part 93, subpart A) allows the budgets to be changed as long as the total level of emissions from all sources remains below the attainment

levels.

On September 21, 2023, the Indiana Department of Environmental Management (IDEM) submitted a request to update the state's maintenance plan to include revised emissions inventories and motor vehicle emissions budgets that reflect updated EPA Motor Vehicle Emission Simulator (MOVES3) modeling and increased onroad vehicle emission rates.

II. Emissions Inventory.

Indiana updated its MOVES3 inputs for the Indiana portion of the Chicago Naperville maintenance area for the 2008 ozone NAAQS. This has resulted in slightly higher emissions rates and more accurate onroad emissions estimates for the 2019 attainment level emissions, 2030 interim year emission projections, and 2035 maintenance year emission projections. The revised onroad emissions inventories for Lake and Porter counties were calculated using EPA's MOVES3 model-produced emission factors and data extracted from the area's travel-demand model. Table 1 shows Indiana's onroad emissions for Lake and Porter Counties for the years 2019, 2030, and 2035 which were approved by EPA on May 20, 2022 (87 FR 30821). Table 2 shows Indiana's revised onroad emissions for Lake and Porter Counties for the years 2019, 2030, and 2035 based on updated MOVES3 modeling.

Table 1. Lake and Porter Counties 2019 attainment year, 2030 projected interim year, and 2035 projected maintenance year Onroad NO_x and VOC Emission Inventory (Tons per Summer Day)

Pollutant	2019 Attainment Year Emissions (tons/day)	2030 Projected Interim Year Emissions (tons/day)	2035 Projected Maintenance Year Emissions (tons/day)
NO _x	9.48	4.55	4.77

VOC	3.51	2.03	1.82
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Table 2. Revised Lake and Porter Counties 2019 attainment year, 2030 projected interim year, and 2035 projected maintenance year Onroad NO_x and VOC MOVES3 Emission Inventory (Tons per Summer Day)

Pollutant	2019 Attainment Year Emissions (tons/day)	2030 Projected Interim Year Emissions (tons/day)	2035 Projected Maintenance Year Emissions (tons/day)
NO _x	9.99	5.44	5.08
VOC	3.50	2.06	2.42

III. Safety margin.

A "safety margin," as defined in the transportation conformity rule (40 CFR part 93, subpart A), is the amount by which the total projected emissions from all sources of a given pollutant are less than the total emissions that would satisfy the applicable requirement for reasonable further progress, attainment, or maintenance. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Table 3 gives detailed information on the safety margin for the Indiana portion of the Chicago-Naperville, IL-IN-WI area. Table 3 includes a comparison of the VOC and NO_x emissions in the year 2019 (Indiana's attainment year), to the projected emissions of VOC and NO_x in the years 2030 and 2035. The difference between the projected emissions in the year 2035 and the actual emissions in the year 2019 is referred to as the "safety margin" or the amount of excess emission reductions.

Table 3. Safety Margin for Chicago's 2008 8-Hour Ozone Maintenance Plan

Pollutant	2019 Attainment Year	2030 Projected Interim	2030 Safety Margin	2035 Projected Maintenance	2035 Safety Margin

	Emissions (tons/day)	Year Emissions (tons/day)	(tons/day)	Year Emissions (tons/day)	(tons/day)
NO _x	88.53	78.80	9.73	76.37	12.16
VOC	37.33	35.84	1.49	36.19	1.14

Indiana has requested the allocation of 1.09 tons/day of the NO_x and 0.41 tons/day of VOC from the safety margins to the 2030 budgets. Additionally, Indiana has requested the allocation of 1.02 tons/day of the NO_x and 0.48 tons/day of VOC from the safety margins to the 2035 budgets. The revised maintenance plan will have a 2030 safety margin of 8.64 tons/day of NO_x and 1.08 tons/day of VOC and a 2035 safety margin of 11.14 tons/day of NO_x and 0.66 tons/day of VOC. The 2030 and the 2035 projected emissions, even with this allocation, will be below the 2019 attainment year emissions for both VOC and NO_x. For this reason, EPA finds that the allocation of the safety margins to the 2030 and 2035 budget for the Indiana portion of Chicago Naperville, IL-IN-WI area meets the requirements of the transportation conformity regulations at 40 CFR part 93 and is approvable.

IV. Motor Vehicle Emission Budgets.

Indiana's maintenance plan includes NO_x and VOC budgets for the Indiana portion of the Chicago Naperville area for 2030 and 2035, an interim year and the last year of the maintenance period, respectively. The budgets were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The budgets were clearly identified and precisely quantified. These budgets, when considered together

with all other emissions sources, are consistent with maintenance of the 2008 ozone NAAQS.

This action changes the budgets for mobile sources. The maintenance plan is designed to provide for future growth while still maintaining the ozone NAAQS. Growth in industries, population, and traffic is offset by reductions from cleaner cars and other emission reduction programs. Through the maintenance plan, the state and local agencies can manage and maintain clean air quality while providing for growth.

In its submittal, Indiana requested to allocate a portion of the safety margins for NO_x and VOC to the 2030 and 2035 budgets. Table 4 and 5 detail the updated budgets for the 2008 ozone maintenance plan for the Indiana portion of the Chicago Naperville, IL-IN-WI area. Table 4 and 5 also show the revised projected onroad emissions, the amount of excess emission reductions or safety margin to be allocated into the new budgets, and the new budgets for NO_x and VOC.

Table 4. Revised 2030 Motor Vehicle Emissions Budgets for the Indiana Portion of the Chicago Naperville Area 2008 Ozone Maintenance Plan in tons per ozone season day

Pollutant	Revised 2030 Onroad Emissions (tons/day)	Safety Margin Allocation (tons/day)	Revised 2030 MVEB (tons/day)
NO _x	5.44	1.09	6.53
VOC	2.06	0.41	2.47

Table 5. Revised 2035 Motor Vehicle Emissions Budgets for the Indiana Portion of the Chicago Naperville Area 2008 Ozone Maintenance Plan in tons per ozone season day

Pollutant	Revised 2035 Onroad Emissions (tons/day)	Safety Margin Allocation (tons/day)	Revised 2035 MVEB (tons/day)
NO _x	5.08	1.02	6.10
VOC	2.42	0.48	2.90

V. What Action is EPA Taking?

EPA is approving revisions to the 2008 ozone maintenance plan for the Indiana portion of the Chicago-Naperville, IL-IN-WI area. The revisions will change the onroad emissions inventory for VOC and NO_x for the years 2019, 2030, and 2035. The revisions will also change the budgets that are used for transportation conformity purposes. The revisions will keep the total emissions for the area at or below the attainment level required by law. This action will allow State or local agencies to continue to maintain air quality while providing for transportation growth.

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 **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive relevant adverse written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. If we do not receive any comments, this action will be effective **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

VI. Statutory and Executive Order Reviews.

Under the Clean Air Act (CAA), 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 14094 (88 FR 21879, April 11, 2023);
- 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 subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it approves a state program;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and
- 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.

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

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, February 16, 1994) directs Federal

agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies." The Indiana Department of Environmental Management did not evaluate environmental justice considerations as part of its SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ in this action. Consideration of EJ is not required as part of this action, and there is no information in the record inconsistent with the stated goal of E.O. 12898 of achieving environmental justice for people of color, low-income populations, and Indigenous peoples.

This action is subject to the Congressional Review Act, and EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. 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 this *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,
Incorporation by reference, Intergovernmental relations,
Nitrogen dioxide, Ozone, Reporting and recordkeeping
requirements, Volatile organic compounds.

Dated: January 10, 2024.

Debra Shore,
Regional Administrator, Region 5.

For the reasons stated in the preamble, title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

2. In § 52 .770, the table in paragraph (e) is amended by revising the entry for “Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan” to read as follows:

§ 52.770 Identification of plan.

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(e) * * *

EPA-APPROVED INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
Lake and Porter Counties 2008 8-hour Ozone Maintenance Plan	9/21/2023	[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], [INSERT FEDERAL REGISTER CITATION]	Updated Onroad Emissions Inventory and Motor Vehicle Emissions Budgets

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