



**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

**[EPA-R05-OAR-2024-0378; FRL-12933-02-R5]**

**Air Plan Approval; Indiana; Huntington County 2010 Sulfur  
Dioxide Redesignation and Maintenance Plan**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) finds that Huntington Township in Huntington County, Indiana (hereafter referred to as "Huntington area") is attaining the 2010 sulfur dioxide (SO<sub>2</sub>) National Ambient Air Quality Standard (NAAQS). EPA is approving Indiana's request to redesignate the Huntington area from nonattainment to attainment for the 2010 SO<sub>2</sub> NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). EPA is also approving Indiana's maintenance plan for the area as part of Indiana's federally enforceable State Implementation plan (SIP).

**DATES:** This final rule is effective on **[Insert date of publication in the *Federal Register*]**.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA-R05-OAR-2024-0378. All documents in the docket are listed on the <https://www.regulations.gov> web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI), Proprietary Business Information (PBI), or other information

whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <https://www.regulations.gov> or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Cecilia Magos, at (312) 886-7336 before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Cecilia Magos, Air and Radiation Division (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-7336, [magos.cecilia@epa.gov](mailto:magos.cecilia@epa.gov).

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

## **I. Background**

On January 9, 2018 (83 FR 1098), EPA designated Huntington Township, a partial area of Huntington County, Indiana, as nonattainment for the 2010 SO<sub>2</sub> NAAQS. Section 191 of the CAA, 42 U.S.C. 7514, directs States to submit a SIP for an area designated as nonattainment demonstrating that the area will achieve the NAAQS as expeditiously as practicable, but no later than five years from the effective date of designation. EPA approved Indiana's plan for attaining the 2010 SO<sub>2</sub> NAAQS for the Huntington area on August 14, 2025 (90 FR 39130), and found that

Indiana satisfied other applicable requirements for nonattainment areas. EPA published its proposed approval on September 25, 2025 (90 FR 46124), for the Huntington area. The public comment period for this proposal closed on October 27, 2025.

## **II. Response to Public Comments**

EPA received two supportive comments and three adverse comments. Summaries of the adverse comments and EPA's responses are provided below. All comments submitted during the public comment period are available in the docket of this action.

**Comment:** The commenter requests EPA withdraw the direct final rule approving the Huntington County area redesignation and maintenance plan. Additionally, they request EPA re-propose the action as a "standard notice-and-comment process" and provide a 60-day comment period pursuant to the Administrative Procedure Act (APA) and the CAA with all the key technical materials in the docket the commenter suggests are missing.

**Response:** EPA notes the commenter mischaracterizes the action published. EPA did not publish a direct final rule approving the redesignation to attainment for the 2010 SO<sub>2</sub> NAAQS and maintenance plan of the Huntington County area. EPA published a proposed approval of the redesignation and maintenance plan on September 25, 2025 (90 FR 46124), and opened a public comment period for 30-days as required by the APA and CAA.

Additionally, EPA has made all appropriate documentation available in the docket of this action. Therefore, EPA will not

repropose the approval of the 2010 SO<sub>2</sub> NAAQS redesignation and maintenance plan for the Huntington area.

**Comment:** Commenter states that under the APA, EPA did not include the appropriate or sufficient technical materials necessary for meaningful comment. To summarize, the commenter requests additional modeling and technical support materials related to AERMOD, AERMET, BPIPPRM, receptor network, background concentration, stack parameters, source shutdown or curtailment documentation for the demonstration of attainment and emissions growth projections for the maintenance period, verification of the maintenance plan's monitoring/verification commitments, and quality assurance and quality control documentation be made available for meaningful evaluation of the attainment demonstration and maintenance plan for Huntington County.

**Response:** As noted in the proposed rulemaking, EPA's April 23, 2024, "Guidance for 1-Hour SO<sub>2</sub> Nonattainment Area SIP Submissions" ("April 2014 SO<sub>2</sub> Guidance")<sup>1</sup> states EPA may make determinations of attainment based on the modeling, using allowable emissions, from the attainment demonstrations for the applicable SIP for the affected area. The April 2014 SO<sub>2</sub> Guidance also notes that a separate actuals-based modeling to support a redesignation request is not necessary if an attainment determination was made based on allowables-based modeling and a demonstration of a fully implemented control

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<sup>1</sup> EPA's *Guidance for 1-Hour Sulfur Dioxide (SO<sub>2</sub>) Nonattainment Area State Implementation Plans (SIP) Submissions* can be found at <https://www.epa.gov/so2-pollution/guidance-1-hour-sulfur-dioxide-so2-nonattainment-area-state-implementation-plans-sip>.

strategy has been provided.<sup>2</sup> EPA's redesignation proposal relies on enforceable limits, previously approved as part of the area's attainment plan action and a report included in the redesignation request containing results from stack testing demonstrating compliance with enforceable SO<sub>2</sub> emission limits. These stack test results were included in the docket of this action. Modeling requirements and Indiana's modeling analysis, as requested by the commenter, may be found in EPA's proposed attainment plan approval (see 90 FR 25968, June 18, 2025) and therefore, EPA does not find the comment to warrant any changes to this action.

Regarding the comments related to the maintenance plan, such as emission growth projections, verification of monitoring, and the availability of quality assurance and quality control documentation of the attainment demonstration and maintenance plan for Huntington County area, EPA finds that Indiana has appropriately fulfilled its maintenance plan obligations as required under CAA section 175A, 42 U.S.C. 7505A. To further clarify, the docket of this action contains Indiana's redesignation request, which outlines Indiana's requirements for verification of continued attainment and the requirements for maintenance demonstration under section 175A. EPA determines that Indiana adequately fulfilled these requirements through commitments to annual emissions submittals that verify continued attainment of the 2010 SO<sub>2</sub> NAAQS and review of the projected

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<sup>2</sup> April 2014 Guidance, pg. 63.

emissions inventory for the Huntington area.

As noted above, EPA adequately fulfilled its requirements under the APA, included all appropriate documentation, and provided adequate time for public comment.

**Comment:** Regarding the maintenance plan, two commenters note that it does not: "specify objective, near-term triggers tied to monitored and/or modeled indicators"; identify or define concrete contingency measures to take effect upon triggers; contain corrective actions and deadlines including specific numeric concentrations or emissions thresholds that would initiate enforcement; nor does it commit to verification of continued ambient air quality monitoring to detect local SO<sub>2</sub> hotspots, or contain a schedule for periodic inventories or public reporting.

**Response:** EPA does not agree with the submitted comments. Unlike CAA section 172(c)(9), 42 U.S.C. 7502 (c)(9), section 175A of the CAA does not explicitly require that contingency measures must take effect without further action by the air agency in order for the maintenance plan to be approved. However, the maintenance plan's contingency plan would become an enforceable part of the SIP and should ensure that contingency measures are adopted and implemented as expeditiously as practicable once they are triggered.<sup>3</sup> In the "General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," published on April 16, 1992 (57 FR 13498),

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<sup>3</sup> See April 2014 SO<sub>2</sub> Guidance, page 68.

EPA provides further discussion of contingency measures for SO<sub>2</sub>. This guidance states that in many cases, attainment revolves around compliance of a single source or a small set of sources with emission limits shown to provide for attainment. Although this guidance applies to contingency measures under section 172(c)(9), EPA applies a similar policy with respect to contingency measures for SO<sub>2</sub> required in maintenance plans under section 175A(d). The requirement to submit contingency measures in accordance with section 175A of the CAA can be adequately addressed for SO<sub>2</sub> by the operation of a comprehensive enforcement program,<sup>4</sup> as stated in the proposed rule, which can quickly identify and address sources that might be causing exceedances of the NAAQS. Indiana satisfies contingency measure requirements under CAA section 175A that will promptly correct any violation of the 2010 SO<sub>2</sub> NAAQS.

EPA finds that the redesignation request appropriately identifies objectives, triggers, and timelines for contingency measures to take place. As stated in the redesignation request, contingency measures include reporting of non-compliance, which if a violation is present, triggers a 30-day evaluation period to determine the cause, followed by a 30-day consultation period with the facility to develop operational changes. According to Indiana's redesignation request, any changes would be implemented within 18-24 months of the modeled violation. Any necessary control measures will be subject to Indiana's

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<sup>4</sup> See April 2014 SO<sub>2</sub> Guidance, page 41-42.

administrative and legal processes, including public hearing and other measures as required by State law for rulemaking, permitting, and/or SIP revisions. Further, Indiana relies on the enforceable emission control measures set forth in Commissioner's Order 2023-Air-02, to be incorporated into Isolatek International's (Isolatek) Part 70 Operating Permit, including reporting and recordkeeping requirements and methods to determine compliance. Therefore, EPA disagrees with commenters statements that the State failed to identify appropriate contingency measure triggers or verification of continued ambient air quality monitoring in the Huntington County area.

**Comment:** The commenter requests that EPA repropose this rule to incorporate a clear Incorporation by Reference section that includes the maintenance plan or related State materials.

**Response:** This action does not include any new material for Incorporation by Reference. Rather, EPA relies on the previously approved and incorporated by reference Commissioner's Order 2023-Air-02, which contains enforcement emissions limits and associated requirements for Isolatek (90 FR 39130, August 14, 2025). All relevant information is included in the docket of this action and has been made available for public review.

**Comment:** Commenter notes that a lack of a SLAMS-equivalent ambient SO<sub>2</sub> monitor in the nonattainment area suggests there is no check on modeling assumptions or early warning of emission spikes. The commenter requests the implementation and operation

of an SO<sub>2</sub> monitor within one year of redesignation to verify modeled demonstrations, verify compliance, and enhance transparency.

**Response:** Based on the April 2014 SO<sub>2</sub> Guidance, in areas where there are no air quality monitors located in the affected area, EPA may make determinations of attainment based on a submitted modeled demonstration, using allowable emissions, to show that the mix of sources and enforceable measures and emission rates in an identified area will not lead to a violation of the 2010 SO<sub>2</sub> NAAQS. More information on the modeled demonstration can be found in the proposed attainment approval (90 FR 25968, June 18, 2025) and will not be restated here.

EPA's review of Indiana's redesignation and maintenance plan request indicates that Indiana conducted allowables-based modeling to show attainment of the NAAQS, previously approved (90 FR 39130, August 14, 2025), and included additional stack testing results to demonstrate compliance with Commissioner's Order 2023-Air-02 that established emissions limits and compliance requirements for SO<sub>2</sub> for the Isolatek facility. Additionally, Indiana commits to annual emissions reporting of the Isolatek facility as part of Indiana's submittal of ongoing data requirements rule reporting subject to public notice, to provide ongoing verification of attainment. Further, Indiana has a fully approved New Source Review (NSR) program (94 FR 24837, October 7, 1994), including requirements to assess the impacts of any plans to construct or resume operations of an

emission unit on maintaining NAAQS attainment. EPA finds these measures sufficient to ensure ongoing compliance.

**Comment:** Commenter states the maintenance plan does not present dispersion modeling for a future maintenance year, citing the Calcagni Memo maintenance planning guidance.

**Response:** EPA does not find the comment to be accurate. EPA's "Procedures for Processing Requests to Redesignate Areas to Attainment", also known as the Calcagni Memo, describes two ways for a State to demonstrate maintenance of the NAAQS following the redesignation of the area: (1) the State can show that future emissions of a pollutant will not exceed the level of the attainment inventory, or (2) the State can provide modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS. As stated in the proposed rule (90 FR 46124 at 46127), Indiana's redesignation request contains an emissions inventory for 2035, the maintenance year, that does not show any increases in maximum allowable emissions from the attainment year, meeting the requirements laid out in the Calcagni Memo.

**Comment:** Commenter expresses concern over the lack of assurance that other existing or future stationary sources will remain within acceptable SO<sub>2</sub> levels, beyond the Isolatek facility. The commenter requests for "a mechanism to track, evaluate, and control unanticipated emission increases" to ensure continued attainment.

**Response:** The CAA requires States to have an active NSR and

Prevention of Significant Deterioration (PSD) permitting programs for any new construction or any new modification to a stationary source. As a maintenance area, the Huntington area will be subject to NSR and PSD permitting programs to address any potential violations or exceedances of the NAAQS. Indiana's SIP approved programs for NSR and PSD (94 FR 24837, October 7, 1994)—as stated in the proposed rulemaking—include requirements to assess the impacts of any potential new source construction or modifications, and requirements applicable to resume operations of an emission unit on maintaining NAAQS attainment. Additionally, Indiana has shown that it maintains an active enforcement program to ensure ongoing compliance with these requirements. To provide ongoing verification of attainment, Indiana commits to annual emissions reporting of the Isolotek facility as part of Indiana's submittal of ongoing data requirements rule reporting subject to public notice as previously noted. EPA finds that Indiana provided appropriate assurances to maintain attainment of the 2010 SO<sub>2</sub> NAAQS.

**Comment:** Commenter requests EPA to not approve the redesignation and maintenance plan due to a "probably inaccurate model using dispersion to dilute SO<sub>2</sub>" that is likely to lead to more air pollution, the burden to the American taxpayer due to the costs associated with deregulation, and the notion that this rule "appears to be a political and corrupt move because of the failed trade war, and [the] tariff tax [that] has destroyed possibly forever America's agribusiness and free trade capital."

**Response:** Modeling used to support the redesignation to attainment for the 2010 SO<sub>2</sub> NAAQS follows the appropriate modeling requirements as described in appendix W to 40 CFR part 51. A more in-depth analysis may be found in EPA's proposed attainment plan approval (90 FR 25968, June 18, 2025) and in Indiana's modeling report included as Attachment D of the submitted redesignation request. EPA finds that the modeling demonstrates attainment of the 2010 SO<sub>2</sub> NAAQS and does not anticipate an increase in air pollution.

EPA does not find the "costs associated with deregulation" explanation to be relevant to this action. This action is approving a redesignation to attainment for the 2010 SO<sub>2</sub> NAAQS, indicating cleaner air for the population of the Huntington area and a plan to ensure future maintenance of the standard. Further, this action is in accordance with CAA actions codified in 40 CFR part 52 and not relevant to trade wars or tariff taxes as the commenter suggests.

### **III. What Action is EPA Taking?**

EPA is approving redesignation of the Huntington area from nonattainment to attainment for the 2010 SO<sub>2</sub> NAAQS in accordance with Indiana's July 30, 2024, request. EPA determined the area is attaining the 2010 SO<sub>2</sub> NAAQS and that the improvement is due to permanent and enforceable SO<sub>2</sub> emission reductions in the area. Finally, EPA is approving Indiana's maintenance plan as part of Indiana's federally enforceable SIP to ensure the Huntington area will continue to maintain attainment of the 2010 SO<sub>2</sub> NAAQS.

In accordance with 5 U.S.C. 553(d) of the APA, this action shall become effective immediately upon publication. The immediate effective date for this action is authorized under 5 U.S.C. 553(d) (1).

Section 553(d) (1) of the APA provides that final rules shall not become effective until 30 days after publication in the Federal Register "except . . . a substantive rule which grants or recognizes an exemption or relieves a restriction." The purpose of this provision is to "give affected parties a reasonable time to adjust their behavior before the final rule takes effect." *Omnipoint Corp. v. Fed. Commc'n Comm'n*, 78 F.3d 620, 630 (D.C. Cir. 1996); see also *United States v. Gavrilovic*, 551 F.2d 1099, 1104 (8th Cir. 1977) (quoting legislative history). However, when the agency grants or recognizes an exemption or relieves a restriction, affected parties do not need a reasonable time to adjust because the effect is not adverse. EPA has determined that this rule relieves a restriction because this rule relieves sources in the area of Nonattainment NSR permitting requirements; instead, upon the effective date of this action, sources will be subject to less restrictive PSD permitting requirements. For this reason, EPA finds that under 5 U.S.C. 553(d) (1) it is appropriate for this action to become effective on the date of publication of this action.

#### **IV. Statutory and Executive Order Reviews.**

Under the 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 Order 12866 (58 FR 51735, October 4, 1993);
- Is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because SIP actions are exempt from review 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 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).

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. This action may not be challenged later in proceedings to enforce its requirements. (See CAA section 307(b)(2).42 U.S.C. 7607(b)(2).

**List of Subjects**

*40 CFR Part 52*

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

*40 CFR Part 81*

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

**Dated:** December 29, 2025.

**Anne Vogel,**  
*Regional Administrator, Region 5.*

For the reasons stated in the preamble, title 40 CFR part 52 and 81 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 adding an entry for “Huntington County 2010 Sulfur Dioxide (SO<sub>2</sub>) Maintenance Plan” at the end to read as follows:

**§ 52.770 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

EPA -APPROVED- INDIANA NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Indiana date	EPA approval	Explanation
* * * * *	*		
Huntington County 2010 Sulfur Dioxide (SO <sub>2</sub> ) Maintenance Plan	07/30/2024	[Insert date of publication in the Federal Register], 90 FR [Insert Federal Register page where the document begins]	

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**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

3. The authority citation for part 81 continues to read as follows:

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

4. Section 81.315 is amended in the table entitled “Indiana-2010 Sulfur Dioxide NAAQS [Primary]” by revising the entry for “Huntington, IN” to read as follows:

§ 81.315 Indiana.

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INDIANA-2010 SULFUR DIOXIDE NAAQS  
[PRIMARY]

Designated Area <sup>1</sup>	Designation	
	Date <sup>2</sup>	Type
Huntington, IN Huntington County (part) Huntington Township	<b>[Insert date of publication in the Federal Register], 90 FR [Insert Federal Register page where the document begins]</b>	Attainment
* * * * *		

<sup>1</sup> Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

<sup>2</sup> This date is April 9, 2018, unless otherwise noted.

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