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carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Absent a prior existing requirement for the State to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air Pollution Control, National parks, Wilderness areas.

Dated: June 1, 2007.

Walter Kovalick,

Acting Regional Administrator, Region 5.

[FR Doc. E7–11305 Filed 6–11–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2007–0025; FRL–8326–3]

Redesignation of the Columbus, OH Area to Attainment for the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Ohio Environmental Protection Agency (Ohio EPA) submitted a request on December 28, 2006, and supplemented it on January 12, 2007 and March 9, 2007, for redesignation of the Columbus, Ohio area which includes Delaware, Fairfield, Franklin, Knox, Licking, and Madison Counties to attainment for the 8-hour ozone standard. EPA is proposing to approve several elements associated with this request. First, EPA is making a determination that complete, quality-assured ambient air quality data indicate that the Columbus area has attained the 8-hour ozone standard. Second, EPA is proposing to approve, as revisions to the Ohio State Implementation Plan (SIP), the State's plans for maintaining the 8-hour ozone NAAQS through 2018. Third, EPA is proposing to redesignate the Columbus area to attainment for the 8-hour ozone standard, based on a finding that the requirements for this redesignation have been satisfied. Fourth, EPA finds adequate and is proposing to approve the State's 2009 and 2018 Motor Vehicle Emission Budgets (MVEBs) for the Columbus area.

DATES: Comments must be received on or before July 12, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2007–0001, by one of the following methods:

- *http://www.regulations.gov/*. Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov*.
- *Fax:* (312)886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch, (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2007–0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. We recommend that you telephone Michael Leslie, Environmental Engineer, at (312) 353–6680 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Michael Leslie, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–6680, *leslie.michael@epa.gov*.

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

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I. What Should I Consider as I Prepare My Comments for EPA?

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
4. Describe any assumptions and provide any technical information and/or data that you used.
5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
6. Provide specific examples to illustrate your concerns, and suggest alternatives.
7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
8. Make sure to submit your comments by the comment period deadline identified.

II. What Actions Is EPA Proposing To Take?

EPA is proposing to take several related actions. EPA is proposing to determine that the Columbus nonattainment area has attained the 8-hour ozone standard. EPA is also proposing to approve Ohio's maintenance plan SIP revision for the Columbus area. The maintenance plan is designed to keep the Columbus nonattainment area in attainment of the ozone NAAQS through 2018. EPA is proposing the that Columbus area has met the requirements for redesignation under Section 107(d)(3)(E) of the Clean Air Act (CAA). EPA is thus proposing to approve Ohio's request to change the legal determination of Columbus area from nonattainment to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). Finally, EPA is announcing its action on the Adequacy Process for the newly established 2009 and 2018 MVEBs for the area. The adequacy comment period for the 2009 and 2018 MVEBs began on March 6, 2007, with EPA's posting of the availability of these submittals on EPA's Adequacy Web site (*http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*). The adequacy comment period for these MVEBs ended on April 5, 2007. EPA did not receive any requests for these submittals or adverse comments on these submittals during the adequacy comment period. Therefore, we find adequate and are proposing to approve the State's 2009 and 2018 MVEBs for transportation conformity purposes.

III. What Is the Background for These Actions?

On December 22, 2006, Ohio requested that EPA redesignate the Columbus area to attainment for the 8-hour ozone standard. The request was supplemented on January 12, 2007, and March 9, 2007. The redesignation request included three years of complete, quality-assured data for the periods of 2004 through 2006, indicating that the 8-hour NAAQS for ozone has been attained for the Columbus area. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient complete, quality-assured data are available for the Administrator to determine that the area has attained the standard, and the area meets the other CAA redesignation requirements in section 107(d)(3)(E).

A. General Background Information

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)) (62 FR 38856). This 8-hour ozone standard replaced a prior 1-hour ozone NAAQS, which had been promulgated on February 8, 1979 (44 FR 8202), and which was revoked on June 15, 2005 (69 FR 23858). Ground-level ozone is not emitted directly by sources. Rather, emitted NO_X and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. NO_X and VOC are referred to as ''ozone precursors.'' Control of ground-level ozone concentrations is achieved through controlling VOC and NO_X emissions.

The CAA required EPA to designate as nonattainment any area that violated the 8-hour ozone NAAQS. The **Federal Register** notice promulgating these designations and classifications was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. Both are found in title I, part D of the CAA. Subpart 1 contains general, less prescriptive requirements for all nonattainment areas for any pollutant governed by a NAAQS. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA.

In the April 30, 2004, designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment (''basic'' nonattainment) and subpart 2 nonattainment (''classified'' nonattainment). EPA based this division on the area's 8-hour ozone design values (*i.e.*, on the three-year averages of the annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the areas) and on their 1-hour ozone design values (*i.e.*, on the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the areas). EPA classified 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 121 ppb as subpart 2, classified nonattainment areas. EPA classified all other 8-hour nonattainment areas as subpart 1, basic nonattainment areas. The basis for area classification was explained in a separate April 30, 2004, final rule (the Phase 1 implementation rule) (69 FR 23951).

Emission control requirements for classified nonattainment areas are linked to area classifications. Areas with more serious ozone pollution problems are subject to more prescribed requirements and later attainment dates. The prescribed emission control requirements are designed to bring areas into attainment by their specified attainment dates.

In the April 30, 2004, ozone designation/classification rulemaking, EPA designated the Columbus area as a subpart 1 basic nonattainment area for the 8-hour ozone NAAQS. EPA based the designation on ozone data collected during the 2001–2003 period.

On December 22, 2006, the State of Ohio requested redesignation of Columbus area to attainment of the 8-hour ozone NAAQS based on ozone data collected in this area from 2004–2006.

B. What Is the Impact of the December 22, 2006, United States Court of Appeals Decision Regarding EPA's Phase 1 Implementation Rule?

1. Summary of Court Decision

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia

Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard. (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2006). The Court held that certain provisions of EPA's Phase 1 Rule were inconsistent with the requirements of the CAA. The Court rejected EPA's reasons for implementing the 8-hour standard in nonattainment areas under Subpart 1 in lieu of subpart 2 of Title I, part D of the Act. The Court also held that EPA improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and (4) certain conformity requirements for certain types of Federal actions. The Court upheld EPA's authority to revoke the 1-hour standard provided there were adequate anti-backsliding provisions.

This section sets forth EPA's views on the potential effect of the Court's ruling on this redesignation action. For the reasons set forth below, EPA does not believe that the Court's ruling alters any requirements relevant to this redesignation action so as to preclude redesignation, and does not prevent EPA from finalizing this redesignation. EPA believes that the Court's decision, as it currently stands, or as it may be modified based upon any petition for rehearing that has been filed, imposes no impediment to moving forward with redesignation of this area to attainment, because in either circumstance redesignation is appropriate under the relevant redesignation provisions of the Act and longstanding policies regarding redesignation requests.

2. Requirements Under the 8-Hour Standard

With respect to the 8-hour standard, the Court's ruling rejected EPA's reasons for classifying areas under Subpart 1 for the 8-hour standard, and remanded that matter to the Agency. Consequently, it is possible that this area could, during a remand to EPA, be reclassified under Subpart 2. Although any future decision by EPA to classify this area under Subpart 2 might trigger additional future requirements for the area, EPA believes that this does not mean that redesignation cannot now go forward. This belief is based upon (1) EPA's longstanding policy of evaluating State submissions in accordance with the requirements due at the time the request is submitted; and, (2) consideration of the inequity of applying retroactively any future requirements.

First, at the time the redesignation request was submitted, the Columbus area was classified under Subpart 1 and was obligated to meet Subpart 1 requirements. Under EPA's longstanding interpretation of section 107(d)(3)(E) of the CAA, to qualify for redesignation, States requesting redesignation to attainment must meet only the relevant SIP requirements that came due prior to the submittal of a complete redesignation request. September 4, 1992, Calcagni memorandum (''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division) See also Michael Shapiro Memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (Redesignation of Detroit—Ann Arbor). See *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004), which upheld this interpretation. See, *e.g.* also 68 FR 25418, 25424, 25427 (May 12, 2003) (redesignation of St. Louis).

Moreover, it would be inequitable to retroactively apply any new SIP requirements that were not applicable at the time the request was submitted. The D.C. Circuit has recognized the inequity in such retroactive rulemaking, See *Sierra Club* v. *Whitman*, 285 F. 3d 63 (D.C. Cir. 2002), in which the D.C. Circuit upheld a District Court's ruling refusing to make retroactive an EPA determination of nonattainment that was past the statutory due date. Such a determination would have resulted in the imposition of additional requirements on the area. The Court stated: ''Although EPA failed to make the nonattainment determination within the statutory time frame, Sierra Club's proposed solution only makes the situation worse. Retroactive relief would likely impose large costs on the States, which would face fines and suits for not implementing air pollution prevention plans in 1997, even though they were not on notice at the time.'' Id. at 68. Similarly here it would be unfair to penalize the area by applying to it for purposes of redesignation additional SIP requirements under Subpart 2 that were not in effect at the time it submitted its redesignation request.

3. Requirements Under the 1-Hour Standard

With respect to the requirements under the 1-hour standard, the Columbus area was an attainment area subject to a CAA section 175A maintenance plan under the 1-hour standard. The Court's ruling does not impact redesignation requests for these types of areas.

First, there are no conformity requirements that are relevant for redesignation requests for any standard, including the requirement to submit a transportation conformity SIP. Under longstanding EPA policy, EPA believes that it is reasonable to interpret the conformity SIP requirement 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 rules have not been approved. 40 CFR 51.390. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748 (Dec. 7, 1995) (Tampa, FL redesignation). Federal transportation conformity regulations apply in all States prior to approval of transportation conformity SIPs. The Columbus, Ohio 1-hour ozone area was redesignated to attainment without approved State transportation conformity regulations because the Federal regulations were in effect in Ohio. When challenged, these 1-hour ozone redesignations, which were approved without State regulations, were upheld by the courts. See *Wall* v. *EPA*, 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida). Although Ohio does not have approved State transportation conformity regulations, it has developed memoranda of understanding, signed by all parties involved in conformity, to address conformity consultation procedures. The Federal transportation conformity regulations, which apply in Ohio, require the approved 1-hour ozone budgets to be used for transportation conformity purposes prior to 8-hour ozone budgets being approved.

Second, with respect to the three other anti-backsliding provisions for the 1-hour standard that the Court found were not properly retained, Columbus area is an attainment area subject to a maintenance plan for the 1-hour standard, and the NSR, contingency measure (pursuant to section 172(c)(9) or 182(c)(9)) and fee provision requirements no longer apply to an area that has been redesignated to attainment of the 1-hour standard.

Thus, the decision in South Coast should not alter requirements that would preclude EPA from finalizing the redesignation of this area.

IV. What Are the Criteria for Redesignation?

Section 107(d)(3)(E) of the CAA allows for redesignation from nonattainment to attainment provided that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (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 and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the State containing such area has met all requirements applicable to the area under section 110 and part D.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in several guidance documents. A listing of pertinent documents is provided in other redesignation actions including a September 9, 2005 notice; 70 FR 53606.

V. Why Is EPA Proposing To Take These Actions?

On December 22, 2006, Ohio requested redesignation of the Columbus area to attainment for the 8-hour ozone standard. EPA believes that the area has attained the standard and has met the requirements for redesignation set forth in section 107(d)(3)(E) of the CAA.

VI. What Is the Effect of These Actions?

Approval of the redesignation request would change the official designation of the Columbus area for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Ohio SIP a plan for maintaining the 8-hour ozone NAAQS through 2018. The maintenance plans include contingency measures to remedy future violations of the 8-hour NAAQS. The maintenance plan also established MVEBs for the years 2009 and 2018.

MOTOR VEHICLE EMISSIONS BUDGETS FOR THE COLUMBUS, OH AREA

Year	VOC (tons/day)	NO_X (tons/day)
2009	72.16	125.43
2018	41.50	56.30

These proposed actions pertain to the designation of the Columbus area for the 8-hour ozone NAAQS and to the emission controls in the area related to the attainment and maintenance of the 8-hour ozone NAAQS. If you own or operate a VOC or NO_X emissions source in this area or live in this area, this proposed rule may impact or apply to you. It may also impact you if you are involved in transportation planning or implementation of emission controls in this area. Finally, it may also impact you if you breathe the air in the Columbus area or the air which has passed through this area, or if you are concerned with clean air, human health or the environment.

VII. What Is EPA's Analysis of the Request?

A. Attainment Determination and Redesignation

EPA is proposing to make a determination that the Columbus area has attained the 8-hour ozone standard and that the Columbus area has met all other applicable section 107(d)(3)(E) redesignation criteria. The basis for EPA's determinations is as follows:

1. The Area Has Attained the 8-Hour Ozone NAAQS (Section 107(d)(3)(E)(i))

EPA is proposing to make the determination that the Columbus area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Part 50, Appendix I, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. For each monitor in the area, EPA computes the average of the fourth-highest daily maximum 8-hour average ozone concentrations from each of the three most recent years. The area is attaining the standard if all monitors have average concentrations at or below 0.08 ppm. Based on the rounding convention described in 40 CFR Part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the Aerometric Information Retrieval System (AIRS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

Ohio submitted 2004–2006 ozone monitoring data for the Columbus area. The Ohio EPA quality assured the ambient monitoring data in accordance with 40 CFR 58.10, and recorded it in the AIRS database, thus making the data publicly available. The data meet the completeness criteria in 40 CFR 50, Appendix I, which requires a minimum completeness of 75 percent annually and 90 percent over each three year period. A summary of the monitoring data is presented in Table 1 below.

TABLE 1.—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATION AND 3-YEAR AVERAGES OF 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS

Site ID	County	2003 4th high (ppm)	2005 4th high (ppm)	2006 4th high (ppm)	2004–2006 average (ppm)
39–041–0002	Delaware	75	80	75	76
39–049–0028	Franklin	75	86	76	79
39–049–0029	Franklin	78	92	82	84
39–049–0037	Franklin	73	86	79	79
39–049–0081	Franklin	74	86	77	79
39–083–0002	Knox	73	81	75	76
39–089–0005	Licking	74	82	72	76
39–097–0007	Madison	65	81	76	74

In addition, as discussed below with respect to the maintenance plans, Ohio has committed to continue operating an EPA-approved monitoring network in accordance with 40 CFR part 58. In summary, EPA finds that the data submitted by Ohio provide an adequate demonstration that the Columbus area has attained the 8-hour ozone NAAQS.

2. The Area Has Met All Applicable Requirements Under Section 110 and Part D; and the Area Has a Fully Approved SIP Under Section 110(k) (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

We have determined that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Columbus area under Section 110 of the CAA (general SIP requirements). We have also determined that the Ohio SIP meets all SIP requirements currently applicable for purposes of redesignation under Part D of Title I of the CAA (requirements specific to Subpart 1 nonattainment areas), in accordance with section 107(d)(3)(E)(v). In addition, we have determined that the SIP is fully approved with respect to all applicable requirements for purposes of redesignation, in accordance with section 107(d)(3)(E)(ii). In making these determinations, we have ascertained what SIP requirements are applicable to the area for purposes of redesignation, and have determined that the portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

a. Columbus, Ohio Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

The September 4, 1992, Calcagni memorandum (see ''Procedures for Processing Requests To Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) 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).

General SIP requirements. Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a State must have been adopted by the State after reasonable public notice and hearing, and that, among other things, it includes enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provides for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; provides for implementation of a source permit program to regulate the modification and construction of any stationary source within the areas covered by the plan; includes provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; includes criteria for stationary source emission control measures, monitoring, and reporting; includes provisions for air quality modeling; and provides for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a State from 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 air pollutants (NO_X SIP Call (63 FR 57356), Clean Air Interstate Rule (CAIR)(70 FR 25162)). However, the section 110(a)(2)(D) requirements for a State are not linked with a particular nonattainment area's designation and classification.

EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. When the transport SIP submittal requirements are applicable to a State, they will continue to apply to the State regardless of the attainment designation of any one particular area in the State. Therefore, we believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A State remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures which we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (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 on this issue in the Cincinnati ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh ozone redesignation (66 FR 50399, October 19, 2001).

As discussed above, we believe that section 110 elements which are not linked to the area's nonattainment status are not applicable for purposes of redesignation. Because there are no section 110 requirements linked to the part D requirements for 8-hour ozone nonattainment areas that have become due, as explained below, there are no Part D requirements applicable for purposes of redesignation under the 8-hour standard.

Part D Requirements. EPA has determined that the Ohio SIP meets applicable SIP requirements under part D of the CAA, since no requirements applicable for purposes of redesignation became due for the 8-hour ozone standard prior to Ohio's submission of the redesignation request for The Columbus area. Under part D, an area's classification determines the requirements to which it will be subject. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification. Columbus, Ohio, was classified as a subpart 1

nonattainment area, and, therefore, subpart 2 requirements do not apply.

Part D, Subpart 1 applicable SIP requirements. For purposes of evaluating these redesignation requests, the applicable part D, subpart 1 SIP requirements for the Columbus area are contained in sections 172(c)(1)–(9).

No 8-hour ozone planning requirements applicable for purposes of redesignation under part D became due prior to submission of the redesignation request, and, therefore, none are applicable to the area for purposes of redesignation. Since Ohio has submitted a complete ozone redesignation request for the Columbus area prior to the deadline for any submissions required for purposes of redesignation, we have determined that these requirements do not apply to the Columbus area for purposes of redesignation.

Section 176 conformity requirements. Section 176(c) of the CAA requires States to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). State conformity revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability, which EPA promulgated pursuant to CAA requirements.

EPA approved Ohio's general and transportation conformity SIPs on March 11, 1996 (61 FR 9646) and May 30, 2000 (65 FR 34395), respectively. In summary, the Columbus area has satisfied all applicable requirements under section 110 and part D of the CAA.

b. Columbus Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the Ohio SIP for the Columbus area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. In approving a redesignation request, EPA may rely on prior SIP approvals plus any additional measures it may approve in conjunction with a redesignation action (See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)). Since the passage of the CAA of 1970, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to the Columbus area under the 1-hour ozone standard. No Columbus area SIP provisions are currently disapproved, conditionally approved, or partially approved.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions (Section 107(d)(3)(E)(iii))

EPA finds that Ohio has demonstrated that the observed air quality improvement in the Columbus area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures.

In making this demonstration, the State has calculated the change in emissions between 2002 and 2004, one of the years in which the Columbus area monitored attainment. 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 Ohio has implemented.

a. Permanent and Enforceable Controls Implemented

The following is a discussion of permanent and enforceable measures that have been implemented in the area:

NO_X rules. In compliance with EPA's NO_X SIP call, Ohio developed rules to control NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. These rules required sources to begin reducing NO_X emissions in 2004. However, statewide NO_X emissions actually had begun to decline before 2004, as sources phased in emission controls needed to comply with the State's NO_X emission control regulations. From 2004 on, NO_X emissions from EGUs in the Eastern United States have been capped at a level well below pre-2002 levels, such that EGU emissions in the Columbus area, and elsewhere in Ohio, can be expected to remain well below 2002 levels. Ohio expects that NO_X emissions will further decline as the State meets the requirements of EPA's Phase II NO_X SIP call (69 FR 21604 (April 21, 2004)).

Federal Emission Control Measures. Reductions in VOC and NO_X emissions have occurred statewide as a result of Federal emission control measures, with additional emission reductions expected to occur in the future as the State implements additional emission controls. Federal emission control measures include: Tier 2 emission standards for vehicles, gasoline sulfur limits, low sulfur diesel fuel standards, and heavy-duty diesel engine standards. In addition, in 2004, EPA issued the Clean Air Non-road Diesel Rule (69 FR 38958 (July 29, 2004)). EPA expects this rule to reduce off-road diesel emissions through 2010, with emission reductions starting in 2008.

b. Emission Reductions.

Ohio is using 2002 for the nonattainment inventory and included area, mobile and point source emissions. Area sources were taken from the Ohio 2002 periodic inventory submitted to EPA. These projections were made from the United States Department of Commerce Bureau of Economic Analysis growth factors, with some updated local information. Mobile source emissions were calculated from MOBILE6.2 produced emission factors. Non-road emissions were generated using the EPA's National Mobile Inventory Model (NMIM) 2002 application. Point source information was compiled from Ohio's 2002 annual emission inventory database and the 2002 EPA Clean Air Markets Acid Rain database.

Based on the inventories described above, Ohio's submittal documents changes in VOC and NO_X emissions from 2002 to 2004. Summaries of emissions data are shown in Tables 2 through 4.

TABLE 2.—THE COLUMBUS AREA TOTAL VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 2002 (TONS/DAY)

Sector	VOC	NO_X
Point	5.39	10.71
Area	65.15	6.84
Non-Road Mobile	28.55	41.90
On-Road Mobile	97.84	163.94
Columbus Area Total	196.93	223.39

TABLE 3.—THE COLUMBUS AREA TOTAL VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2004 (TONS/DAY)

Sector	VOC	NO_X
Point	5.05	10.30
Area	64.75	7.18
Non-Road Mobile	26.20	38.73
On-Road Mobile	87.84	150.89
Columbus Area Total	183.84	207.10

TABLE 4.—THE COLUMBUS, OHIO AREA: COMPARISON OF 2002 AND 2004 VOC AND NO_X EMISSIONS (TONS/DAY)

Sector	VOC			NO_X		
	2002	2004	Net change (2002–2004)	2002	2004	Net change (2002–2004)
Point	5.39	5.05	−0.24	10.71	10.30	−0.41
Area	65.15	64.75	−0.40	6.84	7.18	0.34
Nonroad	28.55	26.20	−2.35	41.90	38.73	−3.17
Onroad	97.84	87.84	−10.00	163.94	150.89	−13.05
Total	196.93	183.84	−13.09	223.39	207.10	−16.29

Table 4 shows that the area reduced VOC emissions by 13.09 tons/day, and NO_X emissions by 16.29 tons/day, between 2002 and 2004. Based on the information summarized above, Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

4. The Area Has a Fully Approved Maintenance Plan Pursuant to Section 175a of the CAA (Section 107(d)(3)(E)(iv))

In conjunction with its request to redesignate the Columbus area to attainment status, Ohio submitted SIP revisions to provide for the maintenance of the 8-hour ozone NAAQS in this area through 2018.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten 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 will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations.

The September 4, 1992, John Calcagni memorandum provides additional guidance on the content of a maintenance plan. The memorandum clarifies that an ozone maintenance plan should address the following items: The attainment VOC and NO_X emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

Ohio developed a baseline emissions inventory for 2004, one of the years used to demonstrate monitored attainment of the 8-hour NAAQS. The attainment level of emissions is summarized in Table 3, above.

c. Demonstration of Maintenance

Ohio submitted revisions to the 8-hour ozone SIP to include 11-year maintenance plans for the Columbus area, in compliance with section 175A of the CAA. This demonstration shows maintenance of the 8-hour ozone standard by assuring that current and future emissions of VOC and NO_X 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).

Ohio is using projected inventories for the years 2009 and 2018. These emission estimates are presented in Table 5.

TABLE 5.—THE COLUMBUS, OHIO AREA: COMPARISON OF 2004–2018 VOC AND NO_X EMISSIONS (TONS/DAY)

Sector	VOC				NO_X			
	2004	2009	2018	Net change 2004–2018	2004	2009	2018	Net change 2004–2018
Point	5.05	4.43	5.20	0.15	10.30	9.38	10.00	−0.30
Area	64.75	63.75	67.24	2.49	7.18	8.06	8.60	1.42
Nonroad	26.20	20.28	18.85	−7.35	38.73	30.72	20.14	−18.59
Onroad	87.84	62.76	36.09	−51.75	150.89	109.07	49.01	−101.88
Total	183.84	151.22	127.38	−56.46	207.10	157.23	87.75	−119.35

The emission projections show that Ohio does not expect emissions in the area to exceed the level of the 2004 attainment year inventory during the maintenance period. In the area, Ohio projects that VOC and NO_X emissions will decrease by 56.46 tons/day and 119.35 tons/day, respectively.

As part of its maintenance plan, the State elected to include a ''safety margin'' for the area. 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 which continues to demonstrate attainment of the standard. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Ohio used 2004 as the attainment level

of emissions for the area. In the maintenance plan, Ohio projected emission levels for 2018. The emissions from point, area, non-road, and mobile sources in 2004 equaled 183.84 tons/day of VOC and 207.10 tons/day of NO_X. Ohio projected VOC emissions for the year 2018 to be 127.38 tons/day of VOC and 87.75 tons/day of NO_X. The safety margin is calculated to be the difference between these amounts or, in this case, 56.46 tons/day of VOC and 119.35 tons/day of NO_X for 2018. The safety margin, or a portion thereof, can be allocated to any of the source categories, as long as the total attainment level of emissions is maintained. Ohio EPA allocated 5.41 tons/day of VOC and 7.35 tons/day of NO_X to the MVEB. The SIP submission demonstrates that the area will continue to maintain the standard because emission will continue to be below the attainment level.

d. Monitoring Network

Ohio currently operates eight ozone monitors in the Columbus area. Ohio has committed to continue operating and maintaining their approved ozone monitor network in accordance with 40 CFR part 58.

e. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in the area depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State's plan for verifying continued attainment of the 8-hour standard in the area consists of plans to continue ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. In addition, Ohio will periodically review and revise the VOC and NO_X emissions inventories for the area, as required by the Consolidated Emissions Reporting Rule (40 CFR part 51), to track levels of emissions in the future.

f. Contingency Plan

The contingency plan provisions of the CAA are designed to result in prompt correction or prevention of violations of the NAAQS that might occur after redesignation of an area to attainment of the NAAQS. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the State will promptly correct a violation of the NAAQS that might occur after redesignation. The maintenance plan must identify the contingency measures to be considered for possible adoption, a schedule and procedure for adoption and implementation of the selected contingency measures, 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 adopted and implemented. The maintenance plan must include a requirement that the State will implement all measures with respect to control of the pollutant(s) that were included in the SIP before the redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Ohio has adopted a contingency plan to address possible future ozone air quality issues. The contingency plan has two levels of actions/responses depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level Response) or has actually occurred or appears to be very imminent (Action Level Response).

A Warning Level Response will be triggered whenever an annual (1-year) fourth-high monitored 8-hour ozone concentration of 88 ppb occurs within the ozone maintenance area (Columbus area). A Warning Level Response will consist of a study to determine whether the ozone value indicates a trend toward higher ozone concentrations 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, taking into consideration ease and timing for implementation, as well as economic and social consideration. Implementation of necessary controls in response to a Warning Level Response triggering will take place as expeditiously as possible, but in no event later than 12 months from the conclusion of the most recent ozone season.

An Action Level Response will be triggered whenever a two-year average annual fourth-high monitored 8-hour ozone concentration of 85 ppb or greater occurs within the maintenance area (Columbus area). A violation of the 8-hour ozone standard (three-year average fourth-high value of 85 ppb or greater) will also prompt an Action Level Response. In the event that an Action Level Response is triggered and is not due to an exceptional event, malfunction, or noncompliance with a source permit condition or rule requirement, Ohio will determine the additional emission control measures needed to assure future attainment of the ozone NAAQS. Emission control measures that can be implemented in a short time will be selected in order to be in place within 18 months from the close of the ozone season that prompted the Action Level Response. Any new emission control measure that is selected for implementation will be given a public review. If a new emission control measure is already promulgated and scheduled to be implemented at the Federal or State level and that emission control measure is determined to be sufficient to address the increase in peak ozone concentrations, additional local measures may be unnecessary. Ohio will submit to the EPA an analysis to assess whether the proposed emission control measures are adequate to reverse the increase in peak ozone concentrations and to maintain the 8-hour ozone standard in the area. The selection of emission control measures will be based on cost-effectiveness, emission reduction potential, economic and social considerations, or other factors that Ohio deems to be appropriate. Selected emission control measures will be subject to public review and the State will seek public input prior to selecting new emission control measures.

The State's ozone redesignation request lists the following possible emission control measures as contingency measures in the ozone maintenance portion of the State's submittal:

i. Lower Reid vapor pressure gasoline requirements;

ii. Tighten RACT on existing source covered by USEPA Control Techniques Guidelines issued in response to the 1990 CAA;

iii. Apply RACT to smaller existing sources;

iv. One or more transportation control measures sufficient to achieve at least half a percent reduction in actual area wide VOC emissions. Transportation-measures will be selected from the following, based upon the factors listed above after consultation with affected local governments:

a. Trip reduction programs, including, but not limited to, employer-based transportation management plans, area-wide rideshare programs, work schedule changes, and telecommuting;

b. Traffic flow and transit improvements; and

c. Other new or innovative transportation measures not yet in widespread use that affects State and local governments deemed appropriate.

v. Alternative fuel and diesel retrofit programs for fleet vehicle operations.

vi. Controls on consumer products consistent with those adopted elsewhere in the United States.

vii. Require VOC and NO_X emissions offsets for new and modified major sources.

viii. Require VOC or NO_X emission offsets for new or modified minor sources.

ix. Increase the ratio of emission offsets required for new sources.

x. Require VOC or NO_X controls on new minor sources (less than 100 tons).

g. Provisions for Future Updates of the Ozone Maintenance Plan.

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA updated ozone maintenance plans eight years after redesignation to cover an additional 10-year period beyond the initial 10-year maintenance period. Ohio has committed to retain the control measures for VOC and NO_X emissions that were contained in the SIP before redesignation of the area to attainment, as required by section 175(A) of the CAA.

EPA proposes that the 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.

B. Adequacy of Ohio's Motor Vehicle Emissions Budgets (MVEBs)

1. How Are MVEBs Developed and What Are the MVEBs for the Area?

Under the CAA, States are required to submit, at various times, control strategy SIP revisions and ozone maintenance plans for ozone nonattainment areas and for areas seeking redesignation to attainment of the ozone standard. These emission control strategy SIP revisions (*e.g.*, reasonable further progress SIP and attainment demonstration SIP revisions) and ozone maintenance plans create MVEBs based on onroad mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portions 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.

Under 40 CFR Part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. 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.

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (*i.e.*, be consistent with) the part of the SIP that addresses emissions from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing air quality violations, or delay timely attainment of the NAAQS. If a transportation plan does not conform, most new transportation projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find that the MVEBs are ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are 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 the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and, (3) EPA's finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was codified in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The Columbus area's maintenance plan contains new VOC and NO_X MVEBs for the years 2009 and 2018. The availability of the SIP submission with these 2009 and 2018 MVEBs was announced for public comment on EPA's Adequacy Web page on March 5, 2007, at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*. The EPA public comment period on adequacy of the MVEBs closed on April 6, 2007. No requests for the submittal or adverse comments on the submittal were received during the adequacy comment period. In a letter dated April 6, 2007 EPA informed Ohio that we had found the MVEBs to be adequate for use in transportation conformity analyses.

EPA, through this rulemaking, is proposing to approve the MVEBs for use in determining transportation conformity in the Columbus area because the EPA has determined that the area can maintain attainment of the 8-hour ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

MOTOR VEHICLE EMISSIONS BUDGETS FOR THE COLUMBUS, OH AREA

Year	VOC (tons/day)	NO_X (tons/day)
2009	72.16	125.43
2018	41.50	56.30

2. 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 part of its maintenance plan, the State elected to include a ''safety margin'' for the area. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Ohio used 2004 as the attainment level of emissions for the area. In the maintenance plan, Ohio projected emission levels for 2018. The emissions from point, area, non-road, and mobile sources in 2004 equaled 183.84 tons/day of VOC and 207.10 tons/day of NO_X. Ohio projected VOC emissions for the year 2018 to be 127.38 tons/day of VOC and 87.75 tons/day of NO_X. The safety margin is calculated to be the difference between these amounts or, in this case, 56.46 tons/day of VOC and 119.35 tons/day of NO_X for 2018. The safety margin, or a portion thereof, can be allocated to any of the source categories, as long as the total attainment level of emissions is maintained. Ohio EPA allocated 5.41 tons/day of VOC and 7.35 tons/day of NO_X to the MVEB. The SIP submission demonstrates that the area will continue to maintain the standard.

VIII. What Actions Is EPA Taking Today?

EPA is proposing to make determinations that the Columbus area has attained the 8-hour ozone NAAQS, and EPA is proposing to approve Ohio's

maintenance plan for assuring that the area will continue to attain this standard. EPA is also proposing to find that the Columbus area meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA, and on this basis, EPA is proposing to approve the redesignation of the Columbus area from nonattainment to attainment for the 8-hour ozone standard.

Finally, EPA is finding adequate and proposing to approve the 2009 and 2018 VOC and NO_X MVEBs submitted by Ohio in conjunction with the redesignation request.

IX. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). Redesignation is an action that merely affects the status of a geographical area, does not impose any new requirements on sources, or allows a State to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the CAA.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule also does not have tribal implications, as specified in Executive Order 13175, 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. Thus, Executive Order 13175 does not apply to this rule.

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

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

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

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

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing program submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. Absent a prior existing requirement for the State to use voluntary consensus standards, EPA has no authority to disapprove a program submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air Pollution Control, National parks, Wilderness areas.

Dated: June 1, 2007.

Walter Kovalick,

Acting Regional Administrator, Region 5.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 53 and 58

[EPA–HQ–OAR–2004–0018; FRL–8308–8]

RIN 2060–AO06

Ambient Air Monitoring Regulations: Correcting and Other Amendments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to correct and clarify parts of a recent final rule published on October 17, 2006, that amended the ambient air monitoring requirements for criteria pollutants. The proposed changes include several instances where the wording in the preamble and regulatory text were not completely consistent, several regulatory text passages that contained some imprecise language, two instances