To: Mastro, Donna[Mastro.Donna@epa.gov]
Cc: Bianco, Karen[Bianco.Karen@epa.gov]; zachary.fabish@sierraclub.org[zachary.fabish@sierraclub.org]; Smith, Kristi[Smith.Kristi@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]
From: kmalawoffice
Sent: Fri 2/23/2018 8:47:02 PM
Subject: Re: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

Thank you for the update. We will keep an eye on the Federal Register for it, but it would also be helpful if you could send us the link once it has been published. Thank you again.

-------- Original message --------
From: "Mastro, Donna" <Mastro.Donna@epa.gov>
Date: 2/23/18 3:24 PM (GMT-05:00)
To: "Kathryn M. Amirpashaie" Ex. 6
Cc: "Bianco, Karen" <Bianco.Karen@epa.gov>, zachary.fabish@sierraclub.org, "Smith, Kristi" <Smith.Kristi@epa.gov>, "Brachtl, Megan" <Brachtl.Megan@epa.gov>, "Stackhouse, Butch" <Stackhouse.Butch@epa.gov>
Subject: Re: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

All- I have news . Region 3 signed the Proposed rulemaking today for the PA RAct May 2016 Sip submittal. It should publish in Fed Register in about 2 weeks I hope.

Donna L. Mastro | Associate Regional Counsel | Air Branch Chief | ORC | US EPA Region 3 | ph: (215) 814 2777 | fax: (215) 814-2603

On Feb 20, 2018, at 12:17 PM, Mastro, Donna <Mastro.Donna@epa.gov> wrote:

Thank you. Will do-

Donna L. Mastro | Associate Regional Counsel | Air Branch Chief | US EPA Region III ORC | (215) 814-2777 | fax (215) 814-2603

From: Kathryn M. Amirpashaie Ex. 6
Sent: Tuesday, February 20, 2018 12:17 PM
To: Mastro, Donna <Mastro.Donna@epa.gov>
Cc: Bianco, Karen <Bianco.Karen@epa.gov>; zachary.fabish@sierraclub.org

Subject: Re: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

Thank you for the update and, yes, we would appreciate being informed when it is signed.

On Tue, Feb 20, 2018 at 11:17 AM, Mastro, Donna <Mastro.Donna@epa.gov> wrote:

Kathryn and Zach-

I wanted to send a quick update for you both on Region III's progress on the PA RACT (1997/2008 ozone NAAQS) SIP (submitted to EPA May 2016). We have the SIP rulemaking document drafted and in our management concurrence process. The Air Division is finalizing some edits from management and we hope to have the Proposed Rulemaking to our Regional Administrator asap. Given his schedule, I can't predict it will get signed today but we are hoping Friday or early next week. I can keep everyone informed. Please let me know if you have any concerns but we are striving to finish this proposal.

Donna L. Mastro | Associate Regional Counsel | Air Branch Chief | US EPA Region III ORC | (215) 814-2777 | fax (215) 814-2603

From: Bianco, Karen
Sent: Tuesday, January 02, 2018 9:14 AM
To: Kathryn M. Amirpashaie Ex. 6
Cc: Mastro, Donna <Mastro.Donna@epa.gov>; zachary.fabish@sierraclub.org

Subject: RE: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

We will plan to call you at Ex. 6 please let me know if we should use a different number. Should we plan to call Zachary as well, or just you, Kathryn?

From: Kathryn M. Amirpashaie Ex. 6

Sent: Tuesday, January 02, 2018 9:11 AM
To: Bianco, Karen <Bianco.Karen@epa.gov>
Cc: Mastro, Donna <Mastro.Donna@epa.gov>; zachary.fabish@sierraclub.org
Subject: Re: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

Sounds good. I'll wait for your call then.

Happy New Year.

On Tue, Jan 2, 2018 at 8:30 AM, Bianco, Karen <Bianco.Karen@epa.gov> wrote:

Thank you for getting in touch, Kathryn. Wednesday at 11 works for us.

Happy New Year.

Karen

From: kmalawoffice Ex. 6
Sent: Monday, January 01, 2018 5:45 PM
To: Mastro, Donna <Mastro.Donna@epa.gov>; Bianco, Karen <Bianco.Karen@epa.gov>; zachary.fabish@sierraclub.org

Subject: RE: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

Touching base, I'm available for a call this Wednesday between 11 and 4, and Thursday between 9 and 2.

Thanks.

-------- Original message --------

From: "Mastro, Donna" <Mastro.Donna@epa.gov>

Date: 12/21/17 12:20 PM (GMT-05:00)

To: kmalawoffice Ex. 6 >, "Bianco, Karen" <Bianco.Karen@epa.gov>, zachary.fabish@sierraclub.org

Subject: RE: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

I am out of the office the week of Dec 25 but will be available the week of Jan 1.

Donna L. Mastro | Associate Regional Counsel | Air Branch Chief | US EPA Region III ORC | (215) 814-2777

From: kmalawoffice Ex. 6
Sent: Thursday, December 21, 2017 12:18 PM
To: Bianco, Karen <Bianco.Karen@epa.gov>; zachary.fabish@sierraclub.org
Cc: Mastro, Donna <Mastro.Donna@epa.gov>
Subject: Re: FW: Sierra Club Notice of Intent to Sue under the Federal Clean Air Act (Pennsylvania's 8-hour Ozone NAAQS RACT SIP submittal)

Hi,

Thank you for getting in touch. I am available next Thursday morning (12/28) between 9:00 and 12:30 if that time frame works for you. Otherwise we can set up a call for the first week in January. Let me know.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]
Cc: Harwell, Lyn[lyn.harwell@woodplc.com]
From: Wagoner, Robert A
Sent: Fri 12/8/2017 4:58:54 PM
Subject: FRN Update
8257853.pdf
8257854.pdf
8257892.pdf

FYI:

Withdrawal of direct final redesignation

On December 8, 2017, EPA withdrew both direct final redesignations of the Chicago, IL and Granite City, IL nonattainment areas for 2008 Lead which had been published in [82 FR 48448] on October 18, 2017.

[82 FR 57853]

Withdrawal of direct final redesignation

On December 8, 2017, EPA withdrew the direct final redesignation of the Delta, OH nonattainment area for 2008 Lead which had been published in [82 FR 48442] on October 18, 2017.

[82 FR 57854]

Proposed rule - redesignation to attainment

On December 8, 2017, EPA proposed to redesignate the Illinois portion of the St. Louis-St. Charles-Farmington, MO-IL nonattainment area for 2008 8-hr Ozone.

[82 FR 57892]

Robert Wagoner

Senior 2 Project Manager
Direct: Ex. 6
www.woodplc.com

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2017–0277; FRL–9971–64–Region 5]

Air Plan Approval; Illinois; Redesignation of the Illinois Portion of the St. Louis-St. Charles-Farmington, Missouri-Illinois Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the St. Louis-St. Charles-Farmington, Missouri-Illinois (MO–IL) area, "the St. Louis area," is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) based on 2014–2016 monitoring data. EPA is further proposing to redesignate the Illinois portion of the St. Louis area, "the Metro-East area," to attainment for the 2008 ozone NAAQS because the Metro-East area meets the statutory requirements for redesignation under the Clean Air Act (CAA). (EPA will address the Missouri portion of the St. Louis area in a separate rulemaking action.) The St. Louis area includes Madison, Monroe and St. Clair Counties in Illinois (the Metro-East area), and Franklin, Jefferson, St. Charles, and St. Louis Counties and the City of St. Louis in Missouri. The Illinois Environmental Protection Agency (IEPA) submitted a request to redesignate the Metro-East area on May 8, 2017. EPA is also proposing to approve, as a revision to the Illinois State Implementation Plan (SIP), the State's plan for maintaining the 2008 ozone standard through 2030 in the St. Louis area. Finally, EPA finds adequate and is proposing to approve, as a SIP revision, the State's 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Metro-East area.

DATES: Comments must be received on or before January 8, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2017–0277 at *http://www.regulations.gov* or via email to *aburano.douglas@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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

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

I. What are the actions EPA is proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of IEPA's redesignation request?
A. Has the St. Louis area attained the 2008 ozone NAAQS?
B. Has Illinois met all applicable requirements of section 110 and part D of the CAA for the Metro-East area, and does the Metro-East area have a fully approved SIP under section 110(k) of the CAA?
C. Are the air quality improvements in the St. Louis area due to permanent and enforceable emission reductions?
D. Does Illinois have a fully approvable ozone maintenance plan for the St. Louis area?
V. Has Illinois adopted approvable motor vehicle emission budgets?
A. What are motor vehicle emission budgets?
B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?
C. What is a safety margin and how did Illinois allocate it?
VI. Proposed Actions
VII. Statutory and Executive Order reviews

I. What are the actions EPA is proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the St. Louis nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2014–2016 and that the Metro-East area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to change the legal designation of the Metro-East area from nonattainment to attainment for the 2008 ozone standard.

EPA is also proposing to approve, as a revision to the Illinois SIP, the State's maintenance plan for the area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to keep the St. Louis area in attainment of the 2008 ozone NAAQS through 2030.

Finally, EPA finds adequate and is proposing to approve into the SIP the newly-established 2030 MVEBs for the Metro-East area. The adequacy comment period for the MVEBs began on August 21, 2017, with EPA's posting of the availability of Illinois' submittal on EPA's Adequacy Web site (at *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity*). The adequacy comment period for these MVEBs ended on September 20, 2017. EPA did not receive any adverse comments on this submittal during the adequacy comment period. In a letter dated September 26, 2017, EPA informed IEPA that the 2030 MVEBs are adequate for use in transportation conformity analyses. Please see section V.B. of this rulemaking, "What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?," for further explanation of this process.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. *See* 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality-assured ozone monitoring data. The St. Louis area was designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 21, 2012 (77 FR 30088) (effective July 20, 2012) based on 2008–2010 monitoring data.

In a final implementation rule for the 2008 ozone NAAQS (SIP Requirements Rule),[1] EPA established ozone standard attainment dates based on table 1 of section 181(a) of the CAA. The rule established an attainment date three years after the July 20, 2012, effective designation date for areas classified as marginal nonattainment for the 2008 ozone NAAQS. Therefore, the attainment date for the St. Louis area was July 20, 2015. On May 4, 2016 (81 FR 26697), based on EPA's evaluation and determination that the area met the attainment date extension criteria of CAA section 181(8)(5), EPA granted the St. Louis area a 1-year extension of the marginal area attainment date to July 20, 2016. On June 27, 2016 (81 FR 41444), in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the St. Louis area attained the standard by the July 20, 2016, attainment date for the 2008 ozone NAAQS. EPA's determination was based upon three years of complete, quality-assured and certified data for the 2013–2015 time period.

On May 8, 2017, Illinois submitted to EPA a request to redesignate the Illinois portion of the St. Louis area, also called the Metro-East area, to attainment for the 2008 ozone NAAQS, and to approve the maintenance place for the area, including the 2030 MVEBs, as a revision to the Illinois SIP.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton. Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

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

A. Has the St. Louis area attained the 2008 ozone NAAQS?

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the 3-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring seasons,[2] on average, for the three-year period, with a minimum data completeness of 75 percent during the ozone monitoring season of any year during the three-year period. *See* section 2.3 of appendix P to 40 CFR part 50.

On June 27, 2016, in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the St. Louis area attained the standard by its July 20, 2016 attainment date for the 2008 ozone NAAQS. (81 FR 41444). This determination was based upon three

[1] This rule, titled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" and published at 80 FR 12264 (March 6, 2015), addresses nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), new source review (NSR), emission inventories, and the timing requirements for SIP submissions and compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS is revoked.

[2] The ozone season is defined by state in 40 CFR 58 appendix D. For the 2013–2015 time period, the ozone season was April-October. Beginning in 2016, the ozone season is March-October. See 80 FR 65292, 65466–67 (October 26, 2015).

years of complete, quality-assured, and certified data for the 2013–2015 time period. In addition, EPA has reviewed the ozone monitoring data from monitoring sites in the St. Louis area for the 2014–2016 time period. These data, which are complete, quality-assured, and certified, demonstrate that the St. Louis area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the 3-year average of these concentrations (ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND 3-YEAR AVERAGE OF THE 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE ST. LOUIS AREA

State	County	Monitor	2013 4th high (ppm)	2014 4th high (ppm)	2015 4th high (ppm)	2016 4th high (ppm)	2013–2015 average (ppm)	2014–2016 average (ppm)
Illinois	Madison	17–119–0008	0.072	0.072	0.069	0.073	0.071	0.071
		17–119–1009	0.075	0.070	0.064	0.067	0.069	0.067
		17–119–3007	0.069	0.070	0.069	0.075	0.069	0.071
		17–119–9991	0.071	0.068	0.067	0.068	0.068	0.067
	St. Clair	17–163–0010	0.066	0.067	0.066	0.073	0.066	0.068
Missouri	Jefferson	29–099–0019	0.069	0.072	0.069	0.070	0.070	0.070
	St. Charles	29–183–1002	0.071	0.072	0.070	0.075	0.071	0.072
		29–183–1004	0.071	0.072	0.066	0.076	0.069	0.071
	St. Louis	29–189–0005	0.067	0.065	0.065	0.067	0.065	0.065
		29–189–0014	0.070	0.072	0.069	0.073	0.070	0.071
	St. Louis City	29–510–0085	0.066	0.066	0.063	0.068	0.065	0.065

The 3-year ozone design values for 2013–2015 and 2014–2016 are 0.071 ppm and 0.072 ppm, respectively,[3] which meet the criteria for attainment of the 2008 ozone NAAQS. Therefore, in today's action, EPA proposes to determine that the St. Louis area is attaining the 2008 ozone NAAQS based on complete, quality-assured and certified 2014–2016 ozone monitoring data.

EPA will not take final action to determine that the St. Louis area is attaining the NAAQS nor approve the redesignation of this area if the design value of a monitoring site in the area exceeds the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2017 data indicate that this area continues to attain the 2008 ozone NAAQS. As discussed in section IV.D.3. below, IEPA has committed to continue monitoring ozone in this area to verify maintenance of the ozone standard.

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

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the area has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). Illinois has met all applicable SIP requirements, for purposes of redesignation, under section 110 and part D of title I of the CAA (requirements specific to nonattainment areas for the 2008 ozone NAAQS). Additionally, all applicable requirements of the Illinois SIP for the area have been fully approved under section 110(k) of the CAA. In making these determinations, EPA ascertained which CAA requirements are applicable to the Metro-East area and the Illinois SIP and, if applicable, whether the required Illinois SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992 Calcagni memorandum (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)(v) 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, 12465–12466 (March 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that become due subsequent to the state's submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. *See* section 175A(c) of the CAA. *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004). *See also* 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

1. Illinois Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Metro-East Area for Purposes of Redesignation

a. Section 110 General Requirements for Implementation Plans

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

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

and local agency participation in planning and emission control rule development.

Additionally, Section 110(a)(2)(D) of the CAA requires SIPs to 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 certain air pollutants, *e.g.,* the NO_X SIP call.[4] However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 15, 2000), 66 FR 50399 (October 19, 2001), 68 FR 25418, 25426–25427 (May 13, 2003).

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

We have reviewed the Illinois SIP and conclude that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation.[5]

b. Part D Requirements

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

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

i. Subpart 1 Section 172 Requirements

As provided in subpart 2, for marginal ozone nonattainment areas such as the St. Louis area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9). 42 U.S.C. 7511a(a).

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

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved the Illinois nonattainment NSR program as meeting the requirements of section 172(c)(4) and 172(c)(5) on December 17, 1992 (57 FR 59928), September 27, 1995 (60 FR 49780) and May 13, 2003 (68 FR 25504). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Illinois has shown that the St. Louis area can demonstrate maintenance of the standard without part D NSR in effect; therefore, EPA concludes that the State need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). EPA delegated the authority to implement the Federal PSD program to IEPA pursuant to 40 CFR 52.21. This delegated PSD program will become effective in the Metro-East area upon redesignation to attainment.

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

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, the Illinois SIP meets the requirements of section 110(a)(2) for purposes of redesignation.

[4] On October 27, 1992 (63 FR 57356), EPA issued a NO_X SIP call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP Call, IEPA developed rules governing the control of NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, major cement kilns, and internal combustion engines. EPA approved the Illinois rules as fulfilling Phase I of the NO_X SIP Call on June 28, 2001 (66 FR 34382) and November 21, 2001 (66 FR 56454), and as meeting Phase II of the NO_X SIP Call on June 26, 2009 (74 FR 30466).

[5] On October 16, 2014 (79 FR 62042), EPA approved elements of the SIP submitted by Illinois to meet the requirements of section 110 for the 2008 ozone standard. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the 8-hour ozone nonattainment status of the St. Louis area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the State's 8-hour ozone redesignation request.

ii. Section 176 Conformity Requirements

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

EPA interprets the conformity SIP requirements[6] as not applicable for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida).

EPA approved Illinois's general conformity SIP on December 23, 1997 (62 FR 67000). Illinois does not have a Federally approved transportation conformity SIP. However, Illinois performs conformity analyses pursuant to EPA's Federal conformity rules. Illinois has submitted 2030 on-road MVEBs for the Metro-East area of 9.05 tons per day (tpd) VOC and 16.68 tpd NO_X. Illinois must use these MVEBs in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

iii. Section 182(a) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. IEPA submitted a 2011 base year emissions inventory for the Metro-East area on September 3, 2014. EPA approved this emissions inventory as a revision to the Illinois SIP on March 7, 2016 (81 FR 11671).

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Metro-East area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments and because Illinois complied with this requirement for the Metro-East area under the prior 1-hour ozone NAAQS. *See* 59 FR 46562 (September 9, 1994).

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

The source permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4) are included in Illinois' nonattainment NSR program, which EPA approved on December 17, 1992 (57 FR 59928), September 27, 1995 (60 FR 49780) and May 13, 2003 (68 FR 25504). As discussed above, Illinois has demonstrated that the Metro-East area can demonstrate maintenance of the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. IEPA has been delegated the authority to implement the Federal PSD program, which will become effective in the Metro-East area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic emission inventories and a revision to the SIP to require the owners or operators of stationary sources to annually submit emission statements documenting actual VOC and NO_X emissions. As discussed below in section IV.D.4. of this proposed rule, Illinois will continue to update its emissions inventory at least once every three years consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. With regard to stationary source emission statements, EPA approved the Illinois emission statement rule on May 15, 2002 (67 FR 34614), which requires certain sources in ozone nonattainment areas to report annual VOC and NO_X emissions. On May 9, 2017, Illinois certified that this approved SIP regulation remains in place and meets the emissions statement requirement for areas designated as nonattainment for the 2008 ozone standard. EPA approved the Illinois emissions statement certification SIP on July 11, 2017 (82 FR 31913).

Therefore, the Metro-East area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Metro-East Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

At various times, Illinois has adopted and submitted, and EPA has approved, provisions addressing the various SIP elements applicable for the ozone NAAQS. As discussed above, EPA has fully approved the Illinois SIP for the Metro-East area under section 110(k) for all requirements applicable for purposes of redesignation under the 2008 ozone NAAQS. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

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

To redesignate an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable emission reductions. Illinois has demonstrated that the observed ozone air quality improvement in the St. Louis area is due to permanent and

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

enforceable reductions in VOC and NO_X emissions resulting from state measures approved as part of the SIP and Federal measures.

In making this demonstration, IEPA has calculated the change in emissions between 2011 and 2014. IEPA attributes the reduction in emissions and corresponding improvement in air quality over this time period to a number of regulatory control measures that have been implemented in the St. Louis area and upwind areas in recent years. In addition, IEPA provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, Illinois has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR).

CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in 27 eastern states, including Illinois, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved Illinois's CAIR regulations into the Illinois SIP on October 10, 2007 (72 FR 58528). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR and the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States, including Illinois.

Implementation of CSAPR was scheduled to begin on January 1, 2012, when CSAPR's cap-and-trade programs would have superseded the CAIR cap and trade programs. Numerous parties filed petitions for review of CSAPR, and on December 30, 2011, the D.C. Circuit issued an order staying CSAPR pending resolution of the petitions and directing EPA to continue to administer CAIR. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Dec. 30, 2011), Order at 2.

On August 21, 2012, the D.C. Circuit issued its ruling, vacating and remanding CSAPR to EPA and once again ordering continued implementation of CAIR. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The D.C. Circuit subsequently denied EPA's petition for rehearing en banc. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302, 2013 WL 656247 (D.C. Cir. Jan. 24, 2013), at *1. EPA and other parties then petitioned the Supreme Court for a writ of certiorari, and the Supreme Court granted the petitions on June 24, 2013. *EPA* v. *EME Homer City Generation, L.P.,* 133 S. Ct. 2857 (2013).

On April 29, 2014, the Supreme Court vacated and reversed the D.C. Circuit Court's decision regarding CSAPR, and remanded that decision to the D.C. Circuit Court to resolve remaining issues in accordance with its ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). EPA moved to have the stay of CSAPR lifted in light of the Supreme Court decision. *EME Homer City Generation, L.P.* v. *EPA,* Case No. 11–1302, Document No. 1499505 (D.C. Cir. filed June 26, 2014). In its motion, EPA asked the D.C. Circuit to toll CSAPR's compliance deadlines by three years so that the Phase 1 emissions budgets applied in 2015 and 2016 (instead of 2012 and 2013), and the Phase 2 emissions budgets apply in 2017 and beyond (instead of 2014 and beyond). On October 23, 2014, the D.C. Circuit granted EPA's motion and lifted the stay of CSAPR, which was imposed on December 30, 2011. *EME Homer City Generation, L.P.* v. *EPA,* No. 11–1302 (D.C. Cir. Oct. 23, 2014), Order at 3. On December 3, 2014, EPA issued an interim final rule to clarify how EPA will implement CSAPR consistent with the D.C. Circuit Court's order granting EPA's motion requesting lifting the stay and tolling the rule's deadlines. *See* 79 FR 71663 (December 3, 2014) (interim final rulemaking). Consistent with that rule, EPA began implementing CSAPR on January 1, 2015. EPA expects that the implementation of CSAPR will preserve the reductions achieved by CAIR and result in additional SO_2 and NO_X emission reductions throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

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

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that 2030 NO_X and VOC emissions will decrease by 2,570,000

tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the on-road emission modeling for the St. Louis area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO_2 limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90 percent. Some of these emission reductions occurred by the attainment years, and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, compliant model years.

Nonroad Spark-Ignition Engines and Recreational Engine Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When fully implemented, EPA estimates an overall 72 percent reduction in VOC emissions from these engines and an 80 percent reduction in NO_X emissions. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period as older vehicles are replaced with newer, compliant model years.

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9648), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule was fully implemented in 2013, NO_X and VOC emissions from these engines would be reduced by approximately 9,600 and 36,000 tons per year, respectively.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards applied beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards applied beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines. Some of these emission reductions occurred by the attainment years, and additional emission reductions will occur throughout the maintenance period as older engines are replaced with newer, compliant model years.

c. Control Measures Specific to the Metro-East Area

VOC RACT Rules. Illinois adopted several VOC RACT rules corresponding to the source categories covered in the Control Technique Guideline (CTG) documents issued by EPA in 2006, 2007, and 2008. Illinois adopted rules to control VOC emissions from the following source categories: Industrial cleaning solvents; flat wood paneling; flexible packaging printing lines; lithographic printing lines; letterpress printing lines; paper, film, and foil coatings; large appliance coatings; metal furniture coatings; miscellaneous metal and plastic parts coatings, automobile and light-duty truck assembly coatings; miscellaneous industrial adhesives; and, fiberglass boat manufacturing. EPA approved these rules into the Illinois SIP on March 23, 2012 (77 FR 16940).

Illinois Administrative Code (IAC) rule 219.187 controls VOC emissions from industrial solvent cleaning operations and required compliance by January 1, 2012. IEPA did not quantify the emission reductions expected from this category.

IAC rules 219.204–205, 219.207–208, 219.210–212, and 219.217–219.219 require the control of emissions from coating operations including flat wood paneling; large appliance coatings; metal furniture coatings; paper, film, and foil coatings; miscellaneous metal and plastic parts coatings; and automobile and light-duty truck assembly coatings. Compliance with the regulations pertaining to paper, film, and foil coatings; large appliance coatings; and metal furniture coatings was required by May 1, 2011.[7] IEPA estimated a 20% reduction in VOC emissions from implementation of the paper, film and foil coatings rule, but did not quantify emission reductions from the large appliance coating or metal furniture coating rules. Compliance with the regulations pertaining to flat wood paneling, miscellaneous metal and plastic parts coatings, and automobile and light-duty truck assembly coatings was required by May 1, 2012. IEPA estimated a 60% and 35% reduction in VOC emissions from flat wood paneling coatings and miscellaneous metal and plastic parts coatings, respectively, due to the implementation of these rules. IEPA did not quantify the reduction in VOC emissions due to the implementation of automobile and light-duty truck assembly coatings regulations.

IAC rules 219.401–404 control VOC emissions from flexible package printing lines; 219.405–411 control VOC emissions from lithographic printing lines; and 219.412–417 control VOC emissions from letterpress printing lines. These rules required compliance by August 1, 2010.[8] IEPA estimated a 25% reduction in VOC emissions from lithographic printing lines and a 30% reduction in VOC emissions from letterpress printing lines, but did not quantify the emission reductions expected from flexible packaging printing lines.

IAC rules 219.890–894 control VOC emissions from fiberglass boat manufacturing and required compliance by May 1, 2012. IEPA did not identify a reduction in VOC emissions from this source category. IAC rules 219.900–904 control VOC emissions from miscellaneous industrial adhesives and required compliance by May 1, 2012. IEPA estimated a 40% reduction in VOC emissions from this source category.

Consumer and Commercial Products and Architectural and Industrial Maintenance Coatings Rules. Illinois adopted regulations to control emissions from consumer and commercial products and architectural and industrial maintenance coatings on June 8, 2009, and amended them to include

[7] While VOC emission reductions from these source categories may not be evident when comparing the 2011 and 2014 emission inventories because of the regulatory compliance date, the reductions from these permanent and enforceable requirements occurred after the 2008–2010 time period EPA used to designate the St. Louis area as nonattainment for the 2008 ozone standard, thus contributing to the improvement in air quality.

[8] While VOC emission reductions from these source categories may not be evident when comparing the 2011 and 2014 emission inventories because the regulatory compliance date occurred in 2010, the reductions primarily occurred after the 2008–2010 time period EPA used to designate the St. Louis area as nonattainment for the 2008 ozone standard, thus contributing to the improvement in air quality.

additional product categories and emission limits on May 4, 2012. Consumer and commercial products are regulated under IAC 223.200–285, and architectural and industrial maintenance coatings are regulated under IAC 223.300–370. EPA approved these rules into the Illinois SIP on May 6, 2013 (78 FR 26258). Compliance with the original rules was required by July 1, 2009, and compliance for the additional product categories was required by July 1, 2012. Illinois estimated an 18% reduction in VOC emissions from consumer and commercial products and architectural and industrial maintenance coatings due to implementation of these rules.

Illinois Multi Pollutant Standards (MPS) and Combined Pollutant Standards (CPS) Rules. The Illinois MPS and CPS rules, IAC 225.233 and 225.291–296, are designed to control mercury emissions from coal-fired electric generating units, and also control NO_X emissions. Illinois adopted these regulations on June 26, 2009, with compliance required by January 1, 2012. These rules were approved by EPA on July 6, 2012 (77 FR 39943). IEPA estimated a 59 percent reduction in NO_X from these sources statewide from the implementation of these rules.

2. Emission Reductions

Illinois is using the 2011 base year emissions inventory, approved by EPA as meeting the requirements of CAA Section 182(a)(1), as the nonattainment inventory. *See* 81 FR 11671 (March 7, 2016). Although 2008–2010 ozone monitoring data was used to designate the St. Louis area as nonattainment, the area continued to monitor nonattainment in 2011; therefore, 2011 is an appropriate year to use as the nonattainment inventory.

For the attainment inventory, Illinois is using 2014, one of the years the St. Louis area monitored attainment of the 2008 ozone standard. IEPA compiled point source emission information from 2014 annual emission reports submitted by sources. IEPA calculated area source emissions primarily using an emission factor multiplied by an activity rate (*e.g.,* population, employment, amount of fuel burned, etc.).[9] IEPA calculated onroad mobile source emissions using EPA's MOVES2014a emissions model, with vehicle miles traveled (VMT) data provided by the Illinois Department of Transportation (IDOT). IEPA calculated non-road mobile source emissions using EPA's MOVES2014a emissions model, and calculated aircraft emissions using the Emissions and Dispersion Modeling System (EDMS) model. Emissions from locomotives were grown from the 2011 inventory. Commercial marine vessel emissions were provided by the Lake Michigan Air Directors Consortium (LADCO).

Using the inventories described above, along with 2011 and 2014 emissions inventories provided by the Missouri Department of Natural Resources (MDNR) for the Missouri portion of the St. Louis area, IEPA's submittal documents changes in VOC and NO_X emissions from 2011 to 2014. Subsequent to IEPA's submittal, Missouri submitted corrections to its 2014 and 2030 emissions inventories for the Missouri portion of the St. Louis area. These revisions are reflected in the emissions data for the St. Louis area shown in Tables 2 through 5.

TABLE 2—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR NONATTAINMENT YEAR 2011 IN TONS PER SUMMER DAY [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	10.80	14.58	25.38	26.18	90.68	116.86
Area	18.12	72.77	90.89	1.23	5.60	6.83
On-road	11.44	38.00	49.44	34.14	124.21	158.35
Nonroad	8.49	39.03	47.52	17.17	47.55	64.72
Total	48.86	164.38	213.24	78.72	268.04	346.76

TABLE 3—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR ATTAINMENT YEAR 2014 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	9.38	13.86	23.24	23.29	81.70	104.99
Area	19.06	69.81	88.87	1.53	6.47	8.00
On-road	10.11	38.21	48.32	26.94	111.76	138.70
Nonroad	7.47	33.42	40.89	24.62	38.44	63.06
Total	46.02	155.30	201.32	76.38	238.37	314.75

TABLE 4—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE METRO-EAST AREA [TPSD]

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	10.80	9.38	¥1.42	26.18	23.29	¥2.89
Area	18.12	19.06	0.94	1.23	1.53	0.30
On-road	11.44	10.11	¥1.33	34.14	26.94	¥7.20

[9] The 2014 inventory included additional categories not calculated in the 2011 inventory. These categories include oil and gas production, oil exploration, and agricultural field burning. While emissions from these categories may be significant state-wide, IEPA has indicated that these emissions are very minor for the Metro-East area.

TABLE 4—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE METRO-EAST AREA [TPSD]—Continued

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Nonroad	8.49	7.47	¥1.02	17.17	24.62	7.45
Total	48.86	46.02	¥2.84	78.72	76.38	¥2.34

TABLE 5—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2011 AND 2014 FOR THE ENTIRE ST. LOUIS AREA [TPSD]

	VOC			NO_X		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	25.38	23.24	¥2.14	116.86	104.99	¥11.87
Area	90.89	88.87	¥2.02	6.83	8.00	1.17
On-road	49.44	48.32	¥1.12	158.35	138.70	¥19.65
Nonroad	47.52	40.89	¥6.63	64.72	63.06	¥1.66
Total	213.24	201.32	¥11.92	346.76	314.75	¥32.01

Table 5 shows that emissions of VOC and NO_X in the St. Louis area were reduced by 11.92 TPSD and 32.01 TPSD, respectively, between 2011 and 2014. As shown in Table 4, the Metro-East area alone reduced VOC and NO_X emissions by 2.84 TPSD and 2.34 TPSD, respectively, between 2011 and 2014.

As discussed above, Illinois identified numerous Federal rules and state rules approved into the Illinois SIP that resulted in the reduction of VOC and NO_X emissions from 2011 to 2014. Therefore, Illinois has shown that the air quality improvements in the St. Louis area are due to permanent and enforceable emission reductions.

3. Meteorology

To further support IEPA's demonstration that the improvement in air quality is due to permanent and enforceable emission reductions, LADCO performed a meteorology analysis. The analysis concluded that the improvement in air quality was not due to favorable meteorology. LADCO conducted a classification and regression tree (CART) analysis with 2000 through 2015 data from three Metro-East area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

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

D. Does Illinois have a fully approvable ozone maintenance plan for the Metro-East area?

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

The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emission inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.

In conjunction with its request to redesignate the Metro-East area to attainment for the 2008 ozone standard, IEPA submitted, as a SIP revision, a plan to provide for maintenance of the 2008 ozone standard through 2030, more than 10 years after the expected effective date of the redesignation to attainment. As discussed below, EPA proposes to find that the Illinois ozone maintenance plan includes the necessary components and approve the maintenance plan as a revision to the Illinois SIP.

1. Attainment Inventory

EPA is proposing to determine that the St. Louis area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2014–2016. IEPA selected 2014 as the year to establish attainment emission levels for VOC and NO_X. IEPA's 2014 attainment emissions inventory identifies the levels of emissions in the St. Louis area that are sufficient to attain the 2008 ozone NAAQS. The basis of the attainment year emissions was discussed above in section IV.C.2. of this proposed rule. Additionally, the attainment level emissions, by source category, are summarized in Table 3 above. The

attainment emissions inventory is consistent with the Calcagni memo.

2. Has the state documented maintenance of the ozone standard in the St. Louis area?

Illinois has demonstrated maintenance of the 2008 ozone standard through 2030 by ensuring that current and future emissions of VOC and NO_X for the St. Louis area remain at or below attainment year emission levels through the use of emission inventories. 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).

Illinois is using emissions inventories for the years 2020 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment, and 2020 was selected to demonstrate that emissions are not expected to increase in the interim between the attainment year and the final maintenance year.

To develop the 2020 and 2030 inventories, the state collected data from the EPA's Air Emissions Modeling platform (2011v6.2) inventories for years 2011, 2017 and 2025. For year 2020, emissions for point and area source sectors, as well as nonroad mobile categories not calculated by the MOVES model, were derived by interpolating between 2017 and 2025. For year 2030, emissions for point and area source sectors, as well as nonroad mobile categories not calculated by the MOVES model, were derived using the TREND function in Excel. Finally, onroad and nonroad mobile source emissions were calculated for 2020 and 2030 using the MOVES2014a model. Total VMT for 2020 and 2030 were assumed to increase at a rate of 1.012 percent per year from 2014. Emissions data are shown in Tables 6 through 9 below.

TABLE 6—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	9.03	14.32	23.35	16.81	88.60	105.41
Area	18.40	68.86	87.26	1.51	16.87	18.38
Onroad	6.38	26.64	33.02	13.22	46.42	59.64
Nonroad	5.65	28.71	34.36	18.45	28.27	46.72
Total	39.47	138.53	178.00	49.99	180.16	230.15

TABLE 7—ST. LOUIS AREA VOC AND NO_X EMISSIONS FOR MAINTENANCE YEAR 2030 [TPSD]

	VOC			NO_X		
	Illinois	Missouri	Area total	Illinois	Missouri	Area total
Point	8.53	14.31	22.84	16.93	93.08	110.01
Area	18.05	68.80	86.85	1.51	13.03	14.54
Onroad	3.75	18.42	22.17	6.70	25.57	32.27
Nonroad	5.09	30.01	35.10	11.31	29.90	41.21
Total	35.43	131.54	166.97	36.46	161.58	198.04

TABLE 8—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2014 AND 2030 FOR THE METRO-EAST AREA [TPSD]

	VOC				NO_X			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	9.38	9.03	8.53	¥ 0.85	23.29	16.81	16.93	¥ 6.36
Area	19.06	18.40	18.05	¥ 1.01	1.53	1.51	1.51	¥ 0.02
Onroad	10.11	6.38	3.75	¥ 6.36	26.94	13.22	6.70	¥ 20.24
Nonroad	7.47	5.65	5.09	¥ 2.38	24.62	18.45	11.31	¥ 13.31
Total	46.02	39.47	35.43	¥ 10.59	76.38	49.99	36.46	¥ 39.92

TABLE 9—CHANGE IN VOC AND NO_X EMISSIONS BETWEEN 2014 AND 2030 FOR THE ENTIRE ST. LOUIS AREA [TPSD]

	VOC				NO_X			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	23.24	23.35	22.84	¥ 0.40	104.99	105.41	110.01	5.02
Area	88.87	87.26	86.85	¥ 2.02	8.00	18.38	14.54	6.54
Onroad	48.32	33.02	22.17	¥ 26.15	138.70	59.64	32.27	¥ 106.43
Nonroad	40.89	34.36	35.10	¥ 5.79	63.06	46.72	41.21	¥ 21.85
Total	201.32	178.00	166.97	¥ 34.35	314.75	230.15	198.04	¥ 116.71

In summary, the maintenance demonstration for the St. Louis area shows maintenance of the 2008 ozone standard by providing emissions information to support the demonstration that future emissions of VOC and NO_X will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 9 shows VOC and NO_X emissions in the St. Louis area are projected to decrease by 34.35 TPSD and 116.71 TPSD, respectively, between 2014 and 2030. As shown in Table 8, VOC and NO_X emissions in the Metro-East portion of the area alone are projected to decrease by 10.59 TPSD and 39.92 TPSD, respectively, between 2014 and 2030.

3. Continued Air Quality Monitoring

IEPA has committed to continue to monitor ozone levels according to an EPA approved monitoring plan to ensure maintenance of the 2008 ozone standard. Illinois remains obligated to meet monitoring requirements and continue to quality assure monitoring data in accordance with 40 CFR part 58, and to enter all data into AQS in accordance with Federal guidelines.

4. Verification of Continued Attainment

The State of Illinois has the legal authority to enforce and implement the requirements of the maintenance plan for the Metro-East area. This includes the authority to adopt, implement, and enforce any subsequent emission control measures determined to be necessary to correct future ozone attainment problems.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic update of the area's emissions inventory. IEPA has committed to continue monitoring ozone levels according to an EPA approved monitoring plan. Should changes in the location of an ozone monitor become necessary, IEPA will work with EPA to ensure the adequacy of the monitoring network. IEPA has further committed to continue to quality assure the monitoring data to meet the requirements of 40 CFR part 58 and enter all data into AQS in accordance with Federal guidelines.

In addition, to track future levels of emissions, IEPA will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Illinois was compiled for 2014. Point source facilities covered by the Illinois emission statement rule will continue to submit VOC and NO_X emissions on an annual basis as required by 35 Ill. Adm. Code Part 254.

5. What is the contingency plan for the St. Louis area?

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

As required by section 175A of the CAA, Illinois has adopted a contingency plan for the St. Louis area to address possible future ozone air quality problems. The contingency plan adopted by Illinois has two levels of response, Level I and Level II.

A Level I response is triggered in the event that: (1) The fourth highest 8-hour ozone concentration at any monitoring site in the St. Louis area exceeds 0.075 parts ppm in any year, or (2) VOC or NO_X emissions in the Metro-East area increase more than 5% above the levels contained in the 2014 attainment year emissions inventory. IEPA will work with the Missouri Department of Natural Resources (MDNR) to evaluate the causes of high ozone levels or emissions trends and to determine appropriate control measures needed to ensure continued attainment of the ozone standard. Control measures selected under a Level I response must be adopted within 18 months after a determination is made and implemented within 24 months of adoption.

A Level II response is triggered in the event that a violation of the 2008 ozone standard is monitored within the St. Louis area. To select appropriate corrective measures, IEPA will work with the MDNR to conduct a comprehensive study to determine the causes of the violation and the control measures necessary to mitigate the problem. Implementation of necessary controls in response to a Level II trigger must take place as expeditiously as possible, but in no event later than 18 months after IEPA makes a determination, based on quality-assured ambient monitoring data, that a violation of the NAAQS has occurred.

IEPA included the following list of potential contingency measures that could be implemented if a Level I or Level II response is triggered:

a. Continued phasing in of Mercury and Air Toxics Standards, Reciprocating Internal Combustion Engines NESHAP and Industrial/Commercial/Institutional Boilers and Process Heaters NESHAP;

b. CSAPR update after promulgation by EPA;

c. NESHAP risk and technology review including: Mineral Wool Production 40 CFR 63 subpart DDD, Ferroalloys Production 40 CFR 63 subpart XXX, Petroleum Refineries 40 CFR 63 subparts CC and UUU;

d. New Source Performance Standards—Petroleum Refineries 40 CFR subpart Ja;

e. Broader geographic applicability of existing measures;

f. Implementation of oil and gas sector emission guidelines, once finalized by EPA;

g. Conversion of coal-fired EGUs to natural gas and from baseload units to intermittent units;

h. Implementation of ozone transport commission model rules for above ground storage tanks;

i. Implementation of the Clean Power Plan, once stay is lifted;

j. Implementation of the 2017 light-duty vehicle greenhouse gas and corporate average fuel economy standards;

k. Mobile source air toxics rule;

l. Tier 3 Vehicle emissions and fuel standards;

m. Heavy-duty vehicle greenhouse gas rules;

n. Regulations on the sale of aftermarket catalytic converters;

o. Adopting standards and limitations for organic material emissions for area sources (consumer and commercial products and architectural and industrial maintenance coatings rule), current California commercial and consumer products—aerosol adhesive coatings, dual purpose air freshener/disinfectant, etc.

To qualify as a contingency measure, emissions reductions from that measure must not be factored into the emissions projections used in the maintenance plan.

EPA has concluded that Illinois' maintenance plan adequately addresses the five basic components of a maintenance plan: Attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. In addition, as required by section 175A(b) of the CAA, IEPA has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Metro-East area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, the maintenance plan SIP revision submitted by IEPA meets the requirements of section 175A of the CAA and EPA proposes to approve it as a revision to the Illinois SIP.

V. Has Illinois adopted approvable motor vehicle emission budgets?

A. What are motor vehicle emission budgets?

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

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone standard in EPA's March 6, 2015 implementation rule (80 FR 12264). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

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

B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Metro-East area?

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

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, IEPA's maintenance plan includes VOC and NO_X MVEBs for the Metro-East area for 2030, the last year of the maintenance period. EPA reviewed the VOC and NO_X MVEBs in accordance with the adequacy process. IEPA's May 8, 2017, maintenance plan SIP submission, including the VOC and NO_X MVEBs for the Metro-East area, was open for public comment on EPA's adequacy Web site on August 21, 2017, at: *https://www.epa.gov/state-and-local-transportation/adequacy-review-state-implementation-plan-sip-submissions-conformity.*

The EPA public comment period on adequacy of the 2030 MVEBs for the Metro-East area closed on September 20, 2017. No comments on the submittal were received during the adequacy comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor (or his or her designee) and was subject to a state public hearing. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. Additionally, the MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone standard.

TABLE 10—MVEBS FOR THE METRO-EAST AREA [TPSD]

	Attainment year 2014 on-road emissions	2030 estimated on-road emissions	2030 mobile safety margin allocation	2030 MVEBs
VOC	10.11	3.75	5.30	9.05

TABLE 10—MVEBS FOR THE METRO-EAST AREA [TPSD]—Continued

	Attainment year 2014 on-road emissions	2030 estimated on-road emissions	2030 mobile safety margin allocation	2030 MVEBs
NO_X	26.94	6.70	9.98	16.68

As shown in Table 10, the 2030 MVEBs exceed the estimated 2030 on-road sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, IEPA allocated a portion of the safety margin (described further below) to the mobile sector. Illinois has demonstrated that the St. Louis area can maintain the 2008 ozone NAAQS with mobile source emissions in the Metro-East portion of the area of 9.05 TPSD of VOC and 16.68 TPSD of NO_X in 2030. This is because emissions will remain under attainment year emission levels despite partial allocation of the safety margin. Based on this analysis, the St. Louis area should maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

Therefore, EPA has found that the MVEBs are adequate and is proposing to approve the MVEBs for use in determining transportation conformity in the Metro-East portion of the St. Louis area.

C. What is a safety margin and how did Illinois allocate it?

EPA's transportation conformity regulations allow for the use of a safety margin in the development of MVEBs for maintenance plans. A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 8, the emissions in the Metro-East area are projected to have safety margins of 10.59 TPSD for VOC and 39.92 TPSD for NO_X in 2030 (the difference between the attainment year, 2014, emissions and the projected 2030 emissions for all sources in the Metro-East area). Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance because emission levels would equal those in the attainment year.

As shown in Table 10 above, Illinois is allocating a portion of that safety margin to the mobile source sector. Specifically, in 2030, Illinois is allocating 5.30 TPSD and 9.98 TPSD of the VOC and NO_X safety margins, respectively. IEPA is not requesting allocation of the entire available safety margins reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the projected onroad mobile source emissions for 2030 contained in the demonstration of maintenance, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources. Thus, IEPA continues to demonstrate maintenance of the 2008 ozone standard despite IEPA's allocation of part of the safety margin to the mobile source sector.

VI. Proposed Actions

EPA is proposing to determine that the St. Louis nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2014–2016 and that the Metro-East portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve IEPA's request to change the legal designation of the Metro-East portion of the St. Louis area from nonattainment to attainment for the 2008 ozone standard. EPA is also proposing to approve, as a revision to the Illinois SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the St. Louis area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2030 MVEBs for the Metro-East area.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: November 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2017–26419 Filed 12–7–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1304

RIN 0970–AC63

CLASS Condition of the Head Start Designation Renewal System

AGENCY: Office of Head Start (OHS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Request for comments.

SUMMARY: OHS invites public comment on several specific changes being considered for the CLASS condition of the Designation Renewal System (DRS) as outlined in the Head Start Program Performance Standards. We are considering changes to the CLASS condition with a goal of improving implementation and transparency of the DRS. Changes being considered include removal of the ''lowest 10 percent'' provision of the CLASS condition, an increase of the minimum thresholds for the Emotional Support and Classroom Organization domains to a score of 5, removal of the minimum threshold for the Instructional Support domain, and establishment of authority for the Secretary to set an absolute minimum threshold for the Instructional Support domain prior to the start of each fiscal year to be applied for DRS CLASS reviews in the same fiscal year. OHS requests feedback on these possible changes as well as alternative changes to the CLASS condition, particularly ways the Instructional Support threshold could be set and/or adjusted that would incentivize program improvement while acknowledging the current state of the field. OHS also invites feedback on other conditions of the DRS.

DATES: Submit comments by February 6, 2018.

ADDRESSES: You may send comments, identified by [docket number and/or RIN number], by either of the following methods:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow instructions for sending comments. We prefer to receive comments via this method.
- *Mail:* Office of Head Start, Attention: Colleen Rathgeb, Director, Division of Planning, Oversight and Policy, 330 C Street SW., Washington, DC 20024.

Instructions: All submissions received must include our agency name and the docket number or Regulatory Information Number (RIN) for this notice. All comments will be posted without change to *https://www.regulations.gov,* including any personal information provided. We accept anonymous comments. If you wish to remain anonymous, enter ''N/A'' in the required fields.

FOR FURTHER INFORMATION CONTACT: Colleen Rathgeb, Director, Division of Planning, Oversight and Policy, Office of Head Start, [*colleen.rathgeb@acf.hhs.gov*], (202) 358–3263 (not a toll-free call). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Standard Time.

SUPPLEMENTARY INFORMATION:

Background Information

The Head Start program provides grants to local public and private non-profit and for-profit agencies to provide comprehensive education and child development services to economically disadvantaged children, from birth to age five, and families and to help young children develop the skills they need to be successful in school. Our agencies provide these families comprehensive services to support children's cognitive, social, and emotional development. In addition to education services, agencies provide children and their families with health, nutrition, social, and other services.

To drive program quality improvement, the *Improving Head Start for School Readiness Act of 2007,* Pub. L. 110–134, (the Act) required HHS to develop a system to facilitate designation of Head Start grantees delivering a high-quality and comprehensive program for a period of five years and required grantees not delivering high-quality and comprehensive services to enter open competition for continued funding. Prior to the Act, when HHS designated a Head Start agency, it remained a Head Start grantee indefinitely unless the grantee either relinquished funding or HHS terminated its grant.

To meet the requirement in the Act, HHS established the DRS, which is described in 45 CFR 1304.10 through 16. The DRS includes seven conditions. If an agency meets any of the seven conditions, it must compete with other providers in the community for renewed grant funding. The seven conditions are: (1) A deficiency under section 641A(c)(1)(A), (C), or (D) of the Act; (2) failure to establish, utilize, and analyze children's progress on agency-established School Readiness goals; (3) scores below minimum thresholds in the Classroom Assessment Scoring System: Pre-K (CLASS) domains or in the lowest 10 percent in any of the three domains of the agencies monitored in a given year unless the average score is equal to or above the standard of excellence; (4) revocation of a license to operate a center or program; (5) suspension from the program; (6) debarment from receiving federal or state funds or disqualified from the Child and Adult Care Food Program; or (7) an audit finding of at risk for failing to continue as ''a going concern.'' The Act also requires HHS to periodically evaluate whether or not the DRS criteria are applied in a manner that is transparent, reliable, and valid.

Section 641(c)(1)(D) of the Act requires the DRS to be based in part on classroom quality as measured under section 641A(c)(2)(F), which refers to a valid and reliable research-based observational instrument, implemented by qualified individuals with demonstrated reliability, that assesses classroom quality, including assessing multiple dimensions of teacher-child interactions that are linked to positive child development and later achievement. The third condition of the DRS is based on use of the CLASS, which is an observational measurement tool for assessing the quality of teacher-

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]
Cc: Harwell, Lyn[lyn.harwell@woodplc.com]
From: Wagoner, Robert A
Sent: Thur 11/2/2017 3:02:18 PM
Subject: FRN Update
8250814.pdf
8250851.pdf

FYI:

Final rule - determination of attainment

On November 2, 2017, EPA determined that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area has attained the 2008 8-hr Ozone NAAQS based on 2013-2015 monitoring data, effective December 4, 2017.

[82 FR 50814]

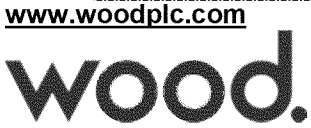
Proposed rule - determination of attainment and clean data determination

On November 2, 2017, EPA proposed to determine that the Lebanon County, PA nonattainment area has attained the 2012 PM-2.5 NAAQS, based on 2014-2016 monitoring data.

[82 FR 50851]

Robert Wagoner

Senior 2 Project Manager
Direct: Ex. 6
www.woodplc.com



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List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

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 §52.720, the table in paragraph (c) is amended under "Part 211: Definitions and General Provisions", "Subpart B: Definitions" by revising the entry for 211.7150 "Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)" to read as follows:

§52.720 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED ILLINOIS REGULATIONS AND STATUTES

Illinois citation	Title/subject	State effective date	EPA approval date	Comments
* *	*	*	*	* *
Part 211: Definitions and General Provisions				
* *	*	*	*	* *
Subpart B: Definitions				
* *	*	*	*	* *
211.7150	Volatile Organic Material (VOM) Or Volatile Organic Compound (VOC).	1/23/2017	11/2/2017, [insert **Federal Register** citation].	
* *	*	*	*	* *

* * * * *

[FR Doc. 2017–23468 Filed 11–1–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0638; FRL–9969–93–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone Standard; Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area (the Philadelphia Area) has attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This final determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Philadelphia Area for the 2013–2015 monitoring period. The effect of this determination of attainment (DOA) is that the Philadelphia Area will not be bumped up or reclassified as a moderate nonattainment area. The determination of attainment is not equivalent to a redesignation, and the States in the Philadelphia Area must still meet the statutory requirements for redesignation in order to be redesignated to attainment. This determination is also not a clean data determination. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on December 4, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID EPA–R03–OAR–2016–0638. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 18, 2017 (82 FR 18268), EPA published a notice of proposed rulemaking (NPR) for the Philadelphia Area. The Philadelphia Area consists of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in Pennsylvania; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties in New Jersey; Cecil County, Maryland; and New Castle County in Delaware. *See* 40 CFR 81.331, 81.339, 81.321, and 81.308. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the relevant regulatory provisions (40 CFR

51.1103), that the Philadelphia Area attained the 2008 ozone NAAQS by the applicable extended attainment date of July 20, 2016.[1]

II. EPA's Evaluation

Section 181(b)(2)(A) of the CAA requires that EPA determine whether an area has attained the NAAQS by its attainment date based on complete and certified air quality data from the three full calendar years preceding an area's attainment date. The 2008 ozone NAAQS is 0.075 parts per million (ppm). Consistent with the requirements contained in 40 CFR part 50, Appendix P, which set forth how to compute whether monitoring sites and nonattainment areas are attaining the ozone NAAQS, EPA reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for the Philadelphia Area, as recorded in the air quality system (AQS) database. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that the monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Therefore, based on 2013–2015 certified air quality data, EPA concludes that the Philadelphia Area has attained the 2008 ozone NAAQS.

Other specific requirements of this determination of attainment by the attainment date and the rationale for EPA's final action are explained in the NPR and will not be restated here. EPA received comments that are addressed in Section III of this rulemaking action.

III. Public Comments and EPA's Responses

EPA received adverse comments from the Center for Biological Diversity (Center), Sierra Club, and Delaware Department of Natural Resources and Environmental Control (Delaware). The comments are excerpted and/or summarized and addressed in this section:

Comment 1: EPA's regression approach is inconsistent with EPA's Appendix P regulations, and EPA's reliance on the regression analysis is unlawful and arbitrary. For one of the two monitors (Brandywine), EPA relies on a regression analysis to predict the missing ozone concentration measurements and, as a result, purportedly achieves the requisite data completeness at that monitor. *See* U.S. EPA Region 3, Delaware Brandywine/Martin Luther King Monitors Data Substitution Analysis TSD 2013–2015 Ozone (Dec. 2016) (TSD), at p. 7. Appendix P is quite clear, however, that "[w]hen computing whether the minimum data completeness requirements have been met, meteorological or ambient data may be sufficient to demonstrate that *meteorological* conditions on missing days were not conducive to concentrations above the level of the standard." 40 CFR part 50, Appendix P section 2.3(b) (emphasis added). EPA's regression analysis does not purport to make any demonstrations regarding meteorological conditions, nor can it, as the analysis is based purely on ozone monitor readings.

Response 1: Commenters read 40 CFR part 50, Appendix P, section 2.3(b) too narrowly, and ignore the last sentence of that section, which states that "Missing days assumed less then [sic] the level of the standard are counted for the purpose of meeting the data completeness requirement." EPA interprets this regulation to allow for reasonable, rational assumptions using available data, whether meteorological or ambient, to determine whether, on days where an ozone monitor is missing data, it is unlikely that the actual ozone levels would exceed the NAAQS. For this determination, EPA used three different methods to determine whether data from days that the relevant ozone monitors were missing data were rationally assumed to be less than the level of the NAAQS, and therefore could be counted toward the data completeness requirement. These methods are: (1) Analysis of temperature; (2) regression analysis; and (3) data substitution. First, EPA conducted an analysis that compared temperature (a meteorological condition) at the Wilmington Delaware National Airport (ILG) to measured ozone readings from 2010 through 2015 at the 18 ozone monitors in the Philadelphia Area (*See* Table 4 of the technical support document (TSD) at page 4). The highest daily 8-hour ozone readings from those 18 Philadelphia Area ozone monitors on *all* days (not just missing days) was compared to the maximum daily temperatures at the Wilmington Airport on the corresponding days. The results of this analysis, presented in Figure 1 on page 6 of the TSD, shows that from 2010 through 2015, none of the 18 monitors recorded an 8-hour ozone level above 0.075 ppm when the temperature at Wilmington Airport was at or below 77 degrees Fahrenheit (°F). This analysis identified 18 days in 2013, 30 days in 2014, and 27 days in 2015 with missing ozone readings that could reasonably be assumed to be below the 0.075 ppm threshold at the Martin Luther King (MLK) monitor (AQS ID 10–003–2004) in Delaware. The temperature-based analysis alone added enough complete days to the MLK monitor to meet the data completeness threshold. For the Brandywine monitor (AQS ID 10–003–1010), the temperature-based analysis identified 22 days during 2013, 9 days during 2014, and 8 days during 2015 that could reasonably be assumed to be below a 0.075 ppm ozone reading. However, the temperature analysis did not add enough complete days to the Brandywine monitor to meet the Appendix P data completeness level because there was an insufficient number of days below 77 °F at the Wilmington Airport in which the Brandywine monitor was missing data. Therefore, EPA performed a regression analysis in order to fill in the remaining data gap as well as to validate the data results (for both monitors) obtained from the analysis of temperature method.

This regression analysis relied on ambient data—measured ozone levels at a nearby certified ozone monitor—to predict ozone levels at monitors with missing data. This type of analysis is only appropriate where readings from a nearby certified ozone monitor closely correlate with readings from the monitors with missing data. In this case, EPA examined the two other air quality monitors located in the same county as the Brandywine and MLK monitors, compared recorded ozone readings of all four monitors on days and found that the Bellefonte2 monitor (AQS ID 10–003–1013), which is located five miles from both Brandywine and MLK, correlated most closely with those monitors. As explained in more detail in the TSD, the Bellefonte2 monitor is strongly correlated with both the Brandywine and MLK monitors (TSD at pp. 8–10). Using this information, EPA determined a separate linear regression equation for each of the Brandywine and MLK monitors. These two equations allowed calculation of predicted ozone

[1] In a final rulemaking action published on May 4, 2016, EPA determined that the Philadelphia Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012–2014 monitoring period. EPA determined that the Philadelphia Area qualified for a 1-year extension of its attainment date, as provided in section 181(a)(5) of the CAA and interpreted by regulation at 40 CFR 51.1107, and granted that extension. EPA established a new attainment date of July 20, 2016, with attainment to be based on ambient air quality monitoring data for the 2013–2015 monitoring period. *See* 81 FR 26697. (May 4, 2016). EPA's decision to extend the attainment date has been challenged by the State of Delaware in *Delaware* v. *EPA*, No. 16–1230 (D.C. Cir.). That case is currently pending before the Court and has not been decided.

readings for the Brandywine or MLK monitor on days when those monitors were missing data by using actual ozone readings from the Bellefonte2 monitor (TSD at p.11) in the equation. The values calculated using the linear regression equations for the MLK and Brandywine monitors are shaded green in Table 6 of the TSD on pages 11–16. EPA took a conservative approach and added, as complete days, only those days at the Brandywine monitor where the predicted ozone value was less than 0.060 ppm. That is, EPA only employed the regression analysis method to add days toward the data completeness requirement for the Brandywine monitor where EPA's predicted ozone value was well below the level of the NAAQS. The days added as "complete" days to the Brandywine monitor via this method (linear regression equation showing less than 0.060 ppm ozone) are represented by the numeral "2" in Table 9 of the TSD. The regression analysis added 8 complete days in 2013 and 16 complete days in 2014 to the Brandywine monitor (TSD, p.16) and also validated and confirmed EPA's conclusions from its temperature method analysis at this monitor. Since the analysis of temperature method provided sufficient complete data for the MLK monitor, EPA performed a similar regression analysis for the MLK monitor only for the purpose of confirming and validating its conclusions drawn from the temperature analysis. Both the temperature analysis and regression methods produced the same results at the MLK monitor.

EPA also used a third method—a data substitution analysis—as a further check on the validity of the first two methods on the Brandywine and MLK monitors. When any of the four monitors in New Castle County, Delaware, was missing a valid day of data during the 2013–2015 ozone seasons, EPA looked at ambient data in the form of actual recorded ozone values at the other New Castle County monitors and substituted the highest recorded ozone value for the missing value(s) at the other monitor(s). After adding these substituted data values, a 2013–2015 "test design value" was calculated for all four monitors. None of the four monitors' calculated test design values, including Brandywine and MLK, exceeded the ozone standard of 75 ppb. *See* Table 8, TSD at p. 17.

Comment 2: The monitor data relied upon by EPA do not actually demonstrate that exceedances of the NAAQS will not occur at temperatures below 78 degrees. (Sierra Club, p. 2). For both of the monitors (Brandywine and MLK), EPA relies heavily on a simplistic comparison of monitored ozone values at monitors within the Philadelphia Nonattainment Area and daily high temperature data from the Wilmington Delaware National Airport to purportedly show that meteorological conditions on days with high temperatures of 77 °F or below are not conducive to ozone formation. TSD at p. 3. But EPA's conclusion regarding the 77 °F temperature threshold is not supported by data upon which EPA relies and is inconsistent with prior statements by the agency regarding the parameters that influence ozone formation. With regard to the data, EPA's sample of monitor-days is far too small a data set from which to conclude that 77 °F represents a magical limit below which ozone concentrations are assured to be below the NAAQS. Indeed, Figure 1 of the TSD shows that at 78 °F—just one degree above the level at which EPA expresses confidence that no NAAQS violations will occur—the maximum monitored ozone level in the Philadelphia Nonattainment Area was close to 85 parts per billion, well above the 75 part per billion (ppb) NAAQS. Moreover, Figure 1 also shows that at 68 °F—nine degrees below the temperature threshold identified by EPA—maximum monitored ozone levels in the Philadelphia Nonattainment Area were within one part per billion of the NAAQS.

Response 2: It is not necessary to demonstrate that exceedances of the NAAQS would never occur at temperatures below 78 °F, nor was the purpose of the analysis of temperature method to do so. The methods used to determine data completeness are consistent with 40 CFR part 50, Appendix P, Section 2.3(b) and are grounded in science. As an example, EPA approved a similar demonstration from Delaware in 2010 for the same Brandywine ozone monitoring site which relied on a similar ozone and temperature comparison. This demonstration was referenced in a clean data determination, which is a different type of rulemaking action that also relies on air quality data, for the Philadelphia-Wilmington-Atlantic City, PA-NJ-DE-MD nonattainment area for the 1997 ozone NAAQS which was finalized in 2012 (77 FR 17341–17343). The Delaware demonstration relied on ambient ozone and temperature data for years 1997–2009, and reached a similar conclusion that ozone levels did not exceed 0.075 ppm in the Philadelphia area on any days where the daily maximum temperature was less than 77 °F. While not necessary for the data completeness determination for this Philadelphia determination of attainment, this example is provided to demonstrate that data completeness procedures conducted by Delaware in the past have arrived at the same conclusion with regard to the use of temperature data thresholds. Thus, EPA does not agree that the 77 °F temperature threshold below which no ozone exceedances have occurred in the Philadelphia Area is not supported by the evidence. The fact that sometimes very high levels of ozone occur at 78 degrees or that sometimes high levels of ozone (yet still below 0.075 ppm) occur at much lower temperatures does not invalidate the 77 °F threshold in this instance. Also, one measured ozone value above 0.075 ppm does not equal a NAAQS exceedance because of the definition of design value, which is a statistically-based measure of the 4th high over a 3-year period. Regarding the sample size, EPA notes that Delaware's analysis of temperature versus ozone concentrations for the period of 1997 to 2009, when combined with EPA's analysis of temperature versus ozone concentrations for the period of 2010 through 2015, provides nineteen years of data supporting the temperature analysis conclusion. The following sources further discuss the importance of the relationship between temperature and ozone formation as established by both EPA and the scientific literature for decades:

(1) Camalier, L., Cox, W., and Dolwick, P. (2007). The effects of meteorology in urban areas and their use in assessing ozone trends. Atmospheric Environment, Volume 41, Issue 33, pages 7127–7137; (2) Cox, W. and Chu, S (1996). Assessment of interannual ozone variation in urban areas from a climatological perspective. Atmospheric Environment, Volume 30, Issue 14, pages 2615–2615; (3) U.S. EPA (2016). Trends in Ozone Concentrations Adjusted for Weather Conditions. *https://www.epa.gov/air-trends/trends-ozone-adjusted-weather-conditions;* and; (4) Walcek, C. and Yuan, H. (1995). Calculated influence of temperature-related factors on ozone formation rates in the Lower Troposphere. Journal of Applied Meteorology, Volume 34, pages 1056–1069.

Comment 3: EPA's proposed attainment determination is not protective of public health because monitoring data from the 2016 ozone season no longer supports a finding that the Philadelphia Area is meeting the 2008 ozone NAAQS.

Response 3: To determine whether an area attained by the 2008 ozone NAAQS attainment date of July 20, 2016, EPA is

required to rely on the three previous full years of data, which is 2013–2015. CAA section 181(b)(2)(A); 40 CFR part 50, Appendix P, section 2.3(b). Any data occurring in calendar year 2016 cannot be used in this determination because July 20, 2016 is in the middle of the 2016 ozone season and would produce only incomplete non-quality assured, and uncertified data, as of the July 2016 attainment date. The statutory provision governing the type of determination of attainment EPA is finalizing today is very clear: "the Administrator shall determine, *based on the area's design value (as of the attainment date),* whether the area attained the standard by that date." CAA section 181(b)(2)(A) (emphasis added). When making determinations of attainment by the attainment deadline, EPA has consistently applied this unambiguous language as restricting its analysis to the years of data that constitute the basis for an area's design value as of the specific attainment deadline. EPA's regulations at 40 CFR part 50, Appendix P further clarify that the design value be derived from "three consecutive, *complete calendar years* of air quality monitoring data." 40 CFR part 50, Appendix P, section 2.3(b) (emphasis added). The commenter's request that EPA use non-quality assured, uncertified, incomplete calendar year 2016 data for this section 181(b)(2) determination is not permitted under the statute and regulations.

Comment 4: EPA illegally extended the attainment date deadline.

Response 4: As noted in the proposed rule (82 FR 18269, fn 2), the issue of whether EPA "illegally" extended the attainment date deadline from July 20, 2015 to July 20, 2016 is the subject of a petition for review filed by the State of Delaware on July 5, 2016 in the U.S. Court of Appeals for the District of Columbia Circuit. The petition has been fully briefed, and oral argument was held on October 5, 2017. *State of Delaware Department of Natural Resources & Environmental Control* v. *U.S. Environmental Protection Agency,* No. 16–1230. The final rule extending the Philadelphia Area's attainment date is therefore legally effective at this time and outside the scope of this rulemaking.

Comment 5: The CAA requires that a finding of attainment be made only when all measures needed for attainment have been implemented, and the current air quality meets the standard.

Response 5: Commenters are incorrect regarding the CAA's requirements for a section 181(b)(2) determination of attainment by the attainment date. Nowhere in that provision does the CAA require that such a finding can only be made "when all measures needed for attainment have been implemented" and "current air quality meets the standard." Demonstrations of attainment of the 2008 ozone NAAQS by the attainment date require using the three calendar years of certified air quality data preceding the attainment date, which is 2013–2015.

Comment 6: Section 181(b)(2) does not restrict EPA to considering only fully certified, quality assured and complete data from 2013–2015, and the resulting 3-year design values calculated from those data. EPA should consider the preliminary 2016 data, and has considered data other than the three years of data prior to the attainment date in past rulemakings, including:

(1) The January 25, 2012 proposed determination of attainment and clean data determination for the 1997 ozone NAAQS for the New York-New Jersey-Connecticut Nonattainment Area (NY-NJ-CT NAA) at 77 FR 3720; and

(2) The July 18, 2012 final determination of attainment and clean data determination for the NY-NJ-CT NAA at 77 FR 36163; and

(3) The May 15, 2014 proposal to rescind the clean data determination for the NY-NJ-CT NAA at 79 FR 27830.

The commenter asserts that these actions ". . . prove[] that EPA has considered uncertified data in proposals involving findings of attainment/clean data determinations."

Response 6: All of the EPA actions cited by the Commenter support EPA's use of only the three years of complete, quality-assured and certified ozone monitoring data preceding the attainment date when making this section 181(b)(2) determination of attainment by the attainment date. EPA often makes 181(b)(2) determinations of attainment by the attainment date in the same actions as clean data determinations, but these are two distinct actions with different statutory and regulatory requirements and consequences. Therefore, it is reasonable for EPA to consider air quality monitoring data differently for these two types of actions. EPA's regulations governing clean data determinations for the various pollutants, including ozone, interpret the CAA as suspending attainment planning requirements for only as long as the area continues to attain the standard. *See, e.g.,* 40 CFR 51.1118. Thus, for a CDD, EPA requires an attaining design value based on three full years of data, and also may consider any additional preliminary data as well. Because the regulatory consequences of a clean data determination depend on continued attaining air quality, review of data until the final rulemaking as well as post-rulemaking review of data is appropriate. By contrast, section 181(b)(2) has the specific statutory consequence of deciding whether or not an area is reclassified to a higher classification. Under the CAA, if an area attains the NAAQS by its statutory attainment date, it cannot be "bumped up" or reclassified, even if it later violates the standard after that date. The Act therefore instructs the EPA to make a determination of an area's air quality attainment status as of a date certain—the area's attainment deadline.

The January 25, 2012 proposal cited by Commenter contains both a determination of attainment by the attainment date *and* a clean data determination. The 2012 proposal specifically states that "EPA proposes to determine, in accordance with section 181(b)(2), that the NY-NJ-CT area attained the 1997 eight-hour ozone standard by the applicable deadline for that standard, June 15, 2010. This proposed determination is based on complete, quality-assured and certified data for 2007–2009." 77 FR 3720, 3722. In the next paragraph, the proposal states "[i]n addition, EPA is separately and independently proposing to determine that the NY-NJ-CT area is currently attaining the 1997 eight-hour ozone standard, based on complete, quality-assured and certified data for 2008–2010 and preliminary data for 2011 that indicate continued attainment." *Id.* This second paragraph describes EPA's clean data determination (CDD), and therefore may consider all data up to the point of the rulemaking, including preliminary data. In this action, EPA is only making a section 181(b)(2) determination of attainment by the attainment date for the Philadelphia Area. If EPA were making a clean data determination for the Philadelphia Area, the preliminary 2016 data could be considered as a supplement.

Similarly, the June 18, 2012[2] final action for the NY-NJ-CT NAA uses only complete, quality-assured and certified 2007–2009 data for the determination of attainment by the June 15, 2010 attainment date, while using complete, quality-assured and certified 2008–2010 data and preliminary 2011 ozone data in making its clean data determination. *See* 77 FR 36163 (June 18, 2012). EPA's 2014 action proposing to rescind the 2012

[2] The comment incorrectly cites July 18, 2012 as the **Federal Register** date for this final determination. The correct date is June 18, 2012. *See* 77 FR 36163.

clean data determination for the NY-NJ-CT NAA followed the same practice of considering all recent data. *See* 79 FR 27830, 27832 (May 15, 2014). Thus, these previous actions cited by the comment do not show that EPA uses or considers incomplete, uncertified and preliminary data when making a section 181(b)(2) determinations of attainment by the attainment date. Today's action is therefore consistent with the other actions cited by the Commenter.

Comment 7: DNREC objects to EPA performing the data substitution analysis for the two Delaware monitors without notifying Delaware and giving Delaware an opportunity to review prior to publication.

Response 7: EPA is required to make this determination of attainment by the attainment date. This determination of attainment cannot be made without complete air quality data for 2013–2015. Because DNREC did not submit a data substitution analysis for the two Delaware monitors with incomplete data, EPA was required to perform this analysis.

Comment 8: Early 2017 ozone season data show that the Philadelphia Area has already experienced two episodes of nonattaining air quality based on preliminary maximum ozone concentrations of 79 ppb in Delaware and 86 ppb in Philadelphia.

Response 8: EPA's determination of attainment for the 2008 ozone NAAQS for the Philadelphia Area is based on complete, quality assured, and certified data for the 2013–2015 ozone seasons in accordance with section 181(b)(2) of the Act and 40 CFR parts 50, 51 and 58.

Comment 9: EPA's notice did not explain the implications of a finding of attainment in its proposal, and Delaware believes that a finalization of this finding will suspend CAA obligations for the area. Therefore, if EPA makes a final determination of attainment based on the 2013–2015 data, it must immediately make a finding of nonattainment using 2014–2016 data.

Response 9: EPA's notice did not explain in detail all the implications of the section 181(b)(2) determination of attainment by the attainment date. One consequence of the determination of attainment by the extended attainment date is that the Philadelphia Area will not be reclassified as a Moderate nonattainment area. *See* CAA section 181(b)(2)(A). However, although the Philadelphia Area will remain a Marginal nonattainment area, since it is part of the ozone transport region (OTR) it will need to continue to comply with the additional requirements applicable to OTR states, including moderate area requirements. Furthermore, EPA clearly stated in the Summary section of the NPR that this action was not a redesignation of the Philadelphia Area to attainment. EPA also reiterates that this action is also not a clean data determination under 40 CFR 51.1118. A clean data determination, if it were to occur at some future time, would have the effect of suspending any attainment planning requirements. Regarding the commenter's statement that EPA must immediately make a finding of nonattainment (or a nonattainment designation) using the 2014–2016 ozone data, such a finding would be meaningless in this context. The Philadelphia Area continues to be designated nonattainment for the 2008 ozone NAAQS, and EPA is not, in this notice, issuing a clean data determination such that the Agency would need to rescind such determination based on more recent air quality data. Given that today's action is not changing the Philadelphia Area's marginal nonattainment designation, the suggestion that the Agency issue a nonattainment designation is inappropriate. If certified air quality data indicates issues with continuing attainment of the 2008 ozone NAAQS, the EPA will work with the relevant states in the Philadelphia Area and, to the extent necessary, use appropriate CAA authorities to address those air quality issues.

Comment 10: EPA should not make a determination of attainment for the 2008 ozone NAAQS when data shows that the 2015 ozone NAAQS of 70 ppm is not currently being met.

Response 10: EPA's determination of attainment for the 2008 ozone NAAQS by the attainment date of July 20, 2016, is statutorily required by section 181(b)(2), and requires that EPA use 2013–2015 ozone air quality data in determining whether the 2008 NAAQS has been met, as of the July 20, 2016 attainment date for the 2008 ozone NAAQS. The 2015 ozone NAAQS is not germane to the specific question of whether the area attained the 2008 ozone NAAQS by the attainment date.

Comment 11: Delaying the determination of nonattainment for the Philadelphia Area will only delay adoption of needed SIP measures to bring the area into attainment.

Response 11: The determination of attainment by the attainment date under 181(b)(2) does not suspend any state planning requirements that are in place for the 2008 ozone NAAQS. The effect of this action will result in the Philadelphia Area remaining as a marginal nonattainment area for the 2008 ozone NAAQS, and keeping all currently applicable planning requirements in place, including OTR requirements.

Comment 12: The commenter objects to efforts by Pennsylvania Department of Environmental Protection (PADEP) to remove 2016 ozone data based on "exceptional events," especially if the exceptional event is an increasing number of heat waves caused by global warning.

Response 12: This comment is not germane to this determination of attainment because EPA did not rely on any Pennsylvania ozone monitoring data from 2016 in making its determination of attainment. As required by the CAA and EPA regulations regarding determinations of attainment by the attainment date, EPA used only complete, quality-assured and certified ozone data from calendar years 2013–2015.

Comment 13: The Center has further concerns about EPA's approach for meeting data completeness requirements, especially given the exceedances of the 2008 and 2015 NAAQS as noted above. The proposed rule notes that EPA was able to "add" missing data from the Brandywine and MLK monitors by conducting "an analysis of the meteorological data and a regression analysis" and performed a "substitution analysis as a check on the validity" of that analysis. *See,* 82 FR 18270 (April 18, 2017). It would be more appropriate to require redundancy at monitoring stations prone to malfunctioning as opposed to relying on data substitutions in areas suffering from ozone levels at or above the NAAQS to assure that the most accurate data is collected.

Response 13: Please see the responses to comments 1 and 2 above with regard to the adequacy of the methods used to meet the minimum data completeness requirements at the MLK and Brandywine monitors. As to requiring redundant monitors, the Philadelphia Metropolitan Statistical Area (MSA) is currently meeting monitoring requirements specified in 40 CFR part 58 Appendix D. Appendix D does not require redundant monitoring for ozone. EPA has made recommendations to Delaware Department of Natural Resources and Environmental Control (DNREC) to try to reduce the data loss at the Brandywine air monitoring site. EPA is required to perform technical systems audits on each primary quality assurance organization at a frequency of once every three years. DNREC was audited by EPA Region 3 on May 10–12, 2016. One of the major findings of this audit was the incompleteness issues at the Brandywine site. EPA recommended as corrective action to mitigate potential

data loss due to down power lines that DNREC do preemptive tree trimming each year. In addition, EPA recommended having a backup power source at the site. DNREC's response to EPA's recommendation was that a back-up power source is not feasible. DNREC will consider purchasing a battery-operated FEM monitor as a back-up in case of sustained power loss at the site, if resources are available.

Comment 14: EPA also received comments that were not germane to this final ruling but referred generally to the support of continuing implementation of air quality standards and regulations. The comments included support of keeping EPA regulations in place to protect human health and the environment.

Response 14: EPA appreciates the supportive comments, and notes that ozone air quality monitoring will continue and existing air quality standards and regulations will remain in place. This determination of attainment by the attainment date does not reduce or revoke any existing ozone monitoring or control requirements.

IV. Final Action

EPA is making a final determination, in accordance with its obligations under section 181(b)(2)(A) of the CAA and 40 CFR 51.1103, that the Philadelphia Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment, and is also not a clean data determination.

V. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action finalizes a determination of attainment for the 2008 ozone NAAQS based on air quality and does not impose additional requirements. For that reason, this determination of attainment:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866.
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 January 2, 2018. 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 determining that the Philadelphia Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date 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, Ozone, Reporting and recordkeeping requirements.

Dated: October 11, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

List of Subjects in 40 CFR Part 52

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

Dated: October 6, 2017.

Catherine R. McCabe,

Acting Regional Administrator, Region 2.

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.*

Subpart I—Delaware

* 2. In §52.425, paragraph (d) is added to read as follows:

§52.425 Determinations of attainment.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area will not be reclassified for failure to attain by its

applicable attainment date pursuant to section 181(b)(2)(A).

Subpart V—Maryland

* 3. In §52.1082, paragraph (j) is added to read as follows:

§52.1082 Determinations of attainment.

* * * * *

(j) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart FF—New Jersey

* 4. In §52.1576, paragraph (d) is added to read as follows:

§52.1576 Determinations of attainment.

* * * * *

(d) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart NN—Pennsylvania

* 5. In §52.2056, paragraph (o) is added to read as follows:

§52.2056 Determinations of attainment.

* * * * *

(o) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE marginal ozone nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2017–23226 Filed 11–1–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 15, 18, 73, 74, 78, 80, 87, 90, and 101

[ET Docket No. 15–170; FCC 17–93]

Authorization of Radiofrequency Equipment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission (Commission) amends its equipment authorization regulations, increasing the Commission's agility to respond to changes in technology and industry standards. This rule consolidates, simplifies, and streamlines certain procedures, and removes the requirement to file the import declaration FCC Form 740 under certain circumstances.

DATES: Effective November 2, 2017.

The incorporation by reference listed in the rule was approved by the Director of the Federal Register as of November 2, 2017.

ADDRESSES: FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554 for full text of "First Report and Order, FCC 17–93" (also at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-93A1.docx*) and inspection of material incorporated by reference. See **SUPPLEMENTARY INFORMATION** for details.

FOR FURTHER INFORMATION CONTACT: Brian Butler, Office of Engineering and Technology, (202) 418–2702, email: *Brian.Butler@fcc.gov,* TTY (202) 418–2989. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Nicole Ongele, OMD/PERM, (202) 418–2991, or send an email to *Nicole.Ongele@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *First Report and Order (R&O),* ET Docket No. 15–170, FCC 17–93, adopted July 13, 2017, and released July 14, 2017. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554, or by downloading the text from the Commission's Web site at [*http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db1003/FCC-17-93A1.pdf].* Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format) by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

I. First Report and Order

1. On July 17, 2015, the Commission adopted a *Notice of Proposed Rulemaking* (*NPRM*) in this proceeding. 80 FR 46900, August 6, 2015. In the *First Report and Order,* the Commission amended parts 0, 1, 2, 15, and 18 of its rules to update and improve its equipment authorization program. Section 302 of the Communications Act of 1934, as amended (the Act), authorizes the Commission to make reasonable regulations governing the interference potential of devices that emit RF energy and such devices must demonstrate compliance with the Commission's technical and equipment authorization requirements before they can be imported to or marketed in the United States. The Office of Engineering and Technology (OET) administers the day-to-day operation of the equipment authorization program, providing supplemental guidance that is available via public notices and in its online Knowledge Database (KDB). The Commission's actions are described in greater detail below.

2. Supplier's Declaration of Conformity. The Commission adopted its proposal to replace two of the existing equipment authorization procedures (Declaration of Conformity (DoC) and verification) with a single process—"Supplier's Declaration of Conformity" (SDoC). Verification and DoC are both self-approval processes under which the party responsible for the compliance of the RF device has been required to take the necessary steps (testing or analysis) to ensure that

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]; Selbst, Elizabeth[selbst.elizabeth@epa.gov]
Cc: Harwell, Lyn[lyn.harwell@woodplc.com]
From: Wagoner, Robert A
Sent: Tue 11/14/2017 2:49:13 PM
Subject: FRN Update
8252651.pdf
8252683.pdf

FYI:

Final rule - determination of attainment

On November 14, 2017, EPA determined that the Washington, DC-MD-VA nonattainment area has attained the 2008 8-hr Ozone NAAQS based on 2013-2015 monitoring data, effective December 14, 2017.

[82 FR 52651]

Proposed rule - determination of attainment and clean data determination

On November 14, 2017, EPA proposed to determine that the Oakridge, OR nonattainment area has attained the 2006 PM-2.5 NAAQS, based on 2014-2016 monitoring data.

[82 FR 52683]

Robert Wagoner

Senior 2 Project Manager
Direct: + Ex. 6
www.woodplc.com

wood.

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information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 876

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 876 is amended as follows:

PART 876—GASTROENTEROLOGY–UROLOGY DEVICES

* 1. The authority citation for part 876 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

* 2. Add §876.5550 to subpart F to read as follows:

§876.5550 Prostatic artery embolization device.

(a) *Identification.* A prostatic artery embolization device is an intravascular implant intended to occlude the prostatic arteries to prevent blood flow to the targeted area of the prostate, resulting in a reduction of lower urinary tract symptoms related to benign prostatic hyperplasia. This does not include cyanoacrylates and other embolic agents which act by in situ polymerization or precipitation, or embolization devices used in neurovascular applications (see 21 CFR 882.5950).

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The device must be demonstrated to be biocompatible.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be tested:

(i) Evaluation of suitability for injection through catheters intended for use in embolization; and

(ii) Evaluation of the size distribution of the device.

(3) Performance data must support the sterility and pyrogenicity of the device.

(4) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the identified shelf life.

(5) Clinical data must evaluate post-embolization damage due to non-target embolization under anticipated use conditions.

(6) The labeling must include:

(i) Specific instructions on safe device preparation and use;

(ii) The device shelf life;

(iii) Data regarding urinary retention; and

(iv) Data regarding post-prostatic artery embolization syndrome.

Dated: November 7, 2017.

Lauren Silvis,

Chief of Staff.

[FR Doc. 2017–24586 Filed 11–13–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0369; FRL–9970–70–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standard; District of Columbia, Maryland, and Virginia; Washington, DC-MD-VA Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Washington, DC–MD–VA marginal ozone nonattainment area (the Washington Area) attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Washington Area for the 2013–2015 monitoring period. The effect of this determination of attainment is that the Washington Area will not be bumped up or reclassified as a moderate nonattainment area. This determination of attainment is not equivalent to a redesignation, and the states in the Washington Area and the District of Columbia must meet the statutory requirements for redesignation in order to be redesignated to attainment. This determination is also not a clean data determination. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on December 14, 2017.

ADDRESSES: EPA established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0369. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the docket index, some information is not publicly available, *e.g.,* confidential business information (CBI) 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section below for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On April 25, 2017 (82 FR 19011), EPA published a notice of proposed rulemaking (NPR) for the Washington Area. The Washington Area consists of the Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's in Maryland; the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia; and the entirety of the District of Columbia. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone National Ambient Air Quality Standards (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

II. EPA's Evaluation

Section 181(b)(2)(A) of the CAA requires that EPA determine whether an area has attained the NAAQS by its attainment date based on complete and certified air quality data from the three full calendar years preceding an area's attainment date. The 2008 ozone NAAQS level is 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Consistent with the requirements contained in 40 CFR part 50, appendix P, EPA reviewed the ozone ambient air quality monitoring data for each monitoring site within the Washington Area for the monitoring period from 2013 through 2015, as recorded in the Air Quality System (AQS) database. Federal, state, and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that all the Washington Area monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Therefore, based on 2013–2015 certified air quality

data, EPA concludes that the Washington Area has attained the 2008 ozone NAAQS.

The specific requirements of this determination of attainment by the attainment date and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. EPA received comments that are addressed in Section III of this rulemaking action.

III. Public Comments and EPA's Responses

EPA received adverse comments from one commenter, the Center for Biological Diversity (hereinafter referred to as the "Commenter"). The Commenter expressed general concern about the "increasing trend in ozone levels" and the lack of data at monitoring stations. The Commenter's specific concerns are summarized and addressed in this section. EPA also received non-adverse comments.

Comment 1: The Commenter notes that "the 2013–2015 design values show 3 year averages below 70 ppm," but that "there are many exceedances of 70 ppm on an annual basis and an increasing trend of values above 70 ppm from 2013–2015."

Response 1: The 2008 ozone NAAQS is the relevant standard for this determination of attainment by the attainment date, and the level of that NAAQS is 0.075 ppm and not 0.070 ppm. Therefore, the Commenter's statements as to the Washington Area's design value in relation to 0.070 ppm are not relevant. As stated in the NPR, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality concentration, which is quality assured and certified, is less than or equal to 0.075 ppm. *See* 82 FR 19011, 19012.

Design values are the metrics (*i.e.,* statistics) that are compared to the NAAQS levels to determine compliance with the standard. *See* 40 CFR part 50, appendix P, section 1(b). The 8-hour, concentration-based ozone NAAQS was designed so that the "public health risks associated with exposure to a pollutant without a clear, discernable threshold can be appropriately addressed through a standard that allows for multiple exceedances to provide increased stability, but that also significantly limits the number of days on which the level may be exceeded and the magnitude of such exceedances." *See* 73 FR 16435. As of its July 20, 2016 attainment date, the Washington Area's three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality concentration is less than or equal to the 0.075 ppm standard.

Comment 2: The Commenter states that the proposed rule failed to address the 2016 data from monitoring stations and whether that data achieves the 2008 ozone NAAQS.

Response 2: To determine whether an area attained by the 2008 ozone NAAQS attainment date of July 20, 2016, EPA is required to rely on the three previous full years of data, which are 2013–2015. CAA section 181(b)(2)(A); 40 CFR part 50, appendix P, section 2.3(b). Any data occurring in calendar year 2016 cannot be used in this determination because July 20, 2016 is in the middle of the 2016 ozone season and would produce only incomplete, non-quality assured, and uncertified data as of the July 20, 2016 attainment date. The statutory provision governing the type of determination of attainment EPA is finalizing today is very clear: "the Administrator shall determine, *based on the area's design value (as of the attainment date),* whether the area attained the standard by that date." CAA section 181(b)(2)(A) (emphasis added). When making determinations of attainment by the attainment deadline, EPA has consistently applied this unambiguous language as restricting its analysis to the years of data that constitute the basis for an area's design value as of the specific attainment deadline. EPA's regulations at 40 CFR part 50, appendix P further clarify that the design value be derived from "three consecutive, *complete calendar years* of air quality monitoring data." 40 CFR part 50, appendix P, section 2.3(b) (emphasis added). Taken together with the language of section 181(b)(2), for an attainment date of July 20, 2016, EPA is required to rely on the three previous, complete calendar years of data, which would be 2013–2015. The Commenter's request that EPA use calendar year 2016 data for this section 181(b)(2)(A) determination of attainment is not permitted under the statute and regulations.

Comment 3: The Commenter is concerned with EPA's data substitution analysis because EPA does not have complete data to make its determination. Pursuant to 40 CFR part 50, appendix P, section 2.3(b), attainment demonstrations must be based upon "three consecutive, complete calendar years of air quality monitoring data."

Response 3: The Commenter is correct that appendix P of 40 CFR part 50 sets minimum data completeness requirements for quality assured monitoring data that must be met in order to make a determination of attainment for the ozone NAAQS; however, appendix P also permits adding missing days assumed less than the level of the standard where appropriate in order to meet the completeness requirements. 40 CFR part 50, appendix P, section 2.3(b) states that: "meteorological or ambient data may be sufficient to demonstrate that meteorological conditions on missing days were not conducive to concentrations above the level of the standard. Missing days assumed less than the level of the standard are counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator." As discussed in this rulemaking action, EPA and the District of Columbia Department of Energy and Environment (DC DOEE) provided analyses that showed the strong probability that the missing days would not have shown an exceedance of the 2008 ozone NAAQS, in accordance with appendix P, and was approved by the Region 3 Regional Administrator on December 12, 2016.

Comment 4: The Commenter states that "the data substitution analysis performed by the Takoma Recreation Center monitoring station (Site ID 110010050) and lack of data at Site ID 110010041 is incomplete and contradictory." The Commenter points out that the proposed rule states that data substitution analyses were performed using "an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements" and that "EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis." 82 FR 19013. However, the document, the "District of Columbia—Submittal Letter for Data Substitution Analysis" (Docket ID EPA–R03–OAR–2016–0369–0008) fails to disclose or provide the regression analysis, and implies that the only analysis that was conducted was based on "meteorological and ambient monitoring data."

Response 4: First, EPA notes that the document entitled "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station (AQS Site ID 11–001–0050)" was created by DC DOEE (Docket Number EPA–OAR–2016–0369–0007), and not the Takoma Recreation Center, as stated in the comment.

Second, for the River Terrace monitor (AQS ID #11–001–0041), EPA did not conduct any data substitution analysis. As explained in the NPR, the reason for the lack of 2014 and 2015 data at the

River Terrace monitor was a planned temporary monitor shutdown due to site renovation and construction that EPA approved into DC DOEE's annual network monitoring plan. Therefore, EPA would not look for a valid design value at this monitor, because three years of complete data was not available. *See* 82 FR 19013. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan, and the remaining monitors in the Washington Area's network are sufficient to support a valid design value. *See* 40 CFR 58.10(a)(2). The Washington-Arlington-Alexandria, DC-VA-MD-WV metropolitan statistical area (MSA) is only required to have three ozone monitoring sites, but the area has a robust monitoring network with sixteen ozone monitoring sites spread across three states. Therefore, data from the River Terrace monitor (AQS ID #11–001–0041) was not used in this determination of attainment by the attainment date.

Third, as to the Commenter's concerns about what type of analysis was performed to achieve data completeness at the Takoma Recreation Center monitor, EPA's preamble in the NPR incorrectly stated that "EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis." *See* 82 FR 19013. The DC DOEE analysis for the Takoma Recreation Center monitor did not in fact include a separate substitution analysis as a check on the validity of the temperature analysis or the regression analysis—rather, DC DOEE's analysis as a whole was comprised of both a temperature analysis and a regression analysis.[1] The Technical Support Document for the Takoma Recreation Center monitor, which was included in the docket with the proposed action, reflects the correct analysis for that monitor, which used both a temperature analysis and a regression analysis to achieve minimum data completeness. However, the preamble's misstatement does not invalidate the analyses or the choice of days assumed to be less than the ozone standard in the analyses. As noted in this rulemaking action, appendix P of 40 CFR part 50 allows missing days to be added to the site completeness using meteorological or ambient data, and that missing days assumed less than the level of the standard can be counted for the purpose of meeting the data completeness requirement, subject to the approval of the appropriate Regional Administrator. The Takoma Recreation Center analysis generated valid missing days that can be counted for the purpose of meeting the data completeness requirement in 40 CFR part 50, appendix P.

Contrary to the Commenter's suggestion, the regression analysis was included in the docket with the proposed action. The submittal letter from the DC DOEE cited in the comment (Docket EPA–R03–OAR–2016–0369–0008) included a 21-page document entitled "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station" (Docket EPA–R03–OAR–2016–0369–0007). The document makes it clear that DC DOEE compared seven years of temperature data from 2009 through 2015 from Reagan International Airport with actual measured ozone concentrations from 2009 through 2015 at eight nearby ozone ambient monitors to determine whether there was a measured temperature below which none of those monitors recorded an exceedance of the 0.075 ppm ozone standard. Docket EPA–R03–OAR–2016–0369–0007, pp. 5–7. This analysis determined that during this seven-year period, none of these monitors exceeded the 0.075 ppm ozone standard when the temperature was below 84 degrees Fahrenheit. Based on this finding, DC DOEE concluded that any ozone season day during 2013 (the year with missing data) for which the high temperature did not exceed 84 degrees Fahrenheit would likely measure below the 0.075 ppm ozone standard. Based on this assumption, DC DOEE flagged 68 days during the 2013 ozone season in the Takoma Recreation Center monitor's data as "BG," meaning "missing ozone data [but] not likely to exceed the level of the standard." Docket EPA–R03–OAR–2016–0369–0007, pp. 5–7. Adding these 68 days in 2013 determined to be days below the ozone standard to the existing data set did not result in enough data points to meet the minimum yearly 75% completeness standard for ozone at this monitor. Therefore, the DC DOEE's analysis then used a regression analysis to determine whether additional ozone season days with missing data could be assumed to be below the ozone standard at the Takoma Recreation Center monitor. Docket EPA–R03–OAR–2016–0369–0007, p. 7. Using this regression analysis, measured ozone values at the nearby McMillan ozone monitor were found to correlate strongly with measured ozone values at the Takoma Recreation Center monitor, such that an equation could be developed to predict missing ozone values at the Takoma Recreation Center monitor by using actual measured values from the McMillan monitor in the equation for those missing days. The regression equation identified a number of days in 2013 at the Takoma Recreation Center monitor where the temperature exceeded 85 degrees but the predicted ozone values did not exceed 0.075 ppm. Using this method, DC DOEE added 4 days in September 2013 with temperatures above 85 degrees and 5 days in October 2013 with temperatures exceeding 85 degrees to the 2013 ozone data for the Takoma Recreation Center monitor, also using the "BG" flag. In total, 77 days were added to the Takoma Recreation Center monitoring station.

Comment 5: The Commenter noted that EPA relies upon the "null code" submission for 77 days for the Takoma Recreation Center monitoring station. A null qualifier is required when submitting a null (*i.e.,* nothing was collected) sample measurement. The Commenter stated there is no analysis to demonstrate that the data collected on those 77 days was below the 2008 ozone NAAQS. Furthermore, the inclusion of a lack of data, instead of modeled data projections, fails to meet the data completeness requirements.

Response 5: The analysis showing that 77 days at the Takoma Recreation Center monitor meets the minimum data completeness requirement is contained in the DC DOEE's "Data Substitution Analysis 2013 Ozone Season, Takoma Recreation Center Station" (Docket Number EPA–R03–OAR–2016–0369–0007). Also, see the response to Comment 4.

The lack of data, as represented by a "BG" or other null code, for those days when the Takoma Recreation Center monitor did not measure valid ozone readings, does not automatically mean a failure to meet the data completeness requirements of 40 CFR part 50, appendix P. Nor does appendix P require "modeled data projections." Rather, when there is a lack of data represented by a null code, section 2.3(b) of appendix P provides that those missing days may be used if they are reasonably assumed to be less than the level of the standard. The detailed temperature and regression analyses approved by the Regional Administrator, and included in the docket, establish the basis for EPA's conclusion that certain missing days at the Takoma Recreation Center monitor can be assumed to be less than the level of the NAAQS and therefore may be

[1] As discussed in Comment 6, the EPA Clean Air Markets Division (CAMD) analysis for the Beltsville CASTNET monitor also did not perform a substitution analysis.

counted towards the data completeness requirement.

Comment 6: It is also unclear whether the CAMD—Data Substitution Analysis (Docket ID: EPA–R03–OAR–2016–0369–0006) for the CASTNET ozone monitor at the Beltsville, Maryland site provides the meteorological and substitution analysis as stated in the proposed rule and as required by the CAA. 40 CFR part 50, appendix P, section 2.3(b).

Response 6: As noted in response to Comment 4, the preamble to the NPR incorrectly stated that a meteorological analysis, regression analysis, and a data substitution analysis were performed for both monitors. As shown in the analysis for the Beltsville CASTNET monitor (AQS ID #24–033–9991) (Docket Number: EPA–R03–OAR–2016–0369–0006), the EPA CAMD analysis was a linear regression analysis only. The regression analysis uses ambient data from a nearby monitor that closely correlates to readings from the monitor with the missing days. In accordance with appendix P, where the regression analysis projects that monitored values on the missing days would be less than the level of the NAAQS, EPA includes those in its completeness calculations.

Comment 7: The Commenter stated that the proposed rule is clear that it fails to include the data for Site ID 110010041 for all of 2014 and 2015 and fails to achieve the data completeness standards as required by 40 CFR part 50, appendix P.

Response 7: As discussed in Response 4, EPA explained in the NPR that the reason for lack of 2014 and 2015 data at the River Terrace monitor (AQS ID #11–001–0041) was a planned monitor shutdown approved into DC DOEE's annual network monitoring plan. Planned shutdowns of monitors are normal occurrences and are reviewed and approved by EPA in a state's annual network monitoring plan. *See* 40 CFR 58.10(a)(2). Therefore, this monitor was not relied on for this determination of attainment by the attainment date. *See* 82 FR 19013. The data completeness requirements of appendix P do not apply to this monitor.

Comment 8: EPA also received comments and an inquiry from a student supporting the environment and seeking more information regarding how air monitoring is performed and why the 2008 ozone standard is still discussed even though it is no longer 2008.

Response 8: More information regarding the ozone NAAQS and air monitoring standards is available at *www.epa.gov.* For the Washington Area, the area had to attain the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. As stated in the NPR, in a final rulemaking action published on May 4, 2016, EPA determined that the Washington Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012–2014 monitoring period. In that same action, EPA determined that the Washington Area qualified for a 1-year extension of its attainment date. *See* 81 FR 26697. This ruling determines that the Washington Area attained the 2008 ozone NAAQS by this extended attainment date, using the required 2013–2015 air quality data.

Comment 9: EPA also received comments that were not germane to this final ruling but referred generally to air quality standards and regulations. The comments included support of keeping EPA regulations in place to protect human health and the environment.

Response 9: EPA appreciates the supportive comments, and notes that ozone air quality monitoring will continue and existing air quality standards and regulations will remain in place. These include all standards and regulations that apply to the Washington Area marginal nonattainment area, which include those pertaining to its membership in the ozone transport region (OTR). This determination of attainment by the attainment date does not reduce or revoke any existing ozone monitoring or control requirements.

IV. Final Action

EPA is making a final determination, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the Provisions for Implementation of the 2008 Ozone NAAQS (40 CFR part 51, subpart AA), that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment or a clean data determination.

V. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action finalizes a determination of attainment by the attainment date for the 2008 ozone NAAQS based on air quality data and does not impose additional requirements. For that reason, this determination of attainment:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the Washington Area marginal nonattainment area does not include any Indian country located in these states, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate,

the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 January 16, 2018. 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 determining that the Washington Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date 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, Ozone, Reporting and recordkeeping requirements.

Dated: October 27, 2017.

Cosmo Servidio,

Regional Administrator, Region III.

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.*

Subpart J—District of Columbia

* 2. In §52.475, paragraph (c) is added to read as follows:

§52.475 Determinations of attainment.

* * * * *

(c) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart V—Maryland

* 3. In §52.1082, paragraph (k) is added to read as follows:

§52.1082 Determinations of attainment.

* * * * *

(k) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

Subpart VV—Virginia

* 4. In §52.2430, paragraph (c) is added to read as follows:

§52.2430 Determinations of attainment.

* * * * *

(c) Based upon EPA's review of the air quality data for the 3-year period 2013 to 2015, the Washington, DC-MD-VA marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to Clean Air Act section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard. EPA also determined that the Washington, DC-MD-VA marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2017–24537 Filed 11–13–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2009–0436; FRL–9970–66–Region 1]

Air Plan Approval; Rhode Island; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving State Implementation Plan (SIP) revisions submitted by the State of Rhode Island. These revisions include regulations to update the enhanced motor vehicle inspection and maintenance (I/M) program in Rhode Island. The revised program includes a test and repair network consisting of on-board diagnostic (OBD2) testing for model year 1996 and newer vehicles and tailpipe exhaust test, using a dynamometer, for model year 1995 and older vehicles. The intended effect of this action is to approve the revised program into the Rhode Island SIP. This action is being taken in accordance with the Clean Air Act (CAA).

DATES: This direct final rule will be effective January 16, 2018, unless EPA receives adverse comments by December 14, 2017. 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–R01–OAR–2009–0436 at *www.regulations.gov,* or via email to *garcia.ariel@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, the 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. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Mon 6/5/2017 3:04:27 PM
Subject: FRN Update
8225523.pdf

FYI:

Final rule - redesignation to attainment

On June 2, 2017, EPA redesignated the Atlanta, GA nonattainment area for 2008 8-hr Ozone, effective the same day, June 2, 2017.
[82 FR 25523]

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Robert Wagoner

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To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Mon 5/1/2017 1:42:28 PM
Subject: FRN Update
8220297.pdf

FYI:

Proposed rule - redesignation to attainment

On May 1, 2017, EPA proposed to redesignate the Kentucky portion of the Cincinnati, OH-KY-IN nonattainment area for 2008 8-hr Ozone.
[82 FR 20297]

(The published proposal incorrectly refers to the area as "Cincinnati-Hamilton" although the actual name listed in 40 CFR 81.318 is "Cincinnati" for the 2008 8-hr Ozone area. The Ohio portion of the area was redesignated effective December 16, 2016 [81 FR 91035], and the Indiana portion of the area was redesignated effective April 7, 2017 [82 FR 16940].)

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Robert Wagoner

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2016–0601; FRL–9961–32–Region 4]

Air Plan Approval and Designation of Areas; KY; Redesignation of the Kentucky Portion of the Cincinnati-Hamilton 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On August 26, 2016, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Kentucky portion of the tri-state Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area (hereinafter referred to as the ''Cincinnati-Hamilton, OH-KY-IN Area'' or ''Area'') to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve the portions of the State Implementation Plan (SIP) revision containing a maintenance plan and base year emissions inventory for the Area. EPA is proposing to approve the Commonwealth's base year emissions inventory for the Kentucky portion of the Area; to approve the Commonwealth's plan for maintaining attainment of the 2008 8-hour ozone NAAQS in the Area, including motor vehicle emission budgets (MVEBs) for nitrogen oxides (NOx) and volatile organic compounds (VOC) for the years 2020 and 2030 for the Kentucky portion of the Area; and to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. Through separate actions, EPA has approved the redesignation request and maintenance plan for the Ohio portion of the Area and has proposed to approve the redesignation request and maintenance plan for the Indiana portion of the Area.

DATES: Comments must be received on or before May 31, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2016–0601 at *http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Richard Wong may be reached by phone at (404) 562–8726 or via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What are the actions EPA is proposing to take?

EPA is proposing to take the following three separate, but related, actions: (1) To approve the base year emissions inventory for the 2008 8-hour ozone NAAQS for the Kentucky portion of the Area and incorporate it into the Kentucky SIP; (2) to approve Kentucky's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the Kentucky portion of the Area, and incorporate it into the SIP; and (3) to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The Cincinnati-Hamilton, OH-KY-IN Area is composed of portions of Boone, Campbell, and Kenton Counties in Kentucky; Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and a portion of Dearborn County in Indiana. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

Based on the 2008 8-hour ozone NAAQS nonattainment designation for the Area, Kentucky was required to develop a nonattainment SIP revision addressing certain CAA requirements. Among other things, the Commonwealth was required to submit a SIP revision addressing base year emissions inventory requirements pursuant to CAA section 182(a)(1) for its portion of the Area. EPA is proposing to approve Kentucky's 2011 base year inventory as satisfying section 182(a)(1).

EPA is also proposing to approve Kentucky's maintenance plan for its portion of the Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status). The maintenance plan is designed to keep the Area in attainment of the 2008 8-hour ozone NAAQS through 2030. The maintenance plan includes 2020 and 2030 MVEBs for NOx and VOC for the Kentucky portion of the Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the Kentucky SIP.

EPA also proposes to determine that the Kentucky portion of the Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of the portions of Boone, Campbell, and Kenton Counties within the Kentucky portion of the Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the MVEBs for the Kentucky portion of the Area. The Adequacy comment period began on December 6, 2016, with EPA's posting of the availability of Kentucky's submissions on EPA's Adequacy Web site (*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa#cincinnati-hamilton-(KY)*). The Adequacy comment period for these MVEBs closed on January 5, 2017. No comments, adverse or otherwise, were received during the Adequacy comment period.

Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, today's notice of proposed rulemaking is in response to Kentucky's August 26, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area to attainment for the 2008 8-hour ozone NAAQS.[1]

II. What is the background for EPA's proposed actions?

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15.

Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Cincinnati-Hamilton, OH-KY-IN Area was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.318. Areas that were designated as marginal nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. On May 4, 2016 (81 FR 26697), EPA published its determination that the Area had attained the 2008 8-hour ozone NAAQS by the attainment deadline.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing 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 for purposes of redesignation under section 110 and part D of the CAA.

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the "Nichols Memorandum"); and
10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA proposing these actions?

On August 26, 2016, Kentucky requested that EPA redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing the base year inventory and the maintenance plan for the Kentucky portion of the Area. As mentioned above, on May 4, 2016 (81 FR 26697), EPA determined that the entire Cincinnati-Hamilton, OH-KY-IN Area attained the 2008 8-hour ozone NAAQS by the attainment date based on 2012–2014 data. On December 16, 2016 (81 FR 91035), in redesignating the Ohio portion of the Area to attainment, EPA determined that the entire Area continued to attain the standard based on 2013–2015 data.[2] EPA's evaluation indicates that the Kentucky portion of the Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. Also, based on Kentucky's August 26, 2016, submittal, EPA is proposing to determine that the base year emissions inventory, included in Kentucky's August 26, 2016, submittal, meets the requirements under CAA section 182(a)(1). Approval of the base year emissions inventory is a prerequisite to redesignating an ozone nonattainment area to attainment. As a result of these proposed findings, EPA is proposing to take the actions summarized in section I of this notice.

V. What is EPA's analysis of the redesignation request and August 26, 2016, SIP submission?

As stated above, in accordance with the CAA, EPA proposes to: (1) Approve the 2008 8-hour ozone NAAQS base year emissions inventory for the

[1] While Kentucky's transmittal letter is dated August 5, 2016, the submission was not officially provided to EPA for action until August 26, 2016.

[2] EPA has also proposed to redesignate the Indiana portion of the Area. *See* 81 FR 95081 (December 27, 2016).

Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area and incorporate it into the SIP; (2) approve Kentucky's 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Kentucky SIP; and (3) redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Kentucky portion of the Area in section V.B, below.

A. Emissions Inventory

Section 182(a)(1) of the CAA requires states to submit a comprehensive, accurate, and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in each ozone nonattainment area. The section 182(a)(1) base year emissions inventory is defined in the SIP Requirements Rule[3] as "a comprehensive, accurate, current inventory of actual emissions from sources of NOx and VOC emitted within the boundaries of the nonattainment area as required by CAA section 182(a)(1)." *See* 40 CFR 51.1100(bb). The inventory year must be selected consistent with the baseline year for an RFP plan as required by 40 CFR 51.1110(b),[4] and the inventory must include actual ozone season day emissions as defined in 40 CFR 51.1100(cc)[5] and contain data elements consistent with the detail required by 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(a), (c), (e). In addition, the point source emissions included in the inventory must be reported according to the point source emissions thresholds of the Air Emissions Reporting Requirements (AERR) in 40 CFR part 51, subpart A. *See* 40 CFR 51.1115(d).

Kentucky selected 2011 as the base year for the CAA section 182(a)(1) emissions inventory which is the year corresponding with the first triennial inventory under 40 CFR part 51, subpart A. The emissions inventory is based on data developed and submitted by DAQ to EPA's 2011 National Emissions Inventory (NEI), and it contains data elements consistent with the detail required by 40 CFR part 51, subpart A.[6]

Kentucky's emissions inventory for its portion of the Area provides 2011 anthropogenic emissions data for NO_X and VOC for the following general source categories: point (Electric Generating Units and Non-Electric Generating Units and aircraft emissions),[7] area, non-road mobile, on-road mobile. All emissions information provided is based on the partial county boundaries, through the applicable census tracts, that comprise the Kentucky portion of the Area. Table 1, below, provides a summary of the emissions inventory.

TABLE 1—2011 POINT, AREA, NON-ROAD MOBILE, AND ON-ROAD MOBILE SOURCES EMISSIONS FOR THE KENTUCKY PORTION OF THE AREA

[tons per typical summer day (tsd)]

County*	Point**		Area		Non-road mobile		On-road mobile	
	NO_X	VOC	NO_X	VOC	NO_X	VOC	NO_X	VOC
Boone County	9.23	2.15	0.43	2.66	1.06	1.49	6.90	3.30
Campbell County	0.17	0.22	0.49	1.29	0.38	0.40	4.30	2.05
Kenton County	0.01	0.51	1.02	2.51	0.77	0.62	6.53	3.12

*Nonattainment portion of each county.
**Includes aircraft emissions.

NO_X and VOC emissions were calculated for a typical summer July day, taking into account the seasonal adjustment factor for summer operations. More detail on the inventory emissions for individual sources categories is provided below and in Appendix C–1 to Kentucky's August 26, 2016, SIP submittal.

Point sources are large, stationary, identifiable sources of emissions that release pollutants into the atmosphere. The inventory contains actual point source emissions data for facilities located within the nonattainment boundary for the Kentucky portion of the Area based on the Kentucky Emissions Inventory database.[8]

Area sources are small emission stationary sources which, due to their large number, collectively have significant emissions (*e.g.,* dry cleaners, service stations). Emissions for these sources were estimated by multiplying an emission factor by such indicators of collective emissions activity as production, number of employees, or population. Indiana Department of Environmental Management (IDEM) provided area source emissions data for each county data for in the entire Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

On-road mobile sources include vehicles used on roads for transportation of passengers or freight. Kentucky developed its on-road emissions inventory using EPA's Motor

[3] On March 6, 2015, EPA finalized a rule entitled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" (SIP Requirements Rule) that establishes the requirements that state, tribal, and local air quality management agencies must meet as they develop implementation plans for areas where air quality exceeds the 2008 8-hour ozone NAAQS. *See* 80 FR 12264.

[4] 40 CFR 51.1110(b) states that "at the time of designation for the 2008 ozone NAAQS the baseline emissions inventory shall be the emissions inventory for the most recent calendar year for which a complete triennial inventory is required to be submitted to EPA under the provisions of subpart A of this part. States may use an alternative baseline emissions inventory provided the state demonstrates why it is appropriate to use the alternative baseline year, and provided that the year selected is between the years 2008 to 2012."

[5] "Ozone season day emissions" is defined as "an average day's emissions for a typical ozone season work weekday. The state shall select, subject to EPA approval, the particular month(s) in the ozone season and the day(s) in the work week to be represented, considering the conditions assumed in the development of RFP plans and/or emissions budgets for transportation conformity." *See* 40 CFR 51.1100(cc).

[6] Data downloaded from the EPA EIS from the 2011 NEI was subjected to quality assurance procedures described under *quality assurance details* under *2011 NEI Version 1 Documentation* located at: *http://www.epa.gov/ttn/chief/net/2011inventory.html#inventorydoc.* The quality assurance and quality control procedures and measures associated with this data are outlined in the State's EPA-approved Emission Inventory Quality Assurance Project Plan.

[7] The emissions inventories in Kentucky's submission identify aircraft emissions as a standalone category and refer to these emissions as "air emissions" for consistency with the inventories provided by Indiana and Ohio for their respective portions of the Area. Indiana Department of Environmental Management (IDEM) provided aircraft emissions data for Kentucky, and Kentucky included these emissions in Boone County where the Cincinnati/Northern Kentucky International Airport is located. EPA has included these emissions within the point source category per the AERR.

[8] As discussed above, EPA has included aircraft emissions within the point source category per the AERR.

Vehicle Emissions Simulator (MOVES) model with input data from the Ohio-Kentucky-Indiana Regional Council of Governments (OKI).[9] County level on-road modeling was conducted using county-specific vehicle population and other local data. Kentucky developed its inventory according to the current EPA emissions inventory guidance for on-road mobile sources using MOVES version 2014.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (*e.g.,* lawn mowers, construction equipment, and railroad locomotives). IDEM provided non-road mobile source emissions data for each county in the Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

For the reasons discussed above, EPA proposes to determine that Kentucky's emissions inventory meets the requirements under CAA section 182(a)(1) and the SIP Requirements Rule for the 2008 8-hour ozone NAAQS. Approval of Kentucky's redesignation request is contingent upon EPA's final approval of the base year emissions inventory for the 2008 8-hour ozone NAAQS.

B. Redesignation Request and Maintenance Demonstration

In accordance with the CAA, EPA proposes to approve the 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Kentucky SIP and to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under the CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs in this section.

Criteria (1)—The Cincinnati-Hamilton, OH-KY-IN Area has attained the 2008 8-hour ozone NAAQS.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i)). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On May 4, 2016 (81 FR 26697), EPA determined that the Cincinnati-Hamilton, OH-KY-IN Area attained the 2008 8-hour ozone NAAQS by the attainment date. In that action, EPA reviewed complete, quality-assured, and certified monitoring data from monitoring stations in the Area for the 2008 8-hour ozone NAAQS for 2012 through 2014 and determined that the design values for each monitor in the Area are less than the standard of 0.075 ppm for that time period. Further, on December 16, 2016, in association with the redesignation of the Ohio portion of the Area, EPA determined that the Area continued to attain the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified monitoring data from 2013 through 2015. *See* 81 FR 91035. The fourth-highest 8-hour ozone values at each monitor for 2012, 2013, 2014, 2015, and the 3-year averages of these values (*i.e.,* design values), are summarized in Table 2, below. The 3-year design value for 2013–2015 for the Cincinnati-Hamilton, OH-KY-IN Area is 0.071 ppm,[10] which meets the NAAQS.

TABLE 2—MONITORING DATA AND DESIGN VALUE CONCENTRATIONS FOR THE CINCINNATI-HAMILTON, OH-KY-IN AREA

[ppm]

Location	Site ID	4th Highest 8-hour ozone value (ppm)				3-Year design values (ppm)	3-Year design values (ppm)
		2012	2013	2014	2015	2012–2014	2013–2015
Boone, KY	21–015–0003	0.074	0.059	0.062	0.062	0.065	0.061
Campbell, KY	21–037–3002	0.084	0.072	0.071	0.071	0.075	0.071
Butler, OH	39–017–0004	0.083	0.068	0.070	0.070	0.073	0.069
Butler, OH	39–017–0018	0.084	0.068	0.069	0.070	0.073	0.069
Butler, OH	39–017–9991	0.085	0.069	0.069	0.068	0.074	0.068
Clermont, OH	39–025–0022	0.091	0.066	0.068	0.070	0.075	0.068
Clinton, OH	39–027–1002	0.086	0.064	0.070	0.070	0.073	0.068
Hamilton, OH	39–061–0006	0.087	0.069	0.070	0.072	0.075	0.070
Hamilton, OH	39–061–0010	0.083	0.064	0.073	0.070	0.073	0.069
Hamilton, OH	39–061–0040	0.082	0.069	0.069	0.071	0.073	0.069
Warren, OH	39–165–0007	0.080	0.067	0.071	0.071	0.072	0.069

For this proposed action, EPA has reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[11] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, the Commonwealth of Kentucky has committed to continue monitoring in the Kentucky portion of the Area in accordance with 40 CFR part 58.

[9] Kentucky used *MOVES2014 technical guidance: Using MOVES to Prepare Emission Inventories in State Implementation Plans and Transportation Conformity, EPA–420–b–15–007* (January 2015).

[10] The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

[11] This data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.*

Criteria (2)—Kentucky has a fully approved SIP under section 110(k) for the Kentucky portion of the Area; and Criteria (5)—Kentucky has met all applicable requirements under section 110 and part D of title I of the CAA.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Kentucky has met all applicable SIP requirements for the Kentucky portion of the Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that, if EPA approves the base year emissions inventory, the Kentucky SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The Kentucky Portion of the Cincinnati-Hamilton, OH-KY-IN Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain 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 the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. 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. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110(a)(2) elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the general nonattainment plan requirements for nonattainment areas. Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. In marginal ozone nonattainment area such as the Cincinnati-Hamilton, OH-KY-IN Area, the specific requirements of section 182(a) apply in lieu of the demonstration of attainment and contingency measures required by section 172(c). *See* 42 U.S.C. 7511a(a). The 182(a) elements and the remaining 172(c) elements that apply to the Area are addressed below. A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

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

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in a nonattainment area, and section 172(c)(5) requires permits for the construction and operation of new and modified major stationary sources in the area. EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in the Nichols Memorandum. *See also* rulemakings for the Illinois portion of the St. Louis Area (77 FR 34819, 34826, June 12, 2012); Louisville, Kentucky (66 FR 53665, 53669, October 23, 2001); Grand Rapids, Michigan (61 FR 31831, 31834–31837, June 21, 1996); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Detroit, Michigan (60 FR 12459, 12467–12468, March 7, 1995). Kentucky has demonstrated that the Area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the Commonwealth need not have a fully approved part D NSR program prior to approval of the redesignation request. Kentucky's PSD program will become effective in the Area upon redesignation to attainment.

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of NO_X and VOC emitted within the boundaries of the ozone nonattainment area. Kentucky provided a base year emissions inventory for its portion of the Area to EPA in the August

26, 2016, SIP submission to address the section 182(a)(1) requirements for the Kentucky portion of the Area. As discussed in Section V.A above, EPA is proposing to approve Kentucky's 2011 base year emissions inventory in today's proposed action. Kentucky's section 182(a)(1) inventory must be approved before EPA can take final action to approve the Commonwealth's redesignation request for the Kentucky portion of the Area.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT "fix up" because the Area was designated as nonattainment after the enactment of the 1990 CAA amendments. Furthermore, the Commonwealth complied with this requirement under the 1-hour ozone NAAQS. *See* 59 FR 32343 (June 23, 1994) and 60 FR 31087 (June 13, 1995).

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Kentucky portion of the Area is not subject to the section 182(a)(2)(B) requirement because it was designated as nonattainment after the enactment of the 1990 CAA amendments and did not have an I/M program in place prior to those amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. As discussed above, Kentucky has a PSD program and has demonstrated that the Area will be able to maintain the standard without part D NSR in effect. Therefore, EPA concludes that the Commonwealth need not have a fully approved part D NSR program prior to approval of the redesignation request.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled Criteria (4)(e), *Verification of Continued Attainment,* the Commonwealth will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. Kentucky provided a SIP revision to EPA on November 18, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on January 28, 2016 (81 FR 4896), EPA published a final rule approving this SIP revision.

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

EPA interprets the conformity SIP requirements[12] 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. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Kentucky has an approved conformity SIP for the Kentucky portion of the Area. *See* 76 FR 20780 (April 21, 2010). Thus, EPA proposes that the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Kentucky Portion of the Cincinnati-Hamilton, OH-KY-IN Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the Commonwealth's SIP for the Kentucky portion of the Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation with the exception of the 182(a)(1) emissions inventory. In today's proposed action, EPA is proposing to approve the Commonwealth's emissions inventory for the Kentucky portion of the Area and incorporate it into the Kentucky SIP.

EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Kentucky has adopted and submitted, and EPA has approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS (78 FR 14681, March 7, 2013, and 79 FR 65143, November 3, 2014).

As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. With the exception of the section 182(a)(1) emissions inventory requirement, which is addressed in this proposal, EPA has approved all part D requirements applicable for purposes of this proposed redesignation.

Criteria (3)—The air quality improvement in the Cincinnati-Hamilton, OH-KY-IN Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Kentucky has

[12] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

demonstrated that the observed air quality improvement in the Cincinnati-Hamilton, OH-KY-IN Area is due to permanent and enforceable reductions in emissions resulting from federal measures and is not the result of unusually favorable weather conditions.

An analysis performed by the Lake Michigan Air Directors Consortium (LADCO) supports the Commonwealth's conclusion that the improvement in air quality is due to permanent and enforceable emission reductions and not favorable meteorology.[13] A classification and regression tree (CART) analysis was conducted with 2000 through 2014 data from three ozone monitoring sites in the Area. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions. Regression trees were developed for the three monitors to classify each summer day by its ozone concentration and associated meteorological conditions. By grouping days with similar meteorology, the influence of meteorological variability on the underlying trend in ozone concentrations is partially removed and the remaining trend is presumed to be due to trends in precursor emissions or other non-meteorological influences. The CART analysis showed the resulting trends in ozone concentrations declining over the period examined, supporting the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

In addition, EPA evaluated temperatures and precipitation during the 2012–2015 ozone seasons for comparison to long-term climatological normals. Table 3, below, provides temperature and precipitation data for the Area for the 2012–2015 period. This data was obtained from the National Oceanic and Atmospheric Administration's National Centers for Environmental Information (NCEI). Specifically, Table 3 provides overall average and average maximum ozone season temperatures and total ozone season precipitation; deviation from the mean 1948–2000 base period ozone season temperature and precipitation (termed the "anomaly"); and the rank of each year from the 69-year (1948–2016) period. A rank of 69 is given to the hottest or wettest year.

TABLE 3—CINCINNATI, OHIO TEMPERATURE AND PRECIPITATION OZONE SEASON (MAY–SEPTEMBER) DATA

	Years			
	2012	2013	2014	2015
Average May–September Temperature [°F]	73.0	71.1	70.6	71.4
Anomaly from the long-term average [70.3 °F]	2.7	0.8	0.3	1.1
Rank [since 1948, scale of 1–69] 1=coolest 69=warmest	65	47	35	52
Average maximum May–September temperature [°F]	84.5	80.7	80.6	81.6
Anomaly from the long-term average maximum [81 °F]	3.5	¥0.3	¥0.4	0.6
Rank [since 1948, scale of 1–69] 1=coolest 69=warmest	67	29	28	42
Precipitation [inches]	15.61	24.04	19.05	18.64
Anomaly from the long-term average [18.27 inches]	¥2.66	5.77	0.78	0.37
Rank [since 1948, scale of 1–69] 1=driest 69=wettest	17	63	42	38

The data in Table 3 indicates that the 2012 ozone season had maximum daily temperatures well above normal while 2013–2015 had maximum daily temperatures near normal (within a degree of normal). Average maximum temperatures during the 2012 ozone season were the third warmest from the period of record (1948–2016). Overall average ozone season temperatures during the 2012–2015 period ranged from 0.3 to 2.7 degrees above normal. Total precipitation during the 2012 ozone season was below normal, the 2013 ozone season had above normal precipitation, and the 2014 and 2015 ozone seasons had near normal precipitation (within an inch of normal). Therefore, the 2012–2015 period does not appear to have been abnormally conducive to reduced ozone formation and further supports the conclusion that the improvement in air quality was not due to unusually favorable meteorology.

Federal measures enacted in recent years have resulted in permanent emission reductions in the Area. The federal measures that have been implemented include the following:

Tier 2 Vehicle and Fuel Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements.[14] These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76 and 28 percent, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NO_X will result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

[13] Ohio included the LADCO analysis as part of its redesignation request and associated SIP revision for the Ohio portion of the Area. These materials are available at Docket No. EPA–R05–OAR–2016–0269.

[14] Kentucky also identified Tier 3 Motor Vehicle Emissions and Fuel Standards a federal measure. EPA issued this rule in April 28, 2014 (79 FR 23414), which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. While the reductions did not aid the Area in attaining the standard, emissions reductions from these standards will occur during the maintenance period.

Non-Road Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for non-road diesel engines and sulfur reductions in non-road diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. The rule is being phased in between 2008 through 2015, and when fully implemented, will reduce emissions of NO_X, VOC, particulate matter, and carbon monoxide from these engines. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

Heavy-Duty Diesel Engine Rules. In July 2000,[15] EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007 and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rule. Nationally, EPA estimated that 2015 NO_X and VOC emissions will decrease by 1,260,000 tons and 54,000 tons, respectively, and that 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively.

Non-road Spark-Ignition Engines and Recreational Engines Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When all of the non-road spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9648), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule is fully implemented in 2013, NO_X and VOC emissions from these engines will be reduced by approximately 9,600 and 36,000 tons per year, respectively.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards apply beginning in 2011, and are expected to result in a 15 to 25 percent reduction in NO_X emissions from these engines. Final Tier 3 emission standards apply beginning in 2016 and are expected to result in approximately an 80 percent reduction in NO_X from these engines.

Clean Air Interstate Rule (CAIR)/ Cross-State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 28 eastern states, including Kentucky, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008) to preserve the environmental benefits provided by CAIR. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Numerous parties filed petitions for review of CSAPR, and on August 21, 2012, the D.C. Circuit vacated and remanded CSAPR to EPA. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and ozone-season NO_X CSAPR budgets as to a number of states.[16] *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017.

On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_X budgets. The update withdraws these remanded NO_X budgets, sets new Phase 2 CSAPR ozone season NO_X emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_X trading program.[17]

While the reduction in NO_X emissions from the implementation of CSAPR will result in lower concentrations of transported ozone entering the Area throughout the maintenance period, EPA is proposing to approve the redesignation of the Kentucky portion of the Area without relying on those measures within Kentucky as having led to attainment of the 2008 ozone NAAQS or contributing to maintenance of that standard. The improvement in ozone air quality in the Area from 2011 (a year when the design value for the area was above the NAAQS) to 2014 (a year when the design value was below the NAAQS) is not due to CSAPR emissions reductions because, as noted above, CSAPR did not go into effect until January 1, 2015, after the Area was already attaining the standard. As a general matter, because CSAPR is CAIR's replacement, emissions reductions associated with CAIR will for most areas be made permanent and enforceable through implementation of CSAPR. In addition, EPA has preliminarily determined that the vast majority of reductions in emissions in the Kentucky portion of the Area from 2011–2014 were due to permanent and enforceable reductions in mobile source

[15] *See* 66 FR 5002 for further discussion.

[16] The court's decision did not affect Kentucky's CSAPR budgets.

[17] *See* 81 FR 74504 for further discussion.

VOC and NO_X emissions. EPA found that mobile source emissions reductions account for 100 percent of the total NO_X reductions and 92 percent of the VOC reductions within the Kentucky portion of the Area over this time period. NO_X and VOC emissions in the Kentucky portion of the Area are projected to continue their downward trend throughout the maintenance period, driven primarily by mobile source measures. From 2014 to 2030, Kentucky projected that mobile source measures will account for 95 percent of the NO_X emissions reductions and 85 percent of the VOC reductions in the Kentucky portion of the Area based on EPA-approved mobile source modeling.

EPA proposes to find that the improvements in air quality in the Cincinnati-Hamilton, OH-KY-IN Area are due to real, permanent and enforceable reductions in NO_X and VOC emissions. This preliminary determination is supported by the evaluation of emissions reductions in the Area between 2011 and 2014 discussed above.

Criteria (4)—The Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area has a fully approved maintenance plan pursuant to section 175A of the CAA.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS, Kentucky submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan demonstrating that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As discussed more fully below, EPA has preliminarily determined that Kentucky's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Kentucky SIP.

b. Attainment Emissions Inventory

As discussed above, EPA has determined that the Cincinnati-Hamilton, OH-KY-IN Area has attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2012–2014 and is continuing to attain the standard based on 2013–2015 data. *See* 81 FR 26697 (May 4, 2016); 81 FR 91035 (December 16, 2016). Kentucky selected 2014 as the attainment year (*i.e.,* attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2017, 2020, 2025, and 2030. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Kentucky began development of the attainment inventory by first generating a baseline emissions inventory for the Commonwealth's portion of the Area.[18] The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2030) to the attainment year (2014), Kentucky compared interim years to the attainment year to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, area, on-road mobile, and non-road mobile.[19] Complete descriptions of how the inventories were developed are located in Appendix C through Appendix E of the August 26, 2016 submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing approved emission factors. For each projected year's inventory, point sources are adjusted by growth factors based on Standard Industrial Classification codes generated using growth patterns obtained from County Business Patterns. For title V sources, the actual 2011 emissions were used.

For area sources, emissions are estimated by multiplying an emission factor by some known indicator of collective activity such as production, number of employees, or population. For each projected year's inventory, area source emissions are changed by population growth, projected production growth, or estimated employment growth.

Non-road mobile sources include vehicles, engines, and equipment used for construction, agriculture, recreation, and other purposes that do not use roadways (*e.g.,* lawn mowers, construction equipment, and railroad locomotives). IDEM provided non-road mobile source emissions data for each county in the Area. Data was obtained from the Ozone NAAQS Emissions Modeling Platform (2011 v6.1).

For on-road mobile sources, EPA's MOVES2014 mobile model was run to generate emissions. The MOVES2014 model includes the road class vehicle miles traveled (VMT) as an input file and can directly output the estimated emissions. For each projected year's inventory, the on-road mobile sources emissions are calculated by running the MOVES mobile model for the future year with the projected VMT to generate emissions that take into consideration expected federal tailpipe standards, fleet turnover, and new fuels.

The 2014 NO_X and VOC emissions for the Kentucky portion of the Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 4 and 5 of the following subsection discussing the maintenance demonstration. *See* Appendix C through Appendix E of the August 26, 2016, submission for more detailed information on the emissions inventory.

[18] Kentucky used the 2011 inventory described above in Section V.A. as its baseline emissions inventory.

[19] As discussed in Section V.A., the emissions inventories in Kentucky's submission identify aircraft emissions as a standalone category and refer to these emissions as "air emissions" for consistency with the inventories provided by Indiana and Ohio for their respective portions of the Area. EPA has included these emissions within the point source category per the AERR.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2017, 2020, 2025, and 2030.

(iii) Identifies an ''out year'' at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEBs were established for the last year (2030) of the maintenance plan (see section VI below). Kentucky, in consultation with the interagency partners,[20] has elected to also establish an interim MVEB for the year 2020.

(iv) Provides projected emissions inventories for the Kentucky portion of the Area, as shown in Tables 4 and 5, below.

TABLE 4—PROJECTED AVERAGE SUMMER DAY NO_X EMISSIONS (tsd) FOR THE KENTUCKY PORTION OF THE AREA

Sector	2014	2017	2020	2025	2030
Point	9.62	9.97	10.33	9.61	8.98
Area	1.94	1.94	1.94	1.95	1.95
Non-road	1.84	1.47	1.26	1.03	0.8
On-road	14.04	10.13	6.19	4.45	2.69
Total	27.44	23.51	19.72	17.04	14.42

TABLE 5—PROJECTED AVERAGE SUMMER DAY VOC EMISSIONS (tsd) FOR THE KENTUCKY PORTION OF THE AREA

Sector	2014	2017	2020	2025	2030
Point	2.88	2.89	2.89	2.69	2.47
Area	6.25	6.04	5.94	5.87	5.80
Non-road	2.19	1.88	1.75	1.69	1.64
On-road	6.50	5.03	3.54	2.77	1.98
Total	17.82	15.84	14.12	13.02	11.89

Tables 4 and 5 summarize the 2014 and future projected emissions of NO_X and VOC from the Kentucky portion of the Area. In situations where local emissions are the primary contributor to nonattainment, such as the Cincinnati-Hamilton, OH-KY-IN Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. Kentucky has projected emissions as described previously and determined that emissions in the Kentucky portion of the Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, 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. The attainment level of emissions is the level of emissions during one of the years in which the Area met the NAAQS. Kentucky selected 2014 as the attainment emissions inventory year for the Kentucky portion of the Area. Kentucky calculated safety margins in its submittal for years 2020 and 2030.

The Commonwealth has decided to allocate 15 percent of the available safety margin to the 2020 and 2030 MVEBs to allow for unanticipated growth in VMT, changes and uncertainty in vehicle mix assumptions, etc., that will influence the emission estimations. The MVEBs and safety margins are discussed further in Section VI of this proposed rulemaking.

d. Monitoring Network

There are eleven monitors measuring ozone in the Cincinnati-Hamilton, OH-KY-IN Area, of which two are located in the Kentucky portion of the Area. In its maintenance plan, Kentucky has committed to continue operation of the monitors in the Kentucky portion of the Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. EPA approved Kentucky's monitoring plan on October 25, 2016.

e. Verification of Continued Attainment

The Commonwealth of Kentucky, through DAQ, has the legal authority to enforce and implement the maintenance plan for the Kentucky portion of the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems. The Commonwealth has committed to track the progress of the maintenance plan by updating its emissions inventory at least once every three years and reviewing the updated emissions inventories for the Area using the latest emissions factors, models, and methodologies.

Under the AERR, DAQ is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. DAQ commits to compare the AERR inventories to the 2011 base year and 2030 projected maintenance year inventories to assess emissions trends, as necessary, and to assure continued compliance with the 2008 8-hour ozone NAAQS in the Area.

[20] Interagency partners consist of the Ohio-Kentucky-Indiana Regional Council of Governments Metropolitan Planning Organization (MPO), Kentucky Energy and Environment Cabinet, Kentucky Transportation Cabinet, EPA, Federal Highway Administration, and Federal Transit Administration.

f. Contingency Measures in the Maintenance Plan.

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 occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

As required by section 175A of the CAA, Kentucky has adopted a contingency plan to address possible future 8-hour ozone air quality problems. In the event that a measured value of the fourth highest maximum is 0.079 ppm or greater in any portion of the Area in a single ozone season, or if periodic emissions inventory updates reveal excessive or unanticipated growth greater than ten percent in ozone precursor emissions in the Area, the Commonwealth will conduct a study to determine whether the ozone value indicates a trend toward higher ozone values or whether the trend, if any, is likely to continue, and if so, the control measures necessary to reverse the trend. Implementation of necessary controls will take place as expeditiously as practicable and no later than 12 months from the conclusion of the most recent ozone season.

In the event that a two-year average of the fourth highest maximum values at a monitor in the Area is 0.076 ppm or greater and is not due to exceptional event, malfunction, or noncompliance with a permit condition or rule requirement, Kentucky, along with the metropolitan planning organization or regional council of governments, will determine additional control measures needed to assure future attainment of the ozone NAAQS. 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.

In the event of a monitored violation of the 1997 8-hour ozone NAAQS in the Area, Kentucky commits to adopt one or more of the following contingency measures to re-attain the standard: [21]

- Implementation of a program to require additional emissions reductions on stationary sources;
- Implementation of fuel programs, including incentives for alternative fuels;
- Restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles;
- Trip-reduction ordinances;
- Employer-based transportation management plans, including incentives;
- Programs to limit or restrict vehicle use in downtown areas, or other areas of emissions concentration, particularly during periods of peak use;
- Programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

Kentucky may implement other contingency measures if new control programs should be developed and deemed more advantageous for the Area. Prior to the implementation of any contingency measure not listed, the Commonwealth will solicit input from all interested and affected parties in the Area. Kentucky will adopt and implement contingency measures as quickly as possible, and no later than 18 months after the monitored violation. The Commonwealth will not implement a contingency measure without approval from EPA.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes that the maintenance plan SIP revision submitted by Kentucky for the Commonwealth's portion of the Area meets the requirements of section 175A of the CAA and is approvable.

[21] If the Commonwealth adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.,* Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP)(September 2004).

VI. What is EPA's analysis of Kentucky's proposed NO_X and VOC MVEBs for the Kentucky portion of the area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (*i.e.,* be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new 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. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs (or in this case sub-area MVEBs) for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. 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. Under 40 CFR 93.101, the term safety margin is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The

safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and $PM_{2.5}$ MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models.

As part of the interagency consultation process on setting MVEBs, DAQ held discussions with interagency partners to determine what years to set MVEBs for the Kentucky portion of the Area. As noted above, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2030). *See* 40 CFR 93.118.

Kentucky chose to allocate 15 percent of the available safety margin to the NO_X and VOC MVEBs for years 2020 and 2030.[22] See Table 6. As discussed above, Kentucky has selected 2014 as the base year. The projected on-road emissions of NO_X and VOC for 2020 and 2030 are shown in Tables 7 and 8 for the Kentucky portion of the Area. Table 9 provides the NO_X and VOC MVEBs for 2020 and 2030.

TABLE 6—FIFTEEN PERCENT SAFETY MARGIN ALLOCATION FOR THE KENTUCKY PORTION OF THE CINCINNATI-HAMILTON, OH-KY-IN AREA

[tsd]

	2020 Safety margin	2020 Safety margin allocation	2030 Safety margin	2030 Safety margin allocation
NO_X	7.72	1.16	13.02	1.95
VOC	3.77	0.56	6.00	0.89

TABLE 7—ON-ROAD NO_X EMISSIONS (tsd) FOR THE KENTUCKY PORTION OF THE AREA

County	2014	2017	2020	2025	2030
Boone	5.46	3.94	2.41	1.73	1.05
Campbell	3.41	2.46	1.50	1.08	0.65
Kenton	5.17	3.73	2.28	1.64	0.99
Total	14.04	10.13	6.19	4.45	2.69

TABLE 8—ON-ROAD VOC EMISSIONS (tsd) FOR THE KENTUCKY PORTION OF THE AREA

County	2014	2017	2020	2025	2030
Boone	2.53	1.96	1.38	1.08	0.77
Campbell	1.58	1.22	0.86	0.67	0.48
Kenton	2.39	1.85	1.30	1.02	0.73
Total	6.05	5.03	3.54	2.77	1.98

TABLE 9—MVEBS FOR THE KENTUCKY PORTION OF THE AREA

[tsd]

	2020		2030	
	NO_X	VOC	NO_X	VOC
Projected On-Road Emissions	6.19	3.54	2.69	1.98
Portion of the Safety Margin Allocated to MVEB	1.16	0.56	1.95	0.89
Conformity MVEB	7.35	4.10	4.64	2.87

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and VOC for 2020 and 2030 for the Kentucky portion of the Area because EPA has preliminarily determined that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Kentucky portion of the Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs for the Kentucky portion of the area?

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

[22] See pp. 22–34 of Kentucky's submittal for further information regarding the safety margin allocation.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Kentucky's maintenance plan includes NO_X and VOC MVEBs for the Kentucky portion of the Area for an interim year (2020) and the last year of the maintenance plan (2030). EPA is reviewing the NO_X and VOC MVEBs through the adequacy process described in Section I.

EPA intends to make its determination on the adequacy of the 2020 and 2030 MVEBs for the Kentucky portion of the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on December 6, 2016. If EPA finds the 2020 and 2030 MVEBs adequate or approves them, the new MVEBs for NO_X and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2020 through 2029, the 2020 MVEBs would then be used, and for years 2030 and beyond, the applicable budgets would be the new 2030 MVEBs established in the maintenance plan.

VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of Kentucky's redesignation request would change the legal designation of the portions of Boone, Campbell, and Kenton Counties that are within the Cincinnati-Hamilton, OH-KY-IN Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Kentucky's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2030 and a section 182(a)(1) base year emissions inventory for the Area into the Kentucky SIP. The maintenance plan establishes NO_X and VOC MVEBs for 2020 and 2030 for the Kentucky portion of the Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations.

IX. Proposed Actions

EPA is proposing to: (1) Approve Kentucky's 2011 base year emissions inventory for the Kentucky portion of the Area as meeting the requirements of 182(a)(1) and incorporate this inventory into the SIP; (2) approve the maintenance plan for the Kentucky portion of the Area, including the NO_X and VOC MVEBs for 2030, and incorporate it into the Kentucky SIP; and (3) approve Kentucky's redesignation request for the 2008 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is describing the status of its adequacy determination for the NO_X and VOC MVEBs for 2020 and 2030 in accordance with 40 CFR 93.118(f)(2). If EPA finds the 2020 and 2030 MVEBs adequate or approves them the transportation partners will need to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e)(3) within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the publication date for the final rule for this action, whichever is earlier.

If finalized, approval of the redesignation request would change the official designation of the portions of Boone, Campbell, and Kenton Counties that are within the Cincinnati-Hamilton, OH-KY-IN Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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, these proposed actions merely propose to approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: March 29, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

[FR Doc. 2017–08643 Filed 4–28–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R03–OAR–2016–0081; FRL–9961–22–Region 3]

Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; State of Delaware, District of Columbia, and Commonwealth of Pennsylvania, City of Philadelphia; Control of Emissions From Existing Commercial and Industrial Solid Waste Incinerator Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to notify the public that it has received negative declarations for commercial and industrial solid waste incineration (CISWI) units within the State of Delaware, the District of Columbia, and the City of Philadelphia in the Commonwealth of Pennsylvania. These negative declarations certify that CISWI units subject to the requirements of sections 111(d) and 129 of the Clean Air Act (CAA) do not exist within the jurisdictional boundaries of the State of Delaware, the District of Columbia, and the City of Philadelphia in the Commonwealth of Pennsylvania. EPA is accepting the negative declarations in accordance with the requirements of the CAA. In the Final Rules section of this **Federal Register**, EPA is accepting the negative declarations as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 31, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0081 at *https://www.regulations.gov,* or via email to *miller.linda@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, the 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: Mary Cate Opila, (215) 814–2041, or by email at *opila.marycate@epa.gov.*

SUPPLEMENTARY INFORMATION: For further information regarding the negative declarations for CISWI units within the State of Delaware, the District of Columbia, and the City of Philadelphia in the Commonwealth of Pennsylvania, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication and in the technical support documentation for this rulemaking. Supporting documentation, including the technical support document, for this action is available in the docket for this rulemaking and available online at *www.regulations.gov.*

List of Subjects in 40 CFR Part 62

Environmental protection, Administrative practice and procedure, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Commercial and industrial solid waste incineration units.

Dated: March 21, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–08658 Filed 4–28–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA–HQ–OPPT–2016–0387; EPA–HQ–OPPT–2016–0231; FRL–9961–66]

RIN 2070–AK11 and RIN 2070–AK07

Trichloroethylene; Regulation of Vapor Degreasing Under TSCA Section 6(a); Methylene Chloride and N-Methylpyrrolidone; Regulation of Certain Uses Under TSCA Section 6(a); Reopening of Comment Periods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Reopening of comment periods.

SUMMARY: In the **Federal Register** of January 19, 2017, EPA issued two proposed rules under section 6 of the Toxic Substances Control Act (TSCA). The first action proposed to prohibit the manufacture (including import), processing, and distribution in commerce of trichloroethylene (TCE) for use in vapor degreasing; to prohibit the use of TCE in vapor degreasing; to require manufacturers (including importers), processors, and distributors, except for retailers, of TCE for any use to provide downstream notification of these prohibitions throughout the supply chain; and to require limited recordkeeping. The second action proposed to prohibit the manufacture (including import), processing, and distribution in commerce of methylene chloride and N-methylpyrrolidone (NMP) for consumer and most types of commercial paint and coating removal; to prohibit the use of methylene chloride and NMP in these commercial uses; to require manufacturers (including importers), processors, and distributors, except for retailers, of methylene chloride and NMP for any use to provide downstream notification of these prohibitions throughout the supply chain; and to require

To: Lingard, Robert[Lingard.Robert@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]
From: Sean Reilly
Sent: Mon 9/25/2017 2:45:15 PM
Subject: Reginfo.gov notice related to nonattainment area classifications for the 2015 ozone NAAQS -- following up on vms

Mr. Lingard, Ms. Brachtl:

As you are listed as contacts on the final action (T**ITLE:** Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications) and since the Reginfo.gov notice references the Regulations.gov docket, EPA-HQ-OAR-2016-0202, I just wanted to see how this relates to the proposed rule in that docket for implementation of the 2015 ozone NAAQS released last November. Is this the final version of that rule or something different? Any clarification you can provide this morning would be appreciated; I've also left you both voicemails.

Thanks very much,

Sean Reilly

Reporter

E&E News

Ex. 6 (Desk)

Ex. 6 (Cell)

sreilly@eenews.net

Twitter: @SeanatGreenwire

E&E NEWS

122 C Street, NW, Suite 722, Washington, DC 20001

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To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Thur 7/6/2017 2:02:52 PM
Subject: FRN Update
8230976.pdf

FYI:

Final rule - redesignation to attainment

On July 5, 2017, EPA redesignated the Kentucky portion of the Cincinnati, OK-KY-IN nonattainment area for 2008 8-hr Ozone, effective the same day, July 5, 2017.
[82 FR 30976]

(As in the May 1 proposed rule for this same area, the published final rule incorrectly refers to the area as "Cincinnati-Hamilton" although the actual name listed in 40 CFR 81.318 is "Cincinnati" for the 2008 8-hr Ozone area. The Ohio portion of the area was redesignated effective December 16, 2016 [81 FR 91035]. The Indiana portion of the area was redesignated effective April 7, 2017 [82 FR 16940].)

--
Robert Wagoner

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alternate earnings appeals in light of the Court Order in American Association of Cosmetology Schools v. DeVos, Civil Action No. 17–0263, D.D.C. June 28, 2017 (Court Order). We will issue a **Federal Register** notice to specifically implement the Court Order, including establishing new deadlines, and anticipate doing so within 30 days from the publication date of this notice. We do not change the July 1, 2017, deadline for the requirement to provide a completed disclosure template, or a link thereto, on GE program Web pages.

DATES: The Department is allowing additional time—until July 1, 2018—for institutions to comply with 34 CFR 668.412(d) and (e). We must receive your comments on or before August 4, 2017.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via U.S. mail, commercial delivery, or hand delivery. We will not accept comments by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

• *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov,* including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Are you new to this site?"

U.S. Mail, Commercial Delivery, or Hand Delivery: If you mail or deliver your comments, address them to Scott Filter, U.S. Department of Education, 400 Maryland Ave. SW., Room 6W253, Washington, DC 20202.

Privacy Note: The Department's policy for comments received from members of the public (including comments submitted by mail, commercial delivery, or hand delivery) is to make these submissions available for public viewing in their entirety on the Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available on the internet.

FOR FURTHER INFORMATION CONTACT: Scott Filter, U.S. Department of Education, 400 Maryland Ave., SW., Room 6W253, Washington, DC 20202. Telephone: (202) 453–7249 or by email at: *Scott.Filter@ed.gov.*

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: On January 6 and January 19, 2017, the Department announced dates by which institutions subject to the Department's GE regulations must comply with certain provisions of the GE regulations relating to the submission of alternate earnings appeals and disclosure requirements. On March 6, 2017, the Department announced that it was allowing additional time, until July 1, 2017, to comply with those provisions. On June 16, 2017, the Department announced its intention to negotiate issues related to gainful employment.

Consistent with the Department's March 6, 2017 announcement, by July 1, 2017, institutions must comply with the requirement in 34 CFR 668.412(c) to provide a completed disclosure template, or a link thereto, on its GE program Web pages. The revised template is available for use at *https://www2.ed.gov/policy/highered/reg/hearulemaking/2009/negreg-summerfall.html.* The Department believes that it should evaluate the utility of these disclosures to students and the implementation of this requirement prior to requiring institutions to include the disclosure template, or a link thereto, in their GE program promotional materials and to directly distribute the disclosure template to prospective students under 34 CFR 668.412(d) and (e). Moreover, the Department expects to further review these requirements as part of its review of the GE regulations and their implementation, including through negotiated rulemaking. Accordingly, the Department is allowing institutions additional time—until July 1, 2018—to comply with the provisions in 34 CFR 668.412(d) and (e).

The Department also extends the deadline for all programs to file alternate earnings appeals in light of the Court Order. We will issue a **Federal Register** notice to specifically implement the Court Order, including establishing new deadlines, and anticipate doing so within 30 days from the publication date of this notice.

We are inviting your comments on this action. We will consider these comments in determining whether to take any future action in connection with the implementation of the disclosure requirements.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT.**

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature of this site, you can limit your search to documents published by the Department.

Dated: June 30, 2017.

Betsy DeVos,

Secretary of Education.

[FR Doc. 2017–14186 Filed 6–30–17; 4:15 pm]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2016–0601; FRL–9964–41–Region 4]

Air Plan Approval and Designation of Areas; KY; Redesignation of the Kentucky Portion of the Cincinnati-Hamilton 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On August 26, 2016, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality (DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Kentucky portion of the tri-state Cincinnati-Hamilton, Ohio-Kentucky-Indiana 2008 8-hour ozone nonattainment area (hereinafter referred to as the "Cincinnati-Hamilton, OH-KY-IN Area" or "Area") to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve the portions of the State Implementation Plan (SIP) revision containing a maintenance plan and base year emissions inventory for the Area. EPA is taking final action to

approve the Commonwealth's base year emissions inventory for the Kentucky portion of the Area; to approve the Commonwealth's plan for maintaining attainment of the 2008 8-hour ozone NAAQS in the Area, including motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2020 and 2030 for the Kentucky portion of the Area; and to redesignate the Kentucky portion of the Area to attainment for the 2008 8-hour ozone NAAQS. Through separate actions, EPA has approved the redesignation requests and maintenance plans for both the Ohio and Indiana portions of the Area.

DATES: This rule is effective July 5, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2016–0601. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Richard Wong, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Richard Wong may be reached by phone at (404) 562–8726 or via electronic mail at *wong.richard@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is the background for EPA's proposed actions?

Effective July 20, 2012, EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS that was promulgated on March 27, 2008. *See* 77 FR 30088 (May 21, 2012). The Cincinnati-Hamilton, OH-KY-IN Area was designated as nonattainment for the 2008 8-hour ozone NAAQS and classified as a marginal nonattainment area.[1] On May 4, 2016 (81 FR 26697), EPA issued a determination that the Area had attained the 2008 8-hour ozone NAAQS. On August 26, 2016, Kentucky requested that EPA redesignate the Area to attainment for the 2008 8-hour ozone NAAQS and submitted a SIP revision containing the Commonwealth's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area through 2030, including 2020 and 2030 MVEBs for NO_X and VOC for the Cincinnati-Hamilton, OH-KY-IN Area. In addition, the Commonwealth requested approval of the base year emissions inventory for the 2008 8-hour ozone NAAQS pursuant to CAA section 182(a)(1).

In a notice of proposed rulemaking (NPRM) published on May 1, 2017 (82 FR 20297), EPA proposed to approve the base year emissions inventory; to approve the maintenance plan, including the 2020 and 2030 MVEBs for NO_X and VOC, and incorporate the plan into the Kentucky SIP; and to redesignate the Area to attainment for the 2008 8-hour ozone NAAQS. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO_X and VOC MVEBs for the Cincinnati-Hamilton, OH-KY-IN Area. No adverse comments were received on the May 1, 2017, proposed rulemaking. The details of Kentucky's submittal and the rationale for EPA's actions are further explained in the NPRM.

II. Final Action

EPA is taking three separate, but related, final actions. First, EPA is approving the 2008 8-hour ozone NAAQS base year emissions inventory for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area as meeting the requirements of CAA section 182(a)(1) and incorporating it into the SIP. Approval of the base year emissions inventory is a prerequisite to redesignating an ozone nonattainment area to attainment.

Second, EPA is approving the maintenance plan for the Cincinnati-Hamilton, OH-KY-IN Area, including the NO_X and VOC MVEBs for 2020 and 2030, as meeting the requirements of CAA section 175A and incorporating it into the Kentucky SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS through 2030, and the MVEBs meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5).

Third, EPA is approving Kentucky's redesignation request for the 2008 8-hour ozone NAAQS for the Cincinnati-Hamilton, OH-KY-IN Area pursuant to CAA section 107(d)(3)(E). Approval of the redesignation request changes the official designation of the portions of Boone County, Campbell County, and Kenton County in the Cincinnati-Hamilton, OH-KY-IN Area for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that EPA finds the newly-established NO_X and VOC MVEBs for the Cincinnati-Hamilton, OH-KY-IN Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners will need to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e).

EPA has determined that these actions are effective immediately upon publication under the authority of 5 U.S.C. 553(d)(1) and (d)(3). The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(1) allows an effective date less than 30 days after publication if a substantive rule "relieves a restriction." These actions qualify for the exception under section 553(d)(1) because they relieve the State of various requirements for the Area. Furthermore, section 553(d)(3) allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." EPA finds good cause to make these actions effective immediately pursuant to section 553(d)(3) because they do not create any new regulatory requirements such that affected parties would need time to prepare before the actions take effect.

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those

[1] The Cincinnati-Hamilton, OH-KY-IN Area is composed of portions of Boone, Campbell, and Kenton Counties in Kentucky; Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and a portion of Dearborn County in Indiana.

imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. *See* 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, these actions merely approve state law as meeting federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 5, 2017. 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* section 307(b)(2).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: June 16, 2017.

V. Anne Heard,

Acting Regional Administrator, Region 4.

40 CFR parts 52 and 81 are 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.*

Subpart S—Kentucky

* 2. Section 52.920(e) is amended by adding new entries for "2008 8-hour ozone Maintenance Plan for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area" and "2008 8-hour ozone base year emissions inventory for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area" at the end of the table to read as follows:

§52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
*	*	*	*	*
2008 8-hour ozone Maintenance Plan for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area.	Portions of Boone (2000 Census tracts: 702, 703.05, 703.06, 703.07, 703.08, 703.09, 704.01, 704.02, 705.01, 705.02, 706.01, 706.03, 706.04), Campbell (2000 Census tracts: 501, 502, 503, 504, 505, 506, 512, 513, 519.01, 519.03, 519.04, 520.01, 520.02, 521, 522, 523.01, 523.02, 524, 525, 526, 528, 529, 530, 531), and Kenton (2000 Census tracts: 603, 607, 609, 610, 611, 612, 613, 614, 616, 636.03, 636.04, 636.05, 636.06, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655.01, 655.02, 656, 657, 658, 659, 668, 669, 670, 671) Counties, KY.	8/26/2016	7/5/2017 ..... [Insert citation of publication].	

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS—Continued

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanations
2008 8-hour ozone base year emissions inventory for the Kentucky portion of the Cincinnati-Hamilton, OH-KY-IN Area.	Portions of Boone, Campbell and Kenton Counties in Kentucky.	8/26/2016	7/5/2017 ..... [Insert citation of publication].	182(a)(1) base-year emissions inventory

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. In §81.318, the table entitled ''Kentucky-2008 8-Hour Ozone NAAQS (Primary and secondary)'' is amended by revising the entries for ''Cincinnati, OH-KY-IN'' to read as follows:

§81.318 Kentucky.

* * * * *

KENTUCKY—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati, OH-KY-IN[2]	7/5/2017	Attainment.		
Boone County (part)	.....	Attainment.		
2000 Census tracts: 702, 703.05, 703.06, 703.07, 703.08, 703.09, 704.01, 704.02, 705.01, 705.02, 706.01, 706.03, 706.04.				
Campbell County (part)	.....	Attainment.		
2000 Census tracts: 501, 502, 503, 504, 505, 506, 512, 513, 519.01, 519.03, 519.04, 520.01, 520.02, 521, 522, 523.01, 523.02, 524, 525, 526, 528, 529, 530, 531.				
Kenton County (part)	.....	Attainment.		
2000 Census tracts: 603, 607, 609, 610, 611, 612, 613, 614, 616, 636.03, 636.04, 636.05, 636.06, 638, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655.01, 655.02, 656, 657, 658, 659, 668, 669, 670, 671.				

* * * * * * *

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2017–13994 Filed 7–3–17; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0099; FRL–9962–13]

Flubendiamide; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of flubendiamide in or on tea at 50 parts per million (ppm). Nichino America, Inc. requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective July 5, 2017. Objections and requests for hearings must be received on or before September 5, 2017, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2007–0099, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, P.E., Director, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Fri 1/6/2017 4:51:56 PM
Subject: FRN Update
821603.pdf

FYI:

Final rule - redesignation to attainment

On January 6, 2017, EPA redesignated the Cleveland-Akron-Lorain, OH nonattainment area for 2008 8-hr Ozone, effective the same day, January 6, 2017.
[82 FR 1603]

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Robert Wagoner

amec foster wheeler

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of 684 Patients," *Journal of Obstetrics and Gynecology Research,* 34(4):449–456, 2008.

5. Maher, C.F., et al., "Surgical Management of Pelvic Organ Prolapse in Women," *Cochrane Database of Systematic Review,* 4: CD004014, 2010.

6. Diwadkar, G.B., et al., "Complication and Reoperation Rates After Apical Vaginal Prolapse Surgical Repair: A Systematic Review," *Obstetrics & Gynecology,* 113(2 Pt. 1):67–73, 2009.

7. Maher, C.F., et al., "Laparoscopic Sacral Colpopexy Versus Total Vaginal Mesh for Vaginal Vault Prolapse: A Randomized Trial," *American Journal of Obstetrics & Gynecology,* 204(4):360.e1–360.e7, 2011.

8. Altman, D., et al., "Anterior Colporrhaphy Versus Transvaginal Mesh for Pelvic-Organ Prolapse," *New England Journal of Medicine,* 364:1826–1836, 2011.

9. Iglesia, C.B., et al., "Vaginal Mesh for Prolapse: A Randomized Controlled Trial," *Obstetrics & Gynecology,* 116(2 Pt. 1):293–303, 2010.

10. Withagen, M.I., et al., "Trocar-Guided Mesh Compared With Conventional Vaginal Repair in Recurrent Prolapse: A Randomized Controlled Trial," *Obstetrics & Gynecology,* 117(2 Pt. 1):242–250, 2011.

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12. Hiltunen, R., et al., "Low-Weight Polypropylene Mesh for Anterior Vaginal Wall Prolapse: A Randomized Controlled Trial," *Obstetrics & Gynecology,* 110(2 Pt. 2):455–462, 2007.

13. Jia, X., et al., "Efficacy and Safety of Using Mesh or Grafts in Surgery for Anterior and/or Posterior Vaginal Wall Prolapse: Systematic Review and Meta-Analysis," *British Journal of Obstetrics and Gynecology,* 115:1350–1361, 2008.

14. Sivaslioglu, A.A., E. Unlubilgin, and I. Dolen, "A Randomized Comparison of Polypropylene Mesh Surgery With Site-Specific Surgery in the Treatment of Cystocoele," *International Urogynecology Journal and Pelvic Floor Dysfunction,* 19(4):467–471, 2008.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

* 1. The authority citation for part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

* 2. Add §884.4910 to subpart E to read as follows:

§884.4910 Specialized surgical instrumentation for use with urogynecologic surgical mesh.

(a) *Identification.* Specialized surgical instrumentation for use with urogynecologic surgical mesh is a prescription device specifically intended for use as an aid in the insertion, placement, fixation, or anchoring of surgical mesh during urogynecologic procedures. These procedures include transvaginal pelvic organ prolapse repair, sacrocolpopexy (transabdominal pelvic organ prolapse repair), and treatment of female stress urinary incontinence. Examples of specialized surgical instrumentation include needle passers and trocars, needle guides, fixation tools, and tissue anchors. This device is not a manual gastroenterology-urology surgical instrument and accessories (§876.4730) or a manual surgical instrument for general use (§878.4800).

(b) *Classification.* Class II (special controls). The special controls for specialized surgical instrumentation for use with urogynecologic surgical mesh are:

(1) The device must be demonstrated to be biocompatible;

(2) The device must be demonstrated to be sterile and, if reusable, it must be demonstrated that the device can be adequately reprocessed;

(3) Performance data must support the shelf life of the device by demonstrating package integrity and device functionality over the requested shelf life;

(4) Non-clinical performance testing must demonstrate that the device meets all design specifications and performance requirements, and that the device performs as intended under anticipated conditions of use; and

(5) Labeling must include:

(i) Information regarding the mesh design that may be used with the device;

(ii) Detailed summary of the clinical evaluations pertinent to use of the device;

(iii) Expiration date; and

(iv) Where components are intended to be sterilized by the user prior to initial use and/or are reusable, validated methods and instructions for sterilization and/or reprocessing of any reusable components.

Dated: December 28, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–31862 Filed 1–5–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0396; FRL–9957–80–Region 5]

Air Plan Approval; Ohio; Redesignation of the Cleveland, Ohio Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) finds that the Cleveland-Akron-Lorain, Ohio area (Cleveland area) is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and is redesignating the area to attainment for the 2008 ozone NAAQS, because the area meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Cleveland area includes Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit counties. EPA is also approving, as a revision to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 2008 ozone standard through 2030 in the Cleveland area. Finally, EPA finds adequate and is approving the state's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Cleveland area. The Ohio Environmental Protection Agency (Ohio EPA) submitted the SIP revision and redesignation request on July 6, 2016.

DATES: This final rule is effective January 6, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0396. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Jenny Liljegren, Physical Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J),

Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6832, *Liljegren.Jennifer@epa.gov.*

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

I. What is being addressed in this document?

This rule takes action on the July 6, 2016 submission from Ohio EPA requesting redesignation of the Cleveland area to attainment for the 2008 ozone standard. The background for today's action is discussed in detail in EPA's proposal, dated October 17, 2016 (81 FR 71444). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. (*See* 40 CFR 50.15 and appendix P to 40 CFR part 50.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule, dated October 17, 2016, provides a detailed discussion of how Ohio has met these CAA requirements.

As discussed in the proposed rule, quality-assured and certified monitoring data for 2013–2015 and preliminary data for 2016 show that the Cleveland area has attained and continues to attain the 2008 ozone standard. In the maintenance plan submitted for the area, Ohio has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Ohio has adopted 2020 and 2030 VOC and NO_X MVEBs for the Cleveland area that are supported by Ohio's maintenance demonstration.

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the October 17, 2016, proposed rule. The comment period ended on November 16, 2016. During the comment period, comments in support of the action were submitted on behalf of the Ohio Utility Group and its member companies. We received no adverse comments on the proposed rule.

III. What action is EPA taking?

EPA finds that the Cleveland nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Ohio portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Cleveland area from nonattainment to attainment for the 2008 ozone standard. EPA is also approving, as a revision to the Ohio SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Cleveland area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2020 and 2030 MVEBs for the Cleveland area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of

Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 7, 2017. 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 section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 21, 2016.

Robert A. Kaplan

Acting Regional Administrator, Region 5.

* Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations 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. Section 52.1885 is amended by adding paragraph (pp)(3) to read as follows:

§52.1885 Control strategy: Ozone.

* * * * *

(pp) * * *

(3) Approval—On July 6, 2016, the Ohio Environmental Protection Agency submitted a request to redesignate the Cleveland area to attainment of the 2008 ozone NAAQS. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. The 2020 motor vehicle emissions budgets for the Cleveland area are 38.85 tons per summer day (TPSD) for VOC and 61.56 TPSD for NO_X. The 2030 motor vehicle emissions budgets for the Cleveland area are 30.80 TPSD for VOC and 43.82 TPSD for NO_X.

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 81.336 is amended by revising the entry for Cleveland-Akron-Lorain, OH in the table entitled ''Ohio-2008 8-Hour Ozone NAAQS (Primary and secondary)'' to read as follows:

§81.336 Ohio.

* * * * *

OHIO—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * *	*		*	*
Cleveland, OH: [2] Ashtabula County, Cuyahoga County, Geauga County, Lake County, Lorain County, Medina County, Portage County, Summit County.	1/6/2017	Attainment.		
* * * *	*		*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2016–31634 Filed 1–5–17; 8:45 am]

BILLING CODE 6560–50–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

45 CFR Parts 1230 and 2554

RIN 3045–AA67

Annual Civil Monetary Penalties Inflation Adjustment

AGENCY: Corporation for National and Community Service.

ACTION: Interim final rule.

SUMMARY: The Corporation for National and Community Service (CNCS) is updating its regulations to reflect required annual inflation-related increases to the civil monetary penalties in its regulations, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

DATES: *Effective date:* This rule is effective January 15, 2017.

Comment due date: Technical comments may be submitted until February 6, 2017.

ADDRESSES: You may send your comments electronically through the Federal government's one-stop rulemaking Web site at *www.regulations.gov.* Also, you may mail or deliver your comments to Phyllis Green, Executive Assistant, Office of General Counsel, at the Corporation for National and Community Service, 250 E Street SW., Washington, DC 20525. Due to continued delays in CNCS's receipt of mail, we strongly encourage comments to be submitted online electronically. The TDD/TTY number is 800 833–3722. You may request this notice in an alternative format for the visually impaired.

FOR FURTHER INFORMATION CONTACT: Phyllis Green, Executive Assistant, Office of General Counsel, at 202–606–6709 or email to *pgreen@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

I. Background

The Corporation for National and Community Service (CNCS) is a federal agency that engages more than five million Americans in service through its AmeriCorps, Senior Corps, Social Innovation Fund, and Volunteer Generation Fund programs to further its mission to improve lives, strengthen communities, and foster civic engagement through service and volunteering. For more information, visit NationalService.gov.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (the ''Act''), which is intended to improve the effectiveness of civil monetary penalties and to maintain the deterrent effect of such penalties, requires agencies to adjust the civil monetary penalties for inflation annually.

II. Method of Calculation

CNCS has two civil monetary penalties in its regulations. A civil monetary penalty under the Act is a penalty, fine, or other sanction that is for a specific monetary amount as provided by Federal law or has a maximum amount provided for by Federal law and is assessed or enforced by an agency pursuant to Federal law and is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts. (*See* 28 U.S.C. 2461 note).

The inflation adjustment for each applicable civil monetary penalty is determined using the percent increase in the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October of the year in which the amount of each civil money penalty was most recently established or modified. In the December 16, 2016, OMB Memo for the Heads of Executive Agencies and Departments, M–17–11, *Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,* OMB published the multiplier for the required annual adjustment. The cost-of-living adjustment multiplier for 2017, based on the CPI–U for the month of October 2016, not seasonally adjusted, is 1.01636.

CNCS identified two civil penalties in its regulations: (1) The penalty associated with Restrictions on Lobbying (45 CFR 1230.400) and (2) the penalty associated with the Program Fraud Civil Remedies Act (45 CFR 2554.1).

The civil monetary penalties related to Restrictions on Lobbying (Section 319, Pub. L. 101–121; 31 U.S.C. 1352) range from $18,936 to $189,361. Using the 2017 multiplier, the new range of possible civil monetary penalties is from $19,246 to $192,459.

The Program Fraud Civil Remedies Act of 1986 (Pub. L. 99–509) civil monetary penalty has an upper limit of $10,781. Using the 2017 multiplier, the new upper limit of the civil monetary penalty is $10,957.

III. Summary of Final Rule

This final rule adjusts the civil monetary penalty amounts related to Restrictions on Lobbying (45 CFR 1230.400) and the Program Fraud Civil Remedies Act of 1986 (45 CFR 2554.1). The range of civil monetary penalties related to Restrictions on Lobbying increase from ''$18,936 to $189,361'' to ''$19,246 to $192,459.'' The civil monetary penalties for the Program Fraud Civil Remedies Act of 1986 increase from ''up to $10,781'' to ''up to $10,957.''

IV. Regulatory Procedures

A. Determination of Good Cause for Publication Without Notice and Comment

CNCS finds, under 5 U.S.C. 553(b)(3)(B), that there is good cause to except this rule from the public notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(b). Because CNCS is implementing a final rule pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which requires CNCS to update its regulations based on a prescribed formula, CNCS has no discretion in the nature or amount of the change to the civil monetary penalties. Therefore, notice and comment for these proscribed updates is impracticable and unnecessary. As an interim final rule, no further regulatory action is required for the issuance of this legally binding rule. If you would like to provide technical comments, however, they may be submitted until February 6, 2017.

B. Review Under Procedural Statutes and Executive Orders

CNCS has determined that making technical changes to the amount of civil monetary penalties in its regulations does not trigger any requirements under procedural statutes and Executive Orders that govern rulemaking procedures.

V. Effective Date

This rule is effective January 15, 2017. The adjusted civil penalty amounts apply to civil penalties assessed on or after January 15, 2017, when the violation occurred after November 2, 2015. If the violation occurred prior to November 2, 2015, or a penalty was assessed prior to August 1, 2016, the pre-adjustment civil penalty amounts in effect prior to August 1, 2106, will apply.

To: Brachtl, Megan[Brachtl.Megan@epa.gov]
Cc: Mathias, Scott[Mathias.Scott@epa.gov]
From: Nancy Kruger
Sent: Wed 12/14/2016 10:33:28 PM
Subject: RE: follow-up from yesterday's NACAA CP call: links to webinars, etc.

Thanks very much, Megan.

Nancy Kruger

Deputy Director

National Association of Clean Air Agencies

444 North Capitol Street, NW

Suite 307

Washington, DC 20001

tel: Ex. 6

fax: (202) 624-7863

nkruger@4cleanair.org

www.4cleanair.org

From: Brachtl, Megan [mailto:Brachtl.Megan@epa.gov]
Sent: Wednesday, December 14, 2016 5:14 PM
To: Nancy Kruger
Cc: Mathias, Scott
Subject: follow-up from yesterday's NACAA CP call: links to webinars, etc.

Hello Nancy – Here's the follow-up information I promised to send to you on the NACAA CP call yesterday. Please let me know if you have any questions and happy holidays!

Best regards,

Megan

Megan V. Brachtl, Group Leader

State and Local Programs Group

Office of Air Quality Planning and Standards

U.S. Environmental Protection Agency

(919) 541-2648

brachtl.megan@epa.gov

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PM2.5 NAAQS: Draft Precursor Insignificance Demonstration Guidance

- The **webinar** will be December 19th at 1:00-2:30 ET.
- Webinar URL: https://epawebconferencing.acms.com/precursor-demo
- Attendees will listen to the webinar through their computer and be able to type in questions through the web interface.
- Additional information about the webinar can be found with the **draft guidance** here:
- https://www.epa.gov/pm-pollution/draft-pm25-precursor-demonstration-guidance

2015 Ozone NAAQS: Proposed Classifications and State Plan Requirements Rulemaking

- EPA will hold a **public hearing** for the Proposed Rule Implementing the 2015 Ozone Standards (Classifications and State Plan Requirements), which published in the *Federal Register* on November 17, 2016 (81 FR 81276). The hearing will be held on Thursday, January 12, 2017, in Washington, D.C. The notice is posted on the web at: https://www.epa.gov/ozone-pollution/implementation-2015-national-ambient-air-quality-standards-naaqs-ozone-state.

- The notice is also announcing **extension of the comment period** for the proposed rule to February 13, 2017, to allow sufficient time after the public hearing for commenters to submit comments.

- In addition, the **webinar** of last week has been posted:

o slides and recording of the 12/07/16 public webinar.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 4/18/2017 2:36:11 PM
Subject: FRN Update
8218268.pdf

FYI:

Proposed rule - determination of attainment

On April 18, 2017, EPA proposed to determine that the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE nonattainment area has attained the 2008 8-hr Ozone NAAQS, based on 2013-2015 monitoring data. [82 FR 18268]

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Robert Wagoner

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–0969]

Canadian Oilseed Processor Association; Filing of Food Additive Petition (Animal Use)

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of petition.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that the Canadian Oilseed Processors Association has filed a petition proposing that the food additive regulations be amended to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species. Additionally, the petition proposes that the existing regulations be amended to provide for the safe use of silicon dioxide and diatomaceous earth for use as components of spent beaching clay.

DATES: The food additive petition was filed on December 20, 2016.

FOR FURTHER INFORMATION CONTACT: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *Chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5) (21 U.S.C. 348(b)(5)), notice is given that a food additive petition (FAP 2299) has been filed by the Canadian Oilseed Processors Association, 404–167 Lombard Ave., Winnipeg MB R3B 0T6, Canada. The petition proposes to amend Title 21 of the Code of Federal Regulations (CFR) in part 573 *Food Additives Permitted in Feed and Drinking Water of Animals* (21 CFR part 573) to provide for the safe use of spent bleaching clay as a flow agent in canola meal for all livestock and poultry species. Additionally, the submission proposes that the existing regulations be amended to provide for the safe use of silicon dioxide (21 CFR 573.940) and diatomaceous earth (21 CFR 573.340) for use as components of spent beaching clay.

The petitioner has claimed that this action is categorically excluded under 21 CFR 25.32(r) because it is of a type that does not individually or cumulatively have a significant effect on the human environment. In addition, the petitioner has stated that, to their knowledge, no extraordinary circumstances exist. If FDA determines a categorical exclusion applies, neither an environmental assessment nor an environmental impact statement is required. If FDA determines a categorical exclusion does not apply, we will request an environmental assessment and make it available for public inspection.

Dated: April 12, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–07770 Filed 4–17–17; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0638; FRL–9960–02–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone Standard; Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE marginal ozone nonattainment area (the Philadelphia Area) has attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This proposed determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Philadelphia Area for the 2013–2015 monitoring period. This proposed determination does not constitute a redesignation to attainment. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0638 at *https://www.regulations.gov,* or via email to *rehn.brian@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://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gregory Becoat, (215) 814–2036, or by email at *becoat.gregory@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirement—Determination of Attainment by the Attainment Date

Section 181(b)(2) of the CAA requires EPA to determine, within 6 months of an ozone nonattainment area's attainment date, whether that area attained the ozone standard by that date. Section 181(b)(2) of the CAA also requires that areas that have not attained the standard by their attainment deadlines be reclassified to either the next higher classification (*e.g.,* marginal to moderate, moderate to serious, etc.) or to the classifications applicable to the areas' design values in Table 1 of 40 CFR 51.1103. CAA section 181(a)(5) provides a mechanism by which the EPA Administrator may grant a 1-year extension of an area's attainment deadline, provided that the relevant states meet certain criteria.

B. The Philadelphia Area and Its Attainment Date

On July 18, 1997 at 62 FR 38855, EPA promulgated a revised ozone NAAQS of 0.08 parts per million (ppm), averaged over eight hours. This standard was determined to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm (the 2008 ozone NAAQS). *See* 73 FR 16436 (March 27, 2008). In a May 21, 2012 final rule, the Philadelphia Area was designated as marginal nonattainment for the more stringent 2008 ozone NAAQS, effective on July 20, 2012. 77 FR 30088, 30143.

The Philadelphia Area consists of Bucks, Chester, Delaware, Montgomery and Philadelphia Counties in Pennsylvania; Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Ocean and Salem Counties in New Jersey; Cecil County, Maryland; and New Castle County in Delaware. *See* 40 CFR 81.331, 81.339, 81.321, and 81.308.[1]

In a separate rulemaking action, also published on May 21, 2012 and effective on July 20, 2012, EPA established the air quality thresholds that define the classifications assigned to all nonattainment areas for the 2008 ozone NAAQS (the Classifications Rule). See 77 FR 30160. This rule also established December 31 of each relevant calendar year as the attainment date for all nonattainment area classification categories. Section 181 of the CAA provides that the attainment deadline for ozone nonattainment areas is ''as expeditiously as practicable'' but no later than the prescribed dates provided in Table 1 of that section. In the Classifications Rule, EPA translated the deadlines in Table 1 of CAA section 181 for purposes of the 2008 standard by measuring those deadlines from the effective date of the new designations, but extended those deadlines by several months to December 31 of the corresponding calendar year. Pursuant to a challenge of EPA's interpretation of the attainment deadlines, on December 23, 2014, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision rejecting, among other things, the Classifications Rule's attainment deadlines for the 2008 ozone nonattainment areas. *NRDC* v. *EPA,* 777 F.3d 456, 464– 69 (D.C. Cir. 2014). The D.C. Circuit ruled that EPA did not have statutory authority under the CAA to extend those deadlines to the end of the calendar year. Accordingly, as part of the final rule, ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan (SIP) Requirements,'' for the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) (hereinafter, SIP Requirements Rule), EPA modified the maximum attainment dates for all nonattainment areas for the 2008 ozone NAAQS, consistent with the D.C. Circuit's decision. The SIP Requirements Rule established a maximum deadline for marginal nonattainment areas of three years from the effective date of designation, or July 20, 2015, to attain the 2008 ozone NAAQS. *See* 80 FR at 12268; 40 CFR 51.1103.

In a final rulemaking action published on May 4, 2016, EPA determined that the Philadelphia Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012 through 2014 monitoring period. In that same action, EPA determined that the Philadelphia Area qualified for a 1-year extension of its attainment date, as provided in section 181(a)(5) of the CAA and interpreted by regulation at 40 CFR 51.1107, and granted the requested extension. EPA established the new attainment date for the Philadelphia Area as July 20, 2016 to be based on ambient air quality monitoring data for the 2013–2015 monitoring period. *See* 81 FR 26697 (May 4, 2016).[2]

II. EPA's Analysis of the Relevant Air Quality Data

Under EPA regulations at 40 CFR part 50, appendix P, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm. This three-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the area, then the area is deemed to be meeting the NAAQS. 40 CFR part 50, appendix P dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a computed three-year average ozone concentration of 0.0759 ppm or lower would meet the standard, but 0.0760 ppm or higher is over the standard.

EPA's proposed determination of attainment for the Philadelphia Area is based upon data that has been collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS) database. Ambient air quality monitoring data for the three-year period must also meet a data completeness requirement. 40 CFR part 50, appendix P. The ambient air quality monitoring data completeness requirement is met when the three-year average of the percent (%) of required monitoring days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined according to 40 CFR part 50, appendix P. Tables 1 and 2 show the data completeness and ozone design values, respectively, for each of the 18 monitors in the Philadelphia Area for years 2013 through 2015.

TABLE 1—2013–2015 PHILADELPHIA AREA OZONE MONITOR DATA COMPLETENESS

State	County	Site ID	Percent data completeness			2013–2015 average percent completeness	Comment
			2013	2014	2015		
Delaware	New Castle	100031007	97	94	100	97	
		100031010	77	74	91	81	Incomplete [a].
		100031013	91	99	93	94	
		100032004	86	83	87	85	Incomplete [a].
Maryland	Cecil	240150003	98	95	89	94	
New Jersey	Atlantic	340010006	96	99	96	97	
New Jersey	Camden	340070002	100	100	100	100	
New Jersey	Camden	340071001	96	100	97	98	
New Jersey	Cumberland	340110007	99	100	99	99	
New Jersey	Gloucester	340150002	99	84	96	93	

[1] In 2015, EPA revised the 8-hour ozone NAAQS from 0.075 ppm to 0.070 ppm (the 2015 ozone NAAQS). *See* 80 FR 65292 (October 26, 2015). The initial area designations for the 2015 ozone NAAQS are required by October 2017. Those designations will be based on ambient air quality monitoring data for the 2014–2016 monitoring period. This proposed rulemaking action does not address the 2015 ozone NAAQS.

[2] On July 5, 2016, the State of Delaware filed a petition for review (the Petition) of that portion of EPA's May 4, 2016 final rule granting the Philadelphia Area a 1-year extension of the 2008 ozone NAAQS attainment date, under CAA 181(a)(5), 42 U.S.C. 7511(a)(5), from July 20, 2015, to July 20, 2016. The Petition was filed in the U.S. Court of Appeals for the District of Columbia Circuit. *See State of Delaware Department of Natural Resources & Environmental Control* v. *United States Environmental Protection Agency,* No. 16–1230.

TABLE 1—2013–2015 PHILADELPHIA AREA OZONE MONITOR DATA COMPLETENESS—Continued

State	County	Site ID	Percent data completeness			2013–2015 average percent completeness	Comment
			2013	2014	2015		
New Jersey	Mercer	340210005	100	100	99	100	
New Jersey	Mercer	340219991	92	100	99	97	
New Jersey	Ocean	340290006	100	100	100	100	
Pennsylvania	Bucks	420170012	100	99	96	98	
Pennsylvania	Chester	420290100	100	94	97	97	
Pennsylvania	Delaware	420450002	100	98	96	98	
Pennsylvania	Montgomery	420910013	100	99	99	99	
Pennsylvania	Philadelphia	421010004	100	98	100	99	
Pennsylvania	Philadelphia	421010024	97	94	100	97	
Pennsylvania	Philadelphia	421010048	6	93	98	66	Site began operation October 2013 [b].
Pennsylvania	Philadelphia	421011002	82	.....	.....	27	Site shut down in July 2013 [b].

Notes:
a. Monitoring data at these sites does not meet completeness criteria set forth in 40 CFR part 50 Appendix P, section 2.3(b).
b. The monitoring site shutdowns and startups are included in the City of the Philadelphia's Air Management Services (AMS) July 2013 Annual Network Plan. AMS submitted the monitoring plan to EPA on July 1, 2013, and EPA approved it on December 10, 2013.

As shown in Table 1, two monitoring sites in Philadelphia County do not meet the completeness criteria set out in 40 CFR part 50, appendix P. However, the reasons for the completeness issues were the shutdown of one monitor and startup of another monitor that were approved by EPA in the City of Philadelphia's AMS July 2013 Annual Network Plan. Because three years of complete data is not possible at these monitoring sites, EPA does not look for valid design values at these sites.

Table 1 also shows that two monitors in New Castle County, Delaware, AQS ID # 100031010 (also known as the ''Brandywine'' monitor), and AQS ID # 100032004 (also known as the ''MLK'' monitor), which are maintained by the Delaware Department of Natural Resources and Environmental Control (DNREC), had insufficient data in the 2013 through 2015 period to meet the data completeness requirements in 40 CFR part 50, appendix P. As stated previously, the three-year average of the percent of required monitoring days with valid ambient monitoring data must be greater than 90%, with no single year having less than 75% data completeness. The ozone season for the Philadelphia Area [3] runs from April 1 through October 31. Therefore, a complete ozone season for this area contains 214 possible monitoring days, with at least 160 days of valid ozone season ambient monitoring data needed to meet the 75% data completeness requirement. Because of missed monitoring days at the Brandywine and MLK monitors (AQS ID # 100031010 and # 100032004), the design value for these two monitors would not be considered valid without further measures being taken to meet the data completeness requirements for these two monitors. Therefore, EPA conducted an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements for the Brandywine and MLK monitors. EPA also conducted a substitution analysis as a check on the validity of the meteorological analysis and regression analysis. Using these methods, EPA was able to ''add'' enough ozone season days for each of the two monitors to meet the data completeness requirements of 40 CFR part 50, appendix P. Further detail on the missing monitor data at these two Delaware monitors and on the data completeness analysis undertaken by EPA for those monitors is provided in the January 10, 2017 Technical Support Document (TSD) prepared by EPA. This TSD is included in the docket for this rulemaking (EPA–R03–OAR–2016–0638) and is also available online at *www.regulations.gov.*

After ensuring data completeness for those two Delaware monitors (AQS ID # 100031010 and # 100032004), EPA reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for all the monitors in the Philadelphia Area, as recorded in the AQS database, in accordance with the requirements of 40 CFR part 50. As shown in Table 2, below, all 2013–2015 design values are less than or equal to 0.075 ppm. Therefore, EPA concludes the Philadelphia Area has attained the 2008 ozone NAAQS by July 20, 2016 based upon monitored ozone data for the 2013 through 2015 period in accordance with requirements in 40 CFR part 50.

TABLE 2—2013–2015 PHILADELPHIA AREA 2008 OZONE DESIGN VALUES

State	County	Site ID	4th highest daily maximum			2013–2015 Design value (ppm)
			2013	2014	2015	
Delaware	New Castle	100031007	0.062	0.071	0.065	0.066
		100031010	0.063	0.074	0.071	[a] 0.069
		100031013	0.067	0.069	0.069	0.068
		100032004	0.067	0.068	0.072	[a] 0.069
Maryland	Cecil	240150003	0.072	0.074	0.074	0.073
New Jersey	Atlantic	340010006	0.070	0.061	0.068	0.066

[3] 40 CFR part 58, appendix D specifies the applicable ''ozone season'' for the Philadelphia Area.

TABLE 2—2013–2015 PHILADELPHIA AREA 2008 OZONE DESIGN VALUES—Continued

State	County	Site ID	4th highest daily maximum			2013–2015 Design value (ppm)
			2013	2014	2015	
New Jersey	Camden	340070002	0.065	0.068	0.079	0.070
New Jersey	Camden	340071001	0.068	0.068	0.072	0.069
New Jersey	Cumberland	340110007	0.061	0.067	0.068	0.065
New Jersey	Gloucester	340150002	0.073	0.070	0.076	0.073
New Jersey	Mercer	340210005	0.070	0.071	0.073	0.071
New Jersey	Mercer	340219991	0.069	0.071	0.075	0.071
New Jersey	Ocean	340290006	0.070	0.072	0.075	0.072
Pennsylvania	Bucks	420170012	0.073	0.071	0.082	0.075
Pennsylvania	Chester	420290100	0.068	0.071	0.068	0.069
Pennsylvania	Delaware	420450002	0.069	0.073	0.074	0.072
Pennsylvania	Montgomery	420910013	0.069	0.072	0.073	0.071
Pennsylvania	Philadelphia	421010004	0.047	0.058	0.057	0.054
Pennsylvania	Philadelphia	421010024	0.068	0.072	0.079	0.073
Pennsylvania	Philadelphia	421010048	0.036	0.068	0.078	
Pennsylvania	Philadelphia	421011002	0.071			

Notes:
a. Monitoring data at these sites did not meet completeness criteria set forth in 40 CFR part 50 Appendix P 2.3(b) prior to EPA undertaking the analyses set forth in the TSD.

EPA acknowledges that preliminary 2014 through 2016 ambient air quality monitoring data, which has not been quality assured or certified, shows potential violations of the 2008 ozone NAAQS in the Philadelphia Area.[4] However, this does not affect EPA's proposed determination of attainment by the attainment date for section 181(b)(2) of the CAA. This determination for section 181(b)(2) is an evaluation of the Philadelphia Area's design value as of its attainment date, July 20, 2016, considering 2013–2015 ozone monitored data, and does not consider air quality monitoring data from any other monitoring period.

III. Proposed Action

EPA evaluated ozone data from air quality monitors in the Philadelphia Area in order to determine the Area's attainment status under the 2008 ozone NAAQS. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. All the monitoring sites in the Philadelphia Area had design values equal to or less than 0.075 ppm based on the 2013 through 2015 monitoring period. Considering that review, EPA concludes that this area attained the 2008 ozone NAAQS based on complete, quality assured and certified data for the 2013 through 2015 ozone seasons. Thus, EPA proposes to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA, that the Philadelphia Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. EPA's proposed determination is in accordance with applicable regulatory requirements under 81 FR 26697 (with respect to issuance of the 1-year extension of the attainment date for Philadelphia Area) and with the related provisions of the SIP Requirements Rule (40 CFR 51.1103).

This proposed determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This rulemaking action proposes to make a determination of attainment of the 2008 ozone NAAQS based on air quality and, if finalized, would not impose additional requirements. For that reason, this proposed determination of attainment:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rulemaking to determine that the Philadelphia Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date does not have tribal implications, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this proposed determination of attainment does not apply in Indian country located in the states and because EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

[4] On January 19, 2017, EPA received an email request from the Pennsylvania Department of Environmental Protection (PADEP) requesting EPA remove certain data from the PADEP Philadelphia monitors based on exceptional events. EPA is considering PADEP's request related to monitoring data for 2016, but has not taken further action at this time.

List of Subjects in 40 CFR Part 52

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

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

Dated: March 2, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

Dated: March 1, 2017.

Catherine McCabe,

Acting Regional Administrator, Region II.

[FR Doc. 2017–07826 Filed 4–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0052; FRL–9961–50-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Major New Source Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Commonwealth of Virginia state implementation plan (SIP). The revisions amend Virginia's major source New Source Review (NSR) regulations to make them consistent with the federal program. EPA is proposing to approve these revisions to the Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 18, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0052 at *http://www.regulations.gov,* or via email to *miller.linda@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 *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: David Talley, (215) 814–2117, or by email at *talley.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The CAA's NSR programs are preconstruction review and permitting programs applicable to new and modified stationary sources of air pollutants regulated under the CAA. The NSR programs of the CAA include a combination of air quality planning and air pollution control technology program requirements. Briefly, section 109 of the CAA requires EPA to promulgate primary national ambient air quality standards (NAAQS) to protect public health and secondary NAAQS to protect public welfare. Once EPA sets those standards, states must develop, adopt, and submit to EPA for approval a SIP that contains emissions limitations and other control measures to attain and maintain the NAAQS. Pursuant to section 110, each SIP is required to contain a preconstruction review program for the construction and modification of any stationary source of air pollution to assure that the NAAQS are achieved and maintained; to protect areas of clean air; to protect air quality-related values (such as visibility) in national parks and other areas; to assure that appropriate emissions controls are applied; to maximize opportunities for economic development consistent with the preservation of clean air resources; and, to ensure that any decision to increase air pollution is made only after full public consideration of the consequences of the decision. Section 172 of the CAA requires a permit program in areas which are not attaining the NAAQS, and section 173 provides the specific requirements for that permit program.

On October 16, 2015, the Virginia Department of Environmental Quality (VADEQ), on behalf of the Commonwealth of Virginia, submitted a formal revision to the Virginia SIP. The SIP revision consists of amendments to the preconstruction permit requirements under VADEQ's major NSR permit program. The revision affects sources subject to VADEQ's Prevention of Significant Deterioration (PSD) program, which applies in areas which are in attainment with (or unclassifiable for) the NAAQS, as well as affecting sources subject to its nonattainment NSR permit program, applicable in areas not in attainment with the NAAQS. By letter dated March 1, 2017, VADEQ officially withdrew a small and specific portion of the October 16, 2015 submittal from consideration for approval into the Virginia SIP. A copy of the letter has been included in the docket for this action. Further discussion of the withdrawal is provided in section II.A of this notice.

II. Summary of SIP Revision and EPA Analysis

Generally, the October 16, 2015 SIP submittal revision (as amended March 1, 2017) (hereinafter referred to as the 2015 NSR SIP Revision) is intended to make the Virginia Administrative Code regulations at 9VAC5 consistent with the federal NSR program at 40 CFR 51.165 and 51.166. The specific changes to 9VAC5 are intended to: (1) Allow the use of a 10-year lookback period to calculate pre-change emissions for sources other than electric utility steam generating units (EGUs); (2) Allow the use of different lookback periods for different regulated NSR pollutants; (3) Extend the effective period for plantwide applicability limits (PALs) to 10 years; and, (4) Allow replacement units to be treated as existing units, and thus provide the ability to use baseline actual and projected actual emissions when determining applicability. Additionally, there are a number of minor changes which are strictly administrative in nature, consisting of small grammatical revisions, or re-numbering. EPA is proposing to approve VADEQ's 2015 NSR SIP Revision as a revision to the Virginia SIP because it meets the federal requirements of 40 CFR 51.165 and 51.165, and CAA sections 110(a) and 173. Additionally, the revisions are in accordance with section 110(l) of the CAA because they will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable CAA requirement.

A. Baseline Actual Emissions

NSR applicability is determined by comparing the pre-change emissions of the project to the post-change emissions and determining whether the net increase is "significant." For new units, pre-change (baseline) emissions are

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Wed 12/14/2016 3:04:04 PM
Subject: FRN Update
8190207.pdf

FYI:

Final rule - determination of failure to attain and reclassification

On December 14, 2016, EPA determined that the Houston-Galveston-Brazoria, TX nonattainment area failed to attain the 2008 8-hr Ozone NAAQS by the attainment deadline, and reclassified the area from Marginal to Moderate, effective the same day, December 14, 2016. [81 FR 90207]

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Robert Wagoner

amec foster wheeler

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To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 12/27/2016 1:52:23 PM
Subject: FRN Update
8195051.pdf
8195081.pdf

FYI:

Final rule - redesignation to attainment

On December 27, 2016, EPA redesignated the Baton Rouge, LA nonattainment area for 2008 8-hr Ozone, effective January 26, 2017.
[81 FR 95051]

Proposed rule - redesignation to attainment

On December 27, 2016, EPA proposed to redesignate the Indiana portion of the Cincinnati, OH-KY-IN nonattainment area for 2008 8-hr Ozone.
[81 FR 95081]

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Robert Wagoner

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2016–0293; FRL–9956–92–Region 6]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Louisiana; Redesignation of Baton Rouge 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act) the Environmental Protection Agency (EPA) is approving the State of Louisiana's request to redesignate the five-parish Baton Rouge Nonattainment Area (BRNA or Area) for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or standard) to attainment. EPA is also approving a State Implementation Plan (SIP) revision containing a maintenance plan for the area, including motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2022 and 2027. EPA has determined that the BRNA is continuing to attain the 2008 ozone NAAQS and has met the CAA criteria for redesignation to attainment.

DATES: This rule is effective on January 26, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2016–0293. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Wendy Jacques, (214) 665–7395, *jacques.wendy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means the EPA.

I. Background

The background for this action is discussed in detail in our November 4, 2016 proposal (81 FR 76891). In that document we proposed to determine that the BRNA continues to attain the 2008 ozone NAAQS; to approve into the SIP Louisiana's plan for maintaining the 2008 ozone NAAQS (maintenance plan), including the associated MVEBs; and to redesignate the BRNA to attainment for the 2008 ozone NAAQS. We did not receive any comments regarding our proposal.

II. What are the effects of EPA's final action?

Approval of Louisiana's redesignation request changes the legal designation of the BRNA as found at 40 CFR part 81, from nonattainment to attainment for the 2008 ozone NAAQS. Approval of Louisiana's associated SIP revision also incorporates a plan for maintaining the 2008 ozone NAAQS in the BRNA through 2027 into the SIP. This maintenance plan includes contingency measures to remedy any future violations of the 2008 ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO_X and VOC MVEBs for 2022 and 2027 for the Baton Rouge Area. The MVEBs, in tons per day (tpd) are listed in Table 1.

TABLE 1—MVEBS FOR THE BATON ROUGE AREA

[tpd]

Year	NO_X	VOC
2022	14.37	13.19
2027	10.95	11.55

III. Final Action

We are approving the State of Louisiana's request to redesignate the BRNA for the 2008 8-hourozone NAAQS to attainment; and the associated maintenance plan SIP revision for the area, including NO_X and VOC MVEBs for the years 2022 and 2027. We have determined that the BRNA is continuing to attain the 2008 ozone NAAQS and has met the CAA criteria for redesignation from nonattainment to attainment for the 2008 ozone NAAQS.

IV. Statutory and Executive Order Reviews

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

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, 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).

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

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 27, 2017. 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 section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: December 16, 2016.

Samuel Coleman,

Acting Regional Administrator, Region 6.

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.*

Subpart T—Louisiana

* 2. In §52.970(e) the second table titled ''EPA-Approved Louisiana Nonregulatory Provisions and Quasi-Regulatory Measures'' is amended by adding an entry at the end for ''2008 8-hour Ozone NAAQS Redesignation Request and Maintenance Plan'' to read as follows:

§52.970 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED LOUISIANA NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
*	*	*	*	*
2008 8-hour Ozone NAAQS Redesignation Request and Maintenance Plan.	Baton Rouge Area	5/2/2015	12/27/2016, [Insert **Federal Register** citation].	

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. In §81.319, the table entitled ''Louisiana-20088-Hour Ozone NAAQS (Primary and secondary)'' is amended by revising the entry for ''Baton Rouge, LA'' to read as follows:

§81.319 Louisiana.

* * * * *

LOUISIANA—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Baton Rouge, LA [2]	12/27/2016, [Insert **Federal Register** citation].	Attainment	12/27/2016	
Ascension Parish.				
East Baton Rouge Parish.				
Iberville Parish.				
Livingston Parish.				
West Baton Rouge Parish.				
*	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2016–30776 Filed 12–23–16; 8:45 am]

BILLING CODE 6560–50–P

IV. What action is EPA taking?

EPA is proposing to approve the revisions to 326 IAC 2–6–1 into Indiana's SIP.

V. Incorporation by Reference

In this rulemaking, EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is proposing to incorporate by reference the revised IDEM rule at 326 IAC 2–6–1 filed with the Indiana Register on October 21, 2016, regarding the emissions statements rule and discussed in section II of this rulemaking. EPA has made, and will continue to make, these documents generally available through *www.regulations.gov,* and/or at the EPA Region 5 Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. 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 Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, 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).

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: December 12, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–31045 Filed 12–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0135; FRL–9957–18–Region 5]

Air Plan Approval; Indiana; Redesignation of the Indiana Portion of the Cincinnati, Ohio-Kentucky-Indiana Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to find that the Cincinnati, Ohio-Kentucky-Indiana area is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and to approve a request from the Indiana Department of Environmental Management (IDEM) to redesignate the Indiana portion of the Cincinnati area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA or Act). The Cincinnati area includes Lawrenceburg Township in Dearborn County, Indiana; Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and, Boone, Campbell, and Kenton Counties in Kentucky. IDEM submitted this request on February 23, 2016, and supplemented that submittal with a revised emissions inventory on May 4, 2016. EPA is also proposing to approve, as a revision to the Indiana State Implementation Plan (SIP), the state's plan for maintaining the 2008 ozone standard through 2030 in the Cincinnati area. Additionally, EPA finds adequate and is proposing to approve the state's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Indiana and Ohio portion of the Cincinnati area. Finally, EPA is proposing to approve the 2011 base year emissions inventory submitted by IDEM as meeting the base year emissions inventory requirement of the CAA for the Indiana portion of the Cincinnati area.

DATES: Comments must be received on or before January 26, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2016–0135 at *http://www.regulations.gov* or via email to *aburano.douglas@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

http://www2.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

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

I. What are the actions EPA is proposing?
II. What is the background for these actions?
III. What are the criteria for redesignation?
IV. What is EPA's analysis of Indiana's redesignation request?
A. Has the Cincinnati area attained the 2008 ozone NAAQS?
B. Has Indiana met all applicable requirements of section 110 and part D of the CAA for the Cincinnati area, and does the Indiana portion of the area have a fully approved SIP under section 110(k) of the CAA?
1. Indiana Has Met All Applicable Requirements of Section 110 and Part D of the CAA Applicable to the Indiana Portion of the Cincinnati Area for Purposes of Redesignation
2. The Indiana Portion of the Cincinnati Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA
C. Are the air quality improvements in the Cincinnati area due to permanent and enforceable emission reductions?
1. Permanent and Enforceable Emission Controls Implemented
2. Emission Reductions
3. Meteorology
D. Does Indiana have a fully approvable ozone maintenance plan for the Cincinnati area?
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VII. Proposed Actions
VIII. Statutory and Executive Order Reviews

I. What are the actions EPA is proposing?

EPA is proposing to take several related actions. EPA is proposing to determine that the Cincinnati nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Indiana portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve IDEM's request to change the legal designation of the Indiana portion of the Cincinnati area from nonattainment to attainment for the 2008 ozone standard. EPA is also proposing to approve, as a revision to the Indiana SIP, the state's maintenance plan (such approval being one of the CAA criteria for redesignation to attainment status) for the area. The maintenance plan is designed to keep the Cincinnati area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is proposing to approve the newly-established 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area. The adequacy comment period for the MVEBs began on July 22, 2016, with EPA's posting of the availability of the submittal on EPA's Adequacy Web site (at *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*). The adequacy comment period for these MVEBs ended on August 22, 2016. EPA did not receive any requests for this submittal, or adverse comments on this submittal during the adequacy comment period. In a letter dated August 23, 2016, EPA informed IDEM that we found the 2020 and 2030 MVEBs to be adequate for use in transportation conformity analyses. On September 27, 2016 (81 FR 66271), EPA published a notice of adequacy announcing this same finding. Please see section V.B. of this preamble, "What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Indiana portion of the Cincinnati area," for further explanation of this process. Therefore, we find adequate, and are proposing to approve, the States' 2020 and 2030 MVEBs for transportation conformity purposes.

On June 1, 2016, Indiana submitted a separate SIP revision to address emissions statements requirements, as discussed in section IV.B.1. of this preamble. EPA is taking action on the emissions statements SIP revision in a separate rulemaking. EPA will not finalize this redesignation rulemaking without an earlier or simultaneous final approval of the separate emissions statements rulemaking.

II. What is the background for these actions?

EPA has determined that ground-level ozone is detrimental to human health. On March 12, 2008, EPA promulgated a revised ozone NAAQS of 0.075 parts per million (ppm). See 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the three-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. *See* 40 CFR 50.15 and appendix P to 40 CFR part 50.

Upon promulgation of a new or revised NAAQS, section 107(d)(1)(B) of the CAA requires EPA to designate as nonattainment any areas that are violating the NAAQS, based on the most recent three years of quality-assured ozone monitoring data. The Cincinnati area was designated as a marginal nonattainment area for the 2008 ozone NAAQS on May 21, 2012 (77 FR 30088) (effective July 20, 2012).

In a final implementation rule for the 2008 ozone NAAQS (SIP Requirements Rule),[1] EPA established ozone standard attainment dates based on table 1 of section 181(a) of the CAA. This established an attainment date three years after the July 20, 2012, effective designation date for areas classified as marginal nonattainment for the 2008 ozone NAAQS. Therefore, the attainment date for the Cincinnati area was July 20, 2015. On May 4, 2016 (81 FR 26697), in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the Cincinnati area attained the standard by its July 20, 2015, attainment date for the 2008 ozone NAAQS. EPA's determination was based upon three years of complete,

[1] This rule, titled "Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements" and published at 80 FR 12264 (March 6, 2015), addresses nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), new source review (NSR), emission inventories, and the timing requirements for SIP submissions and compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS is revoked.

quality-assured and certified data for the 2012–2014 period.

III. What are the criteria for redesignation?

Section 107(d)(3)(E) of the CAA allows redesignation of an area to attainment of the NAAQS provided that: (1) The Administrator (EPA) determines that the area has attained the NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k) of the CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP, applicable Federal air pollutant control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for the purposes of redesignation under section 110 and part D of the CAA.

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton. Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (the "Calcagni Memorandum");
5. "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;
9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

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

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

For redesignation of a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS (CAA section 107(d)(3)(E)(i)). An area is attaining the 2008 ozone NAAQS if it meets the 2008 ozone NAAQS, as determined in accordance with 40 CFR 50.15 and appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality data for all monitoring sites in the area. To attain the NAAQS, the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations (ozone design values) at each monitor must not exceed 0.075 ppm. The air quality data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). Ambient air quality monitoring data for the three-year period must also meet data completeness requirements. An ozone design value is valid if daily maximum 8-hour average concentrations are available for at least 90% of the days within the ozone monitoring seasons,[2] on average, for the three-year period, with a minimum data completeness of 75% during the ozone monitoring season of any year during the three-year period. *See* section 2.3 of appendix P to 40 CFR part 50.

On May 4, 2016, in accordance with section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), EPA made a determination that the Cincinnati area attained the standard by its July 20, 2015, attainment date for the 2008 ozone NAAQS. This determination was based upon three years of complete, quality-assured and certified data for the 2012–2014 period. In addition, EPA has reviewed the available ozone monitoring data from monitoring sites in the Cincinnati area for the 2013–2015 period. These data have been quality-assured, are recorded in the AQS, and have been certified. These data demonstrate that the Cincinnati area is attaining the 2008 ozone NAAQS. The annual fourth-highest 8-hour ozone concentrations and the three-year average of these concentrations (monitoring site ozone design values) for each monitoring site are summarized in Table 1.

TABLE 1—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND THREE-YEAR AVERAGE OF THE 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CINCINNATI AREA

State	County	Monitor	2013 4th high (ppm)	2014 4th high (ppm)	2015 4th high (ppm)	2013–2015 average (ppm)
Ohio	Butler	39–017–0004	0.068	0.070	0.070	0.069
		39–017–0018	0.068	0.069	0.070	0.069
		39–017–9991	0.069	0.069	0.068	0.068
	Clermont	39–025–0022	0.066	0.068	0.070	0.068

[2] The ozone season is defined by state in 40 CFR 58 appendix D. For the 2012–2014 and 2013–2015 periods, the ozone seasons for Ohio, Indiana, and Kentucky were April–October, April–September, and March–October, respectively. Beginning in 2016, the ozone seasons for Ohio, Indiana and Kentucky are March–October. See, 80 FR 65292, 65466–67 (October 26, 2015).

TABLE 1—ANNUAL 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS AND THREE-YEAR AVERAGE OF THE 4TH HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS FOR THE CINCINNATI AREA—Continued

State	County	Monitor	2013 4th high (ppm)	2014 4th high (ppm)	2015 4th high (ppm)	2013–2015 average (ppm)
	Clinton	39–027–1002	0.064	0.070	0.070	0.068
		39–061–0006	0.069	0.070	0.072	0.070
	Hamilton	39–061–0010	0.064	0.073	0.070	0.069
		39–061–0040	0.069	0.069	0.071	0.069
	Warren	39–165–0007	0.067	0.071	0.071	0.069
Kentucky	Boone	21–015–0003	0.059	0.062	0.062	0.061
	Campbell	21–037–3002	0.072	0.071	0.071	0.071

The three-year ozone design value for 2013–2015 is 0.071 ppm,[3] which meets the 2008 ozone NAAQS. Therefore, in this action, EPA proposes to determine that the Cincinnati area is attaining the 2008 ozone NAAQS.

EPA will not take final action to determine that the Cincinnati area is attaining the NAAQS nor to approve the redesignation of this area if the design value of a monitoring site in the area exceeds the NAAQS after proposal but prior to final approval of the redesignation. Preliminary 2016 data indicate that this area continues to attain the 2008 ozone NAAQS. As discussed in section IV.D.3. of this preamble, IDEM has committed to continue monitoring ozone in this area to verify maintenance of the ozone standard.

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

As criteria for redesignation of an area from nonattainment to attainment of a NAAQS, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (*see* section 107(d)(3)(E)(v) of the CAA) and that the state has a fully approved SIP under section 110(k) of the CAA (*see* section 107(d)(3)(E)(ii) of the CAA). We are proposing to determine that Indiana has met all currently applicable SIP requirements for purposes of redesignation of the Cincinnati area to attainment of the 2008 ozone standard under section 110 and part D of the CAA, in accordance with section 107(d)(3)(E)(v). We are also proposing to determine that the Indiana SIP, with the exception of the comprehensive emissions inventory and emissions statements rules, is fully approved with respect to all applicable requirements for purposes of redesignation to attainment of the 2008 ozone standard, in accordance with section 107(d)(3)(E)(ii) of the CAA. As discussed below, in this action EPA is proposing to approve Indiana's 2011 comprehensive emissions inventory as meeting the comprehensive emissions inventory requirement of section 182(a)(1) for the area. EPA is taking action on the Indiana emissions statements rules required by section 182(a)(3)(B) in a separate rule.

Recognizing that the comprehensive emissions inventory and emissions statements rules must be approved on or before the date we complete final rulemaking approving the redesignation requests, we determine here that, assuming that this occurs, Indiana will have met all applicable section 110 and part D SIP requirements of the CAA for purposes of approval of Indiana's ozone redesignation request for the Cincinnati area and will have a fully approved SIP under section 110(k) of the CAA. In making these proposed determinations, EPA ascertained which CAA requirements are applicable to the Cincinnati area and the Indiana SIP and, if applicable, whether the required Indiana SIP elements are fully approved under section 110(k) and part D of the CAA. As discussed more fully below, SIPs must be fully approved only with respect to currently applicable requirements of the CAA.

The September 4, 1992, Calcagni memorandum (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).

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

a. Section 110 General Requirements for Implementation Plans

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

[3] The monitor ozone design value for the monitor with the highest three-year averaged concentration.

modeling; and (7) provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires SIPs to contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address transport of certain air pollutants, *e.g.,* NO_X SIP call.[4] However, like many of the 110(a)(2) requirements, the section 110(a)(2)(D) SIP requirements are not linked with a particular area's ozone designation and classification. EPA concludes that the SIP requirements linked with the area's ozone designation and classification are the relevant measures to evaluate when reviewing a redesignation request for the area. The section 110(a)(2)(D) requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area within the state. Thus, we believe these requirements are not applicable requirements for purposes of redesignation. *See* 65 FR 37890 (June 19, 2000), 68 FR 25418, 25426–27 (May 12, 2003).

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

We have reviewed Indiana's SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA, to the extent those requirements are applicable for purposes of redesignation. On April 29, 2015 (80 FR 23713), EPA approved elements of the SIP submitted by Indiana to meet the requirements of section 110 for the 2008 ozone standard. The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the ozone nonattainment status of the Cincinnati area. Therefore, EPA concludes that these infrastructure requirements are not applicable requirements for purposes of review of the state's ozone redesignation request.

b. Part D Requirements

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

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

i. Subpart 1 Section 172 Requirements

As provided in subpart 2, for marginal ozone nonattainment areas such as the Cincinnati area, the specific requirements of section 182(a) apply in lieu of the attainment planning requirements that would otherwise apply under section 172(c), including the attainment demonstration and reasonably available control measures (RACM) under section 172(c)(1), reasonable further progress (RFP) under section 172(c)(2), and contingency measures under section 172(c)(9). 42 U.S.C. 7511a(a).

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

Section 172(c)(4) requires the identification and quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Indiana's NSR program on October 7, 1994 (59 FR 51108), and approved revisions to Indiana's NSR program on June 18, 2007 (72 FR 33395), July 8, 2011 (76 FR 40242), and July 2, 2014 (79 FR 37646). Nonetheless, EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, "Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment." Indiana has demonstrated that the Cincinnati area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. *See* rulemakings for Detroit, Michigan (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469–20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Indiana's PSD program will become effective in the Cincinnati area upon redesignation to attainment. EPA conditionally approved Indiana's PSD program on March 3, 2003 (68 FR 9892), fully approved Indiana's PSD program on May 20, 2004 (69 FR 29071), and approved revisions to Indiana's PSD program on July 8, 2011 (76 FR 40242), September 28, 2011 (76 FR 59899), and July 2, 2014 (79 FR 37646).

Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached,

[4] On October 27, 1992 (63 FR 57356), EPA issued a NO_X SIP call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP call, Indiana developed rules governing the control of NO_X emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers and turbines, and major cement kilns. EPA approved Indiana's rules as fulfilling Phase I of the NO_X SIP Call on November 8, 2001 (66 FR 56465), and as meeting Phase II of the NO_X SIP Call on October 1, 2007 (72 FR 55664).

no additional measures are needed to provide for attainment.

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

ii. Section 176 Conformity Requirements

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

EPA interprets the conformity SIP requirements[5] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state conformity rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Indiana has an approved conformity SIP for the Cincinnati area. *See* 80 FR 11133 (March 2, 2015).

iii. Section 182(a) Requirements

Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. As part of Indiana's redesignation request for the Cincinnati area, the state submitted a 2011 base year emissions inventory. As discussed in section VI. of this preamble, EPA is proposing to approve the 2011 base year inventory that Indiana submitted with the redesignation request as meeting the section 182(a)(1) emissions inventory requirement.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) prior to the 1990 CAA amendments. The Indiana portion of the Cincinnati area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was not subject to RACT prior to the enactment of the 1990 CAA amendments.

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

Regarding the source permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Indiana currently has a fully-approved part D NSR program in place. EPA conditionally approved Indiana's PSD program on March 3, 2003 (68 FR 9892), fully approved Indiana's PSD program on May 20, 2004 (69 FR 29071), and approved revisions to Indiana's PSD program on July 8, 2011 (76 FR 40242), September 28, 2011 (76 FR 59899), and July 2, 2014 (79 FR 37646). As discussed above, Indiana has demonstrated that the Cincinnati area will be able to maintain the standard without part D NSR in effect; therefore, EPA concludes that the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Cincinnati area upon redesignation to attainment.

Section 182(a)(3)(A) requires states to submit periodic emission inventories and section 182(a)(3)(B) requires states to submit a revision to the SIP to require the owners or operators of stationary sources to annually submit emissions statements documenting actual VOC and NO_X emissions. As discussed in section IV.D.4. of this preamble, Indiana will continue to update its emissions inventory at least once every three years. With regard to stationary source emissions statements, Indiana submitted a SIP revision to address these requirements on June 1, 2016. EPA is taking action on this revision in a separate rulemaking action. Full approval of Indiana's emissions statements rules is a prerequisite for approval of the redesignation of the Cincinnati area to attainment.

Upon approval of Indiana's emissions inventory and emissions statements rules, the Indiana portion of the Cincinnati area will have satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

2. The Indiana Portion of the Cincinnati Area Has a Fully Approved SIP for Purposes of Redesignation Under Section 110(k) of the CAA

Indiana has adopted and submitted and EPA has approved at various times, provisions addressing the various SIP elements applicable for the ozone NAAQS. In this action, EPA is proposing to approve Indiana's 2011 comprehensive emissions inventory for the Cincinnati area as meeting the requirement of section 182(a)(1) of the CAA. In a separate rule, EPA will take action on the Indiana emissions statements rules submittal. As discussed above, if EPA issues a final approval of the comprehensive emissions inventory and Indiana's emissions statements rules submittals, EPA will have fully approved the Indiana SIP for the Cincinnati area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* the Calcagni memorandum at page 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998); *Wall* v. *EPA,* 265 F.3d 426), plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein).

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

To support the redesignation of an area from nonattainment to attainment, section 107(d)(3)(E)(iii) of the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable

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

reductions in emissions resulting from the implementation of the SIP and applicable Federal air pollution control regulations and other permanent and other permanent and enforceable emission reductions. EPA has determined that Indiana has demonstrated that that the observed ozone air quality improvement in the Cincinnati area is due to permanent and enforceable reductions in VOC and NO_X emissions resulting from state measures adopted into the SIP and Federal measures.

In making this demonstration, the state has calculated the change in emissions between 2011 and 2014. The reduction in emissions and the corresponding improvement in air quality over this period can be attributed to a number of regulatory control measures that the Cincinnati area and upwind areas have implemented in recent years. In addition, IDEM provided an analysis to demonstrate the improvement in air quality was not due to unusually favorable meteorology. Based on the information summarized below, Indiana has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions.

1. Permanent and Enforceable Emission Controls Implemented

a. Regional NO_X Controls

Clean Air Interstate Rule (CAIR)/Cross State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce sulfur dioxide (SO_2) and NO_X emissions in 27 eastern states, including Indiana, that contributed to downwind nonattainment and maintenance of the 1997 ozone NAAQS and the 1997 fine particulate matter ($PM_{2.5}$) NAAQS. *See* 70 FR 25162 (May 12, 2005). EPA approved Indiana's CAIR regulations into the Indiana SIP on October 22, 2007 (72 FR 59480) and November 29, 2010 (75 FR 72956). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

The D.C. Circuit's initial vacatur of CSAPR[6] was reversed by the United States Supreme Court on April 29, 2014, and the case was remanded to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015). This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017. On October 26, 2016 (81 FR 74504), EPA published the CSAPR Update for the 2008 ozone NAAQS, which resolves the invalidation of Phase 2 budgets by the D.C. Circuit. That action promulgates new NO_X ozone season budgets addressing interstate transport with respect to the 2008 ozone NAAQS that take effect in 2017. The reduction in NO_X emissions from the implementation of CSAPR will result in lower concentrations of transported ozone entering the Cincinnati area throughout the maintenance period.

b. Federal Emission Control Measures

Reductions in VOC and NO_X emissions have occurred statewide and in upwind areas as a result of Federal emission control measures, with additional emission reductions expected to occur in the future. Federal emission control measures include the following.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. On February 10, 2000 (65 FR 6698), EPA promulgated Tier 2 motor vehicle emission standards and gasoline sulfur control requirements. These emission control requirements result in lower VOC and NO_X emissions from new cars and light duty trucks, including sport utility vehicles. With respect to fuels, this rule required refiners and importers of gasoline to meet lower standards for sulfur in gasoline, which were phased in between 2004 and 2006. By 2006, refiners were required to meet a 30 ppm average sulfur level, with a maximum cap of 80 ppm. This reduction in fuel sulfur content ensures the effectiveness of low emission-control technologies. The Tier 2 tailpipe standards established in this rule were phased in for new vehicles between 2004 and 2009. EPA estimates that, when fully implemented, this rule will cut NO_X and VOC emissions from light-duty vehicles and light-duty trucks by approximately 76% and 28%, respectively. NO_X and VOC reductions from medium-duty passenger vehicles included as part of the Tier 2 vehicle program are estimated to be approximately 37,000 and 9,500 tons per year, respectively, when fully implemented. In addition, EPA estimates that beginning in 2007, a reduction of 30,000 tons per year of NO_X will result from the benefits of sulfur control on heavy-duty gasoline vehicles. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards. On April 28, 2014 (79 FR 23414), EPA promulgated Tier 3 motor vehicle emission and fuel standards to reduce both tailpipe and evaporative emissions and to further reduce the sulfur content in fuels. The rule will be phased in between 2017 and 2025. Tier 3 sets new tailpipe standards for the sum of VOC and NO_X and for particulate matter. The VOC and NO_X tailpipe standards for light-duty vehicles represent approximately an 80% reduction from today's fleet average and a 70% reduction in per-vehicle particulate matter (PM) standards. Heavy-duty tailpipe standards represent about a 60% reduction in both fleet average VOC and NO_X and per-vehicle PM standards. The evaporative emissions requirements in the rule will result in approximately a 50% reduction from current standards and apply to all light-duty and onroad gasoline-powered heavy-duty vehicles. Finally, the rule lowers the sulfur content of gasoline to an annual average of 10 ppm by January 2017. While these reductions did not aid the area in attaining the standard, emission reductions will occur during the maintenance period.

Heavy-Duty Diesel Engine Rules. In July 2000, EPA issued a rule for on-highway heavy-duty diesel engines that includes standards limiting the sulfur content of diesel fuel. Emissions standards for NO_X, VOC and PM were phased in between model years 2007

[6] *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012).

and 2010. In addition, the rule reduced the highway diesel fuel sulfur content to 15 parts per million by 2007, leading to additional reductions in combustion NO_X and VOC emissions. EPA has estimated future year emission reductions due to implementation of this rulemaking. Nationally, EPA estimated that 2015 NO_X and VOC emissions would decrease by 1,260,000 tons and 54,000 tons, respectively. Nationally, EPA estimated that 2030 NO_X and VOC emissions will decrease by 2,570,000 tons and 115,000 tons, respectively. As projected by these estimates and demonstrated in the onroad emission modeling for the Cincinnati area, some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period, as older vehicles are replaced with newer, compliant model years.

Nonroad Diesel Rule. On June 29, 2004 (69 FR 38958), EPA issued a rule adopting emissions standards for nonroad diesel engines and sulfur reductions in nonroad diesel fuel. This rule applies to diesel engines used primarily in construction, agricultural, and industrial applications. Emission standards are phased in for 2008 through 2015 model years based on engine size. The SO_2 limits for nonroad diesel fuels were phased in from 2007 through 2012. EPA estimates that when fully implemented, compliance with this rule will cut NO_X emissions from these nonroad diesel engines by approximately 90%. Some of these emission reductions occurred by the attainment years and additional emission reductions will occur throughout the maintenance period.

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

National Emission Standards for Hazardous Air Pollutants (NESHAP) for Reciprocating Internal Combustion Engines. On March 3, 2010 (75 FR 9648), EPA issued a rule to reduce hazardous air pollutants from existing diesel powered stationary reciprocating internal combustion engines, also known as compression ignition engines. Amendments to this rule were finalized on January 14, 2013 (78 FR 6674). EPA estimated that when this rule is fully implemented in 2013, NO_X and VOC emissions from these engines will be reduced by approximately 9,600 and 36,000 tons per year, respectively.

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

c. Control Measures Specific to the Cincinnati Area

Changes at several EGUs have resulted in reductions in NO_X emissions. Tanner's Creek Generating Station in Dearborn County, Indiana permanently shut down in May 2015. Prior to the shutdown, NO_X emissions had dropped from 15.08 tons per summer day (TPSD) in 2011 to 10.6 TPSD in 2014. The Walter C. Beckjord facility in Clermont County, Ohio permanently shut down in October of 2014. Prior to the shutdown, NO_X emissions from EGUs in Clermont County dropped from 43.41 TPSD in 2011 to 41.17 TPSD in 2014, partly attributable to the Walter C. Beckjord facility. Finally, Unit 3 (163 megawatts) of the Miami Fort facility in Hamilton County, Ohio permanently shut down in June of 2015. Prior to shutdown, NO_X emissions from EGUs in Hamilton County dropped from 17.72 TPSD in 2011 to 17.46 TPSD in 2014, partly attributable to reductions at unit 3 at Miami Fort.

2. Emission Reductions

Indiana is using a 2011 inventory as the nonattainment base year. Area, nonroad mobile, airport related emissions (AIR), and point source emissions (EGUs and non-EGUs) were collected from the Ozone NAAQS Implementation Modeling platform (2011v6.1). For 2011, this represents actual data reported to EPA by the states for the 2011 National Emissions inventory (NEI). Because emissions from state inventory databases, the NEI, and the Ozone NAAQS Emissions Modeling platform are annual totals, tons per summer day were derived according to EPA's guidance document ''Temporal Allocation of Annual Emissions Using EMCH Temporal Profiles'' dated April 29 2002, using the temporal allocation references accompanying the 2011v6.1 modeling inventory files. Onroad mobile source emissions were developed in conjunction with the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) and were calculated from emission factors produced by EPA's 2014 Motor Vehicle Emission Simulator (MOVES) model and data extracted from the region's travel-demand model.

For the attainment inventory, Indiana is using 2014, one of the years the Cincinnati area monitored attainment of the 2008 ozone standard. Because the 2014 NEI inventory was not available at the time IDEM was compiling the redesignation request, the state was unable to use the 2014 NEI inventory directly. For area, nonroad mobile, and AIR, 2014 emissions were derived by interpolating between 2011 and 2018 Ozone NAAQS Emissions Modeling platform inventories. The point source sector for the 2014 inventory was developed using actual 2014 point source emissions reported to the state databases, which serve as the basis for the point source emissions reported to EPA for the NEI. Summer day inventories were derived for these sectors using the methodology described above. Finally, onroad mobile source emissions were developed in conjunction with OKI using the same methodology described above for the 2011 inventory.

Using the inventories described above, Indiana's submittal documents changes in VOC and NO_X emissions from 2011 to 2014 for the Cincinnati area. Emissions data are shown in Tables 2 through 7.

TABLE 2—CINCINNATI AREA NO_X EMISSIONS FOR NONATTAINMENT YEAR 2011

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	17.79	0.00	0.53	0.47	1.89	20.68
Ohio:						
Butler	10.67	0.02	4.27	4.78	12.24	31.98
Clermont	43.55	0.00	2.27	1.14	7.52	54.48
Clinton	0.00	0.00	1.15	0.52	4.53	6.20
Hamilton	26.29	0.02	8.56	10.09	33.69	78.65
Warren	1.55	0.00	3.24	1.66	9.84	16.29
Kentucky:						
Boone	7.19	2.03	1.06	0.43	6.90	17.61
Campbell	0.17	0.00	0.38	0.49	4.30	5.34
Kenton	0.01	0.00	0.77	1.02	6.53	8.33
Area Totals	107.22	2.07	22.23	20.60	87.44	239.56

TABLE 3—CINCINNATI AREA VOC EMISSIONS FOR NONATTAINMENT YEAR 2011

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	4.28	0.00	0.42	1.75	1.33	7.78
Ohio:						
Butler	3.09	0.03	2.93	9.59	10.21	25.85
Clermont	0.49	0.01	1.95	5.41	6.27	14.13
Clinton	0.00	0.01	0.84	2.49	2.27	5.61
Hamilton	2.62	0.04	7.44	21.88	28.09	60.07
Warren	0.62	0.01	2.12	5.71	8.21	16.67
Kentucky:						
Boone	1.73	0.42	1.49	2.66	3.30	9.60
Campbell	0.22	0.00	0.40	1.29	2.05	3.96
Kenton	0.51	0.00	0.62	2.51	3.12	6.76
Area Totals	13.56	0.52	18.21	53.29	64.85	150.43

TABLE 4—CINCINNATI AREA NO_X EMISSIONS FOR ATTAINMENT YEAR 2014

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	11.74	0.00	0.44	0.47	1.37	14.02
Ohio:						
Butler	12.70	0.02	3.39	4.78	8.85	29.74
Clermont	41.20	0.00	1.81	1.14	5.44	49.59
Clinton	0.00	0.00	0.96	0.52	3.51	4.99
Hamilton	21.65	0.02	6.76	10.08	24.37	62.88
Warren	0.96	0.00	2.55	1.66	7.12	12.29
Kentucky:						
Boone	7.37	2.07	0.88	0.43	5.46	16.21
Campbell	0.17	0.00	0.32	0.49	3.41	4.39
Kenton	0.01	0.00	0.64	1.02	5.17	6.84
Area Totals	95.80	2.11	17.75	20.59	64.70	200.95

TABLE 5—CINCINNATI AREA VOC EMISSIONS FOR ATTAINMENT YEAR 2014

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	5.54	0.00	0.36	1.75	0.99	8.64
Ohio:						
Butler	2.96	0.03	2.61	9.51	7.59	22.70
Clermont	0.63	0.01	1.73	5.36	4.66	12.39
Clinton	0.01	0.01	0.71	2.51	1.53	4.77
Hamilton	2.73	0.04	6.54	21.66	20.88	51.85

TABLE 5—CINCINNATI AREA VOC EMISSIONS FOR ATTAINMENT YEAR 2014—Continued

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Warren	0.51	0.01	1.93	5.66	6.10	14.21
Kentucky:						
Boone	1.73	0.42	1.30	2.56	2.53	8.54
Campbell	0.22	0.00	0.34	1.26	1.58	3.40
Kenton	0.51	0.00	0.55	2.43	2.39	5.88
Area Totals	14.84	0.52	16.07	52.70	48.25	132.38

TABLE 6—CHANGE IN NO_X AND VOC EMISSIONS BETWEEN 2011 AND 2014 FOR THE INDIANA PORTION OF THE CINCINNATI AREA

[TPSD]

	NO_X			VOC		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	17.79	11.74	¥6.05	4.28	5.54	1.26
AIR	0.00	0.00	0.00	0.00	0.00	0.00
Nonroad	0.53	0.44	¥0.09	0.42	0.36	¥0.06
Area	0.47	0.47	0.00	1.75	1.75	0.00
Onroad	1.89	1.37	¥0.52	1.33	0.99	¥0.34
Total	20.68	14.02	¥6.66	7.78	8.64	0.86

TABLE 7—CHANGE IN NO_X AND VOC EMISSIONS BETWEEN 2011 AND 2014 FOR THE ENTIRE CINCINNATI AREA

[TPSD]

	NO_X			VOC		
	2011	2014	Net change (2011–2014)	2011	2014	Net change (2011–2014)
Point	107.22	95.80	¥11.42	13.56	14.84	1.28
AIR	2.07	2.11	0.04	0.52	0.52	0.00
Nonroad	22.23	17.75	¥4.48	18.21	16.07	¥2.14
Area	20.60	20.59	¥0.01	53.29	52.70	¥0.59
Onroad	87.44	64.70	¥22.74	64.85	48.25	¥16.60
Total	239.56	200.95	¥38.61	150.43	132.38	¥18.05

Table 7 shows that the Cincinnati area reduced NO_X and VOC emissions by 38.61 TPSD and 18.05 TPSD, respectively, between 2011 and 2014. As shown in Table 6, the Indiana portion of the Cincinnati area alone reduced NO_X emissions by 6.66 TPSD, but VOC emissions increased slightly by 0.86 TPSD, between 2011 and 2014. However, overall there was a substantial decrease in both NO_X and VOC emissions for the entire Cincinnati area.

3. Meteorology.

To further support IDEM's demonstration that the improvement in air quality between the year violations occurred and the year attainment was achieved, is due to permanent and enforceable emission reductions and not on favorable meteorology, an analysis was performed by the Lake Michigan Air Directors Consortium (LADCO). A classification and regression tree (CART) analysis was conducted with 2000 through 2014 data from three Cincinnati area ozone sites. The goal of the analysis was to determine the meteorological and air quality conditions associated with ozone episodes, and construct trends for the days identified as sharing similar meteorological conditions.

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

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

As one of the criteria for redesignation to attainment section 107(d)(3)(E)(iv) of the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the maintenance plan must demonstrate continued attainment of the NAAQS for at least 10 years after the Administrator

approves a redsignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment of the NAAQS will continue for an additional 10 years beyond the initial 10-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, as EPA deems necessary, to assure prompt correction of the future NAAQS violation.

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

1. Attainment Inventory

EPA is proposing to determine that the Cincinnati area has attained the 2008 ozone NAAQS based on monitoring data for the period of 2013–2015. IDEM selected 2014 as the attainment emissions inventory year to establish attainment emission levels for VOC and NO_X. The attainment emissions inventory identifies the levels of emissions in the Cincinnati area that are sufficient to attain the 2008 ozone NAAQS. The derivation of the attainment year emissions was discussed above in section IV.C.2. of this premble. The attainment level emissions, by source category, are summarized in Tables 4 and 5 above.

2. Has the state documented maintenance of the ozone standard in the Cincinnati area?

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

Indiana is using emissions inventories for the years 2020 and 2030 to demonstrate maintenance. 2030 is more than 10 years after the expected effective date of the redesignation to attainment and 2020 was selected to demonstrate that emissions are not expected to spike in the interim between the attainment year and the final maintenance year. The emissions inventories were developed as described below.

To develop the 2020 and 2030 inventories, the state collected data from the Ozone NAAQS Emissions Modeling platform (2011v6.1) inventories for years 2011, 2018 and 2025. 2020 emissions for area, nonroad mobile, AIR, and point source sectors were derived by interpolating between 2018 and 2025. 2030 emissions for area, nonroad mobile, AIR, and point source sectors were derived using the TREND function in Excel. If the trend function resulted in a negative value the emissions were assumed not to change. Summer day inventories were derived for these sectors using the methodology described in section IV.C.2. above. Finally, onroad mobile source emissions were developed in conjunction with OKI using the same methodology described in section IV.C.2. above for the 2011 inventory. Emissions data are shown in Tables 8 through 13 below.

TABLE 8—CINCINNATI AREA NO_X EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	2.96	0.00	0.30	0.48	0.74	4.48
Ohio:						
Butler	9.77	0.02	2.03	4.78	4.74	21.34
Clermont	31.32	0.00	1.11	1.14	2.91	36.48
Clinton	0.00	0.00	0.64	0.52	1.86	3.02
Hamilton	18.73	0.02	4.06	10.08	13.05	45.94
Warren	1.54	0.00	1.50	1.66	3.81	8.51
Kentucky:						
Boone	7.86	2.29	0.60	0.43	2.41	13.59
Campbell	0.17	0.00	0.23	0.49	1.50	2.39
Kenton	0.01	0.00	0.43	1.02	2.28	3.74
Area Totals	72.36	2.33	10.90	20.60	33.30	139.49

TABLE 9—CINCINNATI AREA VOC EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	4.06	0.00	0.29	1.77	0.62	6.74
Ohio:						
Butler	2.98	0.03	2.23	9.38	4.79	19.41
Clermont	0.51	0.01	1.43	5.28	2.94	10.17
Clinton	0.00	0.01	0.51	2.54	0.93	3.99
Hamilton	2.54	0.04	5.42	21.30	13.18	42.48

TABLE 9—CINCINNATI AREA VOC EMISSIONS FOR INTERIM MAINTENANCE YEAR 2020—Continued

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Warren	0.60	0.01	1.54	5.59	3.85	11.59
Kentucky:						
Boone	1.73	0.45	1.03	2.41	1.38	7.00
Campbell	0.22	0.00	0.25	1.22	0.86	2.55
Kenton	0.49	0.00	0.47	2.31	1.30	4.57
Area Totals	13.13	0.55	13.17	51.80	29.85	108.50

TABLE 10—CINCINNATI AREA NO_X EMISSIONS FOR MAINTENANCE YEAR 2030

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	2.96	0.00	0.18	0.48	0.39	4.01
Ohio:						
Butler	9.83	0.00	1.16	4.79	2.44	18.22
Clermont	31.32	0.00	0.63	1.15	1.50	34.60
Clinton	0.00	0.00	0.29	0.53	1.28	2.10
Hamilton	18.75	0.00	2.59	10.10	6.71	38.15
Warren	1.54	0.00	0.78	1.67	1.96	5.95
Kentucky:						
Boone	8.51	0.29	0.38	0.44	1.05	10.67
Campbell	0.17	0.00	0.15	0.49	0.65	1.46
Kenton	0.01	0.00	0.27	1.02	0.99	2.29
Area Totals	73.09	0.29	6.43	20.67	16.97	117.45

TABLE 11—CINCINNATI AREA VOC EMISSIONS FOR MAINTENANCE YEAR 2030

[TPSD]

County	Point	AIR	Nonroad	Area	Onroad	Total
Indiana:						
Dearborn	4.06	0.00	0.27	1.85	0.38	6.56
Ohio:						
Butler	3.00	0.01	2.43	9.31	2.88	17.63
Clermont	0.64	0.00	1.46	5.20	1.77	9.07
Clinton	0.01	0.00	0.42	2.61	0.71	3.75
Hamilton	2.62	0.00	5.87	21.01	7.92	37.42
Warren	0.58	0.00	1.51	5.52	2.32	9.93
Kentucky:						
Boone	1.73	0.06	0.92	2.36	0.77	5.84
Campbell	0.21	0.00	0.22	1.19	0.48	2.10
Kenton	0.47	0.00	0.50	2.25	0.73	3.95
Area Totals	13.32	0.07	13.60	51.30	17.96	96.25

TABLE 12—CHANGE IN NO_X AND VOC EMISSIONS BETWEEN 2014 AND 2030 FOR THE INDIANA PORTION OF THE CINCINNATI AREA

[TPSD]

	NO_X				VOC			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	11.74	2.96	2.96	¥8.78	5.54	4.06	4.06	¥1.48
AIR	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Nonroad	0.44	0.30	0.18	¥0.26	0.36	0.29	0.27	¥0.09
Area	0.47	0.48	0.48	0.01	1.75	1.77	1.85	0.10
Onroad	1.37	0.74	0.39	¥0.98	0.99	0.62	0.38	¥0.61
Total	14.02	4.48	4.01	¥10.01	8.64	6.74	6.56	¥2.08

TABLE 13—CHANGE IN NO_X AND VOC EMISSIONS BETWEEN 2014 AND 2030 FOR THE ENTIRE CINCINNATI AREA

[TPSD]

	NO_X				VOC			
	2014	2020	2030	Net change (2014–2030)	2014	2020	2030	Net change (2014–2030)
Point	95.80	72.36	73.09	¥22.71	14.84	13.13	13.32	¥1.52
AIR	2.11	2.33	0.29	¥1.82	0.52	0.55	0.07	¥0.45
Nonroad	17.75	10.90	6.43	¥11.32	16.07	13.17	13.60	¥2.47
Area	20.59	20.60	20.67	0.08	52.70	51.80	51.30	¥1.40
Onroad	64.70	33.30	16.97	¥47.73	48.25	29.85	17.96	¥30.29
Total	200.95	139.49	117.45	¥83.50	132.38	108.50	96.25	¥36.13

In summary, the maintenance demonstration for the Cincinnati area shows maintenance of the 2008 ozone standard by providing emissions information to support the demonstration that future emissions of NO_X and VOC will remain at or below 2014 emission levels when taking into account both future source growth and implementation of future controls. Table 13 shows NO_X and VOC emissions in the Cincinnati area are projected to decrease by 83.50 TPSD and 36.13 TPSD, respectively, between 2014 and 2030. As shown in Table 12, NO_X and VOC emissions in the Indiana portion of the Cincinnati area alone are projected to decrease by 10.01 TPSD and 2.08 TPSD, respectively, between 2014 and 2030.

3. Continued Air Quality Monitoring

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

4. Verification of Continued Attainment

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

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

In addition, to track future levels of emissions, IDEM will continue to develop and submit to EPA updated emission inventories for all source categories at least once every three years, consistent with the requirements of 40 CFR part 51, subpart A, and in 40 CFR 51.122. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002 (67 FR 39602). The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) on December 17, 2008 (73 FR 76539). The most recent triennial inventory for Indiana was compiled for 2014. Point source facilities covered by Indiana's emissions statements rule, which was submitted separately by IDEM for inclusion in Indiana's SIP and is being considered by EPA in a separate rule, will submit VOC and NO_X emissions on an annual basis.

5. What is the contingency plan for the Cincinnati area?

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

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

In Indiana's plan, a warning level response will be triggered when an annual fourth high monitored value of 0.079 ppm or higher is monitored within the maintenance area. A warning level response will consist of IDEM conducting a study to determine whether the ozone value indicates a trend toward higher ozone values and/or whether emissions appear to be increasing. The studies will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend. The studies will consider ease and timing of implementation as well as economic and social impacts. Implementation of necessary controls in response to a warning level response trigger will take place within 12 months from the conclusion of the most recent ozone season.

In Indiana's plan, an action level response is triggered when a two-year average fourth high value of 0.076 ppm or greater is monitored within the maintenance area. A violation of the standard within the maintenance area also triggers an action level response. When an action level response is triggered, IDEM will determine what additional control measures are needed to assure future attainment of the ozone standard, and will adopt these measures through the necessary administrative and legal process, including the opportunity for a public hearing. Control measures selected will be

adopted and implemented within 18 months from the close of the ozone season that prompted the action level. IDEM may also consider if a new measure or control is already promulgated and scheduled to be implemented at the federal or state level and would thus constitute an adequate contingency measure response.

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

1. Installation of a vehicle emissions testing program
2. Asphalt paving (lower VOC formulation)
3. Diesel exhaust retrofits
4. Traffic flow improvements
5. Idle reduction programs
6. Portable fuel container regulation (statewide)
7. Park and ride facilities
8. Rideshare/carpool program
9. VOC cap/trade program for major stationary sources
10. NO_X Reasonably Available Control Technology

EPA has concluded 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. In addition, as required by section 175A(b) of the CAA, IDEM has committed to submit to EPA an updated ozone maintenance plan eight years after redesignation of the Indiana portion of the Cincinnati area to cover an additional ten years beyond the initial 10-year maintenance period. Thus, EPA proposes to find that the maintenance plan SIP revision submitted by IDEM for the Indiana portion of the Cincinnati area meets the requirements of section 175A of the CAA.

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

A. Motor Vehicle Emission Budgets

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

Under the CAA, states are required to submit, at various times, control strategy SIPs for nonattainment areas and maintenance plans for areas seeking redesignations to attainment of the ozone standard and maintenance areas. *See* the SIP requirements for the 2008 ozone standard in EPA's March 6, 2015 implementation rule (80 FR 12264). These control strategy SIPs (including reasonable further progress plans and attainment plans) and maintenance plans must include MVEBs for criteria pollutants, including ozone, and their precursor pollutants (VOC and NO_X for ozone) to address pollution from onroad transportation sources. The MVEBs are the portion of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance. *See* 40 CFR 93.101.

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

B. What is the status of EPA's adequacy determination for the proposed VOC and NO_X MVEBs for the Cincinnati area?

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

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: Public notification of a SIP submission; provision for a public comment period; and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule titled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Indiana's maintenance plan includes NO_X and VOC MVEBs for the Cincinnati area for 2030 and 2020, the last year of the maintenance period and an interim year. EPA reviewed the VOC and NO_X MVEBs through the adequacy process. Indiana's February 23, 2016, maintenance plan SIP submission, including the VOC and NO_X MVEBs for the Indiana and Ohio portion of the Cincinnati area, was open for public comment on EPA's adequacy Web site on July 22, 2016, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.* The EPA public comment period on adequacy of the 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area closed on August 22, 2016. No comments on the submittal were received during the adequacy comment period. The submitted maintenance plan, which included the MVEBs, was endorsed by the Governor (or his or her designee) and was subject to a state public hearing. The MVEBs were developed as part of an interagency consultation process which includes Federal, state, and local agencies. The MVEBs were clearly identified and precisely quantified. These MVEBs, when considered together with all other emissions sources, are consistent with maintenance of the 2008 ozone standard.

TABLE 14—MVEBS FOR THE INDIANA AND OHIO PORTION OF THE CINCINNATI AREA, TPSD

	Attainment year 2014 onroad emissions	2020 Estimated onroad emissions	2020 Mobile safety margin allocation	2020 MVEBs	2030 Estimated onroad emissions	2030 Mobile safety margin allocation	2030 MVEBs
VOC	41.75	26.31	3.71	30.02	15.98	2.24	18.22
NO_X	50.66	27.11	3.68	30.79	14.28	1.94	16.22

As shown in Table 14, the 2020 and 2030 MVEBs are greater than the estimated 2020 and 2030 onroad sector emissions. In an effort to accommodate future variations in travel demand models and vehicle miles traveled forecast, IDEM allocated a portion of the safety margin (described further below) to the mobile sector. Indiana has demonstrated that the Cincinnati area can maintain the 2008 ozone NAAQS with mobile source emissions in the Indiana and Ohio portion of the area of 30.02 TPSD and 18.22 TPSD of VOC in 2020 and 2030, respectively, and 30.79 TPSD and 16.22 TPSD of NO_X in 2020 and 2030, respectively, since despite partial allocation of the safety margin, emissions will remain under attainment year emission levels. EPA has found adequate and is proposing to approve the MVEBs for use to determine transportation conformity in the Indiana and Ohio portion of the Cincinnati area, because EPA has determined that the area can maintain attainment of the 2008 ozone NAAQS for the relevant maintenance period with mobile source emissions at the levels of the MVEBs.

C. What is a safety margin?

A "safety margin" is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As shown in Table 15 below, the emissions in the Indiana and Ohio portion of the Cincinnati area, excluding the Kentucky portion of the area, are projected to have safety margins of 70.48 TPSD for NO_X and 30.20 TPSD for VOC in 2030 (the difference between the attainment year, 2014, emissions and the projected 2030 emissions for all sources in just the Indiana and Ohio portion of the Cincinnati area). Similarly, there is a safety margin of 53.74 TPSD for NO_X and 20.18 TPSD for VOC in 2020.

TABLE 15—SAFETY MARGIN FOR THE INDIANA AND OHIO PORTION OF THE CINCINNATI AREA, TPSD

	Attainment year 2014 emissions from all sources	2020 Estimated emissions from all sources	2020 Safety margin allocation	2030 Estimated emissions from all sources	2030 Safety margin allocation
VOC	114.56	94.38	20.18	84.36	30.20
NO_X	173.51	119.77	53.74	103.03	70.48

Even if emissions reached the full level of the safety margin, the counties would still demonstrate maintenance since emission levels would equal those in the attainment year.

As shown in Table 14 above, a portion of the safety margin for the Indiana and Ohio portion of the Cincinnati area is allocated to the mobile source sector. Specifically, in 2020, 3.71 TPSD and 3.68 TPSD of the VOC and NO_X safety margins, respectively, are allocated to the mobile source sector. In 2030, 2.24 TPSD and 1.94 TPSD of the VOC and NO_X safety margins, respectively, are allocated to the mobile source sector. The requested amount allocated to the MVEBs represents only a small portion of the 2020 and 2030 safety margins. Therefore, even though the requested MVEBs are greater than the projected onroad mobile source emissions for 2020 and 2030 contained in the demonstration of maintenance, the increase in onroad mobile source emissions that can be considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration. Further, once allocated to mobile sources, these safety margins will not be available for use by other sources.

VI. Has the state submitted approvable emission inventories?

A. The 2008 Ozone NAAQS and Emission Inventory Requirements

CAA sections 172(c)(3) and 182(a)(1), 42 U.S.C. 7502(c)(3) and 7511a(a)(1), require states to develop and submit, as SIP revisions, emission inventories for all areas designated as nonattainment for any NAAQS, including the 2008 ozone NAAQS. An emission inventory for ozone is an estimation of actual emissions of air pollutants that contribute to the formation of ozone in an area. Therefore, an emission inventory for ozone focuses on the emissions of VOC and NO_X. VOC is emitted by many types of pollution sources, including power plants, industrial sources, onroad and nonroad mobile sources, smaller stationary sources, collectively referred to as area sources, and biogenic sources.[7] NO_X is primarily emitted by combustion sources, both stationary and mobile.

Emission inventories provide emissions data for a variety of air quality planning tasks, including establishing baseline emission levels (anthropogenic [manmade] emissions associated with ozone standard violations), calculating emission reduction targets needed to attain the NAAQS and to achieve reasonable further progress toward attainment of the ozone standard (not required in the area considered here), determining emission inputs for ozone air quality modeling analyses, and tracking emissions over time to determine progress toward achieving air quality and emission reduction goals. As stated above, the CAA requires the states to submit emission inventories for areas designated as nonattainment for ozone.

[7] Biogenic emissions are produced by living organisms and are typically not included in the base year emission inventories, but are considered in ozone modeling analyses, which must consider all emissions in a modeled area.

For the 2008 ozone NAAQS, EPA has recommended that states submit typical summer day emission estimates for 2011 (78 FR 34178, 34190, June 6, 2013). States are required to submit estimates of VOC and NO_X emissions for four general classes of anthropogenic sources: Stationary point sources; area sources; onroad mobile sources; and nonroad mobile sources.

B. Indiana's Emission Inventories

Indiana's February 23, 2016 submission includes a SIP revision addressing the VOC and NO_X emission inventory requirement for the Indiana portion of the Cincinnati area. Table 16 summarizes the 2011 VOC and NO_X emissions for the Indiana portion of the Cincinnati area for a typical summer day (reflective of the summer period, when the highest ozone concentrations are expected in the nonattainment area).

TABLE 16—INDIANA PORTION OF CINCINNATI AREA 2011 EMISSION INVENTORY

[tons per day]

Source type	VOC	NO_X
Non-EGU Point	4.01	2.71
EGU Point	0.27	15.08
Area	1.75	0.47
Onroad Mobile	1.33	1.89
Nonroad Mobile	0.42	0.53
Totals	7.78	20.68

IDEM estimated VOC and NO_X emissions for the Indiana portion of the Cincinnati area by totaling emissions within each source category. To develop the VOC and NO_X emission inventories, IDEM used the procedures summarized below.

The primary source of emissions data for non-EGU point sources was source-reported 2011 Emission Inventory System (EIS) data. IDEM requires certain regulated stationary sources in the ozone nonattainment areas to submit EISs annually. An EIS contains detailed source type-specific or source unit-specific annual and seasonal actual emissions for all source units in a facility. The EIS data for all applicable facilities were used to calculate annual and summer day county-specific point source emissions. Because they are determinative, only the summer day emissions are summarized here.

EGU point source emissions data were obtained from EPA's Clean Air Markets Division (CAMD). CAMD collects and processes EGU emissions nationally.

For all point sources, IDEM has provided a detailed list of major point source facilities and their associated summer day VOC and NO_X emissions within appendix H of its February 23, 2016, submittal.

Nonroad mobile source emissions were estimated using EPA's National Mobile Inventory Model (NMIM). The emission estimates were processed through the Consolidated Community Emissions Processing Tool (CONCEPT) to spatially allocate the emissions to the county levels.

As described earlier, area, nonroad mobile, and point source emissions (EGUs and non-EGUs) were collected from the Ozone NAAQS Implementation Modeling platform (2011v6.1). For 2011, this represents actual data reported to EPA by the states for the 2011 NEI. Because emissions data from state inventory databases, the NEI, and the Ozone NAAQS Emissions Modeling platform are annual totals, tons per summer day were derived according to EPA's guidance document "Temporal Allocation of Annual Emissions Using EMCH Temporal Profiles" dated April 29 2002, using the temporal allocation references accompanying the 2011v6.1 modeling inventory files.

Onroad mobile source emissions were developed in conjunction with the Ohio-Kentucky-Indiana Regional Council of Governments (OKI) and were calculated from emission factors produced by EPA's 2014 Motor Vehicle Emission Simulator (MOVES) model and data extracted from the region's travel-demand model.

IDEM applied standardized, EPA-recommended procedures and data completeness checks to quality assure (QA) (to assure data accuracy) and quality check (QC) (to assure data completeness) the emission calculations.

C. EPA's Evaluation

EPA has reviewed Indiana's February 23, 2016, submittal for consistency with CAA and EPA emission inventory requirements. In particular, EPA has reviewed the techniques used by IDEM to derive and quality assure the emission estimates. EPA has also determined that Indiana has provided the public with the opportunity to review and comment on the development of the emission estimates and that the state has addressed all public comments.

1. Did the state adequately document the derivation of the emission estimates?

IDEM documented the procedures used to estimate the emissions for each of the major source types. The documentation of the emission estimation procedures is thorough and is adequate for us to determine that IDEM followed acceptable procedures to estimate the emissions.

2. Did the state quality assure the emission estimates?

IDEM developed a quality assurance plan and followed this plan during the various phases of the emissions estimation and documentation process to QA and QC the emissions for completeness and accuracy. These quality assurance procedures were summarized in the documentation describing how the emissions totals were developed. EPA has determined that the quality assurance procedures are adequate and acceptable. We conclude that Indiana has developed inventories of VOC and NO_X emissions that are comprehensive and complete.

3. Did the state provide for public review of the requested SIP revision?

IDEM notified the public of the opportunity for comment, and opened a comment period to solicit comments relevant to the emission inventory and the entire submittal. IDEM has reported that no comments were received.

VII. Proposed Actions

EPA is proposing to determine that the Cincinnati nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Indiana portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve IDEM's request to change the legal designation of the Indiana portion of the Cincinnati area from nonattainment to attainment for the 2008 ozone standard. EPA is also proposing to approve, as a revision to the Indiana SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Cincinnati area in attainment of the 2008 ozone NAAQS through 2030. Additionally, EPA finds adequate and is proposing to approve the newly-established 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area. Finally, EPA is proposing to approve the 2011 base year emissions inventory submitted by IDEM as meeting the base year emissions inventory requirement of the CAA for the Indiana portion of the Cincinnati area.

VIII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a

maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: December 12, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

[FR Doc. 2016–31044 Filed 12–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 79 and 80

[EPA–HQ–OAR–2016–0041; FRL–9957–45–OAR]

RIN 2060–AS66

Renewables Enhancement and Growth Support Rule; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: On November 16, 2016, the Environmental Protection Agency (EPA) proposed the Renewables Enhancement and Growth Support (REGS) rule. The proposal specified that the public comment period would end on January 17, 2017, 60 days after publication in the **Federal Register**. On December 9, 2016, the EPA received a joint request for an extension of the comment period from the following parties: American Soybean Association, Corn Refiners Association, Global Renewable Strategies and Consulting, LLC, Growth Energy, Iowa Biodiesel Board, Iowa Renewable Fuels Association, National Biodiesel Board, National Renderers Association, Renewable Fuels Association, and U.S. Canola Association. The petitioners requested an extension in order to have more time to evaluate the implications of the REGS rule. In light of the large number of revisions proposed in this action, the EPA is extending the deadline for written comments on the proposal by 30 days to February 16, 2017.

DATES: Comments must be received on or before February 16, 2017.

ADDRESSES: Submit your comments on the proposed REGS rule, identified by Docket ID No. EPA–HQ–OAR–2016–0041, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn from *Regulations.gov*. The 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. The 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Julia MacAllister, Assessment and Standards Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood Drive, Ann Arbor, MI 48105; telephone number: (734) 214–4131; email address: *macallister.julia@epa.gov.*

SUPPLEMENTARY INFORMATION: The EPA proposed rule was published on November 16, 2016, at 81 FR 80828. For the reasons stated, the public comment period will now end on February 16, 2017.

Dated: December 20, 2016.

Christopher Grundler,

Director, Office of Transportation and Air Quality.

[FR Doc. 2016–31263 Filed 12–23–16; 8:45 am]

BILLING CODE 6560–50–P

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Fri 12/23/2016 2:57:02 PM
Subject: FRN Update
8194283.pdf

FYI:

Proposed rule - redesignation to attainment

On December 23, 2016, EPA proposed to redesignate the Atlanta, GA nonattainment area for 2008 8-hr Ozone.
[81 FR 94283]

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Robert Wagoner

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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 proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to West Virginia's section 110(a)(2) infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 1, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2016–0583; FRL–9957–32–Region 4]

Air Plan Approval; Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 18, 2016, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia 2008 8-hour ozone nonattainment area (hereafter referred to as the "Atlanta Area" or "Area") to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to approve the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2014 and 2030 for the Area, and incorporate it into the SIP, and to redesignate the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Area.

DATES: Comments must be received on or before January 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2016–0583 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* 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, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann can be reached by phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.*

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I. What are the actions EPA is proposing to take?

EPA is proposing to take the following separate but related actions: (1) To approve Georgia's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporate it into the SIP, and (2) to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy

determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is proposing to approve Georgia's maintenance plan for the Atlanta Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to keep the Atlanta Area in attainment of the 2008 8-hour ozone NAAQS through 2030. The maintenance plan includes 2014 and 2030 MVEBs for NO_X and VOC for the Atlanta Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the SIP.

EPA also proposes to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process MVEBs for the Atlanta Area. The Adequacy comment period began on September 2, 2016, with EPA's posting of the availability of Georgia's submissions on EPA's Adequacy Web site (*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*). The Adequacy comment period for these MVEBs closed on October 3, 2016. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, this notice of proposed rulemaking is in response to Georgia's July 18, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS.

II. What is the background for EPA's proposed actions?

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15.

Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Atlanta Area was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.311. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. The Atlanta Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015, and therefore on May 4, 2016, EPA published a final rule reclassifying the Atlanta Area from a marginal nonattainment area to a moderate nonattainment area for the 2008 8-hour ozone standard. *See* 81 FR 26697 (May 4, 2016). Moderate areas are required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015. *See* 81 FR 45419. Under the provisions of EPA's ozone implementation rule for the 2008 8-hour ozone NAAQS (40 CFR part 51, subpart AA), if EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the area's obligations to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress plan (RFP), contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS are suspended until EPA: (i) Redesignates the area to attainment for the standard or approves a redesignation substitute, at which time those requirements no longer apply; or (ii) EPA determines that the area has violated the standard, at which time the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval.

An attainment determination is not equivalent to a redesignation under section 107(d)(3) of the CAA. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Atlanta Area based on any new or revised ozone NAAQS, and the determination of attainment remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing 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 for purposes of redesignation under section 110 and part D of the CAA.

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill

Laxton, Director, Technical Support Division, June 18, 1990;

2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the ''Calcagni Memorandum'');

5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

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

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

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

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

IV. Why is EPA proposing these actions?

On July 18, 2016, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing a maintenance plan for the Area. EPA's evaluation indicates that the Atlanta Area meets the requirements for redesignation as set forth in CAA section 107(d)(3)(E), including the maintenance plan requirements under CAA section 175A and associated MVEBs. As a result of these proposed findings, EPA is proposing to take the actions summarized in section I of this notice.

V. What is EPA's analysis of the redesignation request and July 18, 2016, SIP submission?

As stated above, in accordance with the CAA, EPA proposes to approve the 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Georgia SIP; and redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Atlanta GA Area Has Attained the 2008 8-Hour Ozone NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix P, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS. *See* 81 FR 45419. In that action, EPA reviewed complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015 and determined that the design values for each monitor in the Area are less than the standard of 0.075 ppm for that time period. The fourth-highest 8-hour ozone values at each monitor for 2013, 2014, and 2015 and the 3-year averages of these values (*i.e.,* design values), are summarized in Table 2, below.

TABLE 2—2013–2015 DESIGN VALUE CONCENTRATIONS FOR THE ATLANTA AREA

[ppm]

Location (county)	Monitoring station	4th Highest 8-hour ozone value			3-Year design values
		2013	2014	2015	2013–2015
Cobb	GA National Guard, McCollum Pkwy (13–067–0003)	0.067	0.063	0.066	0.066
Coweta	University of W. Georgia at Newnan (13–077–0002)	0.053	0.067	0.066	0.062
DeKalb	2390–B Wildcat Road Decatur (13–089–0002)	0.062	0.070	0.071	0.067
Douglas	Douglas Co. Water Auth. W. Strickland St. (13–097–0004)	0.063	0.065	0.070	0.066
Gwinnett	Gwinnett Tech, 5150 Sugarloaf Pkwy. (13–135–0002)	0.069	0.068	0.071	0.069
Henry	Henry County Extension Office (13–151–0002)	0.070	0.075	0.070	0.071
Paulding	Yorkville, King Farm (13–223–0003)	0.062	0.059	0.065	0.062
Rockdale	Conyers Monastery, 2625 GA Hwy. 212 (13–247–0001)	0.071	0.079	0.068	0.072
Fulton	Confederate Ave., Atlanta (13–121–0055)	0.069	0.073	0.077	0.073

The 3-year design value for 2013–2015 for the Atlanta Area is 0.073 ppm,[1] which meets the NAAQS.

For this proposed action, EPA has reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[2] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, Georgia has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

Criteria (2)—Georgia Has a Fully Approved SIP Under Section 110(k) for the Atlanta Area; and Criteria (5)—Georgia Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Georgia has met all applicable SIP requirements for the Atlanta Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Georgia has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were due prior to submittal of the complete redesignation request.

a. The Atlanta Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain 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 the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. 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. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

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

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A moderate area must meet the marginal area requirements of section 182(a) and additional requirements specific to moderate (and higher) areas under section 182(b). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are "applicable" and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* Calcagni Memorandum. *See also* Shapiro Memorandum; Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of "applicable" under the statute is '"whatever should have been in the plan at the time of attainment' rather than whatever actually was in the plan and already implemented or due at the time of attainment'").[3] For the Atlanta Area, no

[1] The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

[2] This preliminary data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/.*

[3] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a

section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore these requirements are not applicable for the purposes of redesignation.[4] In addition, as discussed below, several of the Part D requirements under 182(a) and 182(b) are otherwise not applicable for the purposes of redesignation and several of the requirements have already been satisfied by the State.

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. This inventory submission was due on July 20, 2015, for the Atlanta Area. Georgia provided an emissions inventory for the Area to EPA in a February 6, 2015, SIP submission, and EPA approved the emissions inventory in an action published on August 11, 2015. *See* 80 FR 48036.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments. Furthermore, the State complied with this requirement under the 1-hour ozone NAAQS. *See* 57 FR 46780 (October 13, 1992).

Section 182(a)(2)(B) requires each state with a marginal or higher ozone nonattainment area classification that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Atlanta Area is not subject to the section 182(a)(2)(B) requirement because the Area was designated as nonattainment for the 2008 8-hour ozone standard after the enactment of the 1990 CAA amendments. As discussed below in the section addressing section 182(b) requirements, Georgia has an I/M program that meets its past I/M obligations under section 182(c)(3) for its severe classification under the 1990 1-hour ozone NAAQS.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Georgia currently has a fully approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in the Nichols Memorandum. Georgia's PSD program will become applicable in the Atlanta Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled *Verification of Continued Attainment,* the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by certain sources within that nonattainment area. Georgia provided a SIP revision to EPA on February 6, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on August 11, 2015, EPA published a direct final rule approving this SIP revision. *See* 80 FR 48036 (August 11, 2015).

Section 182(b) Requirements. Section 182(b) of the CAA, found in subpart 2 of part D, establishes additional requirements for moderate (and higher) ozone nonattainment areas. As noted above, no section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore, these requirements are not applicable for the purposes of redesignation.

The RFP plan requirements under section 182(b)(1) are defined as progress that must be made toward attainment for the 2008 8-hour ozone NAAQS. These requirements are not relevant for purposes of redesignation because EPA has determined that the Atlanta Area attained of the 2008 8-hour ozone NAAQS. *See* 57 FR 13564.

Section 182(b)(2) of the CAA requires states with areas designated as moderate (or higher) nonattainment areas for the ozone NAAQS to submit a SIP revision to require RACT for all major VOC and NO_X sources and for each category of VOC sources in the Area covered by a Control Techniques Guidelines (CTG) document. The CTGs established by EPA are guidance to the states and provide recommendations only. A state can develop its own strategy for what constitutes RACT for the various CTG categories, and EPA will review that strategy in the context of the SIP process and determine whether it meets the RACT requirements of the CAA and its implementing regulations. If no major sources of VOC or NO_X emissions (which should be considered separately) or no sources in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. In the past, Georgia has met previous RACT requirements. EPA approved Georgia's RACT submittals, for the 1997 ozone NAAQS, on September 28, 2012. *See* 77 FR 59554.

The section 182(b)(3) gasoline vapor recovery requirements once applied in all moderate (and higher) ozone nonattainment areas. However, under section 202(a)(6) of the CAA the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. *See* 59 FR 16262; 40 CFR parts 86, 88, and 600.

Section 182(b)(4) of the CAA requires states with areas designated as moderate (or higher) nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). In 1991, EPA classified a 13-county area in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1990 1-hour ozone NAAQS, triggering the requirement for the State to establish an enhanced I/M program for this 13-county area.[5] EPA fully approved this program into the SIP in January 2000. *See* 65 FR 4133 (January 26, 2000).

Section 182(b)(5) of the CAA requires that for purposes of satisfying the general emission offset requirement, the ratio of total emission reductions to total increase emissions shall be at least 1.15 to 1. Georgia currently requires these

redesignation is approved, but are not required as a prerequisite to redesignation. *See* Calcagni Memorandum; CAA section 175A(c).

[5] On November 6, 1991, EPA designated and classified the following counties in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1-hour ozone NAAQS: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. *See* 56 FR 56694.

offsets in its SIP-approved state regulations, Georgia Rule 391–3–1–.03(8)(c)(13) and (14).

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

EPA interprets the conformity SIP requirements[6] 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. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Georgia has an approved conformity SIP for the Atlanta Area. *See* 77 FR 35866 (June 15, 2012).

Thus, for the reasons discussed above, EPA proposes that the Atlanta Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

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

EPA has fully approved the applicable Georgia SIP for the Atlanta Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS. *See* 80 FR 61109 (October 9, 2015) and 81 FR 65899 (September 26, 2016).

As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions, nor linked to an area's nonattainment status, are not applicable requirements for purposes of redesignation and believes that Georgia has met all part D requirements applicable for purposes of this redesignation.

Criteria (3)—The Air Quality Improvement in the Atlanta Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Georgia has demonstrated that the observed air quality improvement in the Atlanta Area is due to permanent and enforceable reductions in emissions resulting from federal measures and from state measures adopted into the SIP and is not the result of unusually favorable weather conditions.[7]

State measures adopted into the SIP and federal measures enacted in recent years have resulted in permanent emission reductions. The SIP-approved state measures, some of which implement federal requirements, that have been implemented to date and identified by Georgia include: Georgia Rule 391–3–1–.02(2)(yy)—Emissions of Nitrogen Oxides; Georgia Rule 391–3–1–.02(2)(jjj)—NO_X from EGUs; Georgia Rule 391–3–1–.02(2)(lll)—NO_X from Fuel Burning Equipment; Georgia Rule 391–3–1–.02(2)(nnn)—NO_X from Stationary Gas Turbines; Georgia Rule 391–3–1–.02(2)(rrr)—NO_X from Small Fuel Burning Equipment; and Georgia Rule Chapter 391–3–20—Enhanced Inspection and Maintenance.

Georgia Rule 391–3–1–.02(2) contains provisions that target emission reductions necessary for ozone reduction. Those provisions that are approved into the federally-approved SIP and are therefore federally enforceable include:

Rule 391–3–1–.02(2)(yy)—this rule requires a case-by-case RACT determination for sources of NO_X emissions with the potential to emit more than 25 tons of NO_X per year in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties and for sources that have the potential to emit more than 100 tons of NO_X per year in Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton counties.

Rule 391–3–1–.02(2)(jjj)—this rule regulates NO_X emissions from coal-fired external combustion devices that generate steam for electricity generation. This rule established a NO_X emission standard of 0.13 pounds per million British Thermal Unit (lb/MMBtu) from May 1 through September 30 (starting in 2003) averaged across affected sources in Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gwinnett, Heard, Henry, Paulding, and Rockdale counties.

Rule 391–3–1–.02(2)(lll)—this rule applies to fuel-burning equipment with maximum design heat input capacities greater than or equal to 10 million British Thermal Units per hour (MMBtu/hr) and less than or equal to 250 MMBtu/hr in 45 counties, including the counties in the Atlanta Area. It established a compliance date for the ozone standard beginning on May 1, 2000, and it affects all fuel burning equipment installed from that date forward. This rule also affects future possible emissions for new or modified sources by requiring the operation of equipment during the control season to meet emission limits based on the use of natural gas.

Rule 391–3–1–.02(2)(nnn)—this rule establishes ozone season NO_X emissions limits for stationary gas turbines greater than 25 MW in 45 counties in and around the Atlanta Area. This rule requires combustion turbines permitted on or after April 1, 2000, to emit no more than 6 ppm NO_X at 15 percent oxygen during the period of May 1 through September 30 of each year. This

[6] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

[7] Georgia provided average temperature and precipitation data for May through September in Atlanta, Georgia, from 1930 through 2015. Based on this information, the average temperature and precipitation in 2013 fluctuates around the average meteorological conditions; the years 2014 and 2015 were hotter than the 1930–2000 average temperature; and precipitation in 2014 was less than the the 1930–2000 average. See section 2.3 of the State's redesignation request and SIP revision for further meteorological information.

period falls within the broader ozone season.

Rule 391–3–1–.02(2)(rrr)—this is a RACT rule for small fuel-burning equipment. It requires that, in order to reduce NO_X, an annual tune-up and the burning of natural gas, liquefied petroleum gas, or propane be conducted on individual fuel burning equipment in the Atlanta Area that is not subject to Rule 391–3–1–.02(2)(jjj) or 391–3–1–.02(2)(lll), during ozone season. This includes individual fuel-burning equipment located at facilities in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale County with NO_X emissions exceeding 25 tons per year and at facilities in Barrow, Bartow, Carroll, Hall, Newton, Spalding or Walton County with NO_X emissions exceeding 100 tons per year; the individual fuel-burning equipment has potential emissions of NO_X equal to or exceeding 1 ton per year; and the individual fuel-burning equipment either has a maximum design heat input capacity of less than 100 million BTU per hour or less than 10 million BTU per hour, depending on when it was installed.

Rule Chapter 391–3–20—Enhanced Inspection and Maintenance (Vehicle Emissions I/M Program)—As discussed above, EPA fully approved the State's enhanced I/M program and adopted it into the SIP in January 2000. *See* 65 FR 4133 (January 26, 2000). The program applies to Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, all of which are located in the Atlanta Area.

Federal measures enacted in recent years have also resulted in permanent emission reductions in the Atlanta Area. The federal measures that have been implemented include the following:

Clean Air Interstate Rule (CAIR)/ Cross-State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 28 eastern states, including Georgia, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008) to preserve the environmental benefits provided by CAIR. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Numerous parties filed petitions for review of CSAPR, and on August 21, 2012, the D.C. Circuit vacated and remanded CSAPR to EPA. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and ozone-season NO_X CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015).[8] This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017.

On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_X budgets. The update withdraws these remanded NO_X budgets, sets new Phase 2 CSAPR ozone season NO_X emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_X trading program.[9]

Tier 2 vehicle and fuel standards. Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO_X emissions.[10] The standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO_X per mile. Additionally, in January 2006, the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NO_X emissions. EPA expects that these standards will reduce NO_X emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.[11]

Large non-road diesel engines rule. This rule was promulgated in 2004 and was phased in between 2008 through 2014. This rule reduces the sulfur content in the nonroad diesel fuel and reduces NO_X, VOC, particulate matter, and carbon monoxide emissions. This rule applies to diesel engines and fuel used in industries such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

Medium and Heavy-Duty Vehicle Fuel Consumption and GHG Standards. These standards have and will continue to reduce greenhouse gas emissions and increase fuel efficiency for model year 2014 through 2018 semi-trucks, heavy-duty pickup trucks and vans, and vocational vehicles. These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO_2 emissions and fuel consumption by

[8] The remanded budgets include the Phase 2 sulfur dioxide (SO_2) budgets for Georgia. On May 26, 2016, Georgia submitted a commitment letter to provide a SIP revision that adopts provisions for participation in the CSAPR annual NO_X and annual SO_2 trading programs, including annual NO_X and annual SO_2 budgets that are at least as stringent as the budgets codified for Georgia at 40 CFR 97.710(a) (SO_2 Group 2 trading budgets) and 40 CFR 97.410(a) (NO_X Annual trading budgets). This commitment letter formed the basis for EPA's conditional approval of the visibility transport element of several infrastructure SIP submittals from the State. *See* 81 FR 65899 (September 26, 2016). SO_2 is not an ozone precursor; therefore, SO_2 reductions under CSAPR do not impact ozone air quality.

[9] *See* 81 FR 74504 for further discussion. Georgia has an ongoing original CSAPR NO_X ozone season FIP requirement with respect to the 1997 ozone NAAQS, but EPA has found that is does not contribute to interstate transport with respect to the 2008 ozone NAAQS. EPA did not reopen comment on Georgia's interstate transport obligation with respect to the 1997 ozone NAAQS in the rulemaking for the CSAPR update rule, so Georgia's original CSAPR NO_X ozone season requirements (including its emission budget) continue unchanged. *See* 81 FR 74506. The air quality modeling for the CSAPR update rule did not identify the Atlanta Area as an attainment or maintenance receptor for the 2008 8-hour ozone NAAQS. *See https://www3.epa.gov/airmarkets/CSAPRU/AQ%20Modeling%20TSD%20Final%20CSAPR%20Update.pdf.*

[10] Georgia also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

[11] EPA, Regulatory Announcement, EPA420–F–99–051 (December 1999), available at: *http://www.epa.gov/tier2/documents/f99051.pdf.*

2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NO_X emissions.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO_X and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses and will reduce NO_X emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.[12]

Nonroad spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_X, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (*e.g.,* forklifts and airport ground service equipment), recreational vehicles (*e.g.,* off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National program for greenhouse gas (GHG) emissions and fuel economy standards. The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012–2016 (phase 1) and 2017–2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO_X emissions released.

Boiler and Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP). The NESHAP for industrial, commercial, and institutional boilers and the NESHAP for RICE are projected to reduce VOC emissions. The former applies to boiler and process heaters located at major sources of hazardous air pollutants (HAPs) that burn natural gas, fuel oil, coal, biomass, refinery gas, or other gas and had a compliance deadline of January 31, 2016. The latter applies to existing, new, or reconstructed stationary RICE located at major or area sources of HAPs, excluding stationary RICE being tested at a stationary RICE test cell, and has various compliance dates from August 16, 2004, to October 19, 2013, depending on the type of source.

Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS). The MATS for coal and oil-fired electric generation units (EGU) and the NSPS for fossil-fuel-fired electric utility steam generating units were published on February 16, 2012 (77 FR 9304). The purpose is to reduce mercury and other toxic air pollutant emissions from coal and oil-fired EGUs, 25 megawatts or more, that generate electricity for sale and distribution through the national electric grid to the public. The NSPS has revised emission standards for NO_X, SO_2, and particulate matter (PM) that apply to new coal and oil-fired power plants. The MATS compliance date for existing sources was April 16, 2015. However, all coal fired EGUs in Georgia received a one-year compliance extension. MATS rule is expected to reduce NO_X and SO_2 emissions as well as emissions of mercury and other air toxics.

EPA proposes to find that the improvements in air quality in the Atlanta Area are due to real, permanent and enforceable reductions in NO_X and VOC emissions resulting from the federal and SIP-approved state measures discussed above.

Criteria (4)—The Atlanta Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS, Georgia submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the remainder of the 20-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Georgia's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Georgia SIP.

b. Attainment Emissions Inventory

As discussed above, EPA has determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2013–2015. *See* 81 FR 45419. Georgia selected 2014 as the base year (*i.e.,* attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Georgia began development of the attainment inventory by first generating a baseline emissions inventory for the Area. The 2014 base year emissions were projected to 2030 for EGU point sources, non-EGU point sources, area sources, fires (both agricultural burning and land clearing, and wildfire and prescribed burning), non-road mobile sources, and on-road mobile sources. The State projected summer day emission inventories using projected rates of growth in population, traffic, economic activity, and other

[12] 66 FR 5002, 5012 (January 18, 2001).

parameters. In addition to comparing the final year of the plan (2030) to the base year (2014), Georgia compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, non-point, on-road mobile, and non-road mobile. Complete descriptions of how the State developed these inventories are located in Appendix A of the July 18, 2016, SIP submittal.

Point Sources

Georgia provided point source emissions for EGU and non-EGU stationary sources with emissions equal to or exceeding 25 tons per year of VOC or NO_X in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, and equal to or exceeding 100 tons per year of VOC or NO_X in Bartow and Newton counties.

EGU point source emissions for the three power plants in the Area (Plant Bowen, Plant McDonough/Atkinson, and Plant Yates) are tabulated from data collected from Georgia Power during the 2014 emission data collection process.[13] Georgia projected 2030 NO_X and VOC emissions for two of the EGUs, Plant Bowen and Plant McDonough/Atkinson, from 2014 emissions using growth factors based on fuel consumption. At Plant Yates, five units were retired in 2015 and two units were converted from coal to natural gas boilers in 2015, and in the future, this facility is planned to be run as a peaking unit with a capacity factor of approximately 25 percent. Therefore, Georgia projected 2030 NO_X emissions using the plant's projected usage, a nominal heat rate of 12 MMBtu/MWh, and the measured NO_X emission rates after it was converted to natural gas. Georgia projected 2030 VOC emissions at the plant using maximum measured emission rates for May and June of 2015.

For non-EGU emissions, Georgia calculated summer day emissions for the 2014 and 2030 inventories using 2014 NO_X and VOC emissions submitted by facilities during the 2014 GA EPD emission data collection process. The basis for Georgia's no-growth assumption for non-EGU point source emissions from 2014–2030 is discussed in the SIP submittal.

Non-Point Sources

GA EPD based its 2014 area source emissions on its 2014 Air Emissions Reporting Requirements (AERR) submittal.[14] [15] For certain area source sectors, GA EPD used EPA draft 2014 emission estimates[16] and for other source sectors for which EPA does not have draft 2014 estimates, GA EPD estimated 2014 area emissions using the average of 2011 and 2017 emissions from EPA's 2011 emissions modeling platform v6.2.[17] GA EPD multiplied 2014 area source emissions with growth factors to estimate 2030 area source emissions. These growth factors were calculated using 2011, 2017, and 2025 emissions in EPA's 2011 modeling platform v6.2.

GA EPD developed 2014 agricultural burning and land clearing emissions using 2014 burning records from the Georgia Forestry Commission (GFC) and EPA agricultural burning emission factors.[18] GA EPD used 2014 burning records from GFC and military bases to determine 2014 wildfire and prescribed burning emissions. GA EPD assumed that emissions from agricultural burning, land clearing, wildfire, and prescribed burning remained constant from 2014–2030.

On-Road Sources

The Atlanta Regional Commission developed 2014 and 2030 on-road mobile source emissions using EPA's MOVES2014a mobile source emissions model. GA EPD used best available local data for model inputs such as vehicle population, vehicle miles traveled (VMT), road type distribution, average speed distribution, starts, ramp fractions, age distributions, I/M inputs, and fuel properties. The model was run separately for two different groups of nonattainment counties because of differences in I/M program and Stage II refueling requirements. The first group consisted of the following 13 counties with Stage II refueling in place through 2015[19] and I/M programs: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. The second group consisted of the following counties without I/M programs or Stage II refueling: Bartow and Newton.

Non-Road Sources

Some non-road mobile emissions in the U.S. are from the non-road equipment segment (*i.e.,* agricultural equipment, construction equipment, lawn and garden equipment, and recreational vehicles, such as boats and jet-skis). Georgia calculated 2014 and 2030 emissions from non-road sources other than marine, aircraft, and locomotives using the NONROAD portion of EPA's MOVES2014a model.[20] MOVES2014a defaults were used with 2014 meteorological data based on Atlanta Hartsfield Jackson International Airport meteorological data. Fuel properties reflected the current Georgia gasoline.[21]

For 2014 locomotive emissions, Georgia used 2011 emissions obtained from 2011 emissions modeling platform v6.2[22] because locomotive fuel consumption changed little from 2011 to 2014. Georgia projected 2030 locomotive emissions from 2014 emissions using growth and control factors. Summer day and annual emissions for 2014 and 2030 from aircraft at Atlanta Hartsfield Jackson International Airport were provided by

[13] Georgia's emission data collection process is discussed at *http://epd.georgia.gov/air/emissions-inventory-system-eis.*

[14] The area source inventory was developed with the February 16, 2016, draft National Emissions Inventory for 2014 (2014 NEI) for all available source categories. Georgia EPD provided estimates for remaining area source categories not yet included in the draft 2014 NEI, which served as the basis for Georgia's required submittal for NEI development. The 2014 NEI is discussed further at *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[15] EPA's AERR, set forth at Subpart A to 40 CFR part 51, specifies that a state must submit triennial reports of annual (12-month) emissions for all sources and every-year reports of annual emissions of criteria air pollutants and their precursors for all major sources as well as annual emissions reporting from certain larger sources, as outlined in Appendix A to Subpart A. These submittals serve to help develop the national emissions inventory that EPA compiles and publishes triennially. The AERR includes specific reporting thresholds for point sources in attainment and nonattainment areas allows for general estimates for non-point sources.

[16] *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[17] Information regarding the 2011 emissions modeling platform v6.2 is located at *https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms.*

[18] These emissions factors are available at *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[19] As discussed above, Stage II controls are no longer required because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. See 59 FR 16262; 40 CFR parts 86, 88, and 600. On January 22, 2015, Georgia submitted a SIP revision to remove Stage II requirements from their SIP, and EPA approved this revision on September 25, 2015. *See* 80 FR 57729.

[20] Georgia used the version of MOVES2014a released by EPA on November 4, 2015. More information on the MOVES2014a model is available at *https://www.epa.gov/moves/moves2014a-latest-version-motor-vehicle-emission-simulator-moves.*

[21] Many of the counties in the Atlanta Area must use gasoline with a reduced Reid Vapor Pressure (RVP) of 7.8 pounds per square inch during some of the summer months. This reduced RVP reduces VOC emissions. For further information on RVP, see *https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure.*

[22] *https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms.*

KB Environmental Sciences on behalf of the City of Atlanta Department of Aviation and included in Appendix A–9 of the SIP submittal. Other aircraft emissions were projected from the 2011 emissions modeling platform v6.2 for 2014 and were projected for 2030 using growth factors. These growth factors were based on landing and take-off operation projections available from the Federal Aviation Administration's Terminal Area Forecasts. Growth rates for military aircraft stayed at 2011 levels. Georgia did not include marine emissions in the inventory because no commercial marine vessels operate in the Atlanta Area.

The 2014 base year inventory for the Area, as well as the projected inventories for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 6 of the following subsection discussing the maintenance demonstration.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2018, 2022, 2026, and 2030. The 2022 emissions were calculated by linear interpolation between 2014 and 2030; 2018 emissions were calculated by linear interpolation between 2014 and 2022; and 2026 emissions were calculated by linear interpolation between 2022 and 2030.

(iii) Identifies an ''out year'' at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEBs were established for the last year (2030) of the maintenance plan as well as for an interim year 2014 (see section VI below).

(iv) Provides actual (2014) and projected emissions inventories, in tons per summer day (tpsd), for the Atlanta Area, as shown in Tables 3 and 4, below.

TABLE 3—ACTUAL AND PROJECTED AVERAGE SUMMER DAY NO_X EMISSIONS FOR THE ATLANTA AREA

[Tons per summer day (tpsd)]

Sector	2014	2018	2022	2026	2030
Point	31.36	31.11	30.85	30.60	30.34
Non-point	4.88	4.93	4.97	5.02	5.06
Non-road	76.69	69.99	63.29	56.59	49.89
On-road	170.15	137.01	103.86	70.72	37.57
Total	283.09	243.03	202.98	162.92	122.86

TABLE 4—ACTUAL AND PROJECTED AVERAGE SUMMER DAY VOC EMISSIONS FOR THE ATLANTA AREA

[tpsd]

Sector	2014	2018	2022	2026	2030
Point	11.24	11.25	11.26	11.27	11.28
Non-point	119.89	118.52	117.16	115.79	114.42
Non-road	53.38	53.11	52.83	52.56	52.28
On-road	81.76	69.49	57.22	44.94	32.67
Total	266.25	252.35	238.45	224.54	210.64

Tables 3 and 4 summarize the 2014 and future projected emissions of NO_X and VOC in the Atlanta Area. In situations where local emissions are the primary contributor to nonattainment, such as the Atlanta Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standard should not be exceeded in the future. Georgia has projected emissions as described previously and determined that emissions in the Atlanta Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, below, 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. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Georgia selected 2014 as the attainment emissions inventory year for the Atlanta Area and calculated safety margins for 2030 as shown in Table 5, below.

TABLE 5—SAFETY MARGINS FOR THE ATLANTA AREA

Year	VOC (tpd)	NO_X (tpd)
2030	55.61	160.23

The State has decided to allocate a portion of the available safety margin to the 2030 MVEBs to allow for, among other things, unanticipated growth in VMT and changes and uncertainty in vehicle mix assumptions that will influence the emission estimations. Georgia has allocated 20.43 tpd (34.76 percent) of the available NO_X safety margin to the 2030 NO_X MVEB and 19.33 tpd (12.75 percent) of the available VOC safety margin to the 2030 VOC MVEB. After allocation of the available safety margin, the remaining safety margin is 139.80 tpd for NO_X and 36.28 tpd for VOC. This allocation and the resulting available safety margin for the Atlanta Area are discussed further in section VI of this proposed rulemaking along with the MVEBs to be used for transportation conformity proposes.

d. Monitoring Network

There currently are nine monitors measuring ozone in the Atlanta Area. Georgia will continue to operate the monitors in the Atlanta Area in compliance with 40 CFR part 58 and has

thus addressed the requirement for monitoring. EPA approved Georgia's monitoring plan on October 13, 2015.

e. Verification of Continued Attainment

Georgia, through the GA EPD, has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the AERR, GA EPD is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. EPD will update the AERR inventory every three years and will use the updated emissions inventory to track progress of the maintenance plan.

f. Contingency Measures in the Maintenance Plan

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 occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the July 18, 2016, submittal, Georgia commits to continuing existing programs and commits to use emission inventory and air quality monitoring data as indicators to determine whether contingency measures will be implemented. The contingency plan included in the maintenance plan includes a two-tiered triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures.

A Tier 1 trigger will apply where a violation of the 2008 8-hour standard has not occurred, but where the State finds monitored ozone concentrations indicating that a violation may be imminent. The Tier 1 trigger date will be 60 days after the State observes a 4th highest value of 0.076 ppm or greater at a single monitor for which the previous ozone season had a 4th highest value of 0.076 ppm or greater. If Tier 1 is triggered, Georgia will develop a plan identifying additional voluntary measures to be implemented to remedy the situation that may include the following measures or any other measure deemed appropriate and effective at the time the selection is made: Clean Air Force Campaign Strategies; additional Georgia Department of Transportation marketing campaigns; implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations; alternative fuel programs for fleet vehicle operations; gas can and lawnmower replacement programs; or voluntary engine idling reduction programs.[23] If the 4th highest exceedance occurs early in the ozone season, GA EPD will work with entities identified in the plan to determine if measures can be implemented during the current season, otherwise, GA EPD will implement the plan for the following ozone season. No later than May 1 of the year following the trigger, GA EPD will complete analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 2008 8-hour ozone NAAQS that would become state effective by the following year.

A Tier II trigger occurs when the periodic emissions inventory updates (AERR) reveal excessive or unanticipated growth greater than 10 percent in NO_X or VOC emissions over the attainment or intermediate emissions inventories for the Area or when there is a quality assured design value equal to or greater than 0.076 ppm at a monitor in the Area, which is a violation of the 2008 Ozone NAAQS. The trigger date will be 60 days from the date that Georgia observes a 4th highest value that, when averaged with the two previous ozone seasons' 4th highest values, results in a three-year average equal to or greater than 0.076 ppm. If a Tier II trigger occurs, Georgia will conduct a comprehensive analysis and, as expeditiously as practicable but no later than 24 months of the trigger, will implement at least one contingency measure. In order for more time to be allowed, Georgia must submit to EPA a demonstration that more time is needed and EPA must approve such demonstration.

If the comprehensive analysis determines that emissions from the Area are contributing to the trigger condition, GA EPD will evaluate those measures as specified in CAA section 172 for control options as well as other available measures. If a new measure/control is already promulgated and scheduled to be implemented at the federal or state level, and that measure/control is determined to be adequate, the State may conclude that additional local controls may be unnecessary. Under Section 175A(d), the minimum requirement for contingency measures is the implementation of all measures that were contained in the SIP before the redesignation. Currently all such measures are in effect for the Atlanta Area; however, an evaluation of those measures, such as RACT, can be performed to determine if those measures are adequate or up-to-date. In addition to these measures, contingency measure(s) will be selected from the following types of measures or from any other measure deemed appropriate and effective at the time the selection is made:

- RACM for sources of VOC and NO_X;
- RACT for point sources of VOC and NO_X, specifically the adoption of new and revised RACT rules based on Groups II, III, and IV CTGs;
- Expansion of RACM/RACT to area(s) of transport within the State;
- Other measures deemed appropriate at the time as a result of advances in control technologies; and
- Additional NO_X reduction measures yet to be identified.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Georgia for the Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's analysis of Georgia's proposed NO_X and VOC MVEBs for the area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (*i.e.,*

[23] If the State adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.,* Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP) (September 2004).

be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new 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. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. 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.

After interagency consultation with the transportation partners for the Atlanta Area, Georgia has developed MVEBs for NO_X and VOC for the Area. Georgia developed these MVEBs for the last year of its maintenance plan (2030) and for the interim year of 2014. Because the interim MVEB year of 2014 is also the base year for the maintenance plan inventory, there is no safety margin; therefore, no adjustments were made to the MVEBs for 2014. The 2030 MVEBs reflect the total projected on-road emissions for 2030, plus an allocation from the available NO_X and VOC safety margins. Under 40 CFR 93.101, the term "safety margin" is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and VOC MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. The NO_X and VOC MVEBs for the Area are identified in Table 6, below.

TABLE 6—ATLANTA AREA NO_X AND VOC MVEBS

[tpd]

	2014	2030
NO_X On-Road Emissions	170.15	37.57
NO_X Safety Margin Allocated to MVEB	.....	20.43
NO_X MVEB	170.15	58
VOC On-Road Emissions	81.76	32.67
VOC Safety Margin Allocated to MVEB	.....	19.33
VOC MVEB	81.76	52

Georgia has chosen to allocate a portion of the available safety margin to the 2030 NO_X and VOC MVEBs for the Area based on the worst-case 2030 daily motor vehicle emissions projection. The worst-case projection for NO_X is 54 percent (20.43 tpd) above the projected 2030 NO_X on-road emissions and the worst-case projection for VOC is 59 percent (19.33 tpd) above the 2030 VOC on-road emissions. Georgia therefore allocated 20.43 tpd of the NO_X safety margin to the 2030 NO_X MVEB and 19.33 tpd of the VOC safety margin to the 2030 VOC MVEB. The remaining safety margins for 2030 are 139.80 tpd and 36.28 tpd NO_X and VOC, respectively.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and VOC for years 2014 and 2030 for the Area because EPA has preliminarily determined that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs the Atlanta area?

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

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Georgia's maintenance plan includes NO_X and VOC MVEBs for the Atlanta Area for interim year 2014 and 2030, the last year of the maintenance plan. EPA reviewed the NO_X and VOC MVEBs through the adequacy process described in Section I.

EPA intends to make its determination on the adequacy of the 2014 and 2030 MVEBs for the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on September 2, 2016. If EPA finds the 2014 and 2030 MVEBs adequate or approves them, the new MVEBs for NO_X and VOC must be used for future

transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2029, the 2014 MVEBs will be used, and for years 2030 and beyond, the applicable budgets will be the new 2030 MVEBs established in the maintenance plan.

VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Georgia's redesignation request would change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in the Atlanta Area, found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Georgia's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2030 into the Georgia SIP. The maintenance plan establishes NO_X and VOC MVEBs for 2014 and 2030 for the Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluating potential violations.

IX. Proposed Actions

EPA is proposing to: (1) Approve the maintenance plan for the Atlanta Area, including the NO_X and VOC MVEBs for 2014 and 2030, and incorporate it into the Georgia SIP, and (2) approve Georgia's redesignation request for the 2008 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is also describing the status of its adequacy determination for the NO_X and VOC MVEBs for 2014 and 2030 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

If finalized, approval of the redesignation request would change the official designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in Georgia for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

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 as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

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

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

Dated: December 13, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–30879 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0009; FRL–9957–30–Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the North Penn Area 6 Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Notice of intent for partial deletion of the North Penn Area 6 Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a Notice of Intent to Delete a portion of the North Penn Area 6 Superfund Site (Site) located in Lansdale Borough, Montgomery County, Pennsylvania, from the National Priorities List (NPL). The proposed deletion affects approximately 6.5 acres at 135 East Hancock Street (the "Administrative

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]; Raps, Virginia[raps.virginia@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 4/25/2017 1:54:52 PM
Subject: FRN Update
8219011.pdf

FYI:

Proposed rule - determination of attainment

On April 25, 2017, EPA proposed to determine that the Washington, DC-MD-VA nonattainment area has attained the 2008 8-hr Ozone NAAQS, based on 2013-2015 monitoring data.
[82 FR 19011]

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Robert Wagoner

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addition, your comment should not include any "trade secret or any commercial or financial information which . . . is privileged or confidential"—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including in particular competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Once your comment has been posted on the public FTC Web site—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC Web site, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request in accordance with the law and the public interest. Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. See FTC Rule 4.9(c).

Visit the Commission Web site at *http://www.ftc.gov* to read this document and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before May 24, 2017. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–08248 Filed 4–24–17; 8:45 am]

BILLING CODE 6750–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0369; FRL–9960–03–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone Standard; District of Columbia, Maryland, and Virginia; Washington, DC-MD-VA Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Washington, DC-MD-VA marginal ozone nonattainment area (the Washington Area) has attained the 2008 ozone national ambient air quality standard (NAAQS) by the July 20, 2016 attainment date. This proposed determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Washington Area for the 2013 through 2015 monitoring period. This proposed determination does not constitute a redesignation to attainment. This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before May 25, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0369 at *https://www.regulations.gov,* or via email to *rehn.brian@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://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Requirement—Determination of Attainment by the Attainment Date

Section 181(b)(2) of the CAA requires EPA to determine, within 6 months of an ozone nonattainment area's attainment date, whether that area attained the ozone standard by that date. Section 181(b)(2) of the CAA also requires that areas that have not attained the standard by their attainment deadlines be reclassified to either the next higher classification (*e.g.,* marginal to moderate, moderate to serious, etc.) or to the classifications applicable to the areas' design values in Table 1 of 40 CFR 51.1103. CAA section 181(a)(5) provides a mechanism by which the EPA Administrator may grant a 1-year extension of an area's attainment deadline, provided that the relevant states meet certain criteria.

B. The Washington Area and Its Attainment Date

On July 18, 1997 at 62 FR 38855, EPA promulgated a revised ozone NAAQS of 0.08 parts per million (ppm), averaged over eight hours. This standard was determined to be more protective of public health than the previous 1979 1-hour ozone standard. In 2008, EPA revised the 8-hour ozone NAAQS from 0.08 to 0.075 ppm (the 2008 ozone NAAQS). *See* 73 FR 16436 (March 27, 2008). In a May 21, 2012 final rule, the Washington Area was designated as marginal nonattainment for the more stringent 2008 ozone NAAQS, effective on July 20, 2012. 77 FR 30088. The Washington Area consists of the Counties of Calvert, Charles, Frederick, Montgomery, and Prince George's in Maryland; the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park Cities in Virginia; and the entirety of the District of Columbia. *See* 40 CFR 81.309, 81.321, and 81.347.

In a separate rulemaking action, also published on May 21, 2012 and effective on July 20, 2012, EPA established the air quality thresholds that define the classifications assigned to all nonattainment areas for the 2008 ozone NAAQS (the Classifications Rule). See 77 FR 30160. This rulemaking also established December 31 of each

relevant calendar year as the attainment date for all nonattainment area classification categories. Section 181 of the CAA provides that the attainment deadline for ozone nonattainment areas is ''as expeditiously as practicable'' but no later than the prescribed dates that are provided in Table 1 of that section. In the Classifications Rule, EPA translated the deadlines in Table 1 of CAA section 181 for purposes of the 2008 standard by measuring those deadlines from the effective date of the new designations, but extended those deadlines by several months to December 31 of the corresponding calendar year. Pursuant to a challenge of EPA's interpretation of the attainment deadlines, on December 23, 2014, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) issued a decision rejecting, among other things, the Classifications Rule's attainment deadlines for the 2008 ozone nonattainment areas, finding that EPA did not have statutory authority under the CAA to extend those deadlines to the end of the calendar year. *NRDC* v. *EPA,* 777 F.3d 456, 464–69 (D.C. Cir. 2014). Accordingly, as part of the final rule, ''Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan (SIP) Requirements,'' for the 2008 ozone NAAQS (80 FR 12264, March 6, 2015) (hereinafter, SIP Requirements Rule), EPA modified the maximum attainment dates for all nonattainment areas for the 2008 ozone NAAQS, consistent with the D.C. Circuit's decision. The SIP Requirements Rule established a maximum deadline for marginal nonattainment areas of three years from the effective date of designation, or July 20, 2015, to attain the 2008 ozone NAAQS. *See* 80 FR at 12268; 40 CFR 51.1103.

In a final rulemaking action published on May 4, 2016, EPA determined that the Washington Area did not attain the 2008 ozone NAAQS by its July 20, 2015 attainment date, based on ambient air quality monitoring data for the 2012–2014 monitoring period. In that same action, EPA determined that the Washington Area qualified for a 1-year extension of its attainment date, as provided in section 181(a)(5) of the CAA and interpreted by regulation at 40 CFR 51.1107. With that final rulemaking action, the new attainment date for the Washington Area is July 20, 2016. *See* 81 FR 26697 (May 4, 2016).

II. EPA's Analysis of the Relevant Air Quality Data

Under EPA regulations, at 40 CFR part 50, appendix P, the 2008 ozone NAAQS is attained at a monitoring site when the three-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.075 ppm. This three-year average is referred to as the design value. When the design value is less than or equal to 0.075 ppm at each ambient air quality monitoring site within the designated nonattainment area, then the area is deemed to be meeting the NAAQS. The rounding convention under 40 CFR part 50, appendix P dictates that concentrations shall be reported in ppm to the third decimal place, with additional digits to the right being truncated. Thus, a computed three-year average ozone concentration of 0.0759 ppm or lower would meet the standard, but 0.0760 ppm or higher is over the standard.

EPA's proposed determination of attainment is based upon data that has been collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS) database. Ambient air quality monitoring data for the three-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the three-year average of the percent (%) of required monitoring days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness, as determined according to 40 CFR part 50, appendix P. Tables 1 and 2 show the data completeness and ozone design values, respectively, for each monitor in the Washington Area for the years 2013–2015.

TABLE 1—2013–2015 WASHINGTON AREA OZONE MONITOR DATA COMPLETENESS

County, state	Site ID	% Data completeness			2013–2015 Average % completeness	Comment
		2013	2014	2015		
District of Columbia.	110010041	99	0	0	33	Construction caused temporary site shut down in 2014. [a]
	110010043	99	99	99	99	
	110010050	[d] 78	100	99	[d] 92	The site began operating in January 2013. It was shut down from July to November 2013 due to building repairs. [b]
Calvert, MD	240090011	99	100	96	98	
Charles, MD	240170010	90	97	98	95	
Frederick, MD	240210037	97	96	97	96	
Montgomery, MD	240313001	98	99	99	99	
Prince George's, MD.	240330030	100	99	95	98	
	240338003	100	98	99	99	
	240339991	[e] 99	[e] 100	[e] 100	[e] 99	Clean Air Status and Trends Network (CASTNET) monitor. [c]
Arlington, VA	510130020	94	100	99	98	
Fairfax, VA	510590030	99	91	97	96	
Loudoun, VA	511071005	100	99	93	97	
Prince William, VA	511530009	100	100	99	100	

Notes:

[a] The temporary shutdown was included in the District of Columbia Department of Energy & Environment (DC DOEE) July 2015 Annual Network Plan, which was submitted to EPA on June 25, 2015 and approved by EPA on November 12, 2015.

[b] The temporary shutdown was not included in the DC DOEE's Annual Network Plan.

[c] EPA's Clean Air Markets Division (CAMD) operates this CASTNET monitor.

[d] Completeness value after substitution analysis. The 2013 data was previously incomplete due to a temporary shutdown. The details of the analysis conducted by DC DOEE and EPA's approval letter of the substitution analysis are available online at *https://www.regulations.gov,* Docket number EPA–R03–OAR–2016–0369.

[e] Completeness value after substitution analysis. The data was previously incomplete due to malfunctions. The details of the analysis conducted by CAMD and EPA's approval letter of the substitution analysis are available online at *https://www.regulations.gov,* Docket number EPA–R03–OAR–2016–0369.

As shown in Table 1, several monitoring sites did not meet the completeness criteria set out in 40 CFR part 50, appendix P. For monitor 110010041 in the District of Columbia, the reason for the completeness issue was a monitor shutdown, approved into DC DOEE's annual network monitoring plan. Because three years of complete data is not possible at this monitoring site, EPA does not look for valid design values there in determining attainment with the NAAQS.

For monitor 110010050 in the District of Columbia, the temporary shutdown due to construction was not approved into the associated monitoring plan. For EPA's monitor 240339991 in Prince George's County, Maryland, there were malfunctions that led to completeness issues. In order to obtain a valid design value for these monitors, DC DOEE and EPA's CAMD conducted completeness demonstrations of ''missing days assumed less than the standard'' to show that had the monitors been operational on days for which data is missing, the ozone levels recorded would have been below the standard. DC DOEE and EPA performed an analysis of the meteorological data and a regression analysis in order to meet the data completeness requirements for these monitors. EPA also conducted for these two monitors a substitution analysis as a check on the validity of the meteorological analysis and regression analysis. Using these methods, EPA was able to ''add'' enough ozone season days to the two monitors to meet the data completeness requirements of 40 CFR part 50, appendix P. The details of these analyses and EPA's approval letters for both data substitution analyses are available online at *https://www.regulations.gov,* Docket number EPA–R03–OAR–2016–0369.

Consistent with the requirements contained in 40 CFR part 50, appendix P, EPA has reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for the Washington Area, as recorded in the AQS database. As shown in Table 2, all valid 2013–2015 design values are less than or equal to 0.075 ppm. Therefore, EPA concludes that the Washington Area has attained the 2008 ozone NAAQS, considering 2013–2015 data.

TABLE 2—2013–2015 WASHINGTON AREA 2008 OZONE DESIGN VALUES

[PPM]

County, state	Site ID	4th Highest daily max value			2013–2015 design values
		2013	2014	2015	
District of Columbia	110010041	0.062	0.047*		
	110010043	0.066	0.068	0.072	0.068
	110010050	0.066	0.069	0.072	0.069
Calvert, MD	240090011	0.067	0.070	0.067	0.068
Charles, MD	240170010	0.064	0.067	0.068	0.066
Frederick, MD	240210037	0.069	0.063	0.070	0.067
Montgomery, MD	240313001	0.069	0.064	0.072	0.068
Prince George's MD	240330030	0.068	0.065	0.072	0.068
	240338003	0.069	0.069	0.069	0.069
	240339991	0.072	0.069	0.067	0.069
Arlington, VA	510130020	0.067	0.071	0.073	0.070
Fairfax, VA	510590030	0.067	0.065	0.072	0.068
Loudoun, VA	511071005	0.066	0.063	0.071	0.066
Prince William, VA	511530009	0.066	0.062	0.067	0.065

Notes: Only valid design values for monitors meeting the completeness criteria are shown.
*Annual value does not meet completeness criteria.

III. Proposed Action

EPA evaluated ozone data from air quality monitors in the Washington Area in order to determine the Washington Area's attainment status under the 2008 ozone NAAQS. Federal, state, and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. All the monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013 through 2015 monitoring period. Considering that review, EPA has concluded that the Washington Area attained the 2008 ozone NAAQS based on complete, quality assured and certified data for the 2013 through 2015 ozone seasons. Thus, EPA proposes to determine in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA that the Washington Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. EPA's proposed determination is in accordance with applicable regulatory requirements under 81 FR 26697 (with respect to issuance of the 1-year extension of the attainment date for the Washington Area) and with the related provisions of the SIP Requirements Rule (40 CFR 51.1103).

This proposed determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

This rulemaking action proposes to make a determination of attainment on the 2008 ozone NAAQS based on air quality and, if finalized, would not impose additional requirements. For that reason, this proposed determination of attainment:

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

This SIP, proposing to determine that the Washington Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date, is not approved to apply on any Indian reservation land as defined in 18 U.S.C. 1151 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).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 22, 2017.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2017–08356 Filed 4–24–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WT Docket No. 17–80, WC Docket No. 10–90, WT Docket No. 10–208, WC Docket No. 11–10; DA 17–347]

Connect America Fund; Universal Service Reform—Mobility Fund

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment and reply comment period.

SUMMARY: In this document, the Commission extends the deadline for filing comments and reply comments on the Commission's Further Notice of Proposed Rulemaking (FNPRM) in this proceeding, which was published in the **Federal Register** on March 13, 2017. The Commission also extends the deadline established in a separate Public Notice for filing justifications supporting confidentiality requests relating to mobile speed data filed through the Commission's Form 477.

DATES: The comment and reply comment period for the proposed rule published March 13, 2017 (82 FR 13413) is extended. Submit comments on or before April 26, 2017, and submit reply comments on or before May 11, 2017.

ADDRESSES: All filings in response to the FNPRM must refer to WC Docket No. 10–90 and WT Docket No. 10–208. The Commission strongly encourages parties to develop responses to the Further Notice that adhere to the organization and structure of the Further Notice. All filings in response to the Form 477 Public Notice must refer to WT Docket No. 17–80, WC Docket No. 10–90, WT Docket No. 10–208, and WC Docket No. 11–10. You may submit comments and other filings by any of the following methods:

- *Federal Communications Commission's Web site: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Parties who choose to file by paper must file an original and seven copies of each filing. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th Street SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

FOR FURTHER INFORMATION CONTACT: Audra Hale-Maddox, *Audra.Hale-Maddox@fcc.gov,* of the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, (202) 418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order* in WC Docket No. 10–90, WT Docket No. 10–208, WC Docket 11–10, WT Docket No. 17–80, DA 17–347, adopted and released on April 11, 2017, which extends the comment and reply comment filing deadlines established in the FNPRM published under FCC No. 17–11 (82 FR 13413) on March 13, 2017. The deadline to file justifications for requests for confidentiality of mobile speed data submitted through FCC Form 477, initially established in a separate Public Notice (DA 17–286, rel. March 29, 2017) (Form 477 Public Notice), was also extended in this *Order.* Pursuant to sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

Background

1. On March 7, 2017, the Commission released a Further Notice of Proposed Rulemaking (FNPRM) in WC Docket No.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Wed 1/11/2017 5:24:13 PM
Subject: FRN Update
823172.pdf
823234.pdf

FYI:

Final rule; correcting amendment - determination of failure to attain and reclassification

On January 11, 2017, EPA issued a correction to an earlier ([81 FR 90207], effective December 14, 2016) reclassification of the Houston-Galveston-Brazoria, TX nonattainment area for 2008 8-hr Ozone from Marginal to Moderate.
[82 FR 3172]

Proposed rule - redesignation to attainment

On January 11, 2017, EPA proposed to redesignate the Kentucky portion of the Louisville, KY-IN nonattainment area for 1997 PM-2.5.
[82 FR 3234]

(The Indiana portion of the area was redesignated effective September 9, 2016 [81 FR 62390].)

--
Robert Wagoner

amec foster wheeler

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governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 13, 2017. 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 section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 28, 2016.

Ron Curry,

Regional Administrator, Region 6.

* 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.*

Subpart SS—Texas

* 2. In §52.2270(c) the table titled ''EPA Approved Regulations in the Texas SIP'' is amended by removing the entry for ''Rule 105.2'' under Chapter 111, Subchapter A, Division 5 and revising the entries for sections 111.203, 111.209 and 111.211.

The amendments read as follows:

§52.2270 Identification of plan

* * * * *

(c) * * *

EPA APPROVED REGULATIONS IN THE TEXAS SIP

State citation	Title/subject	State approval/ submittal date	EPA approval date	Explanation
*	*	*	*	*
Subchapter B—Outdoor Burning				
*	*	*	*	*
Section 111.203	Definitions	6/28/2006	1/11/2017, [Insert **Federal Register** citation].	
*	*	*	*	*
Section 111.209	Exception for Disposal Fires	6/28/2006	1/11/2017, [Insert **Federal Register** citation].	
Section 111.211	Exception for Prescribed Burn	1/15/2014	1/11/2017, [Insert **Federal Register** citation].	
*	*	*	*	*

* * * * *

[FR Doc. 2017–00087 Filed 1–10–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R06–OAR–2016–0275; FRL–9957–57-Region 6]

Determination of Nonattainment and Reclassification of the Houston-Galveston-Brazoria 2008 8-Hour Ozone Nonattainment Area; Texas; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: EPA issued a final rule on December 14, 2016, (81 FR 90207), that determined that the Houston-Galveston-Brazoria, Texas nonattainment area (HGB area) failed to attain the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment deadline of July 20, 2016, and thus was classified by operation of law as ''Moderate''. In that action, EPA also determined January 1, 2017 as the deadline by which Texas must submit to the EPA the State Implementation Plan (SIP) revisions that meet the Clean Air Act (CAA) statutory and regulatory requirements that apply to 2008 ozone NAAQS nonattainment areas reclassified as Moderate. The language in the December 14, 2016 **Federal Register** amended the table in 40 CFR 81.344 (Subpart C-Section 107 Attainment Status Designations) titled ''Texas—2008 8-Hour Ozone NAAQS (Primary and secondary)''. The amendatory language failed to update the table for the classification date for HGB nonattainment area to 12/14/2016. This document corrects the listed classification date in the December 14, 2016 final rule document.

DATES: This final rule correction is effective on January 11, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Nevine Salem, (214) 665–7222, *salem.nevine@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA issued a final rule on December 14, 2016, (81 FR 90207) (EPA–R06–OAR–2016–0275; FRL–9956–08-Region 6), that reclassified the HGB nonattainment area from Marginal to Moderate for the 2008 8-hour Ozone NAAQS standards. In that document, EPA incorrectly listed the classification date for the HGB ozone nonattainment area in §81.344, the table titled ''Texas—2008 8-Hour Ozone NAAQS (Primary and secondary)'' to be 1/13/17. Instead the document should have the classification date in the table as 12/14/2016. This document corrects that mistake.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Dated: January 3, 2017.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 81 is corrected as follows:

PART 81–DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

Subpart C—Section 107 Attainment Status Designations

* 2. In §81.344, the table titled ''Texas—2008 8-Hour Ozone NAAQS (Primary and secondary)'' is amended by revising the entry for ''Houston-Galveston-Brazoria, TX'' to read as follows:

§81.344 Texas.

* * * * *

TEXAS—2008 8-HOUR OZONE NAAQS (PRIMARY AND SECONDARY) [2]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Houston-Galveston-Brazoria, TX: [2]		Nonattainment	12/14/2016	Moderate.
Brazoria County.				
Chambers County.				
Fort Bend County.				
Galveston County.				
Harris County.				
Liberty County.				
Montgomery County.				
Waller County.				
* * *	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2017–00086 Filed 1–10–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

DEPARTMENT OF DEFENSE

40 CFR Part 1700

[EPA–HQ–OW–2013–0469; FRL–9957–85–OW]

RIN 2040–AD39

Uniform National Discharge Standards for Vessels of the Armed Forces—Phase II Batch One

AGENCY: Environmental Protection Agency and Department of Defense.

ACTION: Final rule.

SUMMARY: The U.S. Environmental Protection Agency (EPA) and the U.S. Department of Defense (DoD) are promulgating discharge performance standards for 11 discharges incidental to the normal operation of a vessel of the Armed Forces into the navigable waters of the United States, the territorial seas, and the contiguous zone. When implemented, the discharge performance standards will reduce the adverse environmental impacts associated with the vessel discharges, stimulate the development of improved vessel pollution control devices, and advance the development of environmentally sound vessels of the Armed Forces. The 11 discharges addressed by the final rule are the following: aqueous film-forming foam (AFFF), chain locker effluent, distillation and reverse osmosis brine, elevator pit effluent, gas turbine water wash, non-oily machinery wastewater, photographic laboratory drains, seawater cooling overboard discharge, seawater piping biofouling prevention, small boat engine wet exhaust, and welldeck discharges.

DATES: This final rule is effective on February 10, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket No. EPA–HQ–OW–2013–0469. All documents in the docket are listed on the *http://regulations.gov* Web site. The complete public record for this rulemaking, including responses to comments received during the rulemaking, can be found under Docket No. EPA–HQ–OW–2013–0469.

FOR FURTHER INFORMATION CONTACT: Katherine B. Weiler, Marine Pollution Control Branch (4504T), U.S. EPA, 1200 Pennsylvania Avenue NW., Washington, DC 20460; (202) 566–1280; *weiler.katherine@epa.gov,* or Mike Pletke, Chief of Naval Operations (N45), 2000 Navy Pentagon (Rm 2D253), Washington, DC 20350–2000; (703) 695–5184; *mike.pletke@navy.mil.*

SUPPLEMENTARY INFORMATION:

I. General Information
A. Legal Authority for the Final Rule
B. Purpose of the Final Rule
C. What vessels are regulated by the final rule?
D. What is the geographic scope of the final rule?
E. Rulemaking Process
F. Summary of Public Outreach and Consultation With Federal Agencies, States, Territories, and Tribes
G. Supporting Documentation
II. UNDS Performance Standards Development
A. Nature of the Discharge

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 12/6/2016 1:59:42 PM
Subject: FRN Update
8187819.pdf

FYI:

Final rule - determination of attainment

On December 6, 2016, EPA determined that the Pittsburgh-Beaver Valley, PA nonattainment area has attained the 2008 8-hr Ozone NAAQS based on 2013-2015 monitoring data, effective January 5, 2017.
[81 FR 87819]

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Robert Wagoner

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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 February 6, 2017. 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* section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: November 21, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

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.*

Subpart S—Kentucky

* 2. Section 52.920(e) is amended by adding a new entry "110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 National Ambient Air Quality Standard" at the end of the table to read as follows:

§52.920 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED KENTUCKY NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanations
*	*	*	*	* * *
110(a)(1) and (2) Infrastructure Requirements for the 2010 1-hour SO_2 NAAQS.	Kentucky	04/26/2013	12/6/2016	With the exception of the minor source program requirements of section 110(a)(2)(C) and the interstate transport requirements of section 110(a)(2)(D)(i)(I) and (II) (prongs 1, 2, and 4).

[FR Doc. 2016–29115 Filed 12–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0368; FRL–9955–91–Region 3]

Determination of Attainment by the Attainment Date for the 2008 Ozone National Ambient Air Quality Standards; Pennsylvania; Pittsburgh-Beaver Valley

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is making a final determination that the Pittsburgh-Beaver Valley, Pennsylvania marginal ozone nonattainment area (the Pittsburgh Area) has attained the 2008 8-hour ozone national ambient air quality standards (the 2008 ozone NAAQS) by the July 20, 2016 attainment date. This determination is based on complete, certified, and quality assured ambient air quality monitoring data for the Pittsburgh Area for the 2013–2015 monitoring period. This determination does not constitute a redesignation to attainment. This action is being taken under the Clean Air Act (CAA).

DATES: This final rule is effective on January 5, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0368. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* confidential business information (CBI) 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 through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 25, 2016 (81 FR 58435), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. In the NPR, EPA proposed to determine, in accordance with its statutory obligations under section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the Pittsburgh Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016.

II. EPA's Evaluation

Consistent with the requirements contained in 40 CFR part 50, EPA reviewed the ozone ambient air quality monitoring data for the monitoring period from 2013 through 2015 for the Pittsburgh Area, as recorded in the AQS database. State and local agencies responsible for ozone air monitoring networks supplied and quality assured the data. EPA determined that the monitoring sites with valid data had design values equal to or less than 0.075 ppm based on the 2013–2015 monitoring period. Therefore, the Pittsburgh Area attained the 2008 ozone NAAQS.

Other specific requirements of this determination of attainment by the attainment date and the rationale for EPA's action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. Final Action

EPA is making a final determination, in accordance with its statutory

obligations under section 181(b)(2)(A) of the CAA and the provisions of the SIP Requirements Rule (40 CFR 51.1103), that the Pittsburgh Area attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. This determination of attainment does not constitute a redesignation to attainment. Redesignations require states to meet a number of additional criteria, including EPA approval of a state plan to maintain the air quality standard for 10 years after redesignation.

IV. Statutory and Executive Order Reviews

A. General Requirements

This rulemaking action finalizes a determination of attainment on the 2008 ozone NAAQS based on air quality and does not impose additional requirements. For that reason, this determination of attainment:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 February 6, 2017. 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 determining that the Pittsburgh Area attained the 2008 ozone NAAQS by its July 20, 2016 attainment date 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, Ozone, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 4, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

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.*

Subpart NN—Pennsylvania

* 2. In §52.2056, paragraph (n) is added to read as follows:

§52.2056 Determinations of attainment.

* * * * *

(n) EPA has determined based on 2013 to 2015 ambient air quality monitoring data, that the Pittsburgh-Beaver Valley, Pennsylvania marginal ozone nonattainment area has attained the 2008 8-hour ozone national ambient air quality standard (NAAQS) by the applicable attainment date of July 20, 2016. Therefore, EPA has met the requirement pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality as of the attainment date, whether the area attained the 2008 8-hour ozone NAAQS. EPA also determined that the Pittsburgh-Beaver Valley, Pennsylvania marginal nonattainment area will not be reclassified for failure to attain by its applicable attainment date pursuant to section 181(b)(2)(A).

[FR Doc. 2016–29118 Filed 12–5–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[FRL–9955–13–Region 1]

Ocean Disposal; Designation of a Dredged Material Disposal Site in Eastern Region of Long Island Sound; Connecticut

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: With the publication of this Final Rule, the Environmental Protection Agency (EPA) is designating the Eastern Long Island Sound Disposal Site (ELDS), located offshore from New London, Connecticut, for the disposal of dredged material from harbors and navigation channels in eastern Long Island Sound and Little Narragansett Bay in the states of Connecticut, New York, and Rhode Island. This action is necessary to provide a long-term, open-water dredged material disposal site as an alternative for the possible future disposal of such material. This disposal site designation is subject to restrictions designed to support the goal of reducing or eliminating the disposal of dredged material in Long Island Sound.

The basis for this action is described herein and in the Final Supplemental Environmental Impact Statement

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Wed 12/21/2016 2:54:53 PM
Subject: FRN Update
8193620.pdf
8193653.pdf
8193624.pdf
8193631.pdf

FYI:

Final rule - determination of attainment

On December 21, 2016, EPA determined that the San Luis Obispo (Eastern San Luis Obispo), CA nonattainment area has attained the 2008 8-hr Ozone NAAQS based on 2013-2015 monitoring data, effective January 20, 2017.
[81 FR 93620]

Direct final rule - determination of attainment

On December 21, 2016, EPA determined that the Mariposa County, CA nonattainment area has attained the 2008 8-hr Ozone NAAQS based on 2013-2015 monitoring data, effective February 21, 2017.
[81 FR 93653] proposed
[81 FR 93624] direct final

Final rule - redesignation to attainment

On December 21, 2016, EPA redesignated the Columbus, OH nonattainment area for 2008 8-hr Ozone, effective the same day, December 21, 2016.
[81 FR 93631]

--
Robert Wagoner

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Sortation Level	OEL Example
Additional required human-readable text for use with combined mailings of USPS Marketing Mail and Periodical flats:	
5-Digit Scheme (and other sortation levels as appropriate)	******SCH 5–DIGIT 12345 MIX COMAIL.
5-Digit Scheme (Automation FSS flats)	*****SCH 5–DIGIT 12345 FSSD COMAIL.
5-Digit (Nonautomation FSS flats)	*****SCH 5–DIGIT 12345 FSSE COMAIL.
3-Digit (Automation FSS flats)	*****SCH 5–DIGIT 12345 FSSF COMAIL.
3-Digit (Nonautomation FSS flats)	*****SCH 5–DIGIT 12345 FSSG COMAIL.
ADC (Automation FSS flats)	*****SCH 5–DIGIT 12345 FSSK COMAIL.
ADC (Nonautomation FSS flats)	*******SCH 5–DIGIT 12345 FSS COMAIL.
Carrier Route high density plus (FSS flats)	******SCH 5–DIGIT 12345.
FSSG COMAIL	******SCH 5–DIGIT 12345 FSSA COMAIL.
Carrier Route high density (FSS flats)	******SCH 5-DIGIT 12345 FSSB COMAIL.
FSSC COMAIL	******SCH 5-DIGIT 12345 FSSA COMAIL.
Carrier Route high density (FSS flats)	******SCH 5-DIGIT 12345 FSSC COMAIL.
Carrier Route basic	******SCH 5-DIGIT 12345 FSSC COMAIL.

* * * * *

7.1.8 Required OEL Use in Combined Mailings of USPS Marketing Mail and Periodicals Flats

* * * The following additional standards also apply:

* * * * *

[Revise item c to read as follows.]

c. When combined mailings of USPS Marketing Mail and Periodicals flats are prepared to FSS zones under 705.15.1.11, each mailpiece must bear an optional endorsement line in human-readable text, including the correct ZIP code listed in Column B of L006, as described in Exhibit 7.1.1.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

* * * * *

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2016–30381 Filed 12–20–16; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0543 FRL–9956–98-Region 9]

Determination of Attainment of the 2008 Ozone National Ambient Air Quality Standards; Eastern San Luis Obispo, California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finalizing our determination that the San Luis Obispo (Eastern San Luis Obispo) ozone nonattainment area (NAA) in California has attained the 2008 ozone National Ambient Air Quality Standards (NAAQS or ''standards'') by the applicable attainment date of July 20, 2016. This determination is based on complete, quality-assuredand certified data for the 3-yearperiod preceding that attainment date. Based on this determination, the Eastern San Luis Obispo NAA will not be reclassified to a higher ozone classification.

DATES: This rule will be effective on January 20, 2017.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2016–0543. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly-available, *e.g.,* Confidential Business Information 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-availableonly in hard copy form. Publicly-availabledocket materials are available through *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, *levin.nancy@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to the EPA.

Table of Contents

I. Summary of Proposed Rule
II. Public Comments and EPA Responses
III. Final Action
IV. Statutory and Executive Order Reviews

I. Summary of Proposed Rule

On October 12, 2016 (81 FR 70382), the EPA proposed to determine that the Eastern San Luis Obispo ozone NAA has attained the 2008 ozone standard by the applicable attainment date of July 20, 2106, based on complete, quality-assured and certified ambient air quality monitoring data for the 2013–2015 monitoring period. San Luis Obispo County is the northern-mostcounty within the air basin designated by California as the South Central Coast Air Basin. The NAA encompasses roughly the eastern half of San Luis Obispo County. For the precise boundaries of the Eastern San Luis Obispo 2008 ozone NAA, see 40 CFR 81.305.

Our proposed rule provided background information on the 2008 ozone standards,[1] the EPA's classification of the Eastern San Luis Obispo NAA under the Clean Air Act (CAA) as ''Marginal'' for the 2008 ozone standard, and the EPA's prior approval of an extension of the applicable attainment date for the area from July 20, 2015 to July 20, 2016 (81 FR 26697, May 4, 2016). In our proposed rule, we described our obligation under CAA section 181(b)(2)(A) to determine whether an ozone NAA attained the ozone NAAQS by the applicable attainment date within six months of that date; how we determine whether an area's air quality meets the 2008 ozone standard; and the relevant air quality monitoring agencies in the Eastern San Luis Obispo ozone NAA, their monitoring network plans, and the relevant ozone monitoring sites. We also discussed our previous review of the networks and network plans, the annual certifications of ambient air monitoring data, and our determination of completeness for 2013–2015 data from the two ozone monitoring sites within the Eastern San Luis Obispo NAA.

Our proposed rule included a table of ozone ''design values'' at the two ozone monitoring sites in the Eastern San Luis

[1] Since the primary and secondary 2008 ozone standards are the same, we hereafter refer to them herein using the singular ''2008 ozone standard.''

Obispo NAA.[2] *See* 81 FR 70382, at 70384. As explained in our proposed rule, the 2008 ozone standard is attained in an area when the design value is less than or equal to 0.075 parts per million (ppm), as determined in accordance with 40 CFR part 50, appendix P, at each monitoring site within the area. *See* 40 CFR 50.15. Based on our review of the monitoring data, which showed a design value for the area of 0.073 ppm (based on data collected at the Red Hills site) for 2013–2015, and taking into account the extent and reliability of the applicable ozone monitoring network, we proposed to determine that the Eastern San Luis Obispo NAA has attained the 2008 ozone standard by the applicable attainment date of July 20, 2016 based on complete, certified and quality-assureddata for the 2013–2015 period. Lastly, we noted that if we finalize our proposed determination, then the Marginal Eastern San Luis Obispo NAA would not be subject to reclassification to "Moderate" for the 2008 ozone standard, that a determination of attainment by the applicable attainment date would not constitute a redesignation, and that the designation status of the Eastern San Luis Obispo area would remain nonattainment for the 2008 ozone standard until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment. Please see our proposed rule for more information concerning these topics.

II. Public Comments and EPA Responses

The EPA's proposed action provided a 30-daypublic comment period. During this period, we received no comments.

III. Final Action

Under CAA section 181(b)(2)(A), and based on the rationale presented in our proposed rule and summarized above, the EPA is finalizing our determination that the Eastern San Luis Obispo ozone NAA has attained the 2008 ozone NAAQS by the applicable attainment date of July 20, 2016. The EPA is making this determination based on complete, quality-assuredand certified ambient air quality monitoring data for the 2013–2015 monitoring period. As a result of this determination, the Eastern San Luis Obispo 2008 ozone NAA will not be reclassified to a higher classification for the 2008 ozone standard.

IV. Statutory and Executive Order Reviews

This action is a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 2017. 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 section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

Dated: December 8, 2016.

Alexis Strauss,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations 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.*

Subpart F—California

* 2. Section 52.282 is amended by adding paragraph (i) to read as follows:

§52.282 Control strategy and regulations: Ozone

* * * * *

(i) *Determination of attainment.* The EPA has determined that, as of January 20, 2017, the San Luis Obispo (Eastern San Luis Obispo) 2008 8-hourozone nonattainment area in California has attained the 2008 ozone standard by the July 20, 2016 applicable attainment date, based upon complete, quality-

[2] The design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. For the purpose of comparison with the 2008 ozone standard, the design value for a site is the 3-yearaverage of the annual fourth highest daily maximum 8-houraverage ozone concentrations. The design value for a given area is based on the monitoring site with the highest design value.

assured and certified data for 2013–2015. Therefore, the EPA has met its obligation pursuant to CAA section 181(b)(2)(A) to determine, based on the area's air quality data as of the attainment date, whether the area attained the standard. As a result of this determination, the San Luis Obispo (Eastern San Luis Obispo) 2008 ozone nonattainment area in California will not be reclassified for failure to attain by the July 20, 2016 applicable attainment date under section 181(b)(2)(A).

[FR Doc. 2016–30476 Filed 12–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0799; FRL- 9956–90-Region 4]

Air Plan Approval; Tennessee; Regional Haze Progress Report

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Tennessee through the Tennessee Department of Environment and Conservation (TDEC) on April 19, 2013. Tennessee's April 19, 2013, SIP revision (Progress Report) addresses requirements of the Clean Air Act (CAA or Act) and EPA's rules that require each state to submit periodic reports describing progress towards reasonable progress goals (RPGs) established for regional haze and a determination of the adequacy of the State's existing SIP addressing regional haze (regional haze plan). EPA is approving Tennessee's Progress Report on the basis that it addresses the progress report and adequacy determination requirements for the first implementation period for regional haze.

DATES: This rule will be effective January 20, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2013–0799. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Notarianni can be reached by phone at (404) 562–9031 and via electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under the Regional Haze Rule,[1] each state was required to submit its first implementation plan addressing regional haze visibility impairment to EPA no later than December 17, 2007. *See* 40 CFR 51.308(b). Tennessee submitted its regional haze plan on April 4, 2008, and like many other states subject to the Clean Air Interstate Rule (CAIR), relied on CAIR to satisfy best available retrofit technology (BART) requirements for emissions of sulfur dioxide and nitrogen oxides from electric generating units in the State.

On April 24, 2012, EPA finalized a limited approval of Tennessee's April 4, 2008, regional haze plan as meeting some of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–51.308.[2] Also in this April 24, 2012, action, EPA finalized a limited disapproval of Tennessee's regional haze plan because of deficiencies arising from the State's reliance on CAIR to satisfy certain regional haze requirements. *See* 77 FR 24392. On June 7, 2012, EPA promulgated Federal Implementation Plans (FIPs) to replace reliance on CAIR with reliance on the Cross State Air Pollution Rule (CSAPR) to address deficiencies in CAIR-dependent regional haze plans of several states, including Tennessee's regional haze plan.[3] *See* 77 FR 33642.

Each state is also required to submit a progress report in the form of a SIP revision every five years that evaluates progress towards the RPGs for each mandatory Class I Federal area within the state and for each mandatory Class I Federal area outside the state which may be affected by emissions from within the state. *See* 40 CFR 51.308(g). Each state is also required to submit, at the same time as the progress report, a determination of the adequacy of its existing regional haze plan. *See* 40 CFR 51.308(h). The first progress report was due five years after submittal of the initial regional haze plan.

On April 19, 2013, as required by 40 CFR 51.308(g), TDEC submitted to EPA, in the form of a revision to Tennessee's SIP, a report on progress made towards the RPGs for Class I areas in the State and for Class I areas outside the State that are affected by emissions from sources within the State. This submission also includes a negative declaration pursuant to 40 CFR 51.308(h)(1) that the State's regional haze plan is sufficient in meeting the requirements of the Regional Haze Rule.

In a notice of proposed rulemaking (NPRM) published on September 28, 2016 (81 FR 66596), EPA proposed to approve Tennessee's Progress Report on the basis that it satisfies the requirements of 40 CFR 51.308(g) and 51.308(h). No comments were received on the September 28, 2016, proposed rulemaking. The details of Tennessee's submittal and the rationale for EPA's action is further explained in the NPRM. *See* 81 FR 66596 (September 28, 2016).

II. Final Action

EPA is finalizing approval of Tennessee's Regional Haze Progress Report SIP revision, submitted by the State on April 19, 2013, as meeting the applicable regional haze requirements

[1] Located in 40 CFR part 51, subpart P.

[2] This April 24, 2012, action did not include the BART determination for Eastman Chemical Company (Eastman). On November 27, 2012, EPA finalized approval of the BART requirements for Eastman that were provided in the April 4, 2008, regional haze SIP, as later modified and supplemented on May 14, 2012, and May 25, 2012 (77 FR 70689).

[3] Although a number of parties challenged the legality of CSAPR and the D.C. Circuit initially vacated and remanded CSAPR to EPA in *EME Homer City Generation, L.P.* v. *EPA*, 696 F.3d 7 (D.C. Cir. 2012), the United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, and CSAPR is now in effect. *EME Homer City Generation, L.P.* v. *EPA*, 795 F.3d 118 (D.C. Cir. 2015).

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0669; FRL–9956–66-Region 9]

Determination of Attainment of the 2008 Ozone National Ambient Air Quality Standards; Mariposa County, California

AGENCY: The Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to determine that the Mariposa County, California Moderate Nonattainment Area (NAA) has attained the 2008 8-hourozone National Ambient Air Quality Standards (NAAQS or "standards"). This determination is based on complete, quality-assuredand certified data for 2013–2015. Preliminary data for 2016 are consistent with continued attainment of the standards in the Mariposa County NAA. This determination suspends any unfulfilled obligations to submit revisions to the state implementation plan (SIP) related to attainment of the 2008 ozone standards for the Mariposa County NAA for as long as the area continues to meet those standards.

DATES: This rule is effective on February 21, 2017 without further notice, unless the EPA receives adverse comments by January 20, 2017. If the EPA receives such comments, the EPA will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0669 at *http://www.regulations.gov,* or via email to *levin.nancy@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, the 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. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, *levin.nancy@epa.gov.*

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

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I. What is the background for this action?

A. Ozone NAAQS, Area Designations and Classifications

The Clean Air Act (CAA or "Act") requires the EPA to establish national primary and secondary standards for certain widespread pollutants, such as ozone, that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare.[1] In the 1970s, the EPA promulgated primary and secondary ozone standards, based on a 1-houraverage. In 1997, we replaced the 1-hourozone standards with primary and secondary 8-hour ozone standards. In 2008, we tightened the 8-hourozone standards to the level of 0.075 parts per million (ppm), daily maximum 8-houraverage.[2] *See* 73 FR 16436 (March 27, 2008); 40 CFR 50.15. Since the primary and secondary ozone standards are the same, we refer to them hereafter in this document using the singular "2008 ozone standard" (or simply "standard") or NAAQS. The 2008 ozone standard is met at an ambient air quality monitoring site when the 3-yearaverage of the annual fourth-highestdaily maximum 8-hour average ozone concentration is less than or equal to 0.075 ppm, as determined in accordance with 40 CFR part 50, Appendix P.

The EPA designated NAAs for the 2008 ozone standard on May 21, 2012, effective July 20, 2012 (77 FR 30088). In that action, the EPA classified (by operation of law) the Mariposa County, California[3] NAA as a "Marginal" nonattainment area. The original attainment date for the 2008 ozone standard for this Marginal ozone nonattainment area was as expeditious as practicable but not later than July 20, 2015. *See* 40 CFR 51.1103.

In May 2016, the EPA determined that the Mariposa County NAA failed to attain the 2008 ozone standard by the applicable attainment date of July 20, 2015, and reclassified the area to the next higher classification, *i.e.,* "Moderate." Our determination was based on complete, quality-assuredand certified data for 2012–2014.[4] States with Moderate ozone NAAs are required to submit revisions to the applicable SIP that comply with the requirements set forth in subpart 2 of part D of title I of the CAA and in the EPA's ozone implementation rule for the 2008 ozone NAAQS in 40 CFR part 51, subpart AA. The relevant SIP requirements include, among other requirements, attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, and contingency measures for failure to attain or make RFP. The applicable attainment date for areas

[1] *See* sections 108 and 109 of the Clean Air Act (CAA or "Act"). Primary standards represent ambient air quality standards the attainment and maintenance of which the Environmental Protection Agency (EPA) has determined, including a margin of safety, are requisite to protect the public health. Secondary standards represent ambient air quality standards the attainment and maintenance of which the EPA has determined are requisite to protect the public welfare from any known or anticipated adverse effects associated with the presence of such air pollutant in the ambient air. CAA section 109(b).

[2] In 2015, we tightened the ozone National Ambient Air Quality Standards (NAAQS or "standards") even further and established 0.070 parts per million (ppm), 8-houraverage, as the new ozone NAAQS. *See* 80 FR 65292 (October 26, 2015). While the 1979 1-hourozone NAAQS and 1997 8-hour ozone NAAQS have been revoked, the 2008 ozone NAAQS remains in effect.

[3] Mariposa County is located in central California and is the southern-mostcounty within the air basin designated by California as the Mountain Counties Air Basin. The nonattainment area designation for Mariposa County encompasses the entire county.

[4] 81 FR 26697 (May 4, 2016). The 2012–2014 design value for the Mariposa County NAA was 0.078 parts per million, which exceeded the 2008 ozone NAAQS of 0.075 ppm, daily maximum 8-hour average. We note that today's action is based on the 2013–2015 design value.

classified as Moderate nonattainment for the 2008 ozone NAAQS is as expeditious as practicable but not later than July 20, 2018. *See* 40 CFR 51.1103.

B. Relevant Statutory and Regulatory Requirements

Under the provisions of EPA's ozone implementation rule for the 2008 ozone NAAQS, if the EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the requirements for such area to submit attainment demonstrations and associated RACM, RFP plans, contingency measures and other planning SIPs related to attainment of the 2008 ozone NAAQS are suspended until such time as the area is redesignated to attainment for the 2008 ozone NAAQS. However, if the EPA later determines, through notice-and-comment rulemaking, that the area has again violated the 2008 ozone NAAQS, the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, the EPA is not precluded from acting upon these SIP elements at any time if submitted to the EPA for review and approval.

C. Ambient Air Quality Monitoring Data

A determination of whether an area's air quality meets the 2008 ozone NAAQS is generally based upon three consecutive calendar years of complete, quality-assureddata measured at established State and Local Air Monitoring Stations (SLAMS) in the NAA and entered into the EPA Air Quality System (AQS) database. Data from ambient air monitoring sites operated by state or local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Heads of monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, the EPA relies primarily on data in AQS when determining the attainment status of an area. *See* 40 CFR 50.15; 40 CFR part 50, Appendix P; 40 CFR part 53; 40 CFR part 58, Appendices A, C, D and E. All data are reviewed to determine the area's air quality status in accordance with 40 CFR part 50, Appendix P.

The 2008 ozone standard is met at an ambient air quality monitoring site when the design value is less than or equal to 0.075 ppm, as determined in accordance with 40 CFR part 50, Appendix P. *See* 40 CFR 50.15. The design value is a statistic that describes the air quality status of a given location relative to the level of the NAAQS. For the purpose of comparison with the 2008 ozone standard, the design value for a site is the 3-yearaverage of the annual fourth-highestdaily maximum 8-hour average ozone concentrations. When the design value is less than or equal to 0.075 ppm (based on the rounding convention in 40 CFR part 50, Appendix P) at each monitoring site within the area, then the area is meeting the NAAQS. The data completeness requirement is met when the 3-year average percent of days with valid monitoring data is at least 90 percent, and no single year has less than 75 percent data completeness as determined in accordance with 40 CFR part 50, Appendix P.

II. What is the EPA's analysis of the Relevant Air Quality data?

A. Monitoring Network and Data Considerations

The California Air Resources Board (CARB) and local air pollution control districts and air quality management districts (''districts'') operate ambient air monitoring stations throughout the State of California. CARB is the lead monitoring agency in the Primary Quality Assurance Organization (PQAO) that includes all the monitoring agencies in the State with a few exceptions.[5] [6]

Within the Mariposa County ozone nonattainment area, there is one ozone SLAMS (referred to as the Jerseydale site) that is operated by CARB, and one SLAMS (referred to as the Turtleback Dome site in Yosemite National Park) that is operated by the National Park Service (NPS). The ozone monitoring site operated by NPS at Turtleback Dome is one of many sites throughout the U.S. and Canada that comprise the Clean Air Status and Trends Network (CASTNET).[7] Ozone monitors at CASTNET sites meet the EPA's ambient air quality monitoring requirements of 40 CFR part 58, and data from such sites are submitted to AQS. Ozone data from CASTNET sites, such as Turtleback Dome, are eligible for use in determining compliance with the ozone NAAQS. CARB is the PQAO for the Jerseydale site. The NPS is the PQAO for the Turtleback Dome site.

All state and local air monitoring agencies are required to submit annual monitoring network plans to the EPA.[8] An annual monitoring network plan discusses the status of the air monitoring network, as required under 40 CFR part 58.10. CARB submits the annual monitoring network plans for the Jerseydale site.

Since 2007, the EPA has regularly reviewed these annual monitoring network plans for compliance with the applicable reporting requirements in 40 CFR part 58. With respect to ozone, the EPA found that the area's annual monitoring network plans meet the applicable requirements under 40 CFR part 58. *See* EPA letters to CARB approving annual monitoring network plans for the years 2013, 2014 and 2015.[9] The 2016 CASTNET annual network plan, dated June 23, 2016, includes the Turtleback Dome site.[10]

The EPA also concluded from its Technical System Audit of the CARB PQAO (conducted during Summer 2015), that the combined ambient air monitoring network operated by CARB currently meets or exceeds the requirements for the minimum number of SLAMS for the 2008 ozone standard.[11] All of the monitoring sites in the PQAO are reviewed with respect to monitoring objectives, spatial scales and other site criteria as required by 40 CFR part 58, Appendix D.

CARB oversees the quality assurance of all data collected within the CARB PQAO. Also, CARB annually certifies that the data it submits to AQS are

[5] A Primary Quality Assurance Organization (PQAO) means a monitoring organization, a group of monitoring organizations or other organization that is responsible for a set of stations that monitor the same pollutant and for which data quality assessments can be pooled. Each criteria pollutant sampler/monitor at a monitoring station must be associated with only one PQAO. (40 CFR 58.1).

[6] The Bay Area Air Quality Management District (AQMD), the South Coast AQMD and the San Diego Air Pollution Control District are each designated as the PQAO for their respective ambient air monitoring programs.

[7] Clean Air Status and Trends Network (CASTNET) is a national monitoring network established to assess trends in pollutant concentrations, atmospheric deposition and ecological effects due to changes in air pollutant emissions. For additional background on CASTNET, *see https://www.epa.govfxsp0;/castnet.*

[8] *See* 40 CFR 58.10(a)(1).

[9] Letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, dated March 7, 2014, approving CARB's 2013 annual monitoring network report; letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Karen Magliano, Chief, Air Quality Data Branch, Planning and Technical Support Division, CARB, dated January 27, 2015, approving CARB's 2014 annual monitoring report; and letter from Meredith Kurpius, Manager, Air Quality Analysis Office, U.S. EPA Region IX, to Ravi Ramalingam, Chief Consumer Products and Air Quality Assessment Branch, Air Quality Planning and Science Division, CARB, dated November 13, 2015, approving CARB's 2015 annual monitoring network report.

[10] The 2016 CASTNET Annual Network Plan is available at *https://www.epa.gov/sites/production/files/2016-07/documents/castnet_plan_2016_final.pdf.*

[11] Letter from Elizabeth J. Adams, Acting Director, Air Division, EPA Region IX, to Richard Corey, Executive Officer, CARB, dated August 31, 2016, transmitting findings of the EPA's 2015 Technical System Audit of the CARB's ambient air monitoring program.

complete and quality-assured. This includes data from all CARB sites, including the Jerseydale site.[12] Data from the Turtleback Dome site are certified by the NPS.[13]

As noted above, there are two ozone SLAMS monitoring sites operating within the Mariposa County NAA. These sites monitor ozone concentrations on a continuous basis using EPA reference or equivalent methods.[14] [15]

Lastly, consistent with the requirements contained in 40 CFR part 50, the EPA has reviewed the quality-assured and certified ozone ambient air monitoring data, as recorded in AQS for the applicable monitoring period, collected at the monitoring sites in the Mariposa County NAA for completeness. The EPA has determined that the data are complete.[16] For the two ozone monitoring sites in Mariposa County, daily maximum 8-hour average concentrations are available for at least 90 percent of the days within the ozone monitoring season, on average for the 2013–2015 period, and daily maximum 8-hour average concentrations are available for at least 75 percent of the days within the ozone monitoring season for each individual year within that period.

B. Evaluation of the Ambient Air Quality Data

As noted above, the applicable attainment date for the Mariposa County ozone NAA is July 20, 2018; however, we have reviewed the data collected at the two monitoring sites within that area during the most recent three-year period (2013–2015) to determine whether the area has already attained the 2008 ozone standard. Table 1 shows the fourth-highest daily maximum 8-hour ozone concentrations for 2013 through 2015 at both sites in the Mariposa County ozone NAA and shows the design values for 2013–2015. The design value for a given area is based on the monitoring site in the area with the highest design value. In this case, the design value for 2013–2015 for the Mariposa County ozone NAA is at the Jerseydale site and is 0.075 ppm, which is equal to the standard (*i.e.,* 0.075 ppm). Therefore, we are determining, based on the complete, quality-assured and certified data for 2013–2015, that the Mariposa County Moderate ozone NAA has attained the 2008 ozone standard. We have also reviewed preliminary data for 2016 and find that they are consistent with continued attainment of the standard in the Mariposa County NAA.[17]

TABLE 1—2013–2015 OZONE DESIGN VALUES AT SITES WITHIN THE MARIPOSA COUNTY NAA

Monitoring site	AQS site identification number	Fourth-highest daily maximum 8-hour ozone concentration (ppm)			Design value (2013–2015)
		2013	2014	2015	
Yosemite NP—Turtleback Dome	06–043–0003	0.073	0.077	0.073	0.074
Jerseydale	06–043–0006	0.077	0.077	0.071	0.075

Source: EPA AQS Quick Look Report (AMP450), August 10, 2016.

III. What is the effect of this action?

With this determination that the Mariposa County ozone NAA has attained the 2008 ozone NAAQS, the obligation on the State of California to submit SIP revisions related to attainment of the 2008 ozone standard in Mariposa County, including but not limited to SIP revisions demonstrating attainment and RFP, is suspended until such time as Mariposa County is redesignated to attainment for the 2008 ozone standard, at which time the requirements no longer apply. However, if the EPA determines, through notice-and-comment rulemaking, that Mariposa County has once again violated the 2008 ozone NAAQS, then the area is again required to submit the attainment-related SIP revisions. *See* 40 CFR 51.1118.

This final determination of attainment for the Mariposa County NAA does not constitute a redesignation to attainment. Under CAA section 107(d)(3)(E), redesignations to attainment require states to meet a number of additional statutory criteria, including EPA's approval of a SIP revision demonstrating maintenance of the standard for 10 years after redesignation. The designation status of the Mariposa County area will remain Moderate nonattainment for the 2008 ozone NAAQS until such time as the EPA determines that the area meets the CAA requirements for redesignation to attainment.

IV. Final Action

The EPA is taking direct final action to determine that the Mariposa County Moderate ozone NAA has attained the 2008 ozone standard based on complete, quality-assured and certified ambient air quality monitoring data for the 2013–2015 monitoring period. Preliminary data for 2016 are consistent with continued attainment of the standard in the Mariposa County NAA. Upon the effective date of this determination, the requirements for the Mariposa County NAA to submit planning SIPs related to attainment of the standard are suspended until the area is redesignated or the EPA determines that the area has violated the standard, at which time the area would again be required to submit such plans.

We do not think anyone will object to this determination, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing to make the same determination made herein. If we

[12] *See, e.g.,* letter from Ravi Ramalingam, Chief, Air Quality Data Branch, CARB, to Elizabeth Adams, Acting Director, Air Division, EPA Region 9, certifying calendar year 2015 ambient air quality data and quality assurance data, May 10, 2016.

[13] *See, e.g.,* letter from Barkley Sive, Air Resources Division Program Manager, National Park Service, to Lew Weinstock, EPA Office of Air Quality Policy and Standards, certifying calendar year 2015 ambient air quality data and quality assurance, dated April 27, 2016.

[14] *See* the CARB's *Annual Monitoring Network Report for Twenty-five Districts in California* (July 2015). The EPA approved an ozone season waiver for the Jerseydale site. See letter from Meredith Kurpius, Manager, Air Quality Analysis Office, EPA Region IX, to Ravi Ramalingam, Chief, Consumer Products and Air Quality Assessment Branch, CARB, dated March 8, 2016. The Jerseydale ozone monitor operates only in the warmer six months of the year. The site is at a high elevation where access during the winter can be problematic. Ozone concentrations during the winter at the Jerseydale site are well below the levels of the 2008 ozone standard.

[15] *See* the CARB's *Annual Monitoring Network Report for Twenty-five Districts in California* (July 2015).

[16] *See* EPA, Air Quality System, Design Value Report, July 25, 2016.

[17] *See* EPA's Ozone Watch. The November 8, 2016 Ozone Watch reports that the preliminary 2014–2016 Design Value for Mariposa County 2008 ozone NAA is 0.075 ppm. *http://oaqpsapps.epa.gov/;MadeInAQAG/index.php?title=Ozone_Watch.*

receive adverse comments by January 20, 2017, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final action will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final action will be effective without further notice on February 21, 2017.

V. Statutory and Executive Order Reviews

This action makes a determination based on air quality data and does not impose additional requirements beyond those imposed by state law. For that reason, the action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP obligations discussed herein do not apply to Indian tribes, and thus this action will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the 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, Oxides of Nitrogen, Ozone, Volatile organic compounds.

Dated: December 2, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

Chapter I, title 40 of the Code of Federal Regulations 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.*

Subpart F—California

* 2. Section 52.282 is amended by adding paragraph (j) to read as follows:

§52.282 Control strategy and regulations: Ozone

* * * * *

(j) *Determination of attainment.* The EPA has determined that, as of February 21, 2017, the Mariposa County 2008 8-hour ozone nonattainment area in California has attained the 2008 ozone standard, based upon complete, quality-assured and certified data for 2013–2015. Under the provisions of the EPA's ozone implementation rule (see 40 CFR 51.1118), this determination suspends the requirements for the area to submit attainment demonstrations and associated reasonably available control measures, reasonable further progress plans, contingency measures for failure to attain or make reasonable further progress and other planning SIPs related to attainment of the 2008 ozone standard for as long as the area continues to attain the 2008 ozone standard. If the EPA determines, after notice-and-comment rulemaking, that the Mariposa County ozone nonattainment area no longer meets the 2008 ozone standard, the corresponding determination of attainment for this area shall be withdrawn.

[FR Doc. 2016–30477 Filed 12–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2014–0720; A–1–FRL–9952–94–Region 1]

Air Plan Approval; MA; Infrastructure State Implementation Plan Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving most elements of State Implementation Plan (SIP) submissions from Massachusetts regarding the infrastructure requirements of the Clean Air Act (CAA or Act) for the 1997 ozone, 2008 lead (Pb), 2008 ozone, 2010 nitrogen dioxide

* 5. In §52.1167, Table 52.1167 is amended by adding a state citation for conflict of interest law at the end of the table to read as follows:

§52.1167 EPA-approved Massachusetts State regulations.

* * * * *

TABLE 52.1167—EPA-APPROVED RULES AND REGULATIONS

[See Notes at end of Table]

State citation	Title/subject	Date submitted by State	Date approved by EPA	**Federal Register** citation	52.1120(c)	Comments/unapproved sections
*	*	*	*	*	*	*
M.G.L. c. 268A, sections 6 and 6A.	Conduct of Public Officials and Employees.	June 6, 2014	12/21/16	[Insert **Federal Register** citation].	147	Approved Section 6: Financial interest of state employee, relative or associates; disclosure, and Section 6A: Conflict of interest of public official; reporting requirement.

Notes:

1. This table lists regulations adopted as of 1972. It does not depict regulatory requirements which may have been part of the Federal SIP before this date.
2. The regulations are effective statewide unless otherwise stated in comments or title section.

[FR Doc. 2016–30466 Filed 12–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0372; FRL–9956–59–Region 5]

Air Plan Approval; Ohio; Redesignation of the Columbus, Ohio Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finding that the Columbus, Ohio area is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and redesignating the area to attainment for the 2008 ozone NAAQS because the area meets the statutory requirements for redesignation under the Clean Air Act (CAA or Act). The Columbus area includes Delaware, Fairfield, Knox, Licking, and Mason Counties. EPA is also approving, as a revision to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 2008 ozone standard through 2030 in the Columbus area. Finally, EPA finds adequate and is approving the state's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Columbus area. The Ohio Environmental Protection Agency (Ohio EPA) submitted the SIP revision and redesignation request on June 16, 2016.

DATES: This final rule is effective December 21, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0372. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

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

I. What is being addressed in this document?

This rule takes action on the June 16, 2016, submission from Ohio EPA requesting redesignation of the Columbus area to attainment for the 2008 ozone standard. The background for today's action is discussed in detail in EPA's proposal, dated September 28, 2016 (81 FR 66578). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-houraverage concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. (*See* 40 CFR 50.15 and appendix P to 40 CFR part 50.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assureddata are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule, dated September 28, 2016, provides a detailed discussion of how Ohio has met these CAA requirements.

As discussed in the proposed rule, quality-assuredand certified monitoring data for 2013–2015 and preliminary data for 2016 show that the Columbus area has attained and continues to attain the 2008 ozone standard. In the maintenance plan submitted for the area, Ohio has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Ohio has adopted 2020 and 2030 VOC and NO_X MVEBs for the Columbus area that are supported by Ohio's maintenance demonstration.

II. What comments did we receive on the proposed rule?

EPA provided a 30-dayreview and comment period for the September 28, 2016, proposed rule. The comment

period ended on October 28, 2016. During the comment period, comments in support of the action were submitted on behalf of the Ohio Utility Group and its member companies. We received no adverse comments on the proposed rule.

III. What action is EPA taking?

EPA is determining that the Columbus nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Ohio portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Columbus area from nonattainment to attainment for the 2008 ozone standard. EPA is also approving, as a revision to the Ohio SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Columbus area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established2020 and 2030 MVEBs for the Columbus area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-daywaiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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 (Public Law 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 2017. 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 section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and

classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations 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. Section 52.1885 is amended by adding paragraph (pp)(2) to read as follows:

§52.1885 Control strategy: Ozone.

* * * * *

(pp) * * *

(2) Approval—On June 16, 2016, the Ohio Environmental Protection Agency submitted a request to redesignate the Columbus area to attainment of the 2008 ozone NAAQS. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in eight years as required by the Clean Air Act. The 2020 motor vehicle emissions budgets for the Columbus area are 50.66 tons per summer day (TPSD) for VOC and 90.54 TPSD for NO_X. The 2030 motor vehicle emissions budgets for the Columbus area are 44.31 TPSD for VOC and 85.13 TPSD for NO_X.

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 81.336 is amended by revising the entry for Columbus, OH in the table entitled ''Ohio—2008 8-Hour Ozone NAAQS (Primary and secondary)'' to read as follows:

§81.336 Ohio.

* * * * *

OHIO—2008—8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Columbus, OH: [2] Delaware County, Fairfield County, Franklin County, Knox County, Licking County, Madison County.	December 21, 2016 ...	Attainment.		
* * *	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2016–30470 Filed 12–20–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 750

[HQ–OPPT–2016–0525; FRL–9955–15]

RIN 2070–AK28

Procedures for Rulemaking Under Section 6 of the Toxic Substances Control Act; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Section 6 of the Toxic Substances Control Act (TSCA) provides EPA with several authorities for addressing risks from chemical substances and includes procedures that EPA must follow in doing so. EPA promulgated regulations shortly after TSCA was enacted to implement the procedural requirements for rulemaking under TSCA section 6 as they existed at that time. TSCA was recently amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act. This final rule removes the regulations specifying certain procedural requirements for rulemaking under TSCA section 6, including the requirement for a hearing, because TSCA, as amended, no longer mandates those procedures.

DATES: This final rule is effective December 21, 2016.

FOR FURTHER INFORMATION CONTACT: Cindy Wheeler, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 566–0484; email address: *wheeler.cindy@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. What is the agency's authority for taking this action?

The authority for this action is TSCA section 6, as amended by the Frank R. Lautenberg Chemical Safety for the 21st Century Act (15 U.S.C. 2605).

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(3)(A), provides that ''rules of agency organization, procedure, or practice'' are exempt from notice and comment requirements. This action involves revisions to the rules that set out the general rulemaking procedure for EPA under the prior version of TSCA, and the action does not affect the substance of any determinations EPA will make under the amended TSCA section 6. Accordingly, these revisions fall under the exemption provided in APA section 553(b)(3)(A), and the EPA is not taking comment on this action.

B. Does this action apply to me?

This action affects only Agency procedure in future rulemakings under TSCA section 6 and has no particular applicability to the public. If you have any questions regarding the applicability of this action, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

* d. In redesignated paragraph (b)(4), removing the phrase ''paragraph (b)(2)'' and in its place adding the phrase ''paragraph (b)(3)''; and

* e. In the authority citation at the end of paragraph (b), adding ''1114(t)''.

The addition and revision reads as follows:

§3.352 Criteria for determining need for aid and attendance and "permanently bedridden."

* * * * *

(b)(1) * * *

(2) A veteran is entitled to the higher level aid and attendance allowance authorized by §3.350(j) in lieu of the regular aid and attendance allowance when all of the following conditions are met:

(i) As a result of service-connected residuals of traumatic brain injury, the veteran meets the requirements for entitlement to the regular aid and attendance allowance in paragraph (a) of this section.

(ii) As a result of service-connected residuals of traumatic brain injury, the veteran needs a ''higher level of care'' (as defined in paragraph (b)(3) of this section) than is required to establish entitlement to the regular aid and attendance allowance, and in the absence of the provision of such higher level of care the veteran would require hospitalization, nursing home care, or other residential institutional care.

* * *

(Authority: 38 U.S.C. 501, 1114(r)(2), 1114(t))

* * * * *

* 4. Amend §3.552(b) by:

* a. In paragraph (b)(2), adding the phrase ''or 38 U.S.C. 1114(t)'' after the phrase ''authorized by 38 U.S.C. 1114(r)(1) or (2)''; and

* b. At the end of paragraph (b), revising the authority citation.

The revision read as follows:

§3.552 Adjustment of allowance for aid and attendance.

* * * * *

(Authority: 38 U.S.C. 5503(c))

* * * * *

[FR Doc. 2016–30509 Filed 12–20–16; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2016–0669; FRL–9956–67–Region 9]

Determination of Attainment of the 2008 Ozone National Ambient Air Quality Standards; Mariposa County, California

AGENCY: The Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to determine that the Mariposa County, California Moderate Nonattainment Area (NAA) has attained the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS or ''standards''). This proposed determination is based on complete, quality-assured and certified data for 2013–2015. Preliminary data for 2016 are consistent with continued attainment of the standards in the Mariposa County NAA. If the determination is finalized as proposed, any unfulfilled obligations to submit revisions to the state implementation plan (SIP) related to attainment of the 2008 ozone standards for the Mariposa County NAA will be suspended for as long as the area continues to meet those standards.

DATES: Any comments must arrive by January 20, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2016–0669 at *http://www.regulations.gov,* or via email to *levin.nancy@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, the 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. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Nancy Levin, EPA Region IX, (415) 972–3848, *levin.nancy@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us'' or ''our'' is used, we mean the EPA. In the Rules and Regulations section of this **Federal Register**, we are making a determination that the Mariposa County, California Moderate NAA has attained the 2008 8-hour ozone NAAQS as a direct final rule without prior proposal because the Agency views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for this determination of attainment is set forth in the direct final rule. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final rule, which is located in the Rules and Regulations section of this **Federal Register**.

Dated: December 2, 2016.

Deborah Jordan,

Acting Regional Administrator, Region IX.

[FR Doc. 2016–30474 Filed 12–20–16; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Parts 1600, 1630, and 1631

Definitions; Cost Standards and Procedures; Purchasing and Property Management

AGENCY: Legal Services Corporation.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: The Legal Services Corporation (''LSC'') issued a proposed rule in the **Federal Register** of October 28, 2016 [FR Doc. 2016–25831], concerning proposed amendments to its regulations governing definitions, cost standards and procedures, and purchasing and property management. This notice extends the comment period for 30 days to January 26, 2017.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 11/8/2016 2:24:18 PM
Subject: FRN Update
8178688.pdf
8178691.pdf

FYI:

Final rule - redesignation substitute and finding of attainment

On November 8, 2016, EPA approved a redesignation substitute and made a finding of attainment for the Dallas-Fort Worth nonattainment area for both 1979 1-hr Ozone and 1997 8-hr Ozone, effective December 8, 2016.
[81 FR 78688]

Final rule - redesignation substitute and finding of attainment

On November 8, 2016, EPA approved a redesignation substitute and made a finding of attainment for the Houston-Galveston-Brazoria, TX nonattainment area for 1997 8-hr Ozone, effective December 8, 2016.
[81 FR 78691]

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Robert Wagoner

amec foster wheeler

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TEXAS—1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Dallas-Fort Worth, TX:				
Collin County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Dallas County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Denton County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Ellis County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Johnson County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Kaufman County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Parker County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Rockwall County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
Tarrant County [5 6]		Nonattainment	(5)	Subpart 2/Serious.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
* * * * * * *
[5] Effective January 19, 2011.
[6] A Redesignation Substitute was approved on November 8, 2016.

* * * * *

[FR Doc. 2016–26585 Filed 11–7–16; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R06–OAR–2015–0609; FRL–9953–89–Region 6]

Clean Air Act Redesignation Substitute for the Houston-Galveston-Brazoria 1997 8-Hour Ozone Nonattainment Area; Texas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a redesignation substitute and making a finding of attainment for the revoked 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) for the Houston-Galveston-Brazoria ozone nonattainment area (HGB area).

DATES: This rule is effective on December 8, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2015–0609. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Tracie Donaldson, 214–665–6633, *Donaldson.tracie@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" means the EPA.

I. Background

The background for this action is discussed in detail in our May 25, 2016 proposal (81 FR 33166). In that document we proposed to approve a redesignation substitute and make a finding of attainment for the 1997 8-hour ozone NAAQS for the Houston-Galveston-Brazoria ozone nonattainment area (HGB area). The redesignation substitute demonstration indicates that the area has attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions and that it will maintain that NAAQS for ten years from the date of the EPA's approval of this demonstration. Final approval of the redesignation substitute results in the area no longer being subject to any remaining applicable anti-backsliding requirements, including nonattainment new source review, associated with the revoked NAAQS. In general, final approval of the redesignation substitute allows Texas to seek to revise the Texas SIP for the area to remove anti-backsliding measures from the active portion of its SIP if it can demonstrate, pursuant to CAA section 110(1), that such revision would not interfere with attainment or maintenance of any applicable NAAQS, or any other requirement of the CAA. Because the EPA believes Texas does not need to revise its SIP to alter certain provisions for NNSR effective in the HGB area, the offset and threshold requirements applicable in the HGB area for NNSR will be automatically altered upon finalization of the redesignation substitute.

We previously approved a HGB area redesignation substitute for the revoked 1-hour ozone standard (80 FR 63429). In this action, we are also finalizing a non-substantive technical correction to 40 CFR 81.344 to reflect this approval.

We received comments on the proposal from five commenters. Our response to the comments are below.

II. Response to Comments

Comment: Three commenters recognized the progress of the area and the work of TCEQ in making such significant air quality improvements in the HGB area and urged the EPA to finalize this action to reflect the changes in the area.

Response: We agree with the commenters that HGB area has made progress in meeting air quality standards. No changes were made to the final action based on these comments.

Comment: One of the supportive commenters urged the EPA to approve revisions to the Texas SIP to reflect changes to certain provisions for the NNSR program effective in the HGB area as a result of the EPA's approval of the

redesignation substitute. The commenter also asserted that approval of the redesignation substitute will result in the area no longer being subject to any remaining applicable anti-backsliding requirements.

Response: Due to the drafting of the Texas SIP, no revision is necessary to alter NNSR requirements applicable in the HGB area following finalization of this redesignation substitute. The NNSR provisions in the existing Texas SIP contains a provision that cross-references the designation of the area to 40 CFR part 81. See 30 TAC section 101.1(71). Because of the structure of this provision, the identification of an area's classification, and thus the related major source thresholds and offset ratios, is updated without any additional revision to the SIP. Therefore, the EPA's approval of the redesignation substitute automatically updates the applicable NNSR requirements. Following finalization of this rule, the NNSR requirements applicable in the HGB area will be in accordance with the HGB area's current classification for the 2008 ozone NAAQS for newly permitted sources.[1] We note that approval of this redesignation substitute does not relieve sources in the area of their obligations under previously established permit conditions.[2] 81 FR 33161, 33165. The Texas SIP includes a suite of approved permitting regulations for the Minor and Major NSR, which will continue to apply after approval of the redesignation substitute in the HGB area. Each of these programs has been evaluated and approved by EPA as consistent with the requirements of the CAA and protective of air quality, including the requirements at 40 CFR 51.160 whereby the TCEQ cannot issue a permit or authorize an activity that will result in a violation of applicable portions of the control strategy or that will interfere with attainment or maintenance of a national standard. So moving forward to a time when the HGB area has a marginal designation as the only applicable nonattainment designation, new sources and modifications will continue to be permitted and authorized under the existing SIP requirements if they are determined to be protective of air quality. We would also note that EPA has proposed to reclassify Houston from marginal to moderate for the 2008 ozone NAAQS. 81 FR 66240, September 27, 2016.

The EPA agrees that approval of the redesignation substitute will result in the HGB area no longer being subject to the regulatory anti-backsliding requirements for the 1997 ozone standard established pursuant to the principles of CAA section 172(e). However, if an anti-backsliding provision is in the Texas SIP and needs to be changed to reflect the change in this area's status, such change is subject to the SIP revision process, which in turn is subject to review under CAA sections 110 and 193, if applicable. To date, Texas has not submitted a SIP revision concerning any anti-backsliding provisions for the EPA's consideration.

Comment: One commenter also recognized the progress and supported the action but wanted the EPA to clarify that the redesignation substitute will permanently eliminate the anti-backsliding requirements for the revoked ozone NAAQS.

Response: Following finalization of a redesignation substitute, an area is no longer subject to any remaining applicable anti-backsliding requirements associated with the specific revoked NAAQS, including the major source thresholds and offset ratios associated with the area's classification under those standards. However, as noted previously, any changes to a SIP are subject to consistency checks with CAA sections 110(l) and 193, if applicable. Because the 1997 ozone NAAQS has been revoked, no new requirements associated with that NAAQS would come due at any future date.

Comment: One commenter objected to the use of the redesignation substitute mechanism and the implications of such an action. The commenter incorporates by reference the relevant portions of a brief filed in a petition challenging the EPA's promulgation of the redesignation substitute. *See South Coast Air Quality Mgmt. Dist.* v. *EPA,* No. 15–1115 (D.C. Cir.). They contend that the HGB area continues to have unhealthy levels of ozone pollution, therefore, raising the NNSR thresholds and lowering the offset requirements for the area is inappropriate. The commenter further states that our action will result "in great expense and inefficiency: because some sources will not prevent pollution, they and other sources may have to retrofit at greater expense." The commenter asks the EPA to either disapprove the redesignation substitute or delay action until the underlying litigation is resolved.

Response: The EPA disagrees with the commenter that it is inappropriate to approve redesignation substitutes for the Houston-Galveston-Brazoria area for the 1997 ozone standard. As the commenter noted, the EPA created the redesignation substitute in the 2008 ozone SIP Requirements Rule as one of two acceptable procedures through which a state may demonstrate that it is no longer required to adopt any additional applicable requirements for an area which have not already been approved into the SIP for a revoked ozone NAAQS. 80 FR 12264, 12304 (March 6, 2015).

The EPA acknowledges that this rule has been challenged in the D.C. Circuit by the commenter. However, the rule has not been stayed pending resolution of the litigation, and as such, it is appropriate to continue to implement the 2008 ozone SIP Requirements Rule during the pendency of the litigation.

The EPA believes the redesignation substitute is an appropriate mechanism because it serves as a successor to a redesignation to attainment, for which these areas would have been eligible if the EPA had not revoked the 1-hour and 1997 ozone standards. For a more detailed description of why the EPA has determined the HGB area has met the redesignation criteria for the revoked 1997 ozone standard, see 81 FR 33166 for the proposal and Technical Support Document. Upon approval of a redesignation substitute, a state may request to revise its SIP to shift regulatory anti-backsliding requirements contained in the active portion of the SIP to the contingency measures portion of the SIP, subject to a showing of consistency with the general anti-backsliding checks in CAA sections 110(l) and 193 (if applicable). The EPA approval of the redesignation substitute has the same effect on these areas' nonattainment regulatory anti-backsliding requirements as would a redesignation to attainment for the revoked standard. The EPA believes that, under any view of anti-backsliding for a revoked standard, it should not mean imposing requirements greater than those that would apply if the standard had not been revoked.

An approvable redesignation substitute must include more than a determination of attainment of the prior NAAQS, and show that it addresses redesignation criteria for that NAAQS. Moreover, the state remains subject to ongoing requirements to meet the new more stringent 2008 ozone standard in that area. In this context, the EPA believes finalizing this action is appropriate—it recognizes and supports Texas's progress in having attained the

[1] *See* Section D of the TSD for this action in the docket for this rulemaking for additional information.

[2] *See* Final Implementation Rule for 2008 Ozone Standard, 80 FR 12264, at 12299, footnote 83 and at 12304, footnote 91.

prior standards in the HGB area due to permanent and enforceable emissions reductions, and reinforces continued attainment by demonstrating that the HGB area can maintain the revoked standard. See 80 FR 12264, 12305.

III. Final Action

We find that Texas has successfully demonstrated it has met the requirements for approval of a redesignation substitute for the revoked 1997 8-hour ozone NAAQS for the HGB area. We are approving the redesignation substitute for the HGB area based on our determination that the demonstration provided by the State of Texas shows that the HGB area has attained the revoked 1997 8-hour ozone NAAQS due to permanent and enforceable emission reductions, and that it will maintain that NAAQS for ten years from the date of the EPA's approval of this demonstration. As we no longer redesignate nonattainment areas to attainment for the revoked 1997 8-hour ozone NAAQS, approval of the demonstration serves as a redesignation substitute under the EPA's implementing regulations. As a result of this action, Texas is no longer required to adopt any additional applicable 1997 8-hour ozone NAAQS requirements for the area which have not already been approved into the SIP (40 CFR 51.1105(b)(1)). It also allows the state to request that the EPA approve the shifting of planning and control requirements implemented pursuant to the 1997 ozone NAAQS from the active portion of the SIP to the contingency measures portion of the SIP, upon a showing of consistency with CAA sections 110(l) and 193 (if applicable) (40 CFR 51.1105(b)(2)).

We are also finalizing a non-substantive technical correction to 40 CFR 81.344 (Section 107 Attainment Status Designations for Texas) to reflect our previous approval of a HGB area redesignation substitute demonstration for the revoked 1-hour ozone standard.

IV. Statutory and Executive Order Reviews

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, 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). This action merely approves a demonstration provided by the State of Texas and finds that the HGB area is no longer subject to the regulatory anti-backsliding requirements under the principles of CAA section 172(e) for the revoked 1997 8-hour ozone NAAQS; and imposes no additional requirements. Accordingly, I certify 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.*). Because this rule does not impose any additional enforceable duties, 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). This rule also does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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), because it merely approves a demonstration provided by the State of Texas and find that the HGB area is no longer subject to the regulatory anti-backsliding requirements under the principles of CAA section 172(e) for the revoked 1997 8-hour ozone NAAQS; and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

The 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.*). Additionally, this rule does not involve establishment of technical standards, and 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.

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 9, 2017. 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 section 307(b)(2).)

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: October 27, 2016.

Samuel Coleman,

Acting Regional Administrator, Region 6.

40 CFR parts 52 and 81 are 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.*

Subpart SS—Texas

* 2. Section 52.2275 is amended by adding paragraph (n) to read as follows:

§52.2275 Control strategy and regulations: Ozone.

* * * * *

(n) *Approval of Redesignation Substitute for the Houston-Galveston-Brazoria 1997 Ozone Nonattainment Area.* EPA has approved the redesignation substitute for the Houston-Galveston-Brazoria 1997 ozone NAAQS nonattainment area submitted by the State of Texas on August 18,

2015. The State is no longer being required to adopt any additional applicable 1997 ozone NAAQS requirements for the area.

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 81.344 is amended:

* a. In the table for ''Texas—Ozone (1-Hour Standard)'' by revising the entries for ''Houston-Galveston-Brazoria, TX'' and revising footnote 4; and

* b. In the table for ''Texas—1997 8-Hour Ozone NAAQS (Primary and Secondary)'' by revising the entries for ''Houston-Galveston-Brazoria, TX'' and adding footnote 7.

The revisions and additions read as follows:

§81.344 Texas.

* * * * *

TEXAS—OZONE [2]

[11-Hour standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Houston-Galveston-Brazoria Area, TX:				
Brazoria County [4]		Nonattainment	11/15/90	Severe-17.
Chambers County [4]		Nonattainment	11/15/90	Severe-17.
Fort Bend County [4]		Nonattainment	11/15/90	Severe-17.
Galveston County [4]		Nonattainment	11/15/90	Severe-17.
Harris County [4]		Nonattainment	11/15/90	Severe-17.
Liberty County [4]		Nonattainment	11/15/90	Severe-17.
Montgomery County [4]		Nonattainment	11/15/90	Severe-17.
Waller County [4]		Nonattainment	11/15/90	Severe-17.
* * *	*	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

[2] The 1-hour ozone standard is revoked effective June 15, 2005 for all areas in Texas except the San Antonio area where it is revoked effective April 15, 2009.

* * * * * * *

[4] A Redesignation Substitute was approved on October 20, 2015.

* * * * *

TEXAS—1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Houston-Galveston-Brazoria, TX:				
Brazoria County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Chambers County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Fort Bend County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Galveston County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Harris County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Liberty County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Montgomery County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
Waller County [7]		Nonattainment	([4])	Subpart 2/Severe 15.
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.

[1] This date is June 15, 2004, unless otherwise noted.

* * * * * * *

[4] Effective October 31, 2008.

* * * * * * *

[7] A Redesignation Substitute was approved on November 8, 2016.

* * * * *

[FR Doc. 2016–26586 Filed 11–7–16; 8:45 am]

BILLING CODE 6560–50–P

To: Brachtl, Megan[Brachtl.Megan@epa.gov]
Cc: Mackintosh, David[Mackintosh.David@epa.gov]; paul.bodner@ct.gov[paul.bodner@ct.gov]; Mark Prettyman[Mark.Prettyman@state.de.us]; Andy Bodnarik[ABodnarik@otcair.org]; Joseph Jakuta[JJakuta@otcair.org]
From: Shyamala Rajan
Sent: Mon 12/5/2016 5:33:09 PM
Subject: RE: EPA WEBINAR: Proposed Ozone SIP Requirements Rule
CT_DE_Questions_To_EPA_2015_O3_Implmn_Rule.docx

Dear Ms. Brachtl

Please find attached questions/queries from two OTC member states (CT and DE) on the 2015 Ozone SIP Requirements Proposed Rule that we would like EPA to address during the webinar on Wednesday.

Please let me know if you have any questions.

Thanks.

Shyamala Rajan

Environmental Analyst

Ozone Transport Commission

202-508-3848

From: Nancy Kruger [mailto:nkruger@4cleanair.org]
Sent: Monday, December 05, 2016 12:18 PM
To: Shyamala Rajan <srajan@otcair.org>
Cc: 'paul.bodner@ct.gov' <paul.bodner@ct.gov>; Mark Prettyman (mark.prettyman@state.de.us) <mark.prettyman@state.de.us>; Andy Bodnarik <ABodnarik@otcair.org>; Joseph Jakuta <JJakuta@otcair.org>
Subject: RE: EPA WEBINAR: Proposed Ozone SIP Requirements Rule

Hi Shyamala,

Good to talk with you this morning. As we discussed, since EPA is hosting this webinar it would be best if you submitted the questions directly to EPA. I recommend you send them to Megan Brachtl, Group Leader of the State and Local Programs Group at OAQPS. Her contact info is brachtl.megan@epa.gov and (919) 541-2648. You may also want to copy your EPA regional contact.

Thanks,

-Nancy

Nancy Kruger

Deputy Director

National Association of Clean Air Agencies

444 North Capitol Street, NW

Suite 307

Washington, DC 20001

tel: Ex. 6

fax: (202) 624-7863

nkruger@4cleanair.org

www.4cleanair.org

From: Shyamala Rajan [mailto:srajan@otcair.org]
Sent: Monday, December 05, 2016 11:51 AM
To: Nancy Kruger
Cc: 'paul.bodner@ct.gov'; Mark Prettyman (mark.prettyman@state.de.us); Andy Bodnarik; Joseph Jakuta
Subject: RE: EPA WEBINAR: Proposed Ozone SIP Requirements Rule

Dear Ms. Kruger

Please find attached questions/queries from two OTC member states (CT and DE) on the 2015 Ozone SIP Requirements Proposed Rule that we would like EPA to address during their webinar on Wednesday.

Please let me know if you have any questions.

Thanks.

Shyamala Rajan

Environmental Analyst

Ozone Transport Commission

Ex. 6

From: Stephanie Steigman [mailto:scooper@4cleanair.org]
Sent: Monday, November 21, 2016 10:00 AM
Subject: EPA WEBINAR: Proposed Ozone SIP Requirements Rule

To: NACAA Air Directors

NACAA Criteria Pollutants Committee

NACAA Permitting and NSR Committee

Below please find information from EPA about a webinar being held on December 7, 2016, at 2:00 p.m. on EPA's Proposed Rule: Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements.

WEBINAR ANNOUNCEMENT

For distribution to Regions, State, Local and Tribal Air Agencies, communities, industry, environmental groups, and the general public:

Webinar: **PROPOSED RULE: IMPLEMENTATION OF THE 2015 NATIONAL AMBIENT AIR QUALITY STANDARDS FOR OZONE: NONATTAINMENT AREA CLASSIFICATIONS AND STATE IMPLEMENTATION PLAN REQUIREMENTS**
Date: Wednesday, December 7, 2016
Time: 2:00 – 3:30 PM Eastern Time
Intended Audience: Regions, State, Local, and Tribal Air Agencies, communities, industry, environmental groups, and the general public
Link to Join Webinar: https://epawebconferencing.acms.com/nonattainment-sip

Description: On November 2, 2016, the U.S. Environmental Protection Agency proposed requirements that would apply to state, local, and tribal air agencies for implementing the 2015 National Ambient Air Quality Standards (NAAQS) for ground-level ozone. The EPA revised both the health-based and welfare-based standards for ozone on October 1, 2015. This proposed action largely retains and updates the implementing regulations that apply for the 2008 ozone NAAQS, for purposes of the 2015 ozone standards, which creates stability in the planning process. This action also proposes two options for revoking the 2008 ozone NAAQS. The EPA is also seeking comment on a number of additional topics, including: (1) managing emissions from wildfires and wildland prescribed fires; (2) transportation conformity and general conformity; (3) contingency measures; (4) international transport and background ozone; and (5) additional policies for achieving emissions reductions. This webinar is intended to provide highlights of the proposed rule and address clarifying questions. To download a copy of the proposed rule or for more information go to https://www.epa.gov/ozone-pollution/implementation-2015-national-ambient-air-quality-standards-naaqs-ozone-state.

Logistics: You will listen to the audio via your computer. We highly recommend running a connect test on your system before logging into the webinar to ensure that the proper add-ins are enabled and the audio is working properly:
http://admin.adobeconnect.com/common/help/en/support/meeting_test.htm.

EPA WEBINAR: Proposed Ozone SIP Requirements Rule

Questions From:

Paul Bodner, CT
Air Pollution Control Engineer
Planning & Standards Division
Bureau of Air Management
Connecticut Department of Energy and Environmental Protection
79 Elm Street, Hartford, CT 06106-5127
P: 860-424-3383 | F: 860-706-5339 | E: paul.bodner@ct.gov

- In the 2008 NAAQS Implementation Rule, EPA required RACT SIP revisions to be submitted no later than 24 months after the effective date of the initial area designations, and implementation of RACT measures "as expeditiously as practicable, but no later than January 1 of the 5th year after the effective date of a nonattainment designation." EPA is proposing to retain these requirements for the 2015 NAAQS.
    - Can EPA clarify what the RACT implementation deadline would be for the 2015 NAAQS if the effective date of designations occurs either before or after the last day of 2017? For example, if the designations effective date is in January 2018 rather than December 2017, would the RACT implementation deadline be 1/1/2023 rather than 1/1/2022?

- Is EPA planning to issue updated, consolidated guidance to assist states with the development of strong RACT programs?

- Does EPA have plans to issue any new or updated CTG or ACT requirements?

- CAA Section 182(g) requires serious and above ozone nonattainment areas to submit milestone compliance demonstrations (MCD) to show that RFP requirements have been met in a timely fashion. EPA is proposing that air agencies can meet the MCD requirement using either of two options. The first listed option would require the air agency to demonstrate "Compliance with control measures requirements in an RFP plan that complies with the requirements of the CAA (e.g., percent implementation.)"
    - Can EPA elaborate on how this option could be appropriately carried out, especially as it relates to EPA's definition of what "percent implementation" means? For example, serious areas have two RFP milestones – achieving 15% emission reductions within 6 years after designations and another 9% reduction within 9 years after designations. How would such an area demonstrate appropriate "percent implementation" of adopted EFP measures to meet the Option 1 MCD requirement?
    - Does EPA anticipate issuing any guidance to help states with development of approvable MCDs?

Mark A. Prettyman, DE
Environmental Scientist
Delaware Division of Air Quality
phone: 302-739-9402
fax: 302-739-3106
mark.prettyman@state.de.us

- EPA is proposing to use the same "percent-above-the-standard" methodology as was used for establishing thresholds for classifications for the 1997 and 2008 8-hour ozone standards. DE feels that a new methodology would help to "shrink" the classification ranges, and could result in more NAAs being considered Moderate than simply just Marginal.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Tue 12/20/2016 2:04:10 PM
Subject: FRN Update
8191841.pdf

FYI:

Final rule - determination of failure to attain and reclassification

On December 19, 2016, EPA determined that the Sheboygan County, WI nonattainment area failed to attain the 2008 8-hr Ozone NAAQS by the attainment deadline, and reclassified the area from Marginal to Moderate, effective the same day, December 19, 2016.
[81 FR 91841]

--
Robert Wagoner

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To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Frank, Neil[Frank.Neil@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Fri 12/16/2016 3:01:51 PM
Subject: FRN Update
8191035.pdf
8191088.pdf

FYI:

Final rule - redesignation to attainment

On December 16, 2016, EPA redesignated the Ohio portion of the Cincinnati, OH-KY-IN nonattainment area for 2008 8-hr Ozone, effective the same day, December 16, 2016.
[81 FR 91035]

Proposed rule - (multiple actions, multiple areas) determination of attainment, determination of failure to attain, reclassification

On December 16, 2016, EPA proposed to determine that 7 Moderate nonattainment areas have attained the 2006 PM-2.5 NAAQS based on 2013-2015 monitoring data, and that 4 other areas (5 area-state portions) failed to attain the NAAQS by the December 31, 2015 Moderate attainment date and will be reclassified as Serious.
[81 FR 91088]

Determination of attainment
==========
Chico, CA
Imperial County, CA
Knoxville-Sevierville-La Follette, TN
Liberty-Clairton, PA
Nogales, AZ
Sacramento, CA
San Francisco Bay Area, CA

Reclassification to Serious
==========
Fairbanks, AK
Logan, UT-ID

Provo, UT
Salt Lake City, UT

--
Robert Wagoner

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TABLE 3—EPA APPROVED KNOX COUNTY, REGULATIONS

State section	Title/subject	State effective date	EPA approval date	Explanation
*	*	*	*	*
32.0	Use of Evidence	11/12/2015	12/16/2016, [Insert citation of publication].	EPA is replacing the language in Section 32.1(C) with "(Reserved)".
*	*	*	*	*

* * * * *

[FR Doc. 2016–30056 Filed 12–15–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0269; FRL–9956–60–Region 5]

Air Plan Approval; Ohio; Redesignation of the Ohio Portion of the Cincinnati, Ohio-Kentucky-Indiana Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is finding that the Cincinnati, Ohio-Kentucky-Indiana area is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and is redesignating the Ohio portion of the Cincinnati area to attainment for the 2008 ozone NAAQS because the area meets the statutory requirements for redesignation under the Clean Air Act (CAA or Act). The Cincinnati area includes Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; Lawrenceburg Township in Dearborn County, Indiana; and, Boone, Campbell, and Kenton Counties in Kentucky. EPA is also approving, as a revision to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 2008 ozone standard through 2030 in the Cincinnati area. Finally, EPA finds adequate and is approving the state's 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Ohio and Indiana portion of the Cincinnati area. The Ohio Environmental Protection Agency (Ohio EPA) submitted the SIP revision and redesignation request on April 21, 2016.

DATES: This final rule is effective December 16, 2016.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0269. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information 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 *http://www.regulations.gov,* or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

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

I. What is being addressed in this document?

This rule takes action on the submission from Ohio EPA, dated April 21, 2016, requesting redesignation of the Ohio portion of the Cincinnati area to attainment for the 2008 ozone standard. The background for today's action is discussed in detail in EPA's proposal, dated September 28, 2016 (81 FR 66602). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. (*See* 40 CFR 50.15 and appendix P to 40 CFR part 50.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule, dated September 28, 2016, provides a detailed discussion of how Ohio has met these CAA requirements.

As discussed in the September 28, 2016, proposal, quality-assured and certified monitoring data for 2013–2015 and preliminary data for 2016 show that the Cincinnati area has attained and continues to attain the 2008 ozone standard. In the maintenance plan submitted for the area, Ohio has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Ohio and Indiana have adopted 2020 and 2030 VOC and NO_X MVEBs for the Ohio and Indiana portion of the Cincinnati area that are supported by Ohio's maintenance demonstration.

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the September 28, 2016, proposed rule. The comment period ended on October 28, 2016. During the comment period, comments in support of the action were submitted on behalf of the Ohio Utility Group and its member companies. We received no adverse comments on the proposed rule.

III. What action is EPA taking?

EPA is determining that the Cincinnati nonattainment is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Ohio portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Ohio portion of the Cincinnati area from nonattainment to attainment for the 2008 ozone standard. EPA is also approving, as a revision to the Ohio SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Cincinnati area in

attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 14, 2017. 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 section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2016.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

* 2. Section 52.1885 is amended by revising paragraph (ff) introductory text and adding paragraph (pp) to read as follows:

§52.1885 Control strategy: Ozone.

* * * * *

(ff) Approval—The 1997 8-hour ozone standard maintenance plans for the following areas have been approved:

* * * * *

(pp) Approval—The 2008 8-hour ozone standard maintenance plans for the following areas have been approved:

(1) Approval—On April 21, 2016, the Ohio Environmental Protection Agency submitted a request to redesignate the Ohio portion of the Cincinnati, OH-KY-IN area to attainment of the 2008 ozone NAAQS. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. The 2020 motor vehicle emissions budgets for the Ohio and Indiana portions of the Cincinnati, OH-KY-IN area are 30.00 tons per summer day (TPSD) for VOC and 26.77 TPSD for NO_X. The 2030 motor vehicle emissions budgets for the Ohio and Indiana portions of the area are 18.22 TPSD for VOC and 16.22 TPSD for NO_X.

PART 81—[AMENDED]

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

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

* 2. Section 81.336 is amended by revising the entry for Cincinnati, OH-KY-IN in the table entitled "Ohio—2008 8-Hour Ozone NAAQS (Primary and secondary)" to read as follows:

§81.336 Ohio.

* * * * *

OHIO—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Cincinnati, OH-KY-IN: [2]	December 16, 2016	Attainment.		
Butler County				
Clermont County				
Clinton County				
Hamilton County				
Warren County				
* * *	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2016–30054 Filed 12–15–16; 8:45 am]

BILLING CODE 6560–50–P

LEGAL SERVICES CORPORATION

45 CFR Part 1602

Procedures for Disclosure of Information Under the Freedom of Information Act

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (LSC) is revising its regulation on procedures for disclosure of information under the Freedom of Information Act to implement the statutorily required amendments in the FOIA Improvement Act of 2016. LSC is also making technical changes to improve the structure and clarity of its Freedom of Information Act (FOIA) regulations.

DATES: The final rule is effective as of December 16, 2016.

FOR FURTHER INFORMATION CONTACT: Helen Gerostathos Guyton, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1632 (phone), (202) 337–6519 (fax), *guytonh@lsc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

LSC is subject to the FOIA by the terms of the Legal Services Corporation Act. 42 U.S.C. 2996d(g). LSC has implemented FOIA by adopting regulations that contain the rules and procedures LSC will follow in making its records available to the public. LSC last amended its FOIA regulations in 2008. 73 FR 67791, Dec. 31, 2008.

On June 30, 2016, President Obama signed into law the FOIA Improvement Act of 2016 ("2016 Amendments" or the "Act"). The Act codifies a number of transparency and openness principles and enacts housekeeping measures designed to facilitate FOIA requests and production. The revised regulations described in this final rule reflect the required changes prescribed by the Act. LSC also clarified the language and updated the structure of its FOIA regulations.

In light of the deadline established by Congress, LSC management requested that the Operations and Regulations Committee (Committee) recommend that the Board authorize expedited rulemaking and publication of this final rule. On October 16, 2016, the Committee considered the request and voted to make the recommendation to the Board. On October 18, 2016, the Board voted to authorize expedited rulemaking and the publication of the final rule and request for comments. LSC published the final rule and request for comments on October 31, 2016, 81 FR 75330, and the comment period closed on November 30, 2016. LSC received no substantive adverse comments. LSC received comments from two parties recommending technical changes, which LSC has incorporated into this final rule where noted.

II. Section-by-Section Analysis

Section 1602.1 Purpose

There are no proposed changes to this section.

Section 1602.2 Definitions

LSC modified several existing definitions, deleted one definition, and added five new definitions to make its regulations clearer. LSC amended the Definitions section as follows:

Duplication. LSC modified this definition to require the release of records "in a form appropriate for release." This change complies with

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Fri 4/7/2017 2:51:50 PM
Subject: FRN Update
8216938.pdf
8216940.pdf
8216943.pdf

FYI:

Final rule - redesignation to attainment

On April 7, 2017, EPA redesignated the Ohio portion of the Cincinnati-Hamilton, OH-KY-IN nonattainment area for 1997 PM-2.5, effective the same day, April 7, 2017.
[82 FR 16938]

(The Ohio and Indiana portions of the area were originally redesignated effective December 23, 2011 [76 FR 80253]. That action was challenged and reversed in "Sierra Club v. EPA, 793 F.3d 656 (6th Cir. 2015)". The Kentucky portion of the area was redesignated effective December 15, 2011 [76 FR 77903] and that action was left in place.)

Final rule - redesignation to attainment

On April 7, 2017, EPA redesignated the Indiana portion of the Cincinnati, OH-KY-IN nonattainment area for 2008 Ozone, effective the same day, April 7, 2017.
[82 FR 16940]

(The Ohio portion of the area was redesignated effective December 16, 2016 [81 FR 91035]. The Kentucky portion of the area has not been redesignated.)

Final rule - redesignation to attainment

On April 7, 2017, EPA redesignated the Kentucky portion of the Louisville, KY-IN nonattainment area for 1997 PM-2.5, effective the same day, April 7, 2017.
[82 FR 16943]

(The Indiana portion of the area was redesignated effective September 9, 2016 [81 FR 62390].)

--
Robert Wagoner

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Dated: March 20, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 52 and 81 are 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.*

Subpart KK—Ohio

* 2. Section 52.1880 is amended by revising paragraph (q)(1) and by adding paragraph (v) to read as follows:

§52.1880 Control strategy: Particulate matter.

* * * * *

(q) * * *

(1) Ohio's 2005 NO_X, directly emitted $PM_{2.5}$, and SO_2 emissions inventory; and 2007 VOCs and ammonia emissions inventory, satisfy the emission inventory requirements of section 172(c)(3) for the Cincinnati-Hamilton area.

* * * * *

(v) Approval—Ohio's RACM/RACT analysis that was submitted as part of their July 18, 2008, attainment demonstration satisfies the RACM/RACT requirements of section 172(c)(1) for the Cincinnati-Hamilton area.

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 81.336 is amended by revising the column headings under "Designation[a]" for "Type" and "Date[1]" and by revising the entry for Cincinnati-Hamilton, OH in the table entitled "Ohio—1997 Annual $PM_{2.5}$ NAAQS" to read as follows:

§81.336 Ohio.

* * * * *

OHIO—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date	Type
* *	*	*	*	*
Cincinnati-Hamilton, Ohio: Butler County. Clermont County. Hamilton County. Warren County.	April 7, 2017	Attainment		
* *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

* * * * *

[FR Doc. 2017–06882 Filed 4–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2016–0135; FRL–9960–79–Region 5]

Air Plan Approval; Indiana; Redesignation of the Indiana Portion of the Cincinnati, Ohio-Kentucky-Indiana Area to Attainment of the 2008 Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is determining that the Cincinnati, Ohio-Kentucky-Indiana area is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and approving a request from the Indiana Department of Environmental Management (IDEM) to redesignate the Indiana portion of the Cincinnati area to attainment for the 2008 ozone NAAQS because the request meets the statutory requirements for redesignation under the Clean Air Act (CAA). The Cincinnati area includes Lawrenceburg Township in Dearborn County, Indiana; Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; and, Boone, Campbell, and Kenton Counties in Kentucky. IDEM submitted this request on February 23, 2016, and supplemented that submittal with a revised emissions inventory on May 4, 2016. EPA is also approving, as a revision to the Indiana State Implementation Plan (SIP), the state's plan for maintaining the 2008 ozone standard through 2030 in the Cincinnati area. Additionally, EPA finds adequate and is approving the states' 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO_X) Motor Vehicle Emission Budgets (MVEBs) for the Indiana and Ohio portion of the Cincinnati area. Finally, EPA is approving the 2011 base year emissions inventory submitted by IDEM as meeting the base year emissions inventory requirement of the CAA for the Indiana portion of the Cincinnati area.

DATES: This final rule is effective on April 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0135. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *i.e.,* Confidential Business Information (CBI) 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 *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 Eric Svingen, Environmental Engineer, at

(312) 353–4489 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Eric Svingen, Environmental Engineer, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–4489, *svingen.eric@epa.gov.*

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

I. What is being addressed in this document?
II. What comments did we receive on the proposed rule?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

This rule takes action on the submission from IDEM, dated February 23, 2016, and supplemented on May 4, 2016, requesting redesignation of the Indiana portion of the Cincinnati area to attainment for the 2008 ozone standard. The background for today's action is discussed in detail in EPA's proposal, dated December 27, 2016 (81 FR 95081). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 parts per million (ppm), when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. (*See* 40 CFR 50.15 and appendix P to 40 CFR part 50.) Under the CAA, EPA may redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule at 81 FR 95081 provides a detailed discussion of how Indiana has met these CAA requirements.

As discussed in the proposal at 81 FR 95081, quality-assured and certified monitoring data for 2013–2015 and preliminary data for 2016 show that the Cincinnati area has attained and continues to attain the 2008 ozone standard. In the maintenance plan submitted for the area, Indiana has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Indiana and Ohio have adopted 2020 and 2030 VOC and NO_X MVEBs for the Indiana and Ohio portion of the Cincinnati area that are supported by Indiana's maintenance demonstration.

On June 1, 2016, Indiana submitted a separate SIP revision to address emissions statements rules required by CAA section 182(a)(3)(B). EPA proposed approval of that June 1, 2016, submission in a separate proposed rule also published on December 27, 2016 (81 FR 95080). As discussed in the redesignation proposal at 81 FR 95081, emissions statements rules must be SIP-approved on or before the date EPA completes final rulemaking approving redesignation requests. Today, in a separate rule, EPA is finalizing approval of the emissions statements rulemaking. That approval allows EPA to proceed with this redesignation approval.

II. What comments did we receive on the proposed rule?

EPA provided a 30-day review and comment period for the December 27, 2016, proposed rule. The comment period ended on January 26, 2017. We received no comments on the proposed rule.

III. What action is EPA taking?

EPA is determining that the Cincinnati nonattainment area is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Indiana portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Indiana portion of the Cincinnati area from nonattainment to attainment for the 2008 ozone standard. EPA is also approving, as a revision to the Indiana SIP, the state's maintenance plan for the area. The maintenance plan is designed to keep the Cincinnati area in attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the state of planning requirements for this ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

• Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 6, 2017. 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 section 307(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: March 17, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations are 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. Section 52.777 is amended by adding paragraph (uu) to read as follows:

§52.777 Control strategy: photochemical oxidants (hydrocarbons).

* * * * *

(uu) Approval—On February 23, 2016, the Indiana Department of Environmental Management submitted a request to redesignate the Indiana portion of the Cincinnati, OH–KY–IN area to attainment of the 2008 ozone NAAQS. As part of the redesignation request, the State submitted a maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. The 2020 motor vehicle emissions budgets for the Indiana and Ohio portions of the Cincinnati, OH–KY–IN area are 30.02 tons per summer day (TPSD) for VOC and 30.79 TPSD for NO_X. The 2030 motor vehicle emissions budgets for the Indiana and Ohio portions of the area are 18.22 TPSD for VOC and 16.22 TPSD for NO_X.

* * * * *

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

* 2. In §81.315, the table entitled ''Indiana—2008 8-Hour Ozone NAAQS (Primary and secondary)'' is amended by revising the entry for ''Cincinnati, OH–KY–IN:'' to read as follows:

§81.315 Indiana.

* * * * *

INDIANA—2008 8-HOUR OZONE NAAQS

(Primary and secondary)

Designated area			Designation		Classification	
			Date [1]	Type	Date [1]	Type
*	*	*	*	*	*	*
Cincinnati, OH–KY–IN: [2]	Dearborn County (part) Lawrenceburg Township.		April 7, 2017	Attainment.		

INDIANA—2008 8-HOUR OZONE NAAQS—Continued

(Primary and secondary)

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2017–06886 Filed 4–6–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0773; FRL–9960–55-Region 4]

Air Plan Approval and Air Quality Designation; KY; Redesignation of the Kentucky Portion of the Louisville 1997 Annual $PM_{2.5}$ Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On March 5, 2012, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet, Division for Air Quality, submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Kentucky that is within the bi-state Louisville, KY–IN fine particulate matter ($PM_{2.5}$) nonattainment area (hereinafter referred to as the ''bi-state Louisville Area'' or ''Area'') to attainment for the 1997 Annual $PM_{2.5}$ national ambient air quality standards (NAAQS) and to approve a state implementation plan (SIP) revision containing a maintenance plan for the Area. EPA is taking final action to approve the Commonwealth's plan for maintaining the 1997 Annual $PM_{2.5}$ NAAQS in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxide (NO_X) and $PM_{2.5}$ for the years 2015 and 2025 for the bi-state Louisville Area, and incorporate it into the SIP, and to redesignate the Kentucky portion of the Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. Additionally, EPA finds the 2025 MVEBs for the bi-state Louisville Area adequate for the purposes of transportation conformity.

DATES: This rule is effective April 7, 2017.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0773. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.,* Confidential Business Information 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 electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Madolyn Sanchez of the Air Regulatory Management Section, in the Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Madolyn Sanchez may be reached by phone at (404) 562–9644, or via electronic mail at *sanchez.madolyn@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What is the background for the actions?

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15.0 micrograms per cubic meter ($\mu g/m^3$), based on a 3-year average of annual mean $PM_{2.5}$ concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 $\mu g/m^3$, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006 (71 FR 61144), EPA retained the annual average NAAQS at 15.0 $\mu g/m^3$ but revised the 24-hour NAAQS to 35 $\mu g/m^3$, based again on the 3-year average of the 98th percentile of 24-hour concentrations.

On January 5, 2005 (70 FR 944), and supplemented on April 14, 2005 (70 FR 19844), EPA designated the bi-state Louisville Area as nonattainment for the Annual 1997 $PM_{2.5}$ NAAQS. The bi-state Louisville Area consists of Bullitt and Jefferson Counties in Kentucky as well as Clark and Floyd Counties and a portion of Jefferson County (Madison Township) in Indiana.[1] On November 13, 2009 (74 FR 58688), EPA promulgated designations for the 24-hour $PM_{2.5}$ standard established in 2006, designating the bi-state Louisville Area as attainment for that NAAQS. That action clarified that the bi-state Louisville Area was classified unclassifiable/attainment for the 24-hour NAAQS promulgated in 1997. EPA did not promulgate designations for the 2006 Annual $PM_{2.5}$ NAAQS since that NAAQS was essentially identical to the 1997 Annual $PM_{2.5}$ NAAQS.

On March 5, 2012, Kentucky submitted a request to EPA for redesignation of the Kentucky portion of the bi-state Louisville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS and a related SIP revision containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPRM) published on January 11, 2017 (82 FR 3234), EPA proposed to approve the Commonwealth's 1997 Annual $PM_{2.5}$ NAAQS maintenance plan, including the 2025 MVEBs for NOx and direct $PM_{2.5}$, for the Kentucky portion of the bi-state Louisville Area and incorporate the maintenance plan into the SIP, and to redesignate the Kentucky portion of the bi-state Louisville Area to attainment for the 1997 Annual $PM_{2.5}$ NAAQS. In that notice, EPA also notified the public of the status of the

[1] In a separate submittal, EPA received the redesignation request and maintenance plan for the Indiana portion of this Area. On September 9, 2016, EPA took final action to determine that the entire bi-state Louisville Area has attained the 1997 $PM_{2.5}$ standard and to approve Indiana's redesignation request and maintenance plan. *See* 81 FR 62390.

To: Reff, Adam[Reff.Adam@epa.gov]; Wells, Benjamin[Wells.Benjamin@epa.gov]; Stackhouse, Butch[Stackhouse.Butch@epa.gov]; Mintz, David[Mintz.David@epa.gov]; Solomon, Douglas[Solomon.Douglas@epa.gov]; Cakir, Halil[Cakir.Halil@epa.gov]; Hemby, James[Hemby.James@epa.gov]; Pepple, Karl[Pepple.Karl@epa.gov]; Wallace, Larry[Wallace.Larry@epa.gov]; Dail, Lynn[Dail.Lynn@epa.gov]; Brachtl, Megan[Brachtl.Megan@epa.gov]; South, Mia[South.Mia@epa.gov]; Damberg, Rich[Damberg.Rich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; Lingard, Robert[Lingard.Robert@epa.gov]; Lessard, Patrick[Lessard.Patrick@epa.gov]; Senter, Stephen[Senter.Stephen@epa.gov]; Bailey, Ashten[Bailey.Ashten@epa.gov]; Herrington, Leigh[Herrington.Leigh@epa.gov]; Gantt, Brett[Gantt.Brett@epa.gov]
Cc: Lyn Harwell[Lyn.Harwell@amecfw.com]
From: Wagoner, Robert A
Sent: Thur 4/6/2017 1:41:06 PM
Subject: FRN Update
8216740.pdf

FYI:

Final rule; correction - reclassification

On April 6, 2017, EPA issued a correction to an earlier ([81 FR 91841], effective December 19, 2016) reclassification of the Sheboygan County, WI nonattainment area for 2008 8-hr Ozone from Marginal to Moderate.
[82 FR 16740]

--
Robert Wagoner

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(2), and (4) shall be submitted to the EPA at the frequency specified in those paragraphs in electronic portable document format (PDF) using the ECMPS Client Tool. * * *

* * * * *

* 4. Appendix A to Subpart UUUUU is amended by:

* a. Revising section 4.1.1.5.2; and

* b. Revising the entry "RATA" in Table A–2.

The revised text reads as follows:

Appendix A to Subpart UUUUU of Part 63—Hg Monitoring Provisions

* * * * *

4. Certification and Recertification Requirements

* * * * *

4.1.1.5.2 *Calculation of RATA Results.* Calculate the relative accuracy (RA) of the monitoring system, on a mg/scm basis, as described in section 12 of Performance Specification (PS) 2 in appendix B to part 60 of this chapter (see Equations 2—3 through 2–6 of PS 2). For purposes of calculating the relative accuracy, ensure that the reference method and monitoring system data are on a consistent basis, either wet or dry. The CEMS must either meet the main performance specification or the alternative specification in Table A–1 of this appendix.

* * * * *

5. Ongoing Quality Assurance (QA) and Data Validation

* * * * *

TABLE A–2—ON-GOING QA TEST REQUIREMENTS FOR HG CEMS

Perform this type of QA test	At this frequency	With these qualifications and exceptions	Acceptance criteria
*	*	*	*
RATA	Annual [4]	• Test deadline may be extended for "non-QA operating quarters," up to a maximum of 8 quarters from the quarter of the previous test. • 720 operating hour grace period available	≤20.0% RA *or* $\lvert RM_{avg} - C_{avg} \rvert + \lvert CC \rvert \leq 0.5$ μg/scm, if $RM_{avg} < 2.5$ μg/scm.

* * * * *

[4] "Annual" means once every four QA operating quarters.

* * * * *

* * * * *

[FR Doc. 2017–06884 Filed 4–5–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R05–OAR–2016–0277; FRL–9960–91–Region 5]

Reclassification of the Sheboygan, Wisconsin Area To Moderate Nonattainment for the 2008 Ozone National Ambient Air Quality Standards; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on December 19, 2016, revising its regulations entitled "Designation of Areas for Air Quality Planning Purposes" for the 2008 ozone National Ambient Air Quality Standards (NAAQS). An error in the table for the Wisconsin 2008 8-Hour Ozone NAAQS is identified and corrected in this action.

DATES: This final rule is effective on April 6, 2017.

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, *dagostino.kathleen@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA published a final rule document on December 19, 2016, (81 FR 91841) updating 40 CFR part 81, "Designation of Areas for Air Quality Planning Purposes" for the 2008 8-Hour Ozone NAAQS. This final rule included a revision to 40 CFR 81.350 reclassifying the Sheboygan, Wisconsin area (Sheboygan County) as "moderate" nonattainment for the 2008 ozone NAAQS. The entry for the Sheboygan County designated area in the Wisconsin-2008 8-Hour Ozone NAAQS (Primary and secondary) table erroneously indicated that the effective date of the classification is January 18, 2017 when, in fact, the effective date should have been December 19, 2016. 81 FR 91846. Therefore, the entry for the Sheboygan County area is being corrected to reflect the correct classification date.

List of Subjects in 40 CFR Part 81

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

Dated: March 21, 2017.

Robert A. Kaplan,

Acting Regional Administrator, Region 5.

40 CFR part 81 is amended by the following correcting amendment:

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

* 2. In §81.350, the table entitled "Wisconsin-2008 8-Hour Ozone NAAQS (Primary and secondary)" is amended by revising the entry for "Sheboygan County, WI:" to read as follows:

§81.350 Wisconsin.

* * * * *

WISCONSIN—2008 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Sheboygan County, WI: [2] Sheboygan County		Nonattainment	12/19/2016	Moderate.
* * *	*	*	*	*

[1] This date is July 20, 2012, unless otherwise noted.
[2] Excludes Indian country located in each area, unless otherwise noted.

* * * * *

[FR Doc. 2017–06888 Filed 4–5–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 495

[CMS–1656–F2]

RIN–0938–AS82

Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Procurement Organization Reporting and Communication; Transplant Outcome Measures and Documentation Requirements; Electronic Health Record (EHR) Incentive Programs; Payment to Nonexcepted Off-Campus Provider-Based Department of a Hospital; Hospital Value-Based Purchasing (VBP) Program; Establishment of Payment Rates Under the Medicare Physician Fee Schedule for Nonexcepted Items and Services Furnished by an Off-Campus Provider-Based Department of a Hospital; Correcting Amendment

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

ACTION: Correcting amendment.

SUMMARY: In the November 14, 2016 issue of the **Federal Register** (81 FR 79562), we published a final rule with comment period entitled ''Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Procurement Organization Reporting and Communication; Transplant Outcome Measures and Documentation Requirements; Electronic Health Record (EHR) Incentive Programs; Payment to Nonexcepted Off-Campus Provider-Based Department of a Hospital; Hospital Value-Based Purchasing (VBP) Program; Establishment of Payment Rates under the Medicare Physician Fee Schedule for Nonexcepted Items and Services Furnished by an Off-Campus Provider-Based Department of a Hospital'' that made changes to the demonstration of meaningful use criteria under §495.40. This correcting amendment corrects a technical error in §495.40 resulting from an error in that final rule with comment period.

DATES: This correcting amendment is effective on April 6, 2017.

FOR FURTHER INFORMATION CONTACT: Electronic Health Record (EHR) Incentive Programs, contact Kathleen Johnson (410) 786–3295 or Steven Johnson (410) 786–3332.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–26515 of November 14, 2016 (81 FR 79562), ''Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Procurement Organization Reporting and Communication; Transplant Outcome Measures and Documentation Requirements; Electronic Health Record (EHR) Incentive Programs; Payment to Certain Off-Campus Outpatient Departments of a Provider; Hospital Value-Based Purchasing (VBP) Program; Establishment of Payment Rates Under the Medicare Physician Fee Schedule for Nonexcepted Items and Services Furnished by an Off-Campus Provider-Based Department of a Hospital'' (hereinafter referred to as the CY 2017 OPPS/ASC final rule with comment period), there was a technical error in the regulations text that is identified and corrected in this correcting amendment. The provisions of this correcting amendment are treated as if they had been included in the CY 2017 OPPS/ASC final rule with comment period.

II. Summary of Error in the Regulations Text

On page 79892 of the CY 2017 OPPS/ASC final rule with comment period, we made a technical error in an amendatory instruction. Accordingly, we are revising §495.40(b)(2)(i)(G) to accurately reflect the language we previously included in the CY 2017 OPPS/ASC final rule with comment period (81 FR 79892), but which was not codified in the Code of Federal Regulations. Specifically, paragraph (b)(2)(i)(G) specifies that for CY 2018, an eligible hospital or critical access hospital (CAH) must satisfy certain required objectives and associated measures if an eligible hospital or CAH attests to CMS or to a State for the Medicaid Electronic Health Record (EHR) Incentive Program.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment

From: Mary Uhl
Location: Ex. 6, conference ID: Ex. 6
Importance: Normal
Subject: Fed/State Technical Work Collaboration Group Conference call
Start Date/Time: Thur 2/22/2018 4:00:00 PM
End Date/Time: Thur 2/22/2018 5:30:00 PM
Feb222018 Fed-State Draft Agenda.docx
2016_Collaborative Emissions_Update_022218.pptx
2016_EPA AQ Modeling_Update 022218.pptx
EPA Global_Simulations_Update 022218.pptx

;;;
Please note the new conference call number and ID!

Agenda below and attached. Please let me know if you have additional agenda items.

agenda:

1. Update on EPA's preliminary 2016 modeling based largely on NEI 2014v1

· Structure, timeline, and preliminary results

2. 2016 emissions modeling inputs from 2014 NEI v2 and 2016 data to be used in alpha version of 2016 Emissions Modeling Platform

· Progress on setting up Emission Sector WGs and holding calls

· Link to platform collaborative Google folder

3. EPA work products for state and regional use

· Release of 2014 v2 NEI

· Sharing of 2014 and 2015 meteorological and air quality modeling platforms

· Technical analysis results planned for delivery in 2018

4. OTC's source apportionment work on the 2011 platform

5. WESTAR TEMPO Workshop-April 10-11 in Fort Collins, CO

Update on the Collaborative 2016 Emissions Modeling Platform – Alpha Version

Zac Adelman and Alison Eyth

2/22/2018

Origins of the Collaborative Effort

- Regional modeling organizations and states asked to be more involved in the development of the next modeling platform
  - States need a new platform to develop State Implementation Plans for the 2015 National Ambient Air Quality Standards for Ozone, and for Regional Haze
  - States and regions asked to have more input into the methods used, particularly those used to develop "projections" of emissions to future years
- For the first time, EPA is supporting a collaborative process to develop a new emissions modeling platform for the year 2016

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Organizational Structure of the 2016 Effort

- Overall co-leads: Zac Adelman of the Lake Michigan Air Directors Consortium (LADCO) and Alison Eyth of EPA
  - Coordinate communication, develop processes to be followed, help resolve issues, specify documentation requirements, facilitate distribution of data to stakeholders
- Coordination committee: regional, state, EPA leaders that help define the process, run workgroups, and resolve issues that come up
- Sector-specific Workgroups: co-led by one regional/state and one EPA staff (where possible) with participants from states/locals/regions and EPA
  - Focus on preparing emissions estimates for 2016 and future years, plus improve modeling of the emissions sectors

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2016 Platform Schedule

- Several versions of 2016 platform will be developed
  - <u>Alpha</u>: preliminary version with 2016 emissions for some sectors and 2014 for the rest for initial testing of 2016 model runs (Early March, 2018)
  - <u>Beta</u>: improved version of 2016 emissions for most sectors and preliminary projected emissions to 2023 and 2028 (Summer-Fall, 2018)
    - Timing of projections is uncertain
  - <u>V1.0</u>: fully updated 2016 emissions and complete projected emissions for 2023 and 2028

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Components of 2016 Alpha Platform

- 2014 National Emissions Inventory, version 2 (2014NEIv2) for nonpoint sectors **** 2014 NEI v2 has been released ****
- Onroad mobile source emissions based on 2014NEIv2 inputs but run for 2016
- Nonroad mobile source emissions based on inputs for 2014NEIv2 but run for 2016
- Wild, prescribed, and agricultural fire emissions for 2016 derived from nationally available input data sets
- Biogenic emissions for 2016 (developed using BEIS)
- Point source submissions for 2016 submitted in January, 2018: **draft 2016 point inventory available in late March**
- Electric generating unit (EGU) emissions using 2016 Continuous Emissions Monitoring Systems (CEMS) data
- Use latest emissions modeling data for temporal allocation,

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Status Information and Data Sharing Plan

- Workgroup status' available on WIKI: http://vibe.cira.colostate.edu/wiki/wiki/9169
- Google Drive area for sharing data
- EPA planning a coordinated release of 2014, 2015, and 2016 emission ***inputs*** for alpha
  - Scripts and input data will be provided
  - EPA will not have a full set of AQM-ready inputs or outputs for these cases but others can create full sets of emissions for their own grids
- See new FTP site for emissions platforms
  - ftp://newftp.epa.gov/Air/emismod/
  - 2014NEI v2 inventories are already available
  - Some inventory [illegible] for 2016 are already available

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Biogenic Workgroup Status

- Co-chairs Jeff Vukovich (EPA) and Doug Boyer (TCEQ)
- 8-10 people total
- Alpha version: to use BEIS 3.61 run for 2016
- Provided 2016 met data to LADCO, who passed it on to TCEQ
- TCEQ plans to run new version of MEGAN: v3
- WG to plan for comparison to BEIS
- Plan to provide both MEGAN and BEIS options for beta version

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Fire Workgroup

- Co-chairs: Jeff Vukovich (EPA) and Tom Moore (WESTAR)
- Over 30 people want to be involved
- First meeting to be held late Feb / early March
- Alpha version: 2016fc wild & prescr. fires and ag. fires
- Draft Technical Memorandum describes alpha fires
- Not as much detailed input data as NEI years
  - Use nationally available data sets: ICS-209, GEOMAC
- Group will evaluate the existing fires and recommend improvements
  - May recommend using update BlueSky modules
  - Likely need resources to make any

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Oil and Gas Workgroup

- Co-chairs: Tom Moore and Jeff Vukovich
- Over 30 people volunteered
- Held some discussions as part of the National Oil and Gas workgroup
  - Plan to have a 2016-specific meeting in early March
- Alpha version: 2014NEIv2
  - State-level factors for oil and gas sources based on historic data are available if WG wishes to use them
- Workgroup to consider areas of focus

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Nonpoint

- Co-leads: Caroline Farkas (EPA) and Chris Swab (OR)
- Over 30 members
- Alpha version: 2014NEIv2
- Lynn Deahl interested in leading a subgroup for projections
- Includes dust, residential wood, agricultural and other nonpoint sources
- Workgroup to decide which to sub-sectors adjust to 201[illegible] beta and v1.0

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EGUs

- Co-leads: Julie McDill (MARAMA) and Serpil Kayin (EPA) with base year assistance from Alison Eyth
- Almost 30 members
- Using existing EPA-ERTAC coordination time slot
- Alpha version: initially 2014NEIv2, but 2016 point coming out in late March
  - States submitted large point sources by mid-Jan.
  - Review 2016 draft point once available in late March for both emissions and EGU/non-EGU splits
  - States to provide comments/ update data before finalizing in time for the beta version in July
- Plan to have both ERTAC and EPA versions available for future years

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Non-EGU Point

- Co-leads: Tammy Manning (NC) and Caroline Farkas (EPA)
- Over 30 members
- Alpha version: 2014NEIv2, but 2016 draft point coming in late March
- Will have at least two subgroups
  - Projections, aircraft
- Defining split between EGUs and non-EGUs with support for both ERTAC and IPM is an important early issue to tackle

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Onroad

- Co-leads: Julie McDill (MARAMA) and Alison Eyth (EPA)
- Over 25 people volunteered
- Holding meetings with MOVES MJO WG for now
  - So far, covered 2014v2, options for 2016 activity data, and 2016 alpha emissions
- <u>Alpha version:</u>
  - Activity projected from 2014v2 using FHWA data and some state DOT data
  - 2016 emission factors developed consistently with 2014v2
- Some states to submit activity data (VMT, vehicle population) in a [illegible] in time for the beta version

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Mobile Source Workgroups

- **Marine**: led by Mark Janssen (LADCO) with Michael Aldridge participating from EPA OTAQ
  - Plans to use AIS data for detailed inventory
- **Rail**: led by Mark Janssen (LADCO) with EPA staff participating from OTAQ and OAQPS
  - Working on updating to use 2016 activity data
- **Nonroad**: led by Sarah Roberts (OTAQ) and Joseph Jakuta (OTC/MANE-VU)
  - Alpha to use existing 2016 (compatible with 2014v2)
  - OTAQ has been working on improving activity data inputs and projections and hopes to provide for beta
  - WG to hear from others with ideas on improving estimates and a[illegible]

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Other workgroups

* **Meteorology**:
  - About 15 volunteers, but currently not an organized group
  - EPA provided 12-km (12US2) met. data has been provided to MJOs/states via LADCO
* **International**:
  - About 10 volunteers
  - Initiated some discussions via email
  - There is interest in Canada, Mexico, international shipping (AK)
    - EPA and CARB staff working with an updated Mexico EI
  - Would make sense to involve EPA regional staff

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For more information

* Collaborative workgroup status' on the WIKI: http://vibe.cira.colostate.edu/wiki/wiki/9169
* Workgroups using Google Drive to share some data (linked from WIKI)
* 2014 NEI version 2: https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data (documentation coming soon)
* Emissions modeling platforms
  - https://www.epa.gov/air-emissions-modeling
  - ftp://newftp.epa.gov/Air/emismod/
  - 2014NEIv2 inventories are already available
  - Some data for 2016 already available
* Informational [illegible] be scheduled mid-March

ED_001650_00030497-00016

From: Mary Uhl
Location: Ex. 6 conference ID: Ex. 6
Importance: Normal
Subject: Fed/State Technical Work Collaboration Group Conference call
Start Date/Time: Thur 2/22/2018 4:00:00 PM
End Date/Time: Thur 2/22/2018 5:30:00 PM
Feb222018 Fed-State Draft Agenda.docx
2016_Collaborative Emissions_Update_022218.pptx
2016_EPA AQ Modeling_Update 022218.pptx
EPA Global_Simulations_Update 022218.pptx

;;;
Please note the new conference call number and ID!

Agenda below and attached. Please let me know if you have additional agenda items.

agenda:

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From: Hong, Bryan
Location: Dial-in: Ex. 6 Conf. Rm.: Ex. 6
Importance: Normal
Subject: FW: SCOE Air Quality, Climate Change, and Energy Subcommittee Call
Start Date/Time: Thur 8/31/2017 5:30:00 PM
End Date/Time: Thur 8/31/2017 6:30:00 PM
AQ Subcommittee Agenda_08.31.17 Draft v2.docx

Let's meet in Mike's office

-----Original Appointment-----
From: Hong, Bryan [mailto:bhong@aashto.org]
Sent: Wednesday, August 30, 2017 2:31 PM
To: Hong, Bryan; Sutton, Tia; Noonan, Jenny; Bowles, Jack
Subject: FW: SCOE Air Quality, Climate Change, and Energy Subcommittee Call
When: Thursday, August 31, 2017 1:30 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Dial-in: Ex. 6 Conf. Rm.: Ex. 6

Here is the full agenda.

-----Original Appointment-----
From: Hong, Bryan [mailto:bhong@aashto.org]
Sent: Wednesday, August 30, 2017 2:09 PM
To: Hong, Bryan; Bowles, Jack
Subject: [SPAM] FW: SCOE Air Quality, Climate Change, and Energy Subcommittee Call
When: Thursday, August 31, 2017 1:30 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Dial-in: Ex. 6 Conf. Rm.: Ex. 6

Hi Jack,

Please see the call in information below and pass along as needed.

Thanks,

Bryan

-----Original Appointment-----
From: Hong, Bryan
Sent: Tuesday, August 1, 2017 1:47 PM

To: Hong, Bryan; SCOE_AQ@aashto.org; Ho, Cecilia (FHWA)
Cc: Choi Yoojoong; Turner Colleen M.; Landsberg Karin; Holloway Elton D.; Voigt Christopher; Casey Austina Theresa; Crabbe Philip F.; Wasko Peter Roy; Alcala Noel; Hill Tim M; Porta, Virginia; Phillips Michael Henry; Henderson Michael E; Allison Smith [KDOT]; Ploch Jackie Ann; Mortenson Marilee; Berrios Mraiano; Eggleston Shannon; Savage, Melissa; Hoilett, Samantha; Choi, Yoojoong@DOT; Colleen Turner; Landsberg, Karin; Holloway, Elton; Voigt, Christopher G. (VDOT); Casey, Austina (DDOT); Philip Crabbe III; Wasko, Peter (DOT); Noel.Alcala@dot.ohio.gov; Tim.Hill@dot.ohio.gov; Phillips, Henry; Mike Henderson; Jackie Ploch; Mortenson, Marilee C@DOT; Berrios, Mariano
Subject: SCOE Air Quality, Climate Change, and Energy Subcommittee Call
When: Thursday, August 31, 2017 1:30 PM-2:30 PM (UTC-05:00) Eastern Time (US & Canada).
Where: Dial-in: Ex. 6 Conf. Rm.: Ex. 6

Air Quality, Climate Change, and Energy Subcommittee Members:

Please reserve this time for our next subcommittee meeting. If you have topics or items you'd like the group to discuss, along with any questions, feel free to let me know.

Thanks,

Bryan

SCOE Subcommittee on Air Quality, Climate Change and Environment
Meeting Agenda

August 31, 2017 • 1:30 – 2:30 PM Eastern
Dial-In Number: Ex. 6
Conference Room: Ex. 6

Timing	Session	Speaker(s)
1:30 PM (5 min)	**Welcome and Roll Call**	Colleen Turner, MD Chris Voigt, VA
1:35 PM (15 min)	**FHWA Update** • BAA Research Study ○ Awards and opportunities for AQCCES member involvement in the panels/steering committees • GHG Performance Measure NPRM (pending) • CMAQ Guidance Update (and weighting factors) • Any other regulatory changes under consideration or planned	Cecilia Ho, FHWA
1:50 PM (10 min)	**AASHTO Update** • SCOE-SCOD Meeting Update & Recap • Committee restructuring & future AQCCES mandate	Melissa Savage and Bryan Hong, AASHTO
2:00 PM (10 min)	**Research Update**	Chris Voigt
2:10 PM (15 min)	**EPA Update** • Status of Exceptional Events guidance relating to mobile sources • Update on the Office of the Inspector General review of the model review and update process for AERMOD • Decision to not delay designations for 2015 ozone NAAQS • 2017 regulation review results	TBD
2:25 PM (5 min)	**Items to Discuss on Future Calls**	AQCCES Members
2:30 PM	**Final Questions, Review Next Steps, and Adjourn**	Colleen Turner

From: Theresa Pella
Importance: Normal
Subject: Fed/State Tech Work Collaboration Group monthly call and materials from Dec call
Start Date/Time: Thur 1/5/2017 3:30:00 PM
End Date/Time: Thur 1/5/2017 5:00:00 PM
Discussion of Model Performance Topics at CMAS_10-25-16.docx
16-12-09_fed state coll grp conf call summary_draft_16-12-16.docx

;;
the first Thursday appears to work, so, I'll schedule appointments for a few months out -

Call in info

Ex. 6

10:30 - noon eastern

The attachments are the draft Dec. 9th call summary and a handout Norm referred to about the adhoc meeting during CMAS to discuss model performance.

DRAFT 12/16/16
Federal/State Technical Work Collaboration Group
Conference Call summary
December 9, 2016,

1) Welcome and roll call – Chet Wayland
   Participating organizations included EPA OAQPS, OAP, and OTAQ; WESTAR-WRAP, MARAMA, OTC, Nez Perce Tribe, New Hampshire, New York, North Carolina, SESARM, LADCO, Minnesota, Illinois, Texas, Maryland, Missouri, and CenSARA

2) Status of EPA modeling for 2015 NAAQS ozone transport and regional haze
   -- Emissions (Alison Eyth/Jeff Vukovich)
   -- AQ Modeling (Norm Possiel)

   Alison said EPA is done with the 2011 emissions work and finalizing the q/a on the 2023 numbers, while continuing to work on the 2028 numbers. Tom Moore (WESTAR-WRAP) asked about 2028 and accounting for the closure and repowering EGUs in the West. Alison and David Risley (OAP) replied a certain date is used as the "cutoff" and will follow up with Tom on what that is.

   Norm reminded everyone the initial modeling for the 2015 Ozone NAAQS transport work is based off a 2011 base year projected to 2023. EPA was able to use the latest version of CAMx. Work on 2028 modeling for Regional Haze will continue over the Holidays. Chet Wayland added OAQPS staff will be meeting with Janet McCabe next week to discuss the results and mechanism for the public rollout. Theresa asked if the NODA would be released via the Federal Register or an informal memo. Chet replied that was one of the discussion points with Janet. Tad Aburn (MD) asked if the 2023 data could be analyzed by sector contribution? Norm replied that wouldn't be possible. Tom Moore followed with a question whether it would be for the 2028 work for Regional Haze? Norm said that would be possible. Tom added there should be a model performance evaluation done for the Regional Haze work because of the new metric being used. Brian Timin (OAQPS) responded that's typically not been done, but took as an action to look into. He also clarified that the sector contribution for Regional Haze will be for PM only using PSAT, but not for Ozone.

3) Update on MJO subgroup recommendations for modeling platform data transfers to MJOs/states – Theresa Pella
   Theresa said the MJO group developed a list of data needs that's been shared with Norm and will be reviewed during a call being scheduled for next Friday. They will also talk about the logistics of transferring the data.

4) Control measures research work
   -- Non-EGU control measures state survey (Robin Langdon)
   -- Aftermarket Catalyst analysis (Joseph Jakuta)
   -- MOVES FACA Committee status and other OTAQ updates (Sarah Roberts)

   Robin reported that there were 35 responses to the survey – 30 states and five local

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agencies. They are compiling responses and talking to the Emissions Inventory group about how the updated information will be entered into V2 of the 2014 NEI. There are approximately 4,000 record changes that will need to be done. Mark Janssen (LADCO) suggested it would be good to get a summary of the "affected" sources and control levels in each state. Tom Moore asked about the West response rate, since there were only about 150 sources impacted. Robin replied there was a good response – they heard from New Mexico, Nevada, Washington, Wyoming, and some locals. Theresa asked for a confirmation that there was no further action states will need to take to get the EI updates done. Robin confirmed EPA was the responsible entity for entering the updates.

Joseph's presentation centered on analyses showing aftermarket catalysts can fail years before the end of the vehicle's life, resulting in excess NOx emissions. EPA's current enforcement mechanism comes from a 1986 policy that is rumored to be going away. If so, enforcement would revert to a 1970s memo (1-A memo), which does not address aftermarket catalysts. In 2009, in response to a lack of action at the federal level, the OTC developed recommendations for its member states that included a state-by-state approach based on work by CARB. OTC is now working on developing a MOVES tool that would allow for adjusting emissions based on whether the state was implementing the OTC model rule. Modeled emission reductions with the model rule in place throughout the OTR are 30 tons/day of NOx. John Hornback (SESARM) asked if the estimated 280 tons/day nationwide would change Ozone readings anywhere. Joseph responded OTC has not looked at the impact for individual areas, but Maryland did include the model rule with eight other controls in the modeling they did that resulted in a .5 ppb reduction at specific monitors. Tad added that for the next round of transport SIPs, NOx from mobile sources seems to have a larger impact than EGUs. They are working with Colorado, California, and Oregon on analyses and willing to work with others. Theresa asked if the "check engine" light comes on when an aftermarket device fails? Joseph replied it does, but there's a tendency for drivers to ignore it until time for the next vehicle inspection (which could be two years). To help with enforcement, CARB is looking at an executive order that would require a label be visible on the vehicle indicating there was an aftermarket catalyst installed.

Sarah Roberts (OTAQ) gave an update of the MOVES FACA group – the last meeting was December 7th. There is a response to comments document on the website as the result of a recent public comment period. Current focus is on updating idling and onroad activity for heavy-duty diesel vehicles. The next meeting is scheduled for March 1st. Nonroad updates will not be ready for the next MOVES release, though they are working on growth rates. She reminded everyone presentations and other materials may be found at www.epa.gov/moves. Tad mentioned that field studies are showing there are modeling issues in that NOx is being over predicted by a factor of 2, in both CAMx and CMAQ. Sarah responded that OTAQ and OAQPS are working together on the issue and there will be a report out of one related project on next week's MJO MOVES Group conference call. Dave Foerter (OTC) added it does make sense to look at field studies as Tier III kicks in.

5) Update on new Base Year recommendations subgroup (Alex Cohan)
Alex reminded the call participants that the charge of the subgroup was to determine if, collectively, there was a preference for EPA to use 2015 or 2016 as the baseyear for its next round of modeling for the 2015 Ozone NAAQS transport SIPs/FIPs. They've held two calls to date, with the next one in early January to focus on meteorology. Future calls include discussions about emissions inventories and global models. In response to a question about the timing for a work product, Alex replied March is the target. Jeff Underhill (NH) asked why the base year discussion was limited to 2015 and 2016? Alex replied the exercise was not to dictate what year a state or region would use, but if there was a common preference for EPA to use. Norm added they are preparing inputs for both years. EPA may use data for 2015 or 2016 or both years for certain regulatory applications, depending on the nature of the particular application. However, EPA is interested in hearing from the MJOs/states if they have a preference for using one year versus the other.

6) Update on ERTAC/EPA group four action items from June meeting (Serpil Kayin and Mark Janssen)
Mark said the group has resolved the worst issues for the final 2008 Ozone CSAPR budgets and will look deeper into 2023 when that's ready. CAMD's confidence in "beyond the books" projections using ERTAC seems to be growing. Future work includes developing a document that will be available for states wishing to use ERTAC modeling in SIPs.

7) Update on small-group discussion of AQ model performance objectives at CMAS conference and CMAQ/CAMx update webinars (Norm Possiel)
Norm said the week of January 30th would most likely be the CMAQ update webinar, with the CAMx v6.40 one to follow. A group did have an adhoc meeting during the CMAS conference to talk about model performance issues. Norm will send the summary to Theresa for distribution to this group. The topic will become part of the agenda for a future modeling workshop.

8) Action items and wrap up (Theresa Pella)
Tom suggested a future call item could be an update of the National Oil and Gas Committee's plans for improving the 2017 emissions inventory.

Theresa asked folks let her know soon if any of the suggested future call options are NOT good, then she'll do calendar appointments for the next few months.

Future call options:
2nd Tuesday, 2:30 – 4:00 pm eastern
1st Thursday, 10:30 – noon eastern
4th Thursday, 10:30 – noon eastern

ED_001650_00030680-00003

To: Fox, Tyler[Fox.Tyler@epa.gov]
Cc: Wayland, Richard[Wayland.Richard@epa.gov]; Bridgers, George[Bridgers.George@epa.gov]; Clint Woods[cwoods@csg.org]
From: Jason Sloan
Sent: Tue 7/11/2017 5:49:01 PM
Subject: RE: AAPCA Modeling Committee

Tyler,

Thanks! In case it is helpful, we will do a quick roll call at 3:00 PM and then hand it off to you for updates.

Thank you,

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

jsloan@csg.org

http://www.cleanairact.org

From: Fox, Tyler [mailto:Fox.Tyler@epa.gov]
Sent: Tuesday, July 11, 2017 1:47 PM
To: Jason Sloan <jsloan@csg.org>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Bridgers, George <Bridgers.George@epa.gov>
Subject: RE: AAPCA Modeling Committee

Jason

Thanks for your voicemail and all set on my end with the call information below.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Monday, July 03, 2017 2:13 PM
To: Fox, Tyler <Fox.Tyler@epa.gov>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov; Bridgers, George <Bridgers.George@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>
Subject: RE: AAPCA Modeling Committee

Tyler,

We look forward to having you on AAPCA's Modeling Committee call next Tuesday. In addition to anything that you may have, there was interest from our members in hearing updates on: Appendix W and AERMOD, including the revised "Model Formulation and Evaluation Document"; major comments/feedback on recent MERPs and PM2.5 Precursor Demonstration guidance; EPA's NODA for Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone NAAQS; 2028 modeling for Regional Haze; and, EPA Office of Inspector General's project notification, "Evaluation of EPA's Approval Process for Air Quality Dispersion Models."

I can make sure to touch base next week, but the **call-in information will be:** Ex. 6
passcode Ex. 6 Please let us know if you have any questions.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 - office

jsloan@csg.org

http://www.cleanairact.org

From: Fox, Tyler [mailto:Fox.Tyler@epa.gov]
Sent: Thursday, June 15, 2017 12:10 PM
To: Jason Sloan <jsloan@csg.org>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov; Bridgers, George <Bridgers.George@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>
Subject: RE: AAPCA Modeling Committee

Jason

Thanks for your note and I am available to provide a modeling update on July 11th. As you noted, please let me know if there are particular items that you'd like more information on so I can focus the update accordingly.

Thanks again and look forward to talking with the committee.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Thursday, June 15, 2017 11:57 AM
To: Fox, Tyler <Fox.Tyler@epa.gov>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov
Subject: AAPCA Modeling Committee

Tyler,

I hope all is well! AAPCA's Modeling Committee has a call scheduled for July 11 at 3:00 PM Eastern, and we were hoping you could join us to provide a modeling update from OAQPS. With the available AERMOD revisions and Appendix W now in effect, a 20-minute or so update at the outset of the call would be helpful to the committee.

Include on this email are the committee co-chairs, Leigh Bacon from the Alabama DEM and Jim Boylan from the Georgia EPD, who may have some additional feedback on topics that may be of particular interest.

Please let us know if you are available, and we can send over a few more details, including the call-in information.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 office

jsloan@csg.org

http://www.cleanairact.org

AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

To: Wood, Anna[Wood.Anna@epa.gov]; Rao, Raj[Rao.Raj@epa.gov]; Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Wayland, Richard[Wayland.Richard@epa.gov]; Cozzie, David[Cozzie.David@epa.gov]; Sasser, Erika[Sasser.Erika@epa.gov]; Marsh, Karen[Marsh.Karen@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Santiago, Juan[Santiago.Juan@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; Henderson, Barron[henderson.barron@epa.gov]
Cc: Nolan, James[James.Nolan@bp.com]; Stout, Robert[Robert.Stout@bp.com]; Wood, Dana A.[Dana.Wood@bp.com]; Comey, Kenneth R[kenneth.comey@bp.com]; Jonathan Gledhill (jgledhill@policynavigation.com)[jgledhill@policynavigation.com]; nathan.frey@rssgroupllc.com[nathan.frey@rssgroupllc.com]; Johnson, Yvonne W[Johnson.Yvonnew@epa.gov]
From: van Hoogstraten, David Jan
Sent: Wed 6/28/2017 4:44:44 PM
Subject: Many thanks for your time and attention yesterday

Many thanks to you and all of your colleagues who met with us yesterday and whose names I have not included above, for taking the time to engage in a very useful discussion with us around some of our ideas for regulatory reform, particularly with respect to the NSR program and the paths forward EPA may take on methane emissions reduction and setting a ground-level ozone standard. We were glad to have had a good opportunity to discuss various options for dealing with background ozone, which remains a persistent and overriding problem for companies like ours. A solution needs to be found and we look forward to working with some of you on finding one.

We are grateful to have had the opportunity to interact so productively with our key regulators and I want to thank Yvonne Johnson again for facilitating our meetings. I will be in further touch about some of the matters we discussed and will be sending each of you a copy of the slides we used yesterday which we will also place in the EPA docket.

Very best regards,

David

David J. van Hoogstraten

Senior Director, Regulatory Affairs (Environmental)

BP America Inc.

1101 New York Avenue, NW

Washington, DC 20005

Direct: Ex. 6

Mobile:

To: Fox, Tyler[Fox.Tyler@epa.gov]
Cc: Wayland, Richard[Wayland.Richard@epa.gov]
From: Gregory Stella
Sent: Mon 9/25/2017 1:08:13 PM
Subject: First "Impression"
EPA Plans 'Key Revisions' To CSAPR Methods As States Criticize Program.pdf

Tyler,

Chet's impression of you was so good at the AAPCA meeting last week that you were quoted in this article.

--
Gregory Stella
Alpine Geophysics, LLC
gms@alpinegeophysics.com
Ex. 6

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DAILY NEWS

EPA Plans 'Key Revisions' To CSAPR Methods As States Criticize Program

September 21, 2017

EPA is making “key revisions” to its methods for projecting interstate air pollution from power plants and the oil and gas sector under its Cross-State Air Pollution Rule (CSAPR) emissions trading framework, but several Southern states are criticizing the overall framework as inappropriate for mitigating cross-state air pollution.

The changes to the methodologies, announced at the Sept. 21 fall meeting of the Association of Air Pollution Control Agencies (AAPCA), follow competing criticisms states raised earlier this year over a data notice the Obama EPA issued for CSAPR. East Coast states argued the notice underestimated ozone from upwind emissions sources, while upwind states said it showed cross-state linkages in pollution where there are none.

Tyler Fox of EPA's Office of Air Quality Planning & Standards (OAQPS) said in a presentation to AAPCA that the air quality modeling conducted by the Obama EPA to support state efforts to curb interstate pollution faces significant change, primarily affecting how the agency projects emissions from utilities and oil and gas operations -- though his presentation does not elaborate on how the methods for projecting emissions will change.

Still, he said that the changes will help states as they write their state implementation plans (SIPs) outlining the pollution control measures they will impose to attain EPA's ozone national ambient air quality standards (NAAQS), including the 2008 limit of 75 parts per billion (ppb) and the 2015 limit of 70 ppb.

Among the plans that states have to craft are “good neighbor” SIPs required by the Clean Air Act to show that their emissions will not hinder another state from being able to attain the NAAQS.

CSAPR, which caps nitrogen oxides (NOx) and sulfur dioxide from power plants, is designed to help states meet the ozone standards through a cap-and-trade emissions program. In January, EPA issued a notice of data availability (NODA) outlining its draft modeling of upwind states' contributions to problems attaining and maintaining the NAAQS. The modeling is intended to serve as a basis for states to craft good neighbor SIPs.

The trading rule was designed to help states meet the 1997 ozone NAAQS expressed as 84 ppb and the 2008 limit. Although there is no such trading rule in place to help states in meeting the tougher 2015 NAAQS of 70 ppb, the January NODA uses the CSAPR methodology already tested extensively in the courts.

But Fox's presentation to AAPCA -- representing several state and local air quality divisions -- says that in response to public comments on the January NODA the agency is changing some methodologies.

Modeling Update

“We are updating this modeling based on NODA comments and other factors to identify nonattainment and maintenance receptors and interstate 'linkages' for 2023,” Fox said, with changes for electric generating units (EGUs) and oil and gas production the most prominent revisions.

Upwind states, many of which are located in the South and Midwest and represented by AAPCA, were critical of the NODA, claiming it uses faulty methods and overstates their contribution to NAAQS attainment problems downwind. The NODA uses 2023 as its “future analytic year” to determine states' contribution to interstate emissions problems.

Other states, such as the 12-state Ozone Transport Commission of Eastern downwind states, were also critical of the NODA modeling, but for different reasons, faulting its accuracy for possibly understating emissions.

In response, "Key revisions have been made to the methodologies for projecting emissions for EGUs and the oil and gas sector in addition to updates on plant closures," Fox said.

"We believe this modeling can serve multiple purposes in helping states develop SIPs" to meet the 2008 ozone standards, and it "will also be informative for future 2015 ozone NAAQS transport SIPs," he added.

Ordinarily, transport SIPs would be due from states in October 2018 to meet the 2015 ozone NAAQS, in line with a statutory deadline of Oct. 1 this year for designation of areas as either attainment or nonattainment for the standard. However, EPA has indicated it will likely miss this deadline for at least some areas.

Anna Marie Wood, director of the Air Quality Policy Division of OAQPS, said in her Sept. 21 presentation to AAPCA that EPA Administrator Scott Pruitt "may determine that an extension of time to complete designations," as permitted by the Clean Air Act, "is necessary" for some areas.

The air law allows EPA to extend the deadline for designation by one year, from two years to three years after issuance of a new NAAQS. But the Trump EPA faced criticism and litigation from environmentalists and others when it attempted to delay all 2015 ozone designations by a year citing insufficient data to designate, and ultimately withdrew its decision. This leaves open the possibility of case-by-case delays for specific areas.

States' Criticisms

Meanwhile, Georgia, North Carolina and Tennessee in a Sept. 21 joint presentation to AAPCA say EPA must revise its broader CSAPR approach that underlies the trading program and NODA.

The states take issue with EPA's method for identifying downwind air monitors, or "receptors," that should be included in the interstate pollutant transport analysis. Only receptors located in areas actually designated nonattainment for the 2015 ozone NAAQS should be included, and those in areas never so designated should be exempt, they argue. This differs from EPA's approach, which relies on projected nonattainment, not actual designation.

Further, monitors with "design values" -- a measure of ozone levels -- currently below the 2015 NAAQS "should be removed from the analysis," regardless of whether those monitors fall in areas actually designated nonattainment, according to the presentation.

The states' comments also reflect unease among some states and industry over how EPA determines "maintenance" areas to include in the analysis. Maintenance areas are those that were once in nonattainment but have now come into attainment, although under the NODA methodology the precise formula used by EPA is more complex, and is contested.

"EPA's approach results in over-control of NOx emissions in the upwind states," they say.

The Supreme Court has upheld most aspects of the CSAPR methodology, but did find that EPA must not "over-control" states by requiring them to reduce emissions by more than is required to have all downwind areas to which they contribute significantly attain and maintain the NAAQS.

The three states say that bias in the model used by EPA could undermine the results. They further say EPA's threshold for determining whether a contribution to downwind attainment problems is "significant," at 1 percent of the NAAQS -- in this case, 0.07 ppb -- "is arbitrary and has never been supported by any scientific analysis." They suggest instead a significance threshold of 1 ppb, in effect, excluding more areas from good neighbor obligations. -- *Stuart Parker* (sparker@iwpnews.com)

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To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]
From: Theresa Pella
Sent: Wed 4/5/2017 5:02:20 PM
Subject: Materials for Apr. 6th Fed/State Tech Work Coll Group call
Base_Year_Selection_Final_Report(1).pdf
17-04-06_fed state coll grp conf call agenda_FINAL.docx

Call in info is at the top of the agenda.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 office)

Ex. 6 (mobile)

tpella@censara.org

http://www.censara.org

FINAL 4/05/17
Federal/State Technical Work Collaboration Group
Conference Call Agenda
April 6, 2017
10:30 – 12:00 eastern
9:30 – 11:00 central
8:30 – 10:00 mountain
7:30 – 9:00 pacific

Ex. 6 passcode Ex. 6

(EDT)

10:30-10:35 Welcome and roll call – Chet Wayland (OAQPS)

10:35-10:45 Overview of Report from the New Base Year Recommendations Subgroup (see attached) – Alex Cohan (LADCO)

10:45-10:50 Status of ERTAC/EPA group activities – Mark Janssen (LADCO)/Serpil Kayin (CAMD)

10:50-11:00 Status of 2015 Ozone NAAQS modeling platform data transfers to MJOs/states and completeness reviews to date – MJOs and States

11:00-11: 15 Follow up on NODA comments to date - https://www.regulations.gov/docket?D=EPA-HQ-OAR-2016-0751 - al

- Is it helpful for EPA to: identify receptors? Identify linkages? Identify cost of potential reductions? Identify budgets?
- Should EPA update its AQ analysis (i.e., receptors and linkages), identifying the scope of the ozone transport problem? If so, what is most useful to states?
- What type of tools or analyses could EPA develop and/or what type of tools are available to help assess emissions reduction and control obligations for EGUs and non-EGUs?
- What factors should be considered that would cause EPA to address transport differently in the East versus the West?

11:15–noon Overviews of LADCO and MARAMA/OTC work to remodel 2011/2023 platform

noon Wrap up - Theresa Pella

Next call – Thursday, May 4, 2017, 10:30 – noon eastern

Base Year Selec on Workgroup
Final Report

April 5, 2017

Execu ve Summary

The Base Year Selection Workgroup was formed as a subgroup of the Federal-State Technical Work Collaboration Group in order to evaluate potential modeling base years for future O_3, $PM_{2.5}$, and regional haze SIP development. The group included representatives from MJOs, state regulators, and regional and national EPA ofices. The calls focused on technical and regulatory considerations of choosing the next SIP modeling platform base year.

Because meteorology conditions cause pollutant transport patterns to vary from year to year, the group consensus recommendation is to model both 2015 *and* 2016. If time and resource constraints allow for only one year, the consensus is to focus efforts on 2016 *if* a choice is required.

Background

The Base Year Selection Workgroup was formed as a subgroup of the Federal-State Technical Work Collaboration Group to evaluate potential modeling base years for future O_3, $PM_{2.5}$, and regional haze SIP development. The group featured representation from RPOs, state regulators, and regional and federal EPA ofices. The workgroup is intended to spur collaboration among the members as they develop their next SIP modeling platform. As Jeff Underhill of New Hampshire stated during the irst call, the intention is to "focus on the commonality" among the various agencies.

The foundation of the emissions inventory is data provided by state and local agencies to EPA and regional associations. Collaboration among EPA, regulatory agencies and regional associations is necessary to create SIP quality inventories.

EPA's assistance is most important in calculating emissions from on- and off-road motor vehicles, estimating emissions from outside the US, estimating emissions from ir es, modeling background pollution concentrations, developing and applying emissions models and emissions database systems, preparing meteorological data inputs, and providing guidance to ensure consistent use of the most up-to-date methods for estimating emissions and modeling air quality.

In general, development of all of the data and systems needed to model air quality takes 3 to 4 years, including preparation and testing of a model using an existing representative year or years (a base year or years) and projecting emissions to future years of interest. In anticipation of the need to run air quality models to assess strategies for meeting air quality standards by 2023, this workgroup was charged with identifying which year or years should be selected for the next base year.

Each workgroup call focused on a speciic topic related to developing a SIP modeling platform: regulatory timeline considerations, meteorological and air quality representativeness, emissions inventory development, and exceptional events. A summary of those discussions is presented herein.

Call I: Regulatory Timeline

The regulatory timeline call took place on December 6, 2016. The call featured a table of regulatory milestones presented by Theresa Pella of CenSARA, shown in Table 1. The group was directed to focus on SIPs due in 2018 for interstate transport affecting compliance with the 2015 ozone standard and SIPs due in 2020 for areas that may be designated moderate nonattainment for the 2015 ozone standard, with a 2023 attainment deadline.

ACTIVITY (color coded by activity - state action (blue); EPA reg/guidance (green); EPA tech work (red))	2008 Ozone	2015 Ozone	2018 RH (Option1)	2021 RH (Option 2)
NAAQS effective date		12/28/15		
NEI 2014 V1		9/16/16 out for public review	9/16/16 out for public review	9/16/16 out for public review
Final EE rule and guidance and add'l draft guidance		9/16/16 final rule revisions and wildfire guidance for ozone demos released	9/16/16 final rule revisions and wildfire guidance for ozone demos released	9/16/16 final rule revisions and wildfire guidance for ozone demos released
Final App W rule revisions		expected fall 2016		
LDV/LDT Tier III standards		effective with model year 2017	effective with model year 2017	effective with model year 2017
State Recommendations Due		10/1/16 (2013-15 monitoring data)		
EE demos due		10/1/16 for 2014 and 2015 events		
Proposed Transport FIP	CSAPR - 11/15 (from 2011 modeling platform)	modeled contribution info from EPA - fall 2016 (from 2011 modeling platform)		
Extended Monitoring Seasons		Starts 1/1/17		
Final RH rule and guidance			need by early 2017	need by early 2017
Ozone EE demos due		5/31/17 for 2016 events		
NEI 2014 V2		September 2017	summer 2017	summer 2017
RH SIP Option 1 - need EPA Technical Work			summer 2017	summer 2017 for national modeling results
2016 IMPROVE data available			7/1/17	7/1/17
Area Designations Effective		December?? 2017 (2014-16 monitoring data)		
CAIR Phase II Cap SO2 and NOx expires	1/1/18	1/1/18		
Transport and I-SIPs due	3/1/11	10/1/18		
Ozone EE demos due		5/31/18 for 2017 events		
FinalTransport FIP	CSAPR - 9/7/16 final rule	Sometime after 2018		
Transport Rule compliance	EGUs - summer 2017			
NEI 2017 V1 and V2 (projected)		summer 2019		summer 2019
Emissions Inv. SIP due		10/1/19		
Attain demo SIP due (Marginal)		Oct/Dec?? 2020; Attainment deadline 2020		
Attain demo SIP due (Moderate)	For reclassified areas - 1/1/17	Oct/Dec?? 2021		
Attain demo SIP due (Serious)	7/20/16	Oct/Dec?? 2021		
EPA completes SO2 designations (for non monitoring areas)			12/31/17	12/31/17
SO2 SIP Due (Consent Decree sources)				3/1/18
SO2 SIP Due (Rd 1 finding of failure to submit) states				4/18/18
2017 IMPROVE data available				7/1/18
RH SIP Due (option 1)			7/31/2018 (using 2011 NEI and met data)	
SO2 (Rd 1) attain deadline				10/1/18
2018 IMPROVE data available				7/1/19
SO2 SIP due (Rd 2)				2019
2019 IMPROVE data available				7/1/20
EPA completes SO2 designations for all remaining areas				12/31/20
RH SIP Due (Option 2)				7/31/21
SO2 (consent decree) attain deadline				Sep 2021
SO2 SIP Due (Rd 3)				2022
SO2 (Rd 2) attain deadline				2023
2015 Ozone moderate area attain deadline		2023		
2015 Ozone serious area attain deadline		2026		
SO2 (Rd 3) attain deadline				2026

Table 1. Regulatory timeline courtesy of Theresa Pella (CENSARA).

Based on the discussion of the irst call, the group decided to focus on selecting a base year among 2014, 2015, and 2016.

Call II: Meteorological and Air Quality Representa veness

The meteorological and air quality representativeness call took place on January 18, 2017. The call featured presentations from Donna Kenski of LADCO, Michael Geigert of CT DEEP, James Boylan of GA EPD, Jim Smith of TCEQ, and Elliot Tardif, Nick Witcraft, and Bradley McLamb of NC DEQ.

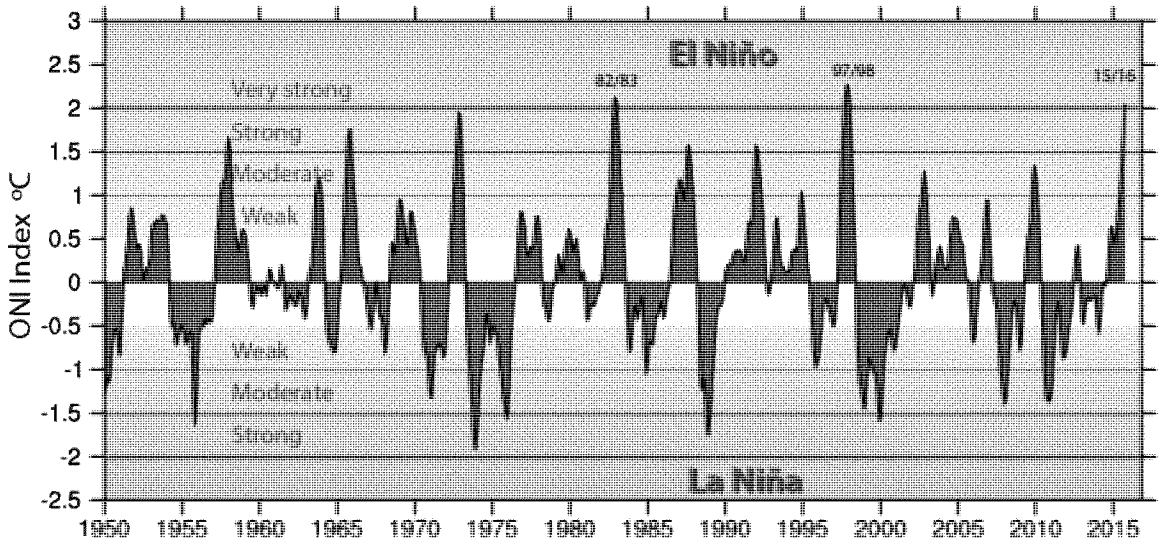

Figure 1. El Nino Southern Oscliation (ENSO). Courtesy of NC DEEP.

A number of the presentations reference unusual weather patterns in 2015 possibly due to El Nino effects. Several regions reported higher or lower than usual ozone in 2015 causing many to conclude that 2016 was more representative than 2015 or 2014.

It was also noted that ozone transport patterns can vary from year to year, leading to much different ozone contributions, which led some parties to express an interest in modeling both 2015 and 2016 for base years.

Call III: Emissions Inventory

The emissions inventory call took place on February 1, 2017. The call featured discussions with Alison Eyth of EPA OAQPS, Julie McDill of MARAMA, and Mark Janssen of LADCO. Concerning the question of what base year should be selected, there is no inventory reason to choose 2015 or 2016. Either year can be developed with an equal level of effort. Selection of a single year would reduce the level of effort. The approach taken to develop 2015 and/or 2016 will be to project sectors, including nonpoint, from 2014. For these sectors no additional information would be derived from developing two separate base years.

Once a base year is selected, and development of the input iles begins, coordination among EPA, RPOs, and states is paramount to developing a new modeling platform. For example, states would like to provide growth factors for use in projection from NEI2014 to the selected pseudo-base year, whether it be 2015 or 2016. States need to know when those factors will be applied to 2014 so they can accommodate development of the factors to meet EPA's schedule. There is great interest in using EPA's developed iles, but can only if they include the state speciic growth factors.

Onroad emissions modeling was identiied as a potential bottleneck in the emissions development process because the SMOKE-MOVES model is so complex and resource intensive. Therefore, it is key that EPA develop at least on-road emission factors for the selected pseudo-base years and also a suite of future year projections identiied by states.

In addition to MOVES runs, nonroad, and ir e emissions are also key sectors that states need EPA to run nationwide.

As noted above, emissions inventory development requires coordination among the states, EPA, and regional organizations. This coordination effort is constrained by the time available for back and forth review. The schedules are largely directed by national EPA ofices releasing modeled/QAed emissions estimates in various versions. It is somewhat rare to have a comprehensive review of methods and results across the various sectors' activity, chemistry, and emission rates, in terms of the unmerged input iles to a modeling platform by RPO and/or by states. MARAMA applies the EMF (Emissions Modeling Framework) for their members to accomplish review of EPA-released platforms; EMF is also already in routine use by OAQPS.

Call IV: Excep onal Events

The exceptional events call took place on February 15, 2017. The call featured presentations from Michael Geigert of CT DEEP, Erik Gribbin of TCEQ, and Sylvia Vanderspek of CARB. The discussion focused on prevalence and impact of wildir es in 2015 and 2016.

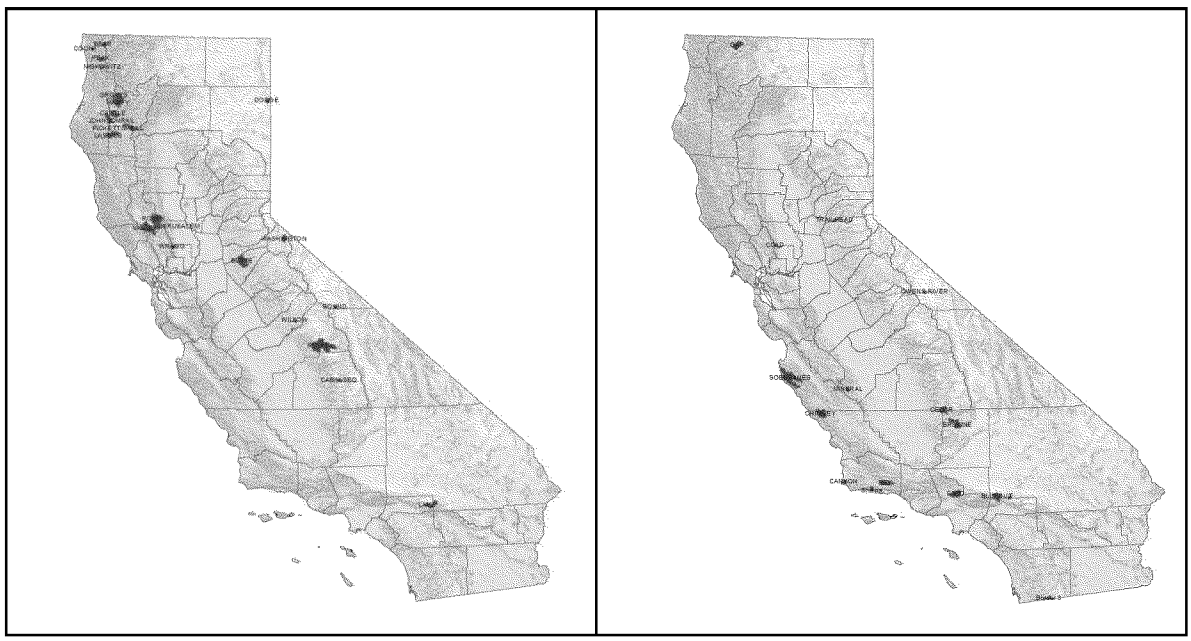

Figure 2. 2015 and 2016 CA wildir es shown on the left and right, respectively. Taken from Sylvia

Vanderspek of CARB.

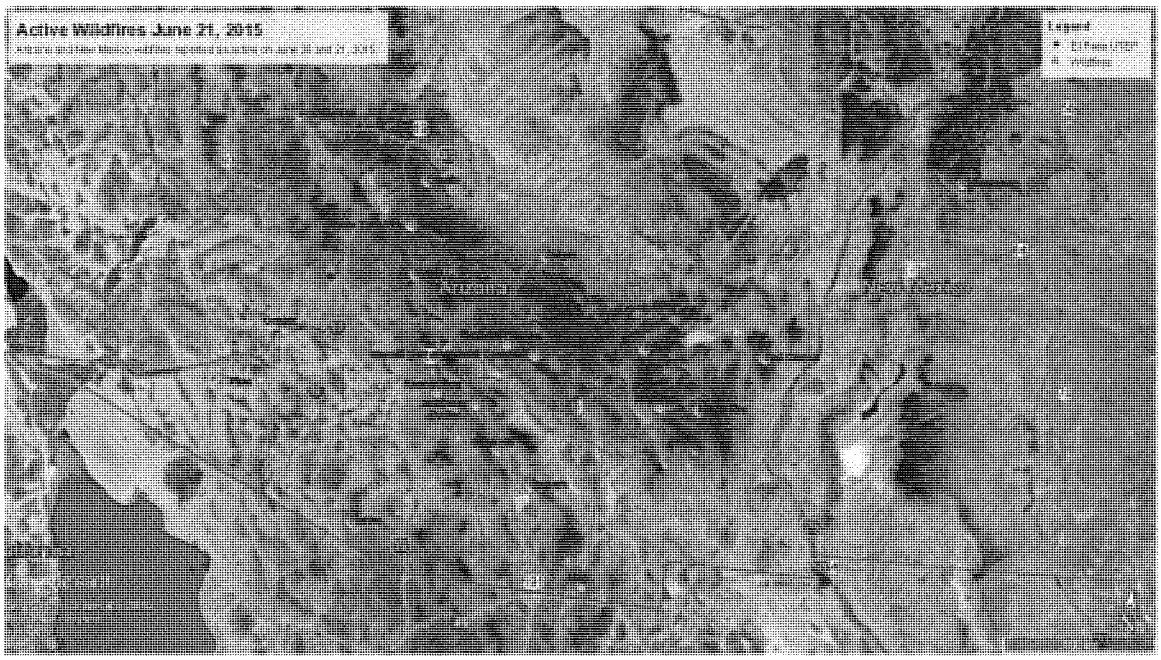

Figure 3. Wildir es active near west TX on June 21, 2015. Taken from Erik Gribbin of TCEQ.

CARB identiied a number of CA wildir es during August through November of 2015 and June through October of 2016. It was noted that CARB only submits exceptional event demonstrations when the event can be shown to impact a regulatory determination for that state.

TCEQ identiied a June 21 2015 wildir e event that took place in Southern New Mexico and Arizona that impacted TX. This event was related to regulatory determination for Ozone in El Paso TX.

CT DEEP identiied a May 18-25, 2016 wildir e originating in Fort McMurray and impacting most of the east coast. CT DEEP presented modeling results indicating the ir e may have increased local ozone by as much as 20 ppb.

The 12 km modeling domain should include more of Canada and Mexico including Alberta, Yucatan peninsula, Mexico City, and Oaxaca to better relect the impact of ir es and other sources.

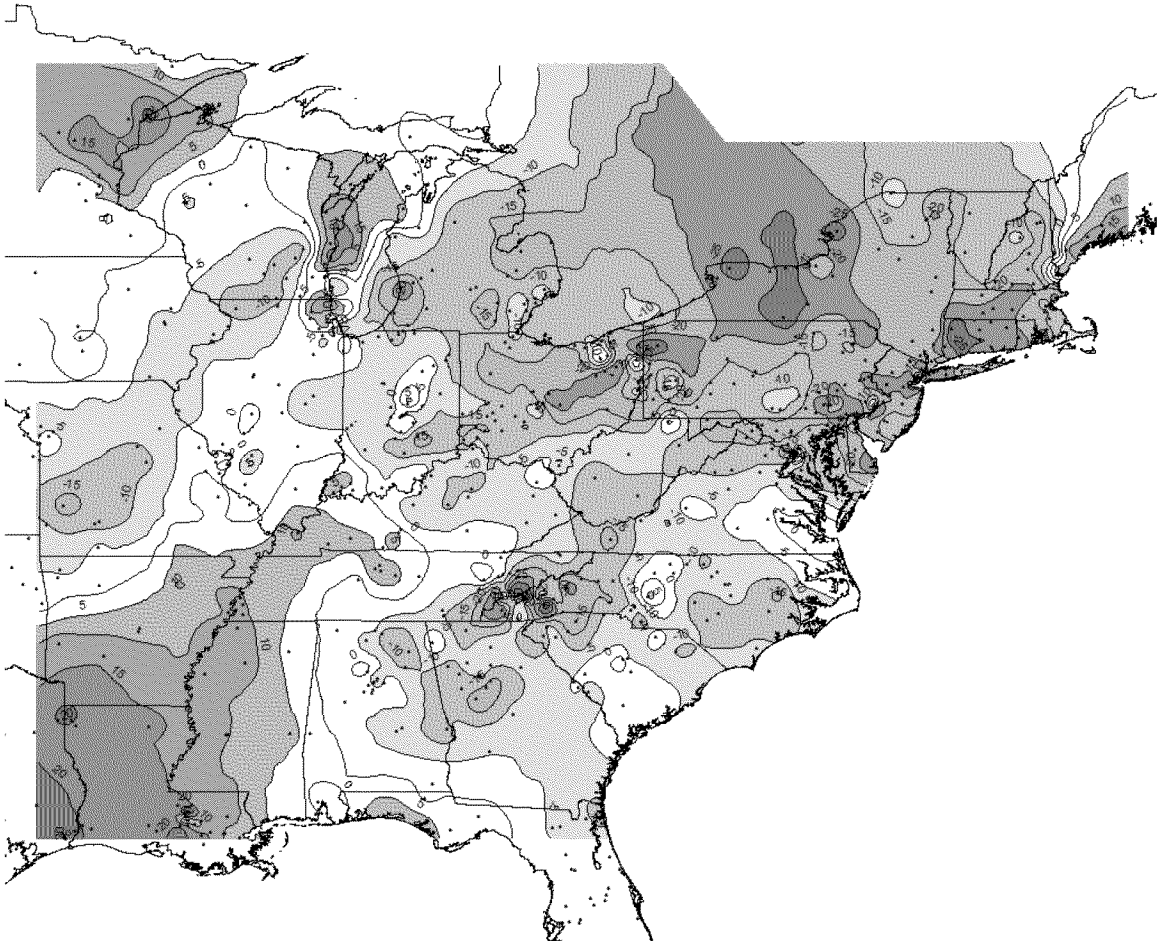

Figure 4. CT DEEP Modeled bias (ppb) of May 25, 2016 attributed to Fort McMurray wildir e. Taken from Michael Geigert of CT DEEP.

Looking Ahead

Beneits to states, RPOs, and EPA would further accrue if each year and every year were modeled routinely with effort to develop input data scaled to to available resources , providing opportunity for continuous improvements in model performance and data quality. The "every-year" approach, if well-documented and evaluated robustly and transparently, could provide retrospective study results that various jurisdictions can assess and apply for their regulatory needs, as well as a broader and more complete basis to assess future potential outcomes. With the continuing trend of increased ir e and dust emissions activity, a warming climate affecting emissions of all sectors and associated changes to atmospheric photochemistry, and the advent and continuing evolution of the Exceptional Events Rule guidance and implementation approaches - the more frequent application and

practice of regional photochemical modeling is necessary, as is routinely done currently with global models used as boundary conditions for regional models.

Evaluation of observational data, emission data and estimates, and meteorology and air quality modeling results require time, available technical resources, clear protocols, and signiicant coordination efforts. Resources limitations preclude development of SIP quality inventories every year. Emission inventory development is concentrated on triennial NEI cycle years. Annual modeling is useful and necessary for some purposes. The focus of this report has been on the development of SIP quality inventories in a resource constrained environment.

Conclusion

A partnership between EPA and state and regional modeling centers is critical to enable states to develop cost-effective plans to protect the health of their citizens. Modern air quality models require extremely large and complex data inputs that are well beyond the resources available to individual states and that relect the interstate nature of the air pollution problem in this country.

The conclusion of this work group is to recommend that EPA prepare to model both 2015 *and* 2016, and to focus efforts on 2016 *if* a choice is required. Many regions expressed an interest in modeling both 2015 and 2016 for SIPs, but are unsure of how to submit a multi-year SIP.

Acknowledgements

The workgroup would not have been possible if not for the collaborative effort on behalf of the RPOs, federal, and state regulatory agencies. In particular, the authors would like to thank individuals that contributed to organizing, and developing and presenting analysis:

Alexander Cohan, Ph.D (LADCO) - *Workgroup Lead*

Alison Eyth (EPA OAQPS)
Bradley McLamb (NC DENR)
Chris Kite (TCEQ)
Donna Kenski (LADCO)
Elliot Tardif (NC DENR)
Erik Gribbin (TCEQ)
James Boylan (GA EPD)
Jim Smith (TCEQ)
John DaMassa (CARB)
Karen Magliano (CARB)
Mark Estes (TCEQ)
Mark Janssen (LADCO)
Michael Geigert (CT DEEP)
Nick Witcraft (NC DENR)
Norm Possiel (EPA OAQPS)
Pat Dolwick (EPA OAQPS)
Stephanie Shirley (TCEQ)
Susan Wierman (MARAMA)
Sylvia Vanderspek (CARB)
Theresa Pella (CENSARA)
Tom Moore (WESTAR-WRAP)

To: Dolwick, Pat[Dolwick.Pat@epa.gov]
Cc: Fox, Tyler[Fox.Tyler@epa.gov]; Wayland, Richard[Wayland.Richard@epa.gov]
From: Blando, James D.
Sent: Tue 8/1/2017 2:31:10 PM
Subject: Re: Annual sectional conference of mid-Atlantic states AWMA

Dear Pat,

Thank you so much for your reply, I think all of the topics below would be of interest, however, if I had to pick two, the first two topics (health studies supporting decision and implementation planning) would be of particular interest. We do have several state agencies participating and as such, I believe they can cover topic #3.

However, with that said, we are happy to give you latitude as to what you believe would be most appropriate for EPA to discuss.

Thank you so much, your interest is greatly appreciated,

Jim Blando

From: Dolwick, Pat <Dolwick.Pat@epa.gov>
Sent: Tuesday, August 1, 2017 7:23 AM
To: Blando, James D.
Cc: Fox, Tyler; Wayland, Richard
Subject: Annual sectional conference of mid-Atlantic states AWMA

Dr. Blando,

We received a request from you, via Steve Page, for an EPA speaker at the 10/12 AWMA conference in New Brunswick. In order to best match EPA staff knowledge to the interests of the conference audience, we were wondering if you could advise us which subtopic(s) within the broader header of "tropospheric ozone and the NAAQS" would be of most interest to your audience.

•□□□□□□□□ A review of the 2015 O3 NAAQS standard setting process (e.g., health studies that supported Administrator decision to lower standard)

•□□□□□□□□ An update on EPA's ozone implementation planning (e.g., status of designations, status of proposed rule)

•□□□□□□□□ An overview of ozone air quality in the mid-Atlantic states (e.g., data analysis, trends, emissions, modeling projections, etc.)

•□□□□□□□□ A specific topic (e.g., exceptional events, regional O3 transport, background ozone, EPA modeling guidance, etc.)

•□□□□□□□□ Some combination of the above in basic overview format.

Thanks. Your thoughts here will be helpful in determining who best could represent EPA at the conference.

Pat Dolwick

U.S. EPA / Air Quality Modeling Group

Research Triangle Park, NC 27711

(919) 541-5346 (w)

dolwick.pat@epa.gov

To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Sorrels, Larry[Sorrels.Larry@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Weatherhead, Darryl[Weatherhead.Darryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; Keaveny, Brian[Keaveny.Brian@epa.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]
From: Theresa Pella
Sent: Wed 2/1/2017 3:13:26 PM
Subject: Agenda and materials for Feb 2nd Fed/State Tech Work Collaboration Group conf call
17-01-05_fed state coll grp conf call summary_draft2.docx
MJO_Modeling_File_List_2011_2023_2028_as of 01_25_2017.docx
2015 Ozone NAAQS transport SIP NODA questions_draft2.docx
17-02-02_fed state coll grp conf call agenda_final.docx

Attached please find the materials and information for tomorrow's call.

On last month's call we talked about opening this call up because of the 2015 Ozone NODA discussion, so, **MJOs, please share with your members.**

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

DRAFT 02/01/17
Federal/State Technical Work Collaboration Group
Conference Call Summary
January 5, 2017

Welcome and roll call
Participating organizations included EPA OAQPS and OAP; WESTAR-WRAP, Utah, MARAMA, OTC, Nez Perce Tribe, New Hampshire, New York, North Carolina, SESARM, Georgia, LADCO, Minnesota, Illinois, Texas, Maryland, Missouri, and CenSARA

Review of technical aspects in EPA's NODA for 2015 ozone NAAQS -
https://www.epa.gov/airmarkets/notice-availability-preliminary-interstate-ozone-transport-modeling-data-2015-ozone-naaqs
(see attached)
Norm Possiel (OAQPS) mentioned the NODA should be published in the Federal Register on Friday (Jan. 6th) and will have a 90-day comment period. To help coordinate reviews a process whereby the MJOs/states work together on a list of questions to send EPA prior to the Feb. call was suggested. One primary purpose of the Feb. call would then be to talk about the questions received (the call would probably be open to any state that wanted to participate). This could happen as a parallel to the process getting underway to transfer the platform data to the MJOs/states, so it's understood MJOs/states may not have specific data prior to then. John Hornback (SESARM) agreed understanding what's in the TSD would be helpful, then asked if, after comments, EPA will rerun 2023 for states to use in their I-SIPs? Norm responded that was not the intent, but states could use the EPA work as is for their submittals, revise as needed, or supplement with other work. Chet Wayland (OAQPS) added they need to wait for direction from the new administration before additional future work gets underway.

Susan Wierman (MARAMA) asked if EPA will use the 2014 NEI for future modeling platforms and how that would relate to the 2028 modeling underway for regional haze? Norm replied future work is independent of the 2028 modeling, which is building off the 2011 modeling platform. Theresa Pella (CenSARA) asked to clarify whether comments on the NODA will be reflected in the 2028 modeling? Norm replied that they would not because the timing to complete the 2028 work is prior to the end of the NODA comment period. Comments will, however, be reflected in future modeling and one area EPA is seeking input is how to project emission inventories, growth and control information. The recent control measures survey results, though not in the 2028 modeling, will be used to update the 2014 NEI V2.

Susan asked about the inclusion of the Clean Power Plan (CPP) in the NODA. Norm confirmed it is part of the 2023 (and will be part of the 2028) run, based on IPM5.16. David Risley (OAP) added because it is currently an "on the books" rule including it is consistent with previous modeling approaches. Jim Boylan (GA) asked what would happen if a state included the CPP in its I-SIP and the rule is ultimately invalidated? Chet replied that until a legal decision is final, it must be considered valid. Susan inquired if there was a way to identify how the CPP changed model inputs. David responded OAP can say directionally it reduces NOx, but specific tons are unknown. The CPP is in the EGU sector as well in MOVES (though with miniscule

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differences, per Alison Eyth). Susan then asked if a state could substitute ERTAC modeling in their I-SIP? EPA replied yes and understood the ERTAC/EPA subgroup would be looking at the differences between ERTAC and IPM data as it did for the 2008 Ozone transport rule. Susan suggested EPA should consider doing a modeling run for states with CPP removed for states use because of the resource efforts necessary to do. Rob Kaleel added LADCO plans to do regional modeling with the CPP removed.

Tom Moore (WESTAR-WRAP) asked which AEO scenario was used for the oil and gas sector? Alison E. replied it was the 2016 with CPP scenario for all but the MARAMA region (provided own inputs), again with minimal impact in 2028. Alison added the latest emissions modeling files are labeled 2023el.

Update on MJO subgroup recommendations for 2015 Ozone NAAQS modeling platform data transfers to MJOs/states:
Theresa updated the group that the MJO/states subgroup held a call with Norm and Alison to review the data needs list and agreement was reached and one set, the WRF data was confirmed by Byeong Kim (GA) to be the latest. Jim (GA) mentioned Mark Janssen (LADCO) sent two 6 TB drives to Alison for copying and asked that MJOs send similar drives to Georgia to allow for smooth data transfers.

Tom (WESTAR-WRAP) asked about the timing for when the modeling platform will be deemed "final" to help with timing of data reviews. Norm replied because EPA does not expect to do additional work with the platform (outside of the 2028 regional haze work underway) it can be considered "final" now. The modeling satisfies EPA's commitment in Janet McCabe's earlier memo to provide states with some technical work they could use, if they wanted, to avoid getting FIPed for the 2015 Ozone transport requirement. Mike Sheehan (NY) asked how EPA would react, though, if a state did rely on the work and a fatal flaw was discovered after a SIP submittal? Chet replied that EPA is confident in the modeling, one reason is because they relied on the comments received for the 2008 Ozone NODA to help frame the latest modeling.

Status of EPA 2028 modeling for regional haze
Brian Timin (OAQPS) reported the modeling is underway as an extension of the 2023 modeling with hopes of completing in February. The platform will then be made available to the MJOs/states in the same process underway for the 2011 and 2023 data. It includes two runs – one without source apportionment and one with (using PM in CAMx). The work also includes MOVES and IPM runs for 2028.

Susan asked if it'd be possible to show results on an extinction, as well as dv, basis for the 20% most anthropogenic impaired days? Brian responded that they could consider doing that, but at least need to follow what will be in the final guidance. Tom M. suggested one way to do what Susan would like is to do baseyear modeling performance evaluations for each of the different metrics proposed and decided on. Brian added the data can be looked at in different ways with specific work done by MJOs.

Theresa asked Brian if the source apportionment mix stayed the same as the list previously

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sent to MJOs for feedback. He replied the only comment he received was to break out non-EGUs, which they were not able to do, so yes it is the same. Theresa then asked Beth Palma if a known release timeframe for the guidance was known – Beth replied not yet.

Update on new Base Year recommendations subgroup
Rob Kaleel (LADCO) said the subgroup continues to discuss aspects that may lead toward a solid recommendation to EPA to use 2015 or 2016 or if regional base years may work the best. The next calls are scheduled for Jan. 18th to talk about meteorology and Feb. 1st for an emissions inventory discussion.

Brief overview of Appendix W revisions
George Bridgers (OAQPS) said only about 10% of what was in the proposal was changed in the final, with one notable action that the beta option in AERMOD was not finalized as a regulatory model. The proposal to replace CALINE3 with AERMOD for transportation conformity modeling was one of the biggest areas that received comment. The final rule still removes CALINE3 but with a three year window AND after EPA does a rulemaking. There is also a coding error fix in AERMOD that impacts fugitives. The rule should be published in the Federal Register prior to January 20th, with an effective date of March 21 (update since the January 5th meeting). If an area needs to submit something before the effective date, they should work with their regional office. A webinar will be held on February 16th (update since the January 5th meeting).

Transferring MMIF data to MJOs/states
Chris Misenis (OAQPS) referred to the handout about the new tool that can take WRF data and transfer it into dispersion models. This can be helpful when a national weather station is too far away from a source. EPA has completed meteorological modeling using WRF for the 2013-2015 period at a 12 km CONUS level. Model performance evaluation was completed for each year. Once the data is transferred to MJOs/states, they can do their own analyses. Each year is about 2 TB of data, so a 6 TB drive would be needed. Jim (GA) said they would be willing to be the transferee if that works for the other MJOs. Theresa added they can confirm that on the next MJO subgroup call.

Update on model performance objectives and CMAQ/CAMx update
Norm mentioned as a follow up to the discussion held during the October CMAS conference, EPA sees model performance evaluation happening in three ways in the near future 1) as part of the NODA review and comments received; 2) as the next modeling platform work gets underway; and, 3) as updates to the photochemical modeling guidance are completed. Tom noted the paper he sent to the group is intended to complement Norm's paper and the group's discussions.

The ORD webinar on CMAQ updates is scheduled for January 31st, 11-12:30 eastern. The Ramboll-Environ update on CAMx (v 6.40) will take place during the February or March fed/state tech work collaboration group call. It was released in December.

Open mic
none

ED_001650_00031465-00003

Action items and wrap up
Theresa said the main action item was for the MJO subgroup to schedule a call to run through a few items prior to next month's call.

Next call – February 2, 2017, 10:30 – noon eastern

Federal/State Technical Work Collaboration Group
Conference Call Agenda
February 2, 2017
10:30 – 12:00 eastern
9:30 – 11:00 central
8:30 – 10:00 mountain
7:30 – 9:00 pacific

Ex. 6 passcode Ex. 6

(EDT)

10:30-10:35	Welcome and roll call – Chet Wayland (OAQPS)
10:35-10:45	Update on new Base Year recommendations subgroup – Alex Cohan (LADCO)
10:45-10:50	Status of 2015 Ozone NAAQS modeling platform data transfers to MJOs/states (see attachment)– Norm Posseil (OAQPS) and Jim Boylan (Georgia)
10:50–11:05	Results of state survey on non-EGU control measures – Robin Langdon and Brian Keaveny (OAQPS)
11:05-11:50	Discuss list of technical questions for 2015 Ozone transport NODA (see attachment) – OAQPS/OAP
11:50-11:55	Update on model performance objectives and CAMx improvements - Norm Possiel
11:55 –noon	Open mic
noon	Action items and wrap up - Theresa Pella (CenSARA)

Next call – Thursday, March 2, 2017, 10:30 – noon eastern

DRAFT 1/27/17

The following technical questions were compiled by the MJO Modeling Files Workgroup, with input from others, for purposes of discussion during the February 2, 2017, Federal/State Technical Work Collaboration Group call.

1. Does EPA consider the CSAPR NODA for the 2015 Ozone NAAQS *a partial remedy* of states good neighbor requirements? If so, what analysis is needed for states *to fully comply* with their good neighbor requirement?

2. A related question is about avoiding potential over controlling and whether each upwind state identified as a significant contributor (1% threshold) for the same downwind monitor has to reduce is contribution down to 0.7 ppb or whether, collectively, the upwind states need to get down to 0.7 ppb impact?

3. It is our understanding that the 2015 Ozone NAAQS NODA was developed using comments received on the 2008 Ozone NAAQS NODA. It appears there are some comments not addressed, specifically, related to model performance (ex: 3 x 3 km vs. 1 x 1 km). Will the modeling performance workgroup being formed under the Collaboration Group umbrella be addressing relevant 2008 Ozone NAAQS NODA comments?

4. Were there non-modeling performance comments for the 2008 Ozone rule that were not addressed in the 2015 Ozone NODA? Is there a list or response to comments from the 2008 Ozone NAAQS NODA that states could use a reference when reviewing the 2015 Ozone NAAQS NODA?

5. The CSAPR framework treats a contribution from an individual state at or above 1% of the NAAQS as significant. There may be situations where the modeling may not be confidently predicting 1 ppb or more of ozone being transported because of distance, terrain, etc. What type(s) of technical demonstration(s) would be acceptable for a reconsideration of a state's contribution?

6. As for the 2008 Ozone NAAQS NODA, there are concerns that the IPM modeling inputs for the 2015 Ozone NAAQS are not reflective of current and expected actions by the EGUs. Below is one example:

   The state of Oklahoma is concerned that EPA's attempt to model our EGU ozone season emissions are failing to capture the resulting NOx reductions that have occurred in the state since the development of the 2011 NEI. A quick analysis of the Acid Rain database (the CSAPR database could not be used because it only works for 2015 to present) comparing 2011 to 2016 ozone season data for the state of Oklahoma shows:
   - Heat input reduced 27%
   - Gross load reduced 23%
   - NOx tons reduced 68%

   Is the IPM model capturing these reductions?

   Would it be helpful for the EPA/ERTAC workgroup to do a comparison similar to the one they did for the final 2008 Ozone CSAPR rule?

7. An Ozone Air Quality Assessment Tool (AQAT) was developed for both the original CSAPR Rule and

for the CSAPR Update Rule (2008 Ozone NAAQS). The Ozone AQAT was used to estimate downwind changes in Ozone concentration associated with upwind changes in NOx emission levels. Is it acceptable for states to use the Ozone AQAT (developed for the CSAPR Update Rule) to estimate the downwind effects of NOx reductions in support of an Ozone infrastructure SIP that would be prepared for the 2015 ozone NAAQS?

To: Eyth, Alison[Eyth.Alison@epa.gov]
Cc: Houyoux, Marc[Houyoux.Marc@epa.gov]; Strum, Madeleine[Strum.Madeleine@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Gregory Stella[gms@alpinegeophysics.com]
From: Gregory Stella
Sent: Mon 1/30/2017 7:51:20 PM
Subject: Re: 2014 NEI Modeling Platform

Hi Alison,

I am just again making inquiries on the availability of the 2014
modeling platform. Please let me know if there is any new information on
its release.

Thank you,

Greg

On 12/6/2016 10:54 PM, Eyth, Alison wrote:
> Greg,
>
> I got your email. We are planning to package 2014 this winter.
>
> I'm not sure about the timing for 2023. I may have more information on that next week.
>
> Alison
>
> -----Original Message-----
> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
> Sent: Tuesday, December 06, 2016 10:04 AM
> To: Eyth, Alison <Eyth.Alison@epa.gov>
> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Strum, Madeleine <Strum.Madeleine@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Possiel, Norm <Possiel.Norm@epa.gov>
> Subject: Re: 2014 NEI Modeling Platform
>
> Hi Alison,
>
> Just checking in to see if there is any new information on the release of (1) the 2014 modeling platform and (2) the 2011el and 2023 platform.
>
> Thanks,
>
> Greg
>
>
> On 10/26/2016 4:04 PM, Eyth, Alison wrote:
>> Greg,
>>
>> I think you saw that there are flat files for 2014 for the five NEI data categories posted here:
>>
>> ftp://ftp.epa.gov/EmisInventory/2014/flat_files/
>>
>> We are working on preparing a modeling platform for NATA. We are still running sectors for this, and it's a HAP platform. We will post the emissions inputs after we have reviewed the results - probably by the end of the year.

>>
>> The 2011el case has been prepared but we haven't packaged it yet. Let me know if you need that even without the 2023. We are still working on 2023. I think our plan is to release that by the end of the year if all goes well.
>>
>> Alison
>>
>>
>> -----Original Message-----
>> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
>> Sent: Wednesday, October 26, 2016 3:48 PM
>> To: Eyth, Alison <Eyth.Alison@epa.gov>
>> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Strum, Madeleine
>> <Strum.Madeleine@epa.gov>; Gregory Stella <gms@alpinegeophysics.com>;
>> Fox, Tyler <Fox.Tyler@epa.gov>
>> Subject: Re: 2014 NEI Modeling Platform
>>
>> Alison,
>>
>> Just following up to see what's the latest on the release of the 2014 modeling platform as well as whether we should soon be expecting to see the 2011/2023 platform for the 2015 ozone NAAQS.
>>
>> Thanks in advance,
>>
>> Greg
>>
>>
>> On 9/26/2016 9:52 AM, Eyth, Alison wrote:
>>> Greg,
>>>
>>> We are having some discussions about this in the near future.
>>> We can provide the flat files themselves pretty soon.
>>>
>>> We are working on building a new HAP-CAP platform for NATA that includes updated speciation profiles, spatial surrogates, and temporal profiels. I'm not sure of the timing of when we can release this, but we're still in the middle of building it. The timing of the release of this platform is on our list of things to discuss in the very near future.
>>>
>>> Alison
>>>
>>> -----Original Message-----
>>> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
>>> Sent: Monday, September 26, 2016 9:44 AM
>>> To: Eyth, Alison <Eyth.Alison@epa.gov>
>>> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Gregory Stella
>>> <gms@alpinegeophysics.com>
>>> Subject: 2014 NEI Modeling Platform
>>>
>>> Hi Alison,
>>>
>>> I saw that the 2014 NEI has made it to the FTP site. Are there plans to release a SMOKE modeling platform version anytime soon?
>>>
>>> Thank you,
>>>
>>> Greg

To: Kayin, Serpil[Kayin.Serpil@epa.gov]; Joseph Jakuta[JJakuta@otcair.org]; Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]; Kim, Byeong[Byeong.Kim@dnr.ga.gov]
Cc: Keaveny, Brian[Keaveny.Brian@epa.gov]; Dolwick, Pat[Dolwick.Pat@epa.gov]
From: Theresa Pella
Sent: Thur 5/4/2017 1:23:49 PM
Subject: Re: REVISED agenda for May 4th Fed/State Tech Work Collaborative Group conf call
EPA-MJO EGU Technical Engagement Summary May 2017_FINAL.docx

This version of the EPA/MJO EGU Workgroup report out should replace the one Serpil sent yesterday.

So, documents for today's call will be contained in:

- Monday's email from me
- Wednesday's email from me
- Wednesday's email from Joseph Jakuta
- this email

May the 4th be with you!

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

From: Kayin, Serpil <Kayin.Serpil@epa.gov>
Sent: Wednesday, May 3, 2017 12:37 PM
To: Joseph Jakuta; Theresa Pella; Alex Cohan; Bowker, George; Darcy Bybee; David Foerter; Davidson, Ken; Dolce, Gary; Eyth, Alison; Fisher, Brian; Fox, Tyler; george.aburn@maryland.gov; James Boylan; Stenhouse, Jeb; Vukovich, Jeffrey; jeffrey.underhill@des.nh.gov; Jim Smith; hornback@metro4-sesarm.org; Julie McDill; julies@nezperce.org; Kathy Pendleton; Baker, Kirk; Langdon, Robin; Ling, Michael; Mark Janssen; Mary Uhl; Matthew Johnson; McKinley, Gobeail; ndaher@utah.gov; Paul Miller; pbarickman@utah.gov; Possiel, Norm; Jones, Rhea; Haeuber, Richard; Risley, David; Rob Kaleel; Rob Sliwinski; Roberts, Sarah; Stevens, Gabrielle; swierman@marama.org; Timin, Brian; Tom Moore; Wayland, Richard; Werner, Christopher; Wilbur, Emily; Zawacki, Margaret; sushma.masemore@ncdenr.gov; Randy Strait; kari.palmer@state.mn.us; Leopold, Scott; stephanie.shirley@tceq.texas.gov; Hannah Ashenafi; Emily Bull; Witcraft, Nick; 'michael.woodman@maryland.gov'; Eschmann, Erich; Palma, Elizabeth; LaCount, Melanie; McLamb, Bradley; Tardif, Elliot M; Sheehan, Michael P (DEC); margaret.mccourtney@state.mn.us; Valis, Margaret (DEC); Kim, Byeong
Cc: Keaveny, Brian; Dolwick, Pat
Subject: RE: REVISED agenda for May 4th Fed/State Tech Work Collaborative Group conf call

And attached is the 1-pager for 11:05-11:20 EGU report out time slot.

Thanks,

Serpil

From: Joseph Jakuta [mailto:JJakuta@otcair.org]
Sent: Wednesday, May 03, 2017 1:32 PM
To: Theresa Pella <tpella@censara.org>; Alex Cohan <cohan@ladco.org>; Bowker, George <Bowker.George@epa.gov>; Darcy Bybee <darcy.bybee@dnr.mo.gov>; David Foerter <dfoerter@otcair.org>; Davidson, Ken <Davidson.Ken@epa.gov>; Dolce, Gary <Dolce.Gary@epa.gov>; Eyth, Alison <Eyth.Alison@epa.gov>; Fisher, Brian <Fisher.Brian@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; george.aburn@maryland.gov; James Boylan <James.Boylan@dnr.state.ga.us>; Stenhouse, Jeb <Stenhouse.Jeb@epa.gov>; Vukovich, Jeffrey <Vukovich.Jeffrey@epa.gov>; jeffrey.underhill@des.nh.gov; Jim Smith <jim.smith@tceq.texas.gov>; hornback@metro4-sesarm.org; Julie McDill <jmcdill@marama.org>; julies@nezperce.org; Kathy Pendleton <kathy.pendleton@tceq.texas.gov>; Baker, Kirk <Baker.Kirk@epa.gov>; Langdon, Robin <Langdon.Robin@epa.gov>; Ling, Michael <Ling.Michael@epa.gov>; Mark Janssen <janssen@ladco.org>; Mary Uhl <maryuhl@westar.org>; Matthew Johnson <matthew.johnson@dnr.iowa.gov>; McKinley, Gobeail <McKinley.Gobeail@epa.gov>; ndaher@utah.gov; Paul Miller <pmiller@nescaum.org>; pbarickman@utah.gov; Possiel, Norm <Possiel.Norm@epa.gov>; Jones, Rhea <Jones.Rhea@epa.gov>; Haeuber, Richard <Haeuber.Richard@epa.gov>; Risley, David <Risley.David@epa.gov>; Rob Kaleel <kaleel@ladco.org>; Rob Sliwinski <rob.sliwinski@dec.ny.gov>; Roberts, Sarah <Roberts.Sarah@epa.gov>; Kayin, Serpil <Kayin.Serpil@epa.gov>; Stevens, Gabrielle <Stevens.Gabrielle@epa.gov>; swierman@marama.org; Timin, Brian <Timin.Brian@epa.gov>; Tom Moore <tmoore@westar.org>; Wayland, Richard <Wayland.Richard@epa.gov>; Werner, Christopher <Werner.Christopher@epa.gov>; Wilbur, Emily <emily.wilbur@dnr.mo.gov>; Zawacki, Margaret <zawacki.margaret@epa.gov>; sushma.masemore@ncdenr.gov; Randy Strait <randy.strait@ncdenr.gov>; kari.palmer@state.mn.us; Leopold, Scott <scott.leopold@illinois.gov>; stephanie.shirley@tceq.texas.gov; Hannah Ashenafi <hannah.ashenafi@maryland.gov>; Emily Bull <emily.bull@maryland.gov>; Witcraft, Nick <nick.witcraft@ncdenr.gov>; 'michael.woodman@maryland.gov' <michael.woodman@maryland.gov>; Eschmann, Erich <Eschmann.Erich@epa.gov>; Palma, Elizabeth <Palma.Elizabeth@epa.gov>; LaCount, Melanie <LaCount.Melanie@epa.gov>; McLamb, Bradley <bradley.mclamb@ncdenr.gov>; Tardif, Elliot M <elliot.tardif@ncdenr.gov>; Sheehan, Michael P (DEC) <michael.sheehan@dec.ny.gov>; margaret.mccourtney@state.mn.us; Valis, Margaret (DEC) <margaret.valis@dec.ny.gov>; Kim, Byeong <Byeong.Kim@dnr.ga.gov>
Cc: Keaveny, Brian <Keaveny.Brian@epa.gov>; Dolwick, Pat <Dolwick.Pat@epa.gov>
Subject: RE: REVISED agenda for May 4th Fed/State Tech Work Collaborative Group conf call

Attached is the document that goes with OTC's portion of the 11:30 agenda item. Sorry I couldn't get it to Theresa before she sent out the original email.

Joseph

From: Theresa Pella [mailto:tpella@censara.org]
Sent: Wednesday, May 03, 2017 12:33 PM
To: Alex Cohan <cohan@ladco.org>; bowker.george@epa.gov; Darcy Bybee <darcy.bybee@dnr.mo.gov>; David Foerter <dfoerter@otcair.org>; davidson.ken@epa.gov; dolce.gary@epa.gov; eyth.alison@epa.gov; fisher.brian@epa.gov; fox.tyler@epa.gov; george.aburn@maryland.gov; james.boylan@dnr.state.ga.us; Jeb Stenhouse <stenhouse.jeb@epa.gov>; Jeff Vukovich <Vukovich.Jeffrey@epa.gov>; jeffrey.underhill@des.nh.gov; Jim Smith <jim.smith@tceq.texas.gov>; Joseph Jakuta <JJakuta@otcair.org>; John Hornback <hornback@metro4-sesarm.org>; Julie McDill, P.E. <jmcdill@marama.org>; Julie Simpson <julies@nezperce.org>; Kathy Pendleton <kathy.pendleton@tceq.texas.gov>; Kirk Baker <Baker.Kirk@epa.gov>; Robin Langdon <Langdon.Robin@epa.gov>; ling.michael@epa.gov; Mark Janssen <janssen@ladco.org>; Mary Uhl <maryuhl@westar.org>; Matthew Johnson <matthew.johnson@dnr.iowa.gov>; mckinley.gobeail@epa.gov; ndaher@utah.gov; Paul Miller <pmiller@nescaum.org>; pbarickman@utah.gov; possiel.norm@epa.gov; Rhea Jones <Jones.rhea@Epa.gov>; Richard Haeuber <Haeuber.Richard@epa.gov>; risley.david@epa.gov; Rob Kaleel <kaleel@ladco.org>; Rob Sliwinski <rob.sliwinski@dec.ny.gov>; roberts.sarah@epa.gov; Serpil Kayin <kayin.serpil@epa.gov>; stevens.gabrielle@epa.gov; Susan S. G. Wierman <swierman@marama.org>; Theresa Pella <tpella@censara.org>; timin.brian@epa.gov; Tom Moore <tmoore@westar.org>; Wayland, Richard <Wayland.Richard@epa.gov>; werner.christopher@epa.gov; Wilbur, Emily <emily.wilbur@dnr.mo.gov>; zawacki.margaret@epa.gov; Sushma Masemore <sushma.masemore@ncdenr.gov>; Randy Strait <randy.strait@ncdenr.gov>; Palmer, Kari (MPCA) <kari.palmer@state.mn.us>; Leopold, Scott <scott.leopold@illinois.gov>; stephanie.shirley@tceq.texas.gov; Hannah Ashenafi <hannah.ashenafi@maryland.gov>; Emily Bull <emily.bull@maryland.gov>; Witcraft, Nick <nick.witcraft@ncdenr.gov>; 'michael.woodman@maryland.gov' <michael.woodman@maryland.gov>; eschmann.erich@epa.gov; Palma, Elizabeth <Palma.Elizabeth@epa.gov>; LaCount, Melanie <LaCount.Melanie@epa.gov>; McLamb, Bradley <bradley.mclamb@ncdenr.gov>; Tardif, Elliot M <elliot.tardif@ncdenr.gov>; Sheehan, Michael P (DEC) <michael.sheehan@dec.ny.gov>; margaret.mccourtney@state.mn.us; Valis, Margaret (DEC) <margaret.valis@dec.ny.gov>; Kim, Byeong <Byeong.Kim@dnr.ga.gov>
Cc: Brian Keaveny <keaveny.brian@epa.gov>; Dolwick, Pat <Dolwick.Pat@epa.gov>
Subject: REVISED agenda for May 4th Fed/State Tech Work Collaborative Group conf call

Due to schedule conflicts, the agenda topics have been rearranged - start and finish times remain the same.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

EPA-MJO EGU Projections Work Group Update
May 2017

Building on the framework presented at the St Louis meeting in June 2016, EPA and MJOs held monthly technical engagement calls on EGU projections. Areas of consultation, discussion and accomplishments included:

#1 Transport Effects and an Inter-comparison of the results, both in emissions and AQ impact using the different models. Comparing approaches and results to improve EPA and MJO EGU projection processes

- The ERTAC EGU committee presented a unit level comparison of the latest ERTAC EGU versus IPM results. Standard reports from ERTAC show shutdowns, differences in fuel type growth, and emissions mass contribution differences.
- EPA and ERTAC agreed that a focused IPM-ERTAC comparisons on particularly sensitive ozone monitors and upwind EGUs expected to have relatively larger impacts on those monitors. While past modeled comparisons did show difference between the two models the overall differences were relatively small overall. But, it also showed that impacts at specific monitors under specific scenarios could have important impacts in the .5 to 1 PPB range. As soon as the common NODA platform was up and running with LATEST versions of ERTAC and IPM, comparisons could be made.

#2 Use of IPM and ERTAC in SIPS

- Discussion on appropriate analytical and policy framework to build solutions. EPA made a presentation and obtained feedback from MJOs on general budget setting considerations.
- EPA briefed states regarding CSAPR Update Rule Modeling and 2015 Ozone NAAQS NODA.
- EPA engaged with MJOs to facilitate collaboration with states and Regions in establishing the framework of SIP inventory preparation and documentation.
- ERTAC did round robin presentation of the difficulties of using IPM in SIPS and how that partially had been mitigated in the CSAPR update rule.
- EPA developed and shared an updated (draft) guidance for EGU Projections in January. The MJO's sent back comments in early April and CAMD updated the guidance in late April. CAMD expects to finalize the guidance in May and also engage Regions in further details of technical products to be included in SIP submittals.
    - In particular, states have prepared a comparison of the documentation already available for ERTAC EGU with the recommendations in the guidance. Review of this comparison will form the discussion for the next engagement call.
    - Further improvements to the guidance as more insights emerge from this (or similar) collaborations is always possible.
- **EPA initiated in-house capability of running ERTAC EGU Growth Tool as part of expanding the analytical toolbox and inter-comparisons with IPM. ERTAC representatives participate in shaping the technical work.**

#3 Modeling Controls Beyond OTB

- MJOs presented strengths and capabilities of ERTAC platform, including how it can be used to do beyond on the books scenarios. Provided examples of how that was done for MATS and CSAPR update. Eventual agreement was reached that ERTAC model can be used to inform control pathways. ERTAC's control pathway is determined by past performance, expert information and

judgement.

- IPM's primary use is determining the least cost pathway to a policy goal in a system optimization framework.

#4 Using models to build budgets (This is expected to be the next topic for the group, moving forward

- The groups involved agreed that the updated CSAPR methodologies that used IPM in a relative sense instead of an absolute sense were more appropriate and mitigated some of the more difficult aspects of budget setting with IPM.
- RPOs are in the process of developing a scenario demonstrating attainment with the CSAPR2 budgets. This will be shared, along with the documentation, with EPA after states have had a chance to review and approve the scenario.
- EPA actively seeks for opportunities to provide support and help for states in their upcoming work. We anticipate that technical engagement with states on (2008 and 2015 standards) Ozone Transport EGU projection approaches and results will continue.

To: Theresa Pella[tpella@censara.org]; Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Sorrels, Larry[Sorrels.Larry@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Timin, Brian[Timin.Brian@epa.gov]; Wayland, Richard[Wayland.Richard@epa.gov]; Weatherhead, Darryl[Weatherhead.Darryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; Keaveny, Brian[Keaveny.Brian@epa.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]
Cc: Bridgers, George[Bridgers.George@epa.gov]; Misenis, Chris[Misenis.Chris@epa.gov]
From: Tom Moore
Sent: Wed 1/4/2017 10:53:49 PM
Subject: RE: Agenda and handouts for Jan. 5th conference call
FINAL_Recommended_PGM_MPE_Analyses_WSAQS_v08172015.pdf
EPA Transport NODA Summary Dec 2016_SESARM.DOCX
17-01-05_fed state coll grp conf call agenda_draft.docx
Discussion of Model Performance Topics at CMAS_10-25-16.docx
MMIF_Distro_2.docx

Hi, Theresa and all – I'd like to make sure that the attached PDF document developed collaboratively among state and federal agencies in the West, at the behest of EPA R8, travels along with the "October 25, 2016 Meeting at CMAS on Model Performance Evaluation Issues/Topics" document. I believe Norm has distributed this document as well. The Oct. 25th notes don't fully address the interests across the country in improved and more transparent MPE – this is hopefully the start of a discussion of where to take MPE efforts, since the base year model platform performance and representativeness is what gives meaning to future emissions and air quality projections made by all of us, not to mention the changing climate. It is also somewhat unfortunate that staff from EPA Regions and FLMs with chemical transport modeling evaluation skills can't be part of our already large group.

Thank you.

Tom Moore, WRAP Air Quality Program Manager

Western States Air Resources Council (WESTAR) | e: tmoore@westar.org | o: Ex. 6

Western Regional Air Partnership | www.wrapair2.org

From: Theresa Pella [mailto:tpella@censara.org]
Sent: Wednesday, January 04, 2017 8:15 AM
To: Alex Cohan <cohan@ladco.org>; bowker.george@epa.gov; Darcy Bybee <darcy.bybee@dnr.mo.gov>; David Foerter <dfoerter@otcair.org>; davidson.ken@epa.gov; dolce.gary@epa.gov; eyth.alison@epa.gov; fisher.brian@epa.gov; fox.tyler@epa.gov; george.aburn@maryland.gov; harvey.reid@epa.gov; james.boylan@dnr.state.ga.us; Jeb Stenhouse <stenhouse.jeb@epa.gov>; Jeff Vukovich <Vukovich.Jeffrey@epa.gov>; jeffrey.underhill@des.nh.gov; Jim Smith <jim.smith@tceq.texas.gov>; jjakuta@otcair.org; John Hornback <hornback@metro4-sesarm.org>; Julie McDill, P.E. <jmcdill@marama.org>; Julie Simpson <julies@nezperce.org>; Kathy Pendleton <kathy.pendleton@tceq.texas.gov>; Kirk Baker <Baker.Kirk@epa.gov>; Robin Langdon <Langdon.Robin@epa.gov>; ling.michael@epa.gov; Mark Janssen <janssen@ladco.org>; Mary Uhl <maryuhl@westar.org>; Matthew Johnson <matthew.johnson@dnr.iowa.gov>; mckinley.gobeail@epa.gov; ndaher@utah.gov; Paul Miller <pmiller@nescaum.org>; pbarickman@utah.gov; possiel.norm@epa.gov; Rhea Jones <Jones.rhea@Epa.gov>; Richard Haeuber <Haeuber.Richard@epa.gov>; risley.david@epa.gov; Rob Kaleel <kaleel@ladco.org>; Rob Sliwinski <rob.sliwinski@dec.ny.gov>; roberts.sarah@epa.gov; Serpil Kayin <kayin.serpil@epa.gov>; Larry Sorrels <Sorrels.Larry@epa.gov>; stevens.gabrielle@epa.gov; Susan S. G. Wierman <swierman@marama.org>; Theresa Pella <tpella@censara.org>; timin.brian@epa.gov; Tom Moore <tmoore@westar.org>; Wayland, Richard <Wayland.Richard@epa.gov>; Darryl Weatherhead <Weatherhead.Darryl@epa.gov>; werner.christopher@epa.gov; Wilbur, Emily <emily.wilbur@dnr.mo.gov>; zawacki.margaret@epa.gov; Sushma Masemore <sushma.masemore@ncdenr.gov>; Randy Strait <randy.strait@ncdenr.gov>; Brian Keaveny.brian@epa.gov <keaveny.brian@epa.gov>; Palmer, Kari (MPCA) <kari.palmer@state.mn.us>; Leopold, Scott <scott.leopold@illinois.gov>; stephanie.shirley@tceq.texas.gov
Cc: bridgers.george@epa.gov; Misenis, Chris <Misenis.Chris@epa.gov>
Subject: Agenda and handouts for Jan. 5th conference call

Welcome to 2017! Look forward to kicking off the year with an engaging conversation tomorrow.

Please see the agenda for the call in information, including the time in your zone..

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

DRAFT 01/04/17
Federal/State Technical Work Collaboration Group
Conference Call Agenda
January 5, 2017
10:30 – 12:00 eastern
9:30 – 11:00 central
8:30 – 10:00 mountain
7:30 – 9:00 pacific

Ex. 6 passcode Ex. 6

(EDT)

10:30-10:35 Welcome and roll call – Chet Wayland

10:35-10:55 Review of technical aspects in EPA's NODA for 2015 ozone NAAQS - https://www.epa.gov/airmarkets/notice-availability-preliminary-interstate-ozone-transport-modeling-data-2015-ozone-naaqs (see attached) - all

10:55-11:00 Update on MJO subgroup recommendations for 2015 Ozone NAAQS modeling platform data transfers to MJOs/states – Theresa Pella

11:00 - 11:10 Status of EPA 2028 modeling for regional haze – Brian Timin

11:10-11:20 Update on new Base Year recommendations subgroup - Rob Kaleel

11:20-11:25 Brief overview of Appendix W revisions – George Bridgers

11:25-11:35 Transferring MMIF data to MJOs/states – Chris Misenis (see attached)

11:35-11:45 Update on model performance objectives and CMAQ/CAMx update webinars - Norm Possiel (see attached)

11:45 – 11:55 Open mic

11:55 – noon Action items and wrap up (Theresa Pella)

Next call – February 2, 2017, 10:30 – noon eastern

SUMMARY OF MAJOR THOUGHTS IN EPA PROPOSAL PERLIMINARY INTERSTATE OZONE TRANSPORT MODELING DATA FOR THE 2015 OZONE NAAQS

Created by John Hornback (Metro4-SESARM) 12/30/16 (updated 1/4/17 by T Pella)

PAGE	TOPIC	SUMMARY
1	Docket number	EPA-HQ-OAR-2016-0751
2	Comment deadline	90 days after publication in *Federal Register*
3	Comment guidelines	Identify notice. Explain agreement/disagreement. Suggest alternatives and substitute data reflecting requested changes. Describe assumptions and any technical information and/or data justifying comments. Provide specific examples to illustrate concerns and suggest alternatives. Explain views clearly. Submit comments by deadline.
4	Contact information	• Emissions data – Alison Eyth, eyth.alison@epa.gov, 919-541-2478 • Modeling and contributions – Norm Possiel, possiel.norm@epa.gov, 919-541-5692
5	Requirement for SIP submittal	Section 110(a)(1) requires submittal of SIPs for implementation, maintenance, and enforcement of a NAAQS within three years of promulgation of a new or revised standard. Generally referred to as "infrastructure SIPs."
5	Authority for what SIPs are to contain.	Section 110(a)(2) describes what SIPs are to incorporate.
5	"Good Neighbor" provision	Section 110(a)(2)(D)(i)(I) – requires states to include in SIPS measures to prohibit sources and emissions activities from emitting pollutants in amounts that will contribute significantly to nonattainment or interfere with maintenance of the NAAQS in other states.
5	Due date for Good Neighbor SIPs	• Within 3 years of promulgation of a new or revised NAAQS. • For the 2005 ozone NAAQS, the deadline is October 26, 2018.
7	Roles	• States – primary responsibility to submit timely SIPs. • EPA – backstop role to develop and promulgate FIPs.
7	Contents of NODA	• Preliminary air quality modeling data to help states develop SIPs. • Data are considered preliminary. • States may choose to modify or supplement data to develop their Good Neighbor SIPs.
7	Relationship to CSAPR framework	EPA has applied the CSAPR approach to developing the requirements for Good Neighbor SIPs for ozone.
7-8	4-Step Good Neighbor SIP process	1. Identify downwind receptors expected to have problems attaining or maintaining compliance with a NAAQS. 2. Determine which upwind states contribute to these problems in sufficient amounts to link them to downwind air quality problems. 3. For states linked to downwind air quality problems, identify upwind emissions significantly contributing to nonattainment or interference with maintenance of the NAAQS by quantifying upwind reductions in ozone precursor emissions and then apportioning emissions reduction responsibilities among upwind states. 4. For states significantly contributing and/or interfering, adopt SIPs (or EPA adopts FIPs) to eliminate such emissions.
8	Analytic year	2023 – aligns with expected attainment year for moderate ozone nonattainment areas.
8-9	Expected ozone designations deadline	October 2017
9	State contribution screening threshold	1% or more of the ozone standard.
9 footnote	Emissions projections	EPA has used various state and federal regulations, assuming their implementation. Any change in implementation in the future may impact projections and related findings
10	Modeling platform used	2011-based modeling platform to develop base year and future year emissions inventories. Included meteorology for 2011, base year emissions for 2011, and

		future year base case emissions for 2023.
10-11	Modeling approach	• 2011 and 2023 modeling used to predict nonattainment and maintenance problems in 2023. • Ozone apportionment modeling was used to quantify emissions contributions in each state to ozone concentrations at projected nonattainment and maintenance monitors in 2023.
11	Access to data	All 2011 and 2023 emissions data and state/federal rules used in the 2023 base case are available in the docket for this notice.
11	Key differences between 2011 CSAPR update inventories and inventories for this NODA	• Updates to mobile source emissions. • Updates to EGU emissions. • Inclusions of fire emissions from Canada and Mexico. • Updated estimates of anthropogenic emissions from Mexico.
11-14	Key differences between projections of future year emissions for the CSAPR update and this NODA	• Use of US EIA AEO 2016 data for on-road mobile sources and growth of oil and gas emissions. • Additional refinements of oil and gas emissions projections. • Incorporation of MARAMA updates for non-EGU emissions for their states. • EGU emissions – updates to the IPM model to capture market trends in the power sector today and to reflect continuation of those trends through 2023 – includes oil and gas pipeline and storage capacity increases, electric demand growth continuing to decrease, cost of renewable energy technologies dropping, continuation of tax credits for RE, resultant decreases in generation and capacity for conventional coal steam. (Coal share of electricity generation has declined about 33% in the past ten years.) Also, NO_x reductions from the Clean Power Plan are included
14-16	EGU emissions projections tools	• IPM V5.16 used by EPA for EGUs. • States may choose to use other EGU projections including the ERTAC alternative. • EPA seeks comment on different projection techniques that would affect emissions and air quality projections.
16	Air quality models	EPA used CAMx v6.32 for base year and future year air quality modeling to identify receptors and quantify contributions.
17	Air quality model predictions	Ozone predictions from 2011 and 2023 CAMx model simulations were used to project 2009-2013 average and maximum ozone design values to 2023.
17 footnote	NAAQS compliance value	Values from 70.1 to 70.9 ppb are truncated down to 70 ppb. Only values equaling or exceeding 71.0 ppb are considered to exceed the NAAQS.
18	Nonattainment and maintenance determinations	Sites with projected 2023 average DVs exceeding the NAAQS and currently measuring nonattainment with the NAAQS would be considered nonattainment receptors in 2023. Sites with projected 2023 maximum DVs exceeding the NAAQS would be considered maintenance receptors for 2023.
19	Tables 1a and 1b	2009-2013 and 2023 average and maximum DVs and 2013-2015 and preliminary 2014-2016 DVs at projected nonattainment receptor sites - includes 1 monitor in MD, 2 in NY, 5 in TX, 1 in WI, and 40 in CA.
21	Tables 2a and 2b	2009-2013 and 2023 average and maximum DVs and 2013-2015 and preliminary 2014-2016 DVs at projected maintenance-only receptor sites - includes 3 monitors in CT, 2 in MI, 1 in NY, 4 in TX, 5 in CA, and 3 in CO.

22-23	Quantification of ozone contributions	• EPA preformed nationwide, state-level ozone source apportionment modeling to provide information regarding expected contributions of 2023 base case NO_x and VOC emissions from all sources in each state to projected 2023 ozone concentrations at each monitoring site.
		• EPA tracked ozone formed from the following contribution categories using the associated "tags":
		  ○ States – anthropogenic NO_x and VOC emissions from all 48 contiguous states and DC were tracked individually with emissions from all anthropogenic sectors in a given state combined.
		  ○ Biogenics – NO_x and VOC emissions domain-wide.
		  ○ Boundary conditions – concentrations transported into the modeling domain from lateral boundaries.
		  ○ Tribes – emissions from tribal lands for which 2011 NEI point source inventory data was available.

		Canada and Mexico – anthropogenic emissions from sources in portions of CN and MX that were in the modeling domain were included. ○ Fires – combined wild and prescribed fire emissions domain-wide were used but were not separated by state. ○ Offshore – combined emissions from off-shore marine vessels and drilling platforms were included but were not separated by state.
23	Modeling period	EPA used May 1-September 30 for source apportionment model simulation.
23	Emissions used	EPA used 2023 future base case emissions during the time period for source apportionment.
23	Meteorology used	EPA used 2011 meteorology during the time period for source apportionment modeling.
24	2023 contributions	Contributions for each tag to each monitoring file are available in files in the docket.
24	Largest contributions	The largest contributions from each state to 2023 downwind nonattainment and maintenance only receptors are provided.
25	Table 3-1	Largest contribution from each state to downwind 8-hour ozone nonattainment receptors
26	Table 3-2	Largest contribution from each state to downwind 8-hour ozone maintenance receptors
27-28	1% threshold	• EPA feels that the 1% threshold is appropriate for identifying interstate transport linkages or states collectively contributing to downwind nonattainment or maintenance problems because this threshold captures a high percentage of total transport affecting downwind receptors. • Upwind states contributing at or above 1% of the threshold to a particular downwind receptor are considered linked to those receptors; requiring further analysis and determination of whether and what emissions from an upwind state contribute significantly at the downwind receptors. • Upwind states with downwind receptor linkages and contributions of 0.70 ppb or more are identified in the technical support document for this notice.
28-29	Significance	An upwind state's linkage to a downwind receptor alone does not determine that a state significantly contributes. States and EPA may consider other factors to complete the evaluation of state planning obligations under the Good Neighbor SIP requirements when collective contributions may not be a considerable portion of the ozone concentration at a downwind monitor. Collective contributions of emissions of one or more upwind states that are a considerable portion of a downwind air quality problem would result in a finding of significance irrespective of where the receptor is located.
29	Contents of the docket	• The Air Quality Modeling Technical Support Document. • An Excel file containing 2009-2013 base and 2023 projected average and maximum ozone DVs at individual monitoring sites and ozone contributions to monitoring sites from anthropogenic emissions in each state and from other individual categories defined in the source apportionment modeling. • Emission summaries of many types.
30	Electronic versions of data	Emissions and non-emissions input files, model code and run scripts, and modeling output files are available from Norm Possiel. The MJOs are working on a process to deliver required information to member states.
30	Summary of information EPA is seeking	• Components of the 2011 modeling platform. • Methods for projecting 2023 ozone DVs. • Methods for calculating ozone contributions. • Methods to project emissions to future years. • New data sets. • Impacts of existing and planned federal, state, and local emission control programs. • Methods that might be used to prepare more representative emissions projections. • Alternative approaches to existing methods along with documentation describing why such alternatives would improve over existing methods.

To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; Harvey, Reid[Harvey.Reid@epa.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Sorrels, Larry[Sorrels.Larry@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Weatherhead, Darryl[Weatherhead.Darryl@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; Keaveny, Brian[Keaveny.Brian@epa.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]
Cc: Bridgers, George[Bridgers.George@epa.gov]; Misenis, Chris[Misenis.Chris@epa.gov]
From: Theresa Pella
Sent: Wed 1/4/2017 3:14:59 PM
Subject: Agenda and handouts for Jan. 5th conference call
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Please see the agenda for the call in information, including the time in your zone..

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)
(mobile)

tpella@censara.org

http://www.censara.org

To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]; Kim, Byeong[Byeong.Kim@dnr.ga.gov]
Cc: Keaveny, Brian[Keaveny.Brian@epa.gov]; Dolwick, Pat[Dolwick.Pat@epa.gov]
From: Theresa Pella
Sent: Wed 5/3/2017 4:32:38 PM
Subject: REVISED agenda for May 4th Fed/State Tech Work Collaborative Group conf call
REVISED_17-05-04_fed state coll grp conf call agenda.docx
17-04-06_fed state coll grp conf call summaryDRAFT.docx

Due to schedule conflicts, the agenda topics have been rearranged - start and finish times remain the same.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)
(mobile)

tpella@censara.org

http://www.censara.org

DRAFT 4/25/17
Federal/State Technical Work Collaboration Group
Conference Call Summary
April 6, 2017

Welcome and roll call:
Participating organizations included: EPA OAQPS, OAP, WESTAR/WRAP, Utah, MARAMA, OTC, New Hampshire, Maryland, SESARM, Georgia, North Carolina, LADCO, CenSARA, Texas, Missouri

Overview of Report from the New Base Year Recommendations Subgroup:
Alex Cohan (LADCO) explained the subgroup started with 2014-2016 data. They looked at meteorology, emissions inventories, and exceptional events to help with deliberations. The subgroup's recommendation is for EPA to use 2016 as the baseyear, but also model 2015 if resources are available.

Norm Posseil (OAQPS) suggested the next step is to collaborate on development of 2015 and/or 2016 emissions inventories and understanding certain types of exceptional events during those years (ex: fires, stratospheric intrusions). Mark Janssen replied the Inter-RPO EI group could help by starting to build inventories. Chet Wayland (OAQPS) said EPA will be embarking on a 2016V1 EI that will be used for initial model evaluations, but they have no funding yet beyond that. The Inter-RPO EI group will talk further about on its next call. Tom Moore (WESTAR/WRAP) suggested instead of generating V1 as a priority, it may be better to start with developing a plan on how to project 2014 to 2016 for each source category – akin to an EI prep plan.

Tom added exceptional events could be approached through routine analyses by an ongoing workgroup that includes regional offices. For example, are there regional analyses that could be done? Exceptional events are separate from the EI work because decisions are many months away. Theresa Pella (CenSARA) suggested it might be helpful to ask Rhea Jones to give a presentation to the group on the status of their activities.

Tom asked if EPA is modeling 2014 too? Chet replied they will be running the model for every year (2014, 2015, and 2016) for the Center for Disease Control task.

Status of ERTAC/EPA group activities:
Serpil Kayin (OAP) explained they now have the ability to run ERTAC inhouse at CAMD and on next month's call will be ready to give a briefing on this and other things the subgroup has done since last June's meeting. Rob Kaleel (LADCO) mentioned one key piece of modeling will be ERTAC data for a 2016 base year and 2023 projections and asked if there is a timeline for ERTAC to provide these products? Mark Janssen replied once EPA's schedule for its 2016 modeling is known, ERTAC will need three-four months to build the new ERTAC baseyear.

Susan Wierman (MARAMA) asked whether the EPA draft guidance clarifies that states can use ERTAC with a 2011 baseyear to project to 2023. Serpil responded the guidance is at OMB for final approval, but per the draft guidance, states can use any method and tool with

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justification. CAMD did receive comments from ERTAC. Susan asked what kind of justification is necessary? Serpil said it would depend on what ERTAC would be used for and how. Julie McDill (MARAMA) added some changes the ERTAC group recommended were a clarification of the continuous misunderstanding that ERTAC can only be used for a maximum five-year projection (not true) and how ERTAC can model control strategies. Tad Aburn (Maryland) suggested CAMD should have a dialogue with air directors, not just staff, before they go final with the guidance.

Status of 2015 Ozone NAAQS modeling platform data transfers to MJOs/states and completeness reviews to date:
Norm said a consolidated response from MJOs and states on what is missing would work best. Theresa explained the forum set up in the Intermountain Data Warehouse is intended to provide that and asked the other MJOs and states when they might be ready to send something to EPA. Jim Boylan (Georgia) replied now might be good, since the first step will be to replicate what EPA has done. Georgia has already gone through and found a few things and suggested two weeks should be sufficient to get an initial list to EPA. LADCO said they are starting to reassemble SMOKE for groups that don't use the EMF.

Follow up on NODA comments to date - https://www.regulations.gov/docket?D=EPA-HQ-OAR-2016-0751

- Is it helpful for EPA to: identify receptors? Identify linkages? Identify cost of potential reductions? Identify budgets?
- Should EPA update its AQ analysis (i.e., receptors and linkages), identifying the scope of the ozone transport problem? If so, what is most useful to states?
- What type of tools or analyses could EPA develop and/or what type of tools are available to help assess emissions reduction and control obligations for EGUs and non-EGUs?
- What factors should be considered that would cause EPA to address transport differently in the East versus the West?

Norm said EPA is assembling comments, but it will probably be several days before they have access to all of them. Depending on the number and substance, it could take several weeks to summarize and be ready to have a concerted conversation with the states. Dave Foerter (OTC) said the process sounds good, but is concerned other states would not be included in the conversation. Tad agreed talking about the comments would be helpful. Chet added everyone needs to consider prioritizing what comments would be addressed first because of timing if EPA needs to do something soon (AAPCA requested remodeling by August). Theresa asked for verification that the comment period would not be extended. Chet replied the commenters withdrew their requests for an extension.

Tom Moore said it sounds like there is a possibility there may be revised 2023 projection modeling? Chet responded that they have been asked to do so, but won't know until EPA management gives direction. If they get the go ahead and states need the results by August, there will be a need to prioritize what can be done. Tom said western states will be post processing how different tests were applied. Theresa suggested to help, maybe states and

MJOs could put together a top three priorities list. LADCO suggested it would help to see Norm's list first; others agreed. John Hornback (SESARM) asked how soon would EPA be making a decision and how long would it take states to develop what would be needed? Julie asked if EPA could use ERTAC instead of IPM? Chet replied that decision is not off the table. Mark asked if a rerun of MOVES would be part of a remodel? Chet replied that though they haven't seen all the comments yet, so far no one commented on the mobile modeling. Alison Eyth (AOQPS) added there is updated MOVES modeling for the 2014 NEI V2.

Overviews of LADCO and MARAMA/OTC work to remodel 2011/2023 platform:
Rob said LADCO has started the process to replicate EPA's modeling. A longer term exercise, if files are available, is to run OSAT to get better feel for state-to-state impacts and source apportionment. Will add that to the EPA list of things needed. One other thing will want to do is rerun 2023 with ERTAC in place of IPM. One issue may be how to use the CSAPR update model ready files. The results will be for states who need to do attainment demonstration SIPs and for 2015 I-SIPs.

Joseph Jakuta (OTC) said they are putting together 2020 and 2023 screening emissions inventories. 2020 will be an interpolation from 2017 and EPA's 2023. They plan to replace IPM with ERTAC. 2023 will be mostly using EPA's modeling with replacing IPM and estimating an adjustment factor for the CSAPR update. Will need to develop EMF growth, using OTC point source files with a CSAPR cap. The goal is to be done by a June meeting. The quasi-SIP ready work includes updating 2011 chemistry. They also plan to remove rules no longer on books, mostly for EGUs (CPP); but also ones like the methane rules. It is anticipated some states will use the work for their 2015 transport SIPs and serious area attainment demonstration SIPs for the 2015 NAAQS. All will be with a 2011 base year.

Alison asked if the main difference between EPA's run and OTC's is use of ERTAC for 2023? Joseph replied yes. Chet asked about the domain size? Joseph responded theirs extends to the eastern borders of the CenSARA region and in the south cuts off GA, AL, and MS. Chet followed by asking if some MJOs are already doing revised modeling, would EPA also need to do? Joseph said their 12 km domain may not be as useful for other regions. Norm asked if there was a reason why OTC and LADCO and others couldn't work together to come up with nationwide 12 km run rather than do in piecemeal manner? Jeff Underhill (NH) suggested for a new platform modeling for 2011 may work, but not sure there is enough mileage to do. Julie added one issue is that no RPO/MJO has the EPA platform set up yet. Tom added the set up is just one part of what is needed. Norm responded that it is the state's job to do technical work for 110 SIPs and if there is already movement forward, can the next step to work together be taken? Chet added how to leverage work is one of the basics for this group. Thinking about now may be able to pull together and have something if EPA's funds fall short. Susan said it seems everyone is working closely together on emissions inventories – ex: LADCO, GA, and MARAMA are all using 2023. She agreed it is necessary try to optimize resources and if EPA decides it can run 2023, states can provide EIs and let EPA do the modeling. Tad added that the issue of whether states can step up and help is a valid point.

Next call – Thursday, May 4, 2017, 10:30 – noon eastern

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REVISED FINAL
Federal/State Technical Work Collaboration Group
Conference Call Agenda
Thursday, May 4, 2017
10:30 – 12:00 eastern
9:30 – 11:00 central
8:30 – 10:00 mountain
7:30 – 9:00 pacific

Ex. 6 passcode Ex. 6

(EDT)

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Initial discussion items - all

- If EPA remodels, should the air quality analyses (i.e., receptors and linkages) be updated? If so, what is most useful to states?
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- What factors should be considered that would cause EPA to address transport differently in the East versus the West?

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11:00-11:05 Overview of Action Plan status – Theresa Pella (CenSARA)

11:05-11:20 Status of ERTAC/EPA subgroup and revised EGU Projection Guidance language (see attached) – Mark Janssen (LADCO)/Serpil Kayin (CAMD)

11:20-11:30 Review of MJOs/States' 2015 Ozone NAAQS modeling platform data drive gaps list (see attached) and next steps – all

11:30-11:50 Progress reports by LADCO and OTC on regional work – Rob Kaleel and Joseph Jakuta

11:50–noon EPA's plans for global modeling – Pat Dolwick (OAQPS)

noon Wrap up - Theresa Pella

Next call – Thursday, June 1, 2017, 10:30 – noon eastern

To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]
From: Theresa Pella
Sent: Tue 5/2/2017 7:57:32 PM
Subject: Materials for May 4th conference call
Section 531 Revised April 2017.docx
17-05-04_fed state coll grp conf call agenda_FINAL.docx
Action plan update_17_04_25.docx
MissingFilesfrom2011ELPlatform.pdf

Please see details on call in information at top of the agenda.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)
(mobile)

tpella@censara.org

http://www.censara.org

FINAL
Federal/State Technical Work Collaboration Group
Conference Call Agenda
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From: Theresa Pella
Sent: Wed 7/12/2017 8:11:40 PM
Subject: Agenda and materials for July 20th Fed/State Tech Work Collaborative Group call
17-07-20_fed state coll grp conf call agendaFINAL.docx
17-06-01_fed state coll grp conf call summaryDRAFT.docx
Action plan update_17_07_12.docx

Attached please find the agenda for the call, as well as the latest action plan and draft summary of the June call. Additional materials will be sent prior to the call. If you are not your agency's regional haze lead, please share the agenda and invite them to join the call.

Let me know if you have any questions.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

DRAFT 07/12/17
Federal/State Technical Work Collaboration Group
Conference Call Summary
Thursday, June 1, 2017

Welcome and roll call – Chet Wayland (OAQPS)

- Due to the large number of participants (all states and regional offices were invited to the call), roll call was not taken.

Summary of 2015 Ozone Transport NODA Comments and next steps

- Norm Posseil (OAQPS) walked through the document sent with the agenda. EPA is now reviewing the comments at a refined level so cannot respond to individual ones at this time. Almost 50 organizations sent in comments. EPA divided them into four categories – overarching, policy, technical, and out of scope.
    - Summary of overarching comments – clarity of data and how much flexibility states will have; need for collaboration; EPA should remodel to reflect updates commenters provided; need for a more recent base year to take into account more recent data; WoE approach should be acceptable; modeled emission reductions must be enforced.
    - Summary of policy comments – the receptor identification process should be changed; maintenance receptors should not be included if 2016 dv is clean data; international transport should be considered and contributions should be removed from the dv before a decision is made; contribution threshold should be changed or alternatives allowed; other factors should be considered, such as collective contribution (from multiple states), different thresholds for nonattainment vs. maintenance areas; for NOx reduction potential, EPA should work with industry on cost and consider non-EGU sectors, look at high ozone days; caps should not be for shorter than ozone season; look at regional or super-regional controls.
    - Summary of technical comments –many comments were received on EGUs and NEEDS and/or IPM projections and EPA has started looking through unit specific comments to consider for future work. Non-EGUs controls should be revisited to ensure they were appropriately modeled. Will also look at on road and CMV and oil and gas emission updates. MEGAN should be used instead of BEIS was one comment. Modeling – should look at 4 km domain for coastal and mountainous areas and enlarge the modeling domain to include Canadian and Yucatan fires. Meteorology – use multiple years. The RRF should be changed from 3x3 matrix to grid that contains a monitor. OSAT vs. APCA – request is to use OSAT and look at individual source sectors by state. Jim Boylan (GA) added that for 4c, another difference is use of 1/x/1 instead of 3/x3 and some use the highest days while others use all days over 70 ppb.
    - Summary of out of scope comments – should complete FIPs for 2008 ozone quickly; address local controls before going to upwind states; should finalize modeling guidance and develop model performance goals; should be transparent in sharing model inputs.

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Q&A
MARAMA – has EPA received management guidance about what staff should be doing with the comments? Norm – no further instructions at this time; approach now is look through the comments and update technical work as they develop a new modeling platform. Even if EPA is not able to do updated modeling for 2015, states using parts or the entire modeling platform may want to take into account some of the comments.

KY – on page 6, commenters about contributions in 2023 compared to 2017 should include the State. Also on page 4, the State sent in a spreadsheet with units shut down by IPM. Given that EPA may not be able to provide an updated platform, can states use 3rd party modeling data? Norm - one consideration states should keep in mind is trying to avoid inconsistent outcomes as they relate to downwind receptors and levels of contribution. If thinking of using different models and techniques, broader conversations may be useful.

NY – from a policy perspective, given that the NODA allowed presumptive approvability if a state used EPA's modeling, how will comments be factored into EPA's review? Beth Palma (OAQPS) responded it may need to be case by case as the 2015 designations are likely to be delayed, but the submittal date for transport SIPs cannot be delayed because it is tied to the NAAQS promulgation date. Norm added the process is that states will be working with regional offices, so questions can be raised that way. Beth added a July webinar for the regions on the ERTAC tool would help them understand how the tool can be used by states. Michael Ling (OAQPS) asked for clarification of where a presumptive approvability statement is made in the rule. [NOTE: New York was relying on 82 FR 1735, 1/6/17 – "The EPA believes that states may rely on this or other appropriate modeling, data or analyses to develop approvable Good Neighbor SIPs, which, as noted previously, are due on October 26, 2018."]

KY - Sean Alteri asked if the modeling EPA will be doing for the 2008 Ozone Transport FIP to determine an appropriate pathway will be a rerun for the NODA modeling? Norm replied they are looking for analytical options to respond to the court decision, which has a deadline of 6/1/18 for estimating receptors and contributions. Sean requested there be a strong collaboration so the State can make an approvability SIP demonstration, assuming it will need to model as well.

MD – Tad said he agreed with Sean, as other states are anxious to develop and submit approvable SIPs for the 2008 Ozone NAAQS, as well as get a start on the 2015 Ozone I-SIP.

OH – Bob Hodanbosi commented that it may not be ideal for states to use different models and outcomes, but if EPA's expectation is that over half the states need to agree with a modeling platform and control strategies, it is unrealistic. EPA needs to be thinking how it will react and review different approaches in SIPs it receives. Norm suggested a separate conversation to focus on the issues and collectively come up with options that may not burden the states and help EPA appreciate the differences states have.

MD – Tad said he agreed and it was time to start a discussion of what a regional plan might look like for states in the east. MD has done some work that most states may not have

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issues with.

MARAMA– what will EPA do with the emissions inventory comments for NEI 2014V2? Norm replied as they go through the comments on individual sources, they will probably reach out to the specific state. Alison Eyth (OAQPS) added the submission window for 2014 NEI V2 nonpoint is open until the end of July; however, mobile on road and non-road is closed.

Theresa pointed out there were two topics several commented on – one about the IPM data and the other about the contribution threshold. She noted the ERTAC/EPA group has been tackling issues raised in the IPM comments. On the threshold topic, western states are starting a dialogue with EPA regarding appropriate criteria for their section of the country and what comes out of that may be useful in determining if the current criteria are appropriate for the rest of the country. Norm agreed a threshold conversation makes sense to have with western states, and then use that outcome for a broader group discussion.

OTC – Dave Foerter said that looking at the contribution threshold comments, the mid-atlantic and northeast states did not comment that a change is necessary. Theresa suggested that point be part of the broader conversation.

Status of the transfer of 2015 Ozone transport NODA platform data gaps to IWDW
Theresa Pella (CenSARA) said all data gaps are filled with everything now with the IWDW.

Progress reports by LADCO and OTC on regional work

- Rob Kaleel – LADCO is still working with the NODA platform and has been benchmarking modeling capabilities with EPA. They weren't getting the same results and found the reason to be FORTRAN compiler differences. They are now doing source apportionment modeling – both OSAT and APCA (computer time intensive so will take 2 months) – and will replace IPM with ERTAC for 2023. North Carolina asked if LADCO observed any differences in biogenic contributions - they are using CAMx 6.11 and finding big differences. Alex Cohan (LADCO) replied they haven't looked into biogenic contributions, but is willing to talk offline.
- Joseph Jakuta – OTC has not started modeling yet, but decided on 2017 and 2023. They are also developing 2020 EIs for use in a nonattainment area SIP and would like to request EIs from EPA – the 2017 Ek and on road and non-road gridded files, untagged and tagged versions if possible. If other regions are interested, OTC can be responsible for sharing the data. Norm asked Joseph to send an email request to him and Alison. North Carolina added they would also like to have the Ek files. Norm reminded everyone that the files being discussed were used for the final 2008 Ozone CSAPR update.

Action Plan Highlights
Theresa mentioned she received one update, but found a couple of places she needs to follow up on. Reviewing the document can be added for next month's call.

New MJO coordinator

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Theresa announced that Mary Uhl, Executive Director with WESTAR/WRAP, will be transitioning into the role. Calls are scheduled through July so subsequent call appointments will be coming from Mary.

Open mic
IA- Was the Kentucky lawsuit because CSAPR was only a partial solution or for other reasons? Michael Ling – the decision means EPA must come up with a full solution obligation.

Next call – Thursday, July 6, 2017, 10:30 – noon eastern [rescheduled to Thursday, July 20th, 10:30-noon eastern]

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To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]; Kim, Byeong[Byeong.Kim@dnr.ga.gov]
From: Theresa Pella
Sent: Wed 5/31/2017 1:18:41 PM
Subject: Materials for Thursday, June 1st conf call
17-06-01_fed state coll grp conf call agendaFINAL.docx
Comment Summary_2015 NAAQS Transport NODA_05-30-17.docx
17-05-04_fed state coll grp conf call summary DRAFT.docx

Please note the first agenda item on the call will be an overview of the 2015 Ozone NODA comments, so all states and EPA Regional Offices have been invited to join the call. As a courtesy to each of us, please remember your mute/no hold buttons.

Thanks!

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

(mobile)

tpella@censara.org

http://www.censara.org

DRAFT 5/16/17
Federal/State Technical Work Collaboration Group
Conference Call Summary
Thursday, May 4, 2017

Welcome and roll call – Chet Wayland (OAQPS)
Participating organizations included EPA OAQPS and OAP; WESTAR-WRAP; UT, MARAM;, OTC; NH, NY, MD, SESARM; NC; VA; GA; LADCO; IL; MN; CenSARA; TX; MO

Status of EPA NODA comments review and prep work to potentially remodel for 2015 Ozone Transport – Chet and Norm

Initial discussion items - all

- If EPA remodels, should the air quality analyses (i.e., receptors and linkages) be updated? If so, what is most useful to states?
- Should EPA identify cost of potential reductions and/or identify tools/analyses states could use?
- What factors should be considered that would cause EPA to address transport differently in the East versus the West?

Chet Wayland – staff has no official direction yet but indications are for staff to not do new modeling for 2015 ozone transport so the Office is focusing on work to prepare for modeling with a 2016 baseyear. Thus, EPA may need to rely on the work MJOs are doing for 2015 Ozone, along with the NODA work. Norm Posseil added for a 2016 modeling platform development of the met data is in progress; the plan is to use the 2014 NEI data with 2015 point and any 2016 emissions data MJOs/states can provide. Plan is by summer have a V1 of the platform done using data now in house. Then, if resources are in place, do a V2 platform.

John Hornback asked for clarification of when V1 of the 2016 platform will be done. Norm replied the plan is to have by this summer.

Rob Sliwinski (NY) asked if a pending court (Northern Cal.) decision that may require EPA to complete a 2008 Ozone FIP for Kentucky could presumably apply to other states and possibly help with the 2015 Ozone transport SIPs? Norm said the court decision implications could mean EPA must do a final rule by next summer. What types of controls that might be included in the FIP is unknown at this time. Part of the work will be looking at NOx reductions from EGUs and non-EGUs, not just for Kentucky, but other states in the CSAPR update program. David Risley (OAP) agreed some analysis for Kentucky could be informative for other states' SIPs/FIPs. He reminded attendees that a FIP obligation doesn't preclude states from submitting 2008 Ozone transport SIPs before FIPs are effective. And, what's included in those may be informative for 2015 Ozone. Rob agreed that with EPA's work done next summer (court date June 2018), one would think the results would be informative for 2015 Ozone. Norm added it would be helpful for EPA to know, on the topic of additional controls, what states needed, rather than EPA doing analyses from what it has....hoping states would be willing to help build on the knowledge base.

John Hornback asked who would need to take the first step – the state EPA is developing a FIP

for? David Risley replied that to some extent, the same type of conversations happening with Kentucky is needed with other states. Dave Foerter (OTC) asked about implications beyond Kentucky? Norm replied – yes, the work could impact FIP calls for other states. David added that was true, though, the only deadline that was being litigated was for Kentucky.

Susan Wierman (MARAMA)– if EPA was interested in potential NOx reductions states have done, MANE-VU has been holding calls to assess sectors and controls for the next phase of Regional Haze SIPs that may be helpful. Norm will follow up with Joseph Jakuta (OTC) and may be the Group could revisit the topic on next month's call. David Risley said the interest applies to EGUs as well as non-EGUs as the CSAPR update focused on 2017 and there may be post-2017 controls in place or coming. Julie McDill (MARAMA) highlighted the continued need to keep in mind mobile NOx reductions.

On the topic of addressing transport differently in the west vs. east, Jeb Stackhouse (OAP) noted Anna Wood's presentation for the WESTAR/WRAP meeting included the four-step policy framework and thinks it is still the right way to ask what may or may not be different in the east/west. Mary Uhl (WESTAR-WRAP) added they haven't had a conversation with states yet, but will try before June 1st. She'll touch base with Norm.

Update on incorporating state survey results on existing non-EGU control measures into EIS:
Robin Langdon (OAQPS) mentioned state emission inventory points and the MJOs received an email in early March explaining that EPA uploaded into the EIS all state provided changes for control measures and unit designs. She reminded states that for future EIS submittals to use design capacity or the system would overwrite what EPA input.

Overview of Action Plan status:
Theresa Pella (CenSARA) explained draft updates to the Plan were made to reflect progress since the June 2016 workshop. Please submit comments to her by May 18th; then, the group could do walk through on the June or July call.

Status of Final report out by ERTAC/EPA subgroup and revised EGU Projection Guidance language:
Serpil Kayin (OAP) said from the earlier discussion, the final report may need to be edited, but the intent is to continue to build on the cooperative work so far to understand how budgets are built and modeled. Mark Janssen (LADCO) agreed the group plans to continue talking as new comment periods and deadlines arise.

Serpil mentioned the purpose of the Guidance is to provide a logical policy framework to help build solutions. The draft was shared in January and they received feedback in April – the latest version reflects that feedback. The group is also working on what an ERTAC product should look like if submitted under the guidance as part of a SIP. The Guidance does lay out relevant information about different data sources to consider in a SIP context and includes examples of EPA projection tools – none should be seen as being preferred over others. She added they've seen several presentations by MJOs about how and when controls beyond "on

the books" –can be modeled for different purposes. ERTAC is helping CAMD learn their tool and how to run it.

Theresa asked if calls/webinars have been scheduled yet to update EPA regional offices? Mark responded that the Group still has work to do and recognized if they pull them in too soon, it may be difficult to explain the tools and their differences. Julie added they are planning on a webinar and looking for the list of appropriate people to invite – Serpil will send the contacts they have to Theresa, who'll share with the MJOs to get updates. Beth Palma (OAQPS) said there is a regional office workgroup that includes some folks with appropriate responsibilities who should attend. Theresa will include Beth when she sends the list out.

Review of MJOs/States' 2015 Ozone NAAQS modeling platform data drive gaps list and next steps:
Theresa updated the Group that a call is scheduled to talk through the process for EPA to upload missing data identified by the states/MJOs into the IWDW. Norm thanked the states and MJOs for their timely review of the drives.

Norm mentioned the IWDW might be one place to share other data, such as the 2014 NEI data. The June or July call may be timely to talk about that particular set of data. Julie mentioned that states/MJOs are hearing that the delay of the 2014 NEI V2 until the end of this year means it won't be of much value, however, there is interest by states/MJOs to obtain the data. Norm replied he understood the 2014 NEIV2 is of interest and will follow up with the EI folks to be sure they are aware of that.

Tom Moore (WESTAR_WRAP) inquired if the 2028 results for Regional Haze were available? Norm replied that they are analyzing the model results and trying to schedule internal briefings with EPA management.

Progress reports by LADCO and OTC on regional work:
Rob Kaleel said LADCO is working on benchmarking the CAMx modeling results with other CAMx users to be sure they are matching EPA's results. Also, working with their members to plan a series of source apportionment runs using OSAT and plan their first run to be the same as EPA's to be sure they are matching the upwind/downwind linkages. Then they'll look at various source categories and replace IPM inputs with ERTAC inputs. Norm asked if a decision on the source category breakout would be by state and specific SCCs? Rob responded they plan to first do basic EI categories, then categories by state using the same domain as EPA. Norm said such results could be useful and will touch base with Rob offline.

Joseph Jakuta said the OTC is planning to do source apportionment modeling as well and will talk specifics at an internal meeting in week or two. Modeling 2017/2020 or 2023 is one debate. Whatever the emission inventory years they will replace IPM with ERTAC and other point source files because of issues surrounding which sources are included in IPM and ERTAC. They are not sure yet if they will use EHk or EHl files yet. They need to get Ek from EPA (from 2008 Ozone work). They plan to tag all the sources in the domain, which is halfway through the CenSARA region. They are still thinking about what to tag separately or put as

one. They may have an issue with the tools they are using to create a domain and are hoping EPA has a tool that can adjust the domain without losing the tags. The sources are the same as in the pre-emerge files. The Region has an interest in HDDT, so may need another tool to analyze that category. Using CAMx, OSAT or APCA - not sure yet. Also looking for a tool to help process the results. Norm replied EPA is willing to help with existing post-processing tools that can show contributions on an hourly basis. Alex Cohan (LADCO) added EPA does have a tool for retagging that may be included with the new data drives.

EPA's plans for global modeling:
Pat Dolwick (OAQPS) said they are six to18 months out to have global model outputs that could be suitable for typical modeling simulations. They are also working on potentially developing a suitable model test bed for various models. Thirdly, they are actively participating in various community comparison work – ex: HQAST or WESTAR with eye towards improving global models. More specifically, two parallel tracks with GEOSCHEM (a lot of in house work is the first step is to run 2016 with GESOCHEM 11 and GEOSP?? and currently available emissions). Hope a "quick and dirty" 2016 GEOSCHEM run to be the results that can be used for the 2016 platform initial work. May have something in Spring 2017. Also, will test Colorado State's by Devon Henze. Also working with ORD to model with CMAQ and CMAQ5.2 with initial results in the summer 2017. Hoping to do model evaluations with more scrutiny than in the past. See regional modeling differences from global model results outside of the U.S. Looking to use as many sonde results as can get as well as aircraft and satellite data.

Julie said Maryland has sonde data available. She also suggested they verify U.S. emissions inventories are updated before they use them. Pat responded they do haves sonde data from Wallops Island in VA and will follow up to get the Maryland data.

Tom Moore inquired if there was a document that walks through the various platforms EPA is using including the global models using with each. Pat asked for clarification – a one or two pager about global model applications (doable) or something larger, like a description of NATA and related global and regional modeling applications? Norm added that for 2011/2012/2013 EPA leveraged existing GOESCHEM runs, starting with the 2011 MET platform. Will verify if that's true for 2014. Moving forward, EPA hopes to do year-specific GEOSCHEM runs. John Hornback mentioned that EPRI is getting ready to do international modeling for regional haze purposes and asked if there was a way for EPA to collaborate with the private sector? Pat said he received the invitation from EPRI and is waiting to hear from management whether he can participate.

Shantha Daniel (TCEQ) mentioned at an earlier conference EPA gave an overview of work to compare three different global models and asked if the results were available? Pat responded there was a recent meeting in RTP of the HTAQ group where there may have been a presentation. There is also the HTAP group. EPA is interested in partnering with whomever on whatever global model is of interest.

Next call – Thursday, June 1, 2017, 10:30 – noon eastern

2015 NAAQS Preliminary Transport Modeling NODA
Comment Summary

- On January 6, 2017 EPA provided preliminary interstate ozone transport air quality information relevant to the 2015 ozone NAAQS through a Notice of Data Availability (NODA) (82 FR 1733). The comment period for the NODA closed on April 6, 2017.

- This document summarizes public comments on the NODA and does not represent any EPA view or position on the information from the commenters as captured here.

- EPA received comments on the transport modeling NODA from nearly 50 commenters
  - 21 state air agencies:
  AL, AR, CT, DE, GA, IA, KS, KY, MD, MO, NC, NV, NY, OH, OK, SC, TX, UT, VA, WI, WY
  - 3 multi-state groups: *AAPCA, LADCO, and the OTC*
  - 23 industry groups:
    Alliant Energy (Alliant)
    American Forest & Paper Association (AFPA)
    American Petroleum Institute (API)
    Basin Electric
    Dairyland Power
    Dominion Power
    Duke Energy
    Edison Electric
    Environmental Energy Alliance of NY (EEANY)
    Illinois Environmental Regulatory Group (IERG)
    Kansas Utilities Group (KSUG)
    Midwest Ozone Group (MOG)
    Nebraska Public Power District (NYPPD)
    NRG Energy (NRGE)
    New York Independent System Operator (NYISO)
    Oklahoma Gas & Electric (OKGE)
    Southern Company
    Tri-State Generation (TSG)
    Tennessee Valley Authority (TVA)
    Utility Air Regulatory Group (UARG)
    WEST Associates (WEST)
    Westar Energy
    Xcel Energy (Xcel)

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- General Comment Categories
    - *A. Overarching Comments*
    - *B. Policy Comments*
    - *C. Technical Comments*
    - *D. "Out of Scope" Comments*

A. Overarching Comments

1. Some commenters said that states and industry stakeholders want clarity/reliability/stability/flexibility from EPA regarding the use of the NODA by states in SIPs. (AAPCA, Dominion, Edison Electric, MO, NC, TX, WY)

2. EPA should collaborate with states to enhance the accuracy and reliability of the modeling. (AL, CT, NC, VA, WY)

3. EPA should remodel 2015 NAAQS transport to reflect various considerations and updates provided in the NODA comments.[1]
(AAPCA, AR, Basin Electric, GA, KS, KY, MOG, NC, VA)

4. EPA should move to a more recent air quality modeling platform base year.
(AAPCA[2], DE, Dominion, Duke Energy, Edison Electric, KS, OKGE, UARG, VA, Westar Energy)

5. EPA should adopt a weight-of-evidence approach for evaluating transport obligations with respect to the 2015 ozone NAAQS. (UARG, WY)

6. EPA should not approve any SIP unless all modeled emission reductions are found to be federally enforceable. (CT)

B. Policy Comments

1. Approach for Identifying Receptors

a. Receptors should be identified based on those areas designated nonattainment. (DE)

b. Sites measuring clean data based on 2016 design values should not be considered as maintenance receptors regardless of 2023 modeled design values. (TX)

c. EPA should consider international transport in determining receptors (sites that would be clean but for international transport). (MOG, TSG)

[1] There was strong support for EPA to update the transport modeling.
[2] AAPCA noted that expediency of new modeling was more important than their interest in an updated base year – i.e., that we should provide new modeling ASAP, even if that means continuing to use the 2011 platform.

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2. Contribution Threshold

(AAPCA, AL, API, AR, Basin Electric, Dominion, Edison Electric, GA, KSUG, KY, MOG, NC, OKGE, SC, TX, TSG, UARG, UT, WEST, WY)

a. EPA should consider alternative threshold(s); allow states flexibility in determining thresholds in combination with other factors.

b. EPA should use the proposed 1 ppb SIL instead of a threshold of 0.70 ppb

c. EPA should use a different contribution threshold, considering
- Collective contribution
- Different thresholds for nonattainment vs maintenance
- Contributions from local vs upwind sources
- Contributions from background sources

3. NOx Reduction Potential

a. EPA should engage with industry to gather up-to-date information on the actual cost of controls for industrial boilers. (AFPA)

b. EPA should consider control measures beyond the EGU sector.
(CT, DE, Dominion, Edison Electric, KSUG, Westar Energy)

- Full installation and operation of SCR & SNCR, high demand/ozone day requirements, performance standards for EGUs; non-EGU point sources (e.g., ICI boilers, cement kilns); area sources (e.g., low sulfur fuel oils that provide NOx benefits); and mobile sources (e.g., tighter diesel engine standards, aftermarket catalysts)

c. Control measures targeted at sources operating on high ozone days should be evaluated, with consideration given to hourly/daily emission limits and performance standards. (CT)

d. NOx caps should not be developed for time periods shorter than the ozone season. (MOG)

e. Cost thresholds in CSAPR Update are far below costs used by Northeast states for establishing RACT (CT)

f. Additional national or super-regional mobile source controls are needed (MD)

C. Technical Comments - Emissions

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1. EGU Emissions[3]

a. CPP is uncertain and should not be included in the base case
(AAPCA, API, AR, Basin Electric, Dominion, Duke Energy, Edison Electric, KS, MO, MOG, NC, OH, OK, OTC, TX, TSG, UARG, WY)

b. NEEDs and/or IPM projections
(AAPCA, Alliant Energy, CT Dairyland Power, DE, Dominion, Duke Energy, GA, IA, IERG, KSUG, KDHE, LADCO, MD, MO, MOG, NC, NPPD, NRGE, NY, NYISO, OKGE, OH, OK, SC, Southern, TX, TSG, TVA, VA, WEST, Westar Energy, WI, Xcel)

(1) Commenters provided unit-specific updates to NEEDS

(2) Commenters expressed concern that IPM shut down EGUs that are expected to continue to operate in 2023

(3) Commenters expressed concern about increases in emissions between 2011 and 2023 at certain units in the West

(4) Commenters provided unit-specific future year emissions as alternatives to IPM projections

c. ERTAC
(AAPCA, API, CT, Dominion, Duke Energy, EEANY, KDHE, MD, OK, OTC, VA)

(1) EPA should use or consider using ERTAC, a combination of ERTAC and IPM, or, at a minimum compare ERTAC and IPM results, in establishing future year EGU emissions.

2. Other Emissions Categories (details in individual comment documents)

a. Non-EGU point emissions and/or effects of existing "on-the-books" controls, consent decrees, etc.
(AFPA, CT, Edison Electric, IERG, MO, MOG, NC, OKGE, VA, WEST, WI)

(1) Update the emissions inventory for industrial boilers and process heaters, removing units in the old Boiler MACT database and 2011 NEI that have been shut down, replaced, or converted to gas and updating facility boiler and process heater NOx emissions to reflect the new configuration.

(2) EPA's modeling should include emissions reductions from PA RACTII, OTC Rules, MD rules, CT RACT and HEDD controls, NJ HEDD rule, Boiler MACT).

b. Onroad/nonroad mobile and/or commercial marine emissions.
(API, LADCO, NC, VA, WI)

c. Oil and gas emissions (base year and/or projections).
(IERG, TX, OK, KS, KY, WEST)

d. Biogenic emissions and lightning emissions. (WEST)

(1) MEGAN should be used instead of BEIS for calculating biogenic emissions

[3] Note that a significant number of comments focused on the EGU projections.

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(2) Emissions of NO from lightning should be included in the modeling

e. Wild fire emissions. (NC)

(1) "Typical" rather than year-specific fires should be used in the modeling

C. Technical Comments - AQ Modeling

1. Modeling Domain and Resolution

a. Model grid resolution of 12 km is too coarse for properly capturing ozone in areas with complex meteorology; fine scale (4 km) modeling needed for coastal areas and/or mountainous terrain. (EEANY, MOG, NC, VA)

b. EPA should increase the vertical resolution for meteorological and air quality modeling. (TX)

c. EPA should enlarge the 12 km modeling domain to include emissions from agriculture burning in the Yucatan Peninsula and the 2016 Ft McMurray wild fire in Alberta CN. (NC)

2. Meteorology

a. Modeling should be performed for multiple meteorological years (e.g., 2011 and 2012 or 2015 and 2016). (DE, MD, MOG, NY, OTC)

b. Meteorology in 2011 was anomalously hot and not representative for Kansas, Texas and Oklahoma. (KS, OK, TX)

c. Modeling should be performed for 2014 because that year had "average" meteorology. (MOG)

3. Analytic Year

a. A base year rather than a future year should be used as the basis for assessing state contributions to interstate ozone transport. (CT, OTC)

b. EPA does not provide a rationale for using the attainment year for moderate areas as the projected analysis year. (TX)

4. Methods for Projecting Design Values and Contributions

a. For calculating RRFs, EPA should use modeled values from the grid cell containing the monitor (i.e., monitor cell) or land-only cells (for coastal sites) rather than 3x3 matrix max cell approach recommended in EPA's modeling guidance.
(AL, API, EEANY, GA, MD, MOG, NC)

b. Model performance at individual sites and days should be considered in selecting days for calculating projected design values and contributions.

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(API, GA, MOG, NC, TX, UT, WEST)

c. A consistent approach (i.e., using the same set of days and validating receptor results with actual monitoring data) should be used for projecting design values and calculating contributions. (TX)

5. Approach for Identifying Receptors

a. Receptors should be identified based on those areas designated nonattainment. (DE)

b. Sites measuring clean data based on 2016 design values should not be considered as maintenance receptors regardless of 2023 modeled design values. (TX)

c. EPA should consider international transport in determining receptors (sites that would be clean but for international transport). (MOG, TSG)

6. Approach for Contribution Modeling

a. The OSAT technique should be used for contribution modeling instead of the APCA technique that has been used by EPA for ozone contribution modeling.
(Basin Electric, MOG, WEST)

b. EPA's contribution metric should be revised to consider contributions on individual days. (DE, OTC)

c. Contribution modeling should be performed to quantify the contributions of various emissions source sectors, by state individually. (NC, KSUG, NYISO, OTC)

7. Comments on 2023 Receptors and Contributions

a. EPA's transport modeling is overly optimistic, underestimating the severity and geographic extent of the ozone problem and levels of transport impacting Connecticut and other states. (CT, UARG)

b. 2023 design values are biased low in the Northeast. (DE, OTC)

c. 2023 design values do not indicate widespread nonattainment problems. (UARG)

d. EPA should explain why some downwind monitors have higher contributions in the 2023 modeling compared to the 2017 modeling or to current measurements.
(DE, Westar Energy)

e. EPA should explain why KS is linked to Tarrant Co, TX when the prevailing winds in Kansas are not from north to south. (KSUG)

f. EPA has not considered the need for improvements in modeling and analysis that will be required to address the varied and complex challenges facing western states and it is inappropriate for EPA to address these modeling issues on a case-by-case basis (TSG)

8. Technical Comments on Contribution Threshold

a. A threshold of 0.70 ppb is below accuracy of monitoring data and systematic and unsystematic errors inherent in complex modeling. (API, AR, WEST)

b. The 1% threshold for the 2015 NAAQS should be 0.71 ppb, not 0.70 ppb. (MOG, UARG)

D. "Out of Scope" Comments

1. SIPs submitted in 2018 should be treated as an initial submittal with early programs; this would allow contributing states to work together to identify and implement the full solution. (MD)

2. EPA should quickly complete the 2008 NAAQS FIP. (CT)

3. EPA should propose a FIP no later than the 110 SIP deadline of Oct 28, 2018. (CT)

4. EPA has an obligation to align the dates for development of transport SIPS with the date for imposition of legally mandated controls. (MOG)

5. EPA's 2017 projected design values are flawed because they are inconsistent with current measured data. (NY, OH)

6. EPA should address controls on local emissions in nonattainment areas before seeking emissions reductions in upwind states. (AAPCA, MOG)

7. UARG urges EPA to modify its Cross-State Air Pollution Rule ("CSAPR") regulatory analytic framework, for reasons described in UARG's December 23, 2016 petition for partial administrative reconsideration of the CSAPR Update Rule. (UARG)

8. EPA should finalize its modeling guidance (Draft Modeling Guidance for Demonstrating Attainment of Air Quality Goals for Ozone, PM2.5, and Regional Haze, December 2014). (TX)

9. EPA should develop model performance goals. (VA)

10. EPA should update the NEEDS database and then provide a comment period that focuses solely on the NEEDS database prior to the next round of IPM runs. (IA)

11. IPM is a proprietary model that often forces air agencies to guess about key inputs and assumptions. EPA should be more transparent in sharing model inputs. (AAPCA, NC)

12. It is recommended that EPA conduct an analysis of the total uncertainty associated with

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modeling ozone concentrations. (WEST)

To: Eyth, Alison[Eyth.Alison@epa.gov]
Cc: Houyoux, Marc[Houyoux.Marc@epa.gov]; Strum, Madeleine[Strum.Madeleine@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; Possiel, Norm[Possiel.Norm@epa.gov]
From: Gregory Stella
Sent: Thur 12/15/2016 9:36:35 PM
Subject: Re: 2014 NEI Modeling Platform

Hi Alison,

Can you tell me if the same MET files will be used in the 2011el/2023 platform as was used in the CSAPR final rule?

Thank you,

Greg

On 12/6/2016 10:54 PM, Eyth, Alison wrote:
> Greg,
>
> I got your email. We are planning to package 2014 this winter.
>
> I'm not sure about the timing for 2023. I may have more information on that next week.
>
> Alison
>
> -----Original Message-----
> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
> Sent: Tuesday, December 06, 2016 10:04 AM
> To: Eyth, Alison <Eyth.Alison@epa.gov>
> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Strum, Madeleine <Strum.Madeleine@epa.gov>; Fox, Tyler <Fox.Tyler@epa.gov>; Possiel, Norm <Possiel.Norm@epa.gov>
> Subject: Re: 2014 NEI Modeling Platform
>
> Hi Alison,
>
> Just checking in to see if there is any new information on the release of (1) the 2014 modeling platform and (2) the 2011el and 2023 platform.
>
> Thanks,
>
> Greg
>
>
> On 10/26/2016 4:04 PM, Eyth, Alison wrote:
>> Greg,
>>
>> I think you saw that there are flat files for 2014 for the five NEI data categories posted here:
>>
>> ftp://ftp.epa.gov/EmisInventory/2014/flat_files/
>>
>> We are working on preparing a modeling platform for NATA. We are still running sectors for this, and it's a HAP platform. We will post the emissions inputs after we have reviewed the results - probably by the end of the year.
>>
>> The 2011el case has been prepared but we haven't packaged it yet. Let me know if you need that

even without the 2023. We are still working on 2023. I think our plan is to release that by the end of the year if all goes well.
>>
>> Alison
>>
>>
>> -----Original Message-----
>> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
>> Sent: Wednesday, October 26, 2016 3:48 PM
>> To: Eyth, Alison <Eyth.Alison@epa.gov>
>> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Strum, Madeleine
>> <Strum.Madeleine@epa.gov>; Gregory Stella <gms@alpinegeophysics.com>;
>> Fox, Tyler <Fox.Tyler@epa.gov>
>> Subject: Re: 2014 NEI Modeling Platform
>>
>> Alison,
>>
>> Just following up to see what's the latest on the release of the 2014 modeling platform as well as whether we should soon be expecting to see the 2011/2023 platform for the 2015 ozone NAAQS.
>>
>> Thanks in advance,
>>
>> Greg
>>
>>
>> On 9/26/2016 9:52 AM, Eyth, Alison wrote:
>>> Greg,
>>>
>>> We are having some discussions about this in the near future.
>>> We can provide the flat files themselves pretty soon.
>>>
>>> We are working on building a new HAP-CAP platform for NATA that includes updated speciation profiles, spatial surrogates, and temporal profiels. I'm not sure of the timing of when we can release this, but we're still in the middle of building it. The timing of the release of this platform is on our list of things to discuss in the very near future.
>>>
>>> Alison
>>>
>>> -----Original Message-----
>>> From: Gregory Stella [mailto:gms@alpinegeophysics.com]
>>> Sent: Monday, September 26, 2016 9:44 AM
>>> To: Eyth, Alison <Eyth.Alison@epa.gov>
>>> Cc: Houyoux, Marc <Houyoux.Marc@epa.gov>; Gregory Stella
>>> <gms@alpinegeophysics.com>
>>> Subject: 2014 NEI Modeling Platform
>>>
>>> Hi Alison,
>>>
>>> I saw that the 2014 NEI has made it to the FTP site. Are there plans to release a SMOKE modeling platform version anytime soon?
>>>
>>> Thank you,
>>>
>>> Greg

To: Bridgers, George[Bridgers.George@epa.gov]
Cc: Page, Steve[Page.Steve@epa.gov]; Wayland, Richard[Wayland.Richard@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; Langworthy, Cindy[clangworthy@hunton.com]
From: Hamilton, Alexandra
Sent: Wed 1/18/2017 10:13:27 PM
Subject: Utility Air Regulatory Group Request for Comment Period Extension on Draft Guidance on Modeled Emission Rates for Precursors
UARG MERPS Comment Extension Request_63578581_1-c.PDF

Dear Mr. Bridgers,

Attached please find a request by the Utility Air Regulatory Group to extend the comment deadline for the *Draft Guidance on the Development of Modeled Emission Rates for Precursors (MERPs) as a Tier 1 Demonstration Tool for Ozone and PM2.5 Under the PSD Permitting Program.*

Sincerely,

Lucinda Minton Langworthy

Alexandra Hamilton

Counsel for the Utility Air Regulatory Group

HUNTON & WILLIAMS

Alexandra Hamilton

Associate *Not admitted in DC

ahamilton@hunton.com
p Ex. 6

Hunton & Williams LLP
2200 Pennsylvania Avenue, NW
Washington, DC 20037

hunton.com

To: Fox, Tyler[Fox.Tyler@epa.gov]
Cc: Wayland, Richard[Wayland.Richard@epa.gov]; Clint Woods[cwoods@csg.org]; lbb@adem.alabama.gov[lbb@adem.alabama.gov]; James.Boylan@dnr.ga.gov[James.Boylan@dnr.ga.gov]; Bridgers, George[Bridgers.George@epa.gov]; Owen, Chris[Owen.Chris@epa.gov]
From: Jason Sloan
Sent: Mon 7/3/2017 6:13:13 PM
Subject: RE: AAPCA Modeling Committee

Tyler,

We look forward to having you on AAPCA's Modeling Committee call next Tuesday. In addition to anything that you may have, there was interest from our members in hearing updates on: Appendix W and AERMOD, including the revised "Model Formulation and Evaluation Document"; major comments/feedback on recent MERPs and PM2.5 Precursor Demonstration guidance; EPA's NODA for Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone NAAQS; 2028 modeling for Regional Haze; and, EPA Office of Inspector General's project notification, "Evaluation of EPA's Approval Process for Air Quality Dispersion Models."

I can make sure to touch base next week, but the call-in information will be: **Ex. 6** passcode **Ex. 6** Please let us know if you have any questions.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

jsloan@csg.org

http://www.cleanairact.org

AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

From: Fox, Tyler [mailto:Fox.Tyler@epa.gov]
Sent: Thursday, June 15, 2017 12:10 PM
To: Jason Sloan <jsloan@csg.org>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov; Bridgers, George <Bridgers.George@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>
Subject: RE: AAPCA Modeling Committee

Jason

Thanks for your note and I am available to provide a modeling update on July 11th. As you noted, please let me know if there are particular items that you'd like more information on so I can focus the update accordingly.

Thanks again and look forward to talking with the committee.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Thursday, June 15, 2017 11:57 AM

To: Fox, Tyler <Fox.Tyler@epa.gov>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov
Subject: AAPCA Modeling Committee

Tyler,

I hope all is well! AAPCA's Modeling Committee has a call scheduled for July 11 at 3:00 PM Eastern, and we were hoping you could join us to provide a modeling update from OAQPS. With the available AERMOD revisions and Appendix W now in effect, a 20-minute or so update at the outset of the call would be helpful to the committee.

Include on this email are the committee co-chairs, Leigh Bacon from the Alabama DEM and Jim Boylan from the Georgia EPD, who may have some additional feedback on topics that may be of particular interest.

Please let us know if you are available, and we can send over a few more details, including the call-in information.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

jsloan@csg.org

http://www.cleanairact.org

AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

To: Tsirigotis, Peter[Tsirigotis.Peter@epa.gov]; Wayland, Richard[Wayland.Richard@epa.gov]; Cozzie, David[Cozzie.David@epa.gov]; Sasser, Erika[Sasser.Erika@epa.gov]; Marsh, Karen[Marsh.Karen@epa.gov]; Montanez, Jessica[Montanez.Jessica@epa.gov]; Santiago, Juan[Santiago.Juan@epa.gov]; Mathias, Scott[Mathias.Scott@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; Henderson, Barron[henderson.barron@epa.gov]
Cc: Nolan, James[James.Nolan@bp.com]
From: van Hoogstraten, David Jan
Sent: Fri 6/30/2017 6:52:52 PM
Subject: FW: Presentation slides
RTP slides June 27 2017.ppt

Attached, please find a copy of the slides we projected when we were at RTP last Tuesday. As was suggested, we will also be depositing a copy of these in the EPA docket on the input requested by the Agency in response to the "Energy Independence" EO of March 28. Best wishes for the holiday.

Many thanks and best regards,

David

David J. van Hoogstraten

Senior Director, Regulatory Affairs (Environmental)

BP America Inc.

1101 New York Avenue, NW

Washington, DC 20005

Direct: Ex. 6

Mobile:

New Source Review Reform

June 27, 2017
RTP

ED_001650_00032663-00001

Context for Meeting

- Explore regulatory reform opportunities created by recent Executive Orders
  - Interested in the possibility of aligning interests
  - BP supports regulatory reform that is based on sound public policy and that is "good for all seasons."
  - Want to test our thinking with the EPA program professionals
- NSR is a complex regulatory program that will be the subject of complicated reform discussions
  - Want to see if there are some modest reforms that can be implemented without getting bogged down in broader reform discussions.
  - Thoughtful to separate out the issues that are problems for our business and propose solutions to address them

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NSR Permitting

- BP supports a broad set of new source permitting reforms as articulated by certain trade associations to expedite the new source permitting processes.
  - Mini PALs
  - Project Netting
  - PSD "Once in, Always in"
- Those broad reforms may take some time to adopt; in the meantime, BP supports prompt action on some more modest reforms.
- We believe these reforms are based on sound public policy and will reduce burdens on permitting authorities and permit applicants.

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"Begin Actual Construction"

- Clarifications/changes to the definition of "Begin Actual Construction"
- Projects are delayed and costs increased if certain preparatory actions cannot be undertaken prior to permit issuance.
- Regulatory Definition:

Begin actual construction means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

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Tie-Ins

- A “tie-in” is piping and other equipment, including cut-off valves, installed on existing equipment to link (i.e., “tie-in”) that existing equipment to new equipment. A tie in does not involve any construction on an unpermitted unit.
- Tie-ins are a very modest portion of total construction costs
- It is safer, more environmentally sound and less expensive to install a tie-in during a single, planned maintenance event. If forced to wait for a permit, an applicant may need to take 2 maintenance shutdowns
- Tie-ins are not installed on the new unit - they are more akin to other allowed activities such as planning, engineering and ordering of equipment and materials.
- Tie-ins are universal. Can be used for another permit if permit not issued.
- Little risk that a tie-in will be inconsistent with a final permit for the new unit.
- Tie-ins have no impact on emissions that new equipment will emit once it is permitted.
- EPA can clarify its policy to allow tie-ins – no rulemaking is necessary.

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Foundations

- Foundations are a very modest portion of total construction costs
- Foundations have no impact on emissions that new equipment will emit once it is permitted and there is little risk this preparatory work will be inconsistent with a final permit for the new unit.
- In northern climates, concrete cannot be poured year round. If a permit is not issued during the construction season, a project may be unnecessarily delayed the following spring when the permit is issued.
  - Rather than beginning actual construction as soon as the permit is issued, the applicant will need to wait for climatic conditions suitable for pouring and curing concrete. This weather-related limitation puts northern applicants at a disadvantage to other applicants.
- There are other drivers for schedule driven projects, e.g. reformulated fuels, etc.
- EPA can allow pouring of foundations by making a straightforward change to its regulations.

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Begin Actual Constructions

- Operators should undertake activities undertaken prior to issuance of a PSD permit at their own risk of stranded investments, and be precluded for making equity arguments at a later time that the permit should be issued.
- Regulations specify that a source may not begin actual construction of physical on-site construction activities
  - activities that are very costly or
  - result in significant irrevocable loss to the owner.
- EPA can clarify its policy to allow tie-ins – no rulemaking is necessary.
- EPA can allow pouring of foundations by making a straightforward change to its regulations.
- These reforms will qualify as "deregulatory actions" under OMB guidance and will generate credits for EPA.

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Project Aggregation

- Confusion over when 2 or more projects should be aggregated causes permitting delays, increased permitting costs and unnecessary enforcement actions.
- EPA's Aggregation Policy should clearly define the circumstances under which two or more projects need to be aggregated.
- Permitting authorities and applicants need a bright line test such as the following:
  - A non-rebuttable presumption that projects permitted or constructed more than three years apart will not be aggregated.
  - Projects less than three years apart should be assessed under a "substantially related" test in which only projects that are technically or economically related are aggregated.
  - For projects less than three years apart, the "substantially related" test will be applied by the permitting authority only (not in subsequent enforcement proceedings) as long as both projects underwent some sort of permitting (even if minor source).
- This reform may not require formal rulemaking and would not require legislation.
- This reform qualifies as a "deregulatory action" under OMB guidance and generates credits for EPA.

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Project Aggregation

- Three years is a sensible bright line because projects separated by three years are very unlikely to be substantially related.
  - As EPA noted in its 2006 proposed Aggregation Interpretative Rule (AIR), "[w]hen activities are undertaken three or more years apart, there is less of a basis that they have a substantial technical or economic relationship because the activities are typically part of entirely different planning and capital funding cycles. The fact that the earlier activities were constructed and operated independently for such a long a period of time tends to support a determination that the latter activities are technically and economically unrelated and independent from the other earlier constructed activities."
- Safe harbors (like a non-rebuttable presumption) are commonly used to simplify public policy. The value of the simplification exceeds the cost of the very few instances in which the safe harbor is too broad.
- The aggregation issues should be resolved through the permitting process, and not through later enforcement proceedings.
- The "substantially related" test should be based on whether the projects are technically and economically dependent on each other.

ED_001650_00032663-00009

Methane

June 27, 2017
RTP

Context for Meeting

- Explore regulatory reform opportunities created by recent Executive Orders
  - Interested in the possibility of aligning interests
  - BP supports regulatory reform that is based on sound public policy and that is "good for all seasons."
  - Want to test our thinking with the EPA program professionals
- New Source Performance regulations are a complex and subject to complicated reform discussions
  - Want to see if there are some modest reforms that can be implemented without getting bogged down in broader reform discussions.
- Thoughtful to separate out the issues that are problems for our business and propose solutions to address them

Methane

- BP has long advocated carbon pricing as the most comprehensive and efficient policy to limit GHG emissions.
  - We reiterated this view when we joined the Climate Leadership Council the month.
- BP recognizes the importance of controlling methane emissions, and we have implemented best practices to reduce those emissions in our own operations.
- We support the use of flexible and market-based mechanisms to achieve environmental goals. If regulation is used, we believe that the regulations need to be well-designed and cost-effective.
- We believe that EPA's methane rule can be reformed to improve its design and make it more cost-effective.

ED_001650_00032663-00012

OOOOa Improvements

- Pneumatic Pumps
  - Method 21 for Pump Closed Vent System – allow OGI or include in LDAR monitoring
  - Greenfield and brownfield distinction – unclear when it changes
    - PE certification of technical infeasibility determinations
  - Process heaters and boilers are not control devices
- Tanks
  - Monthly Inspections of Tanks – allow the option to include in LDAR monitoring instead
  - PE Certifications
- Flowback
  - Separator On-site – clarify in the rule that on-site can be at a centralized facility and not necessarily at the well location

ED_001650_00032663-00013

OOOOa Improvements

- LDAR changes
  - Allow more than 60 days after for the initial inspection, particularly for Alaska
  - Observation path requirement from the monitoring plan
  - Sitemap requirement from the monitoring plan
  - Pathway to annual inspections for well sites and semiannual for compressor stations
  - Exempt marginal wells
- Simplification of the compliance demonstration for combustion devices and flares

Ozone NAAQS

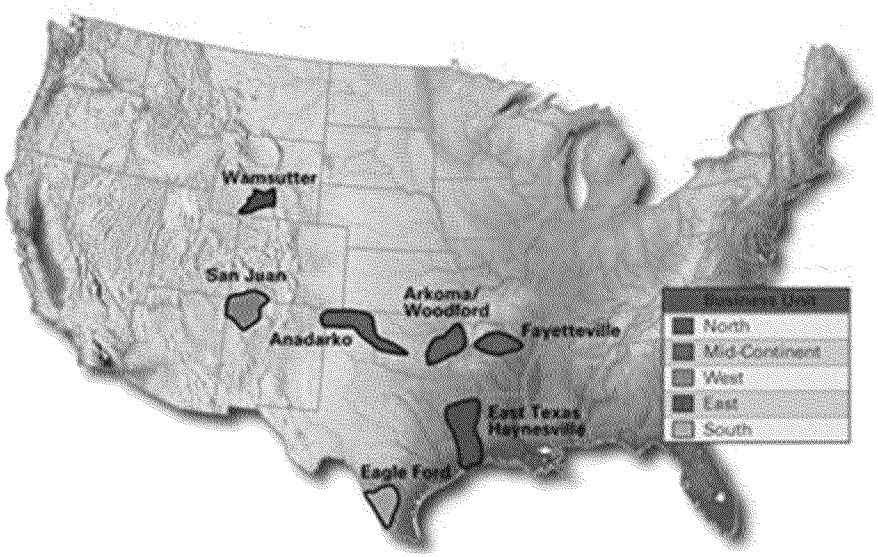
June 27, 2017
RTP

Context for Meeting

- Explore regulatory reform opportunities created by recent Executive Orders
  - Interested in the possibility of aligning interests
  - BP supports regulatory reform that is based on sound public policy and that is "good for all seasons."
  - Want to test our thinking with the EPA program professionals
  - The Ozone NAAQS is complex regulatory program that will be the subject of complicated reform discussions
  - Want to see if there are some modest reforms that can be implemented without getting bogged down in broader reform discussions.
  - Thoughtful to separate out the issues that are problems for our business and propose solutions to address them

Background Ozone

- Background ozone is still a high concern to BP.
- Operations in the Intermountain West
  - Wamsutter, WY
  - San Juan, CO and NM
- Ozone levels approaching 70 ppb
- Nonattainment results in applying the stricter Control Technique Guidelines applying to existing oil and gas production sites
  - Retrofitting existing sites with controls extremely costly
  - Could render existing wells uneconomic to operate although background ozone is the primary cause.
- Stricter permitting requirements to new sites limiting development
- Background ozone will prevent reaching attainment despite local reductions.



ED_001650_00032663-00017

Efforts on Background Ozone

- Prepared recommendation to address background through Appendix U or Exceptional Events Rule
- Commented on the Exceptional Event Rule and 2015 Implementation Rule
  - Contributed to API, NEDA CAP, and the NAAQS Implementation Coalition Comments
- Worked with API to develop the WESTAR and API Background Ozone Workshop (March 28-29, 2017)
  - https://www.wrapair2.org/pdf/BOSA_March_28-29_workshop_agenda.pdf
  - Barron Henderson (OAQPS) and Gail Tonnesen (Region 8) are participating
  - Finishing up final report that will identify:
    - Additional routine observations needed;
    - Model improvements needed;
    - Necessary model evaluations;
    - Need for targeted measurement-model campaigns;
    - Other recommendations.

ED_001650_00032663-00018

Proposal to Address High Background Ozone

- States exclude exceedances from attainment/non-attainment designations if they meet one or more criteria showing that background ozone is the "**Principal Contributor**" to exceedance:
  - A baseline ozone monitor upwind of local sources that exceeds the standard (*i.e.*, ozone exceedance is not controllable by local sources) along with trajectory analyses showing that local sources were not impacting the upwind baseline monitor.
  - Modeling data indicating that background ozone is the principal cause of the ozone exceedance.
  - Other monitoring data demonstrating that background ozone was the principal contributor to the ozone exceedance, including but not limited to, relative humidity, particulate matter and carbon monoxide concentrations, and high nighttime/ low daytime ozone levels.
- Phased-in deadlines for submission.
- Automatic approval if EPA does not object within 90-120 days of submission of the demonstration package.

ED_001650_00032663-00019

Strengthen of the EER to Address Total Background Ozone

- Use the commonly understood definition of "**event**" to apply **regardless of duration** (short term and long term)
- **Allow all sources of background ozone to be excluded** (not just wildfires and stratospheric intrusion)
- **Include international transport** as it is not controllable by states and it includes natural sources. It should be treated as a "natural" source that does not have to demonstrate it is unlikely to recur at a specific location
- **Include lightning** as it is clearly a "natural, non-recurring event that is not reasonably controllable or preventable.
- **Include biogenic sources of ozone** as they are clearly natural sources.
- **Allow exceedance due high total background ozone to be an exceptional event**, not just contribution from each source as separate events.
  - Clear causal relationship between total background ozone and exceedance
  - Where modeling or monitoring show total background as the "principal" contributor to exceedance, a clear causal relationship should be presumed.
  - Current policy is not technically feasible, but these changes are feasible

ED_001650_00032663-00020

Alternative – Appendix U of the Ozone NAAQS

- If it is concluded that the EER does not allow for a holistic approach to address background, then revisions to Appendix U of the Ozone NAAQS is another tool that is available.
- Appendix U provides guidelines for interpreting data on ozone levels for purposes of whether the NAAQS is violated.
- Appendix U could be revised to provide that exceedances of the Ozone NAAQS caused "principally" by background will not be taken into account in determining whether an area is in nonattainment.

ED_001650_00032663-00021

To: Alex Cohan[cohan@ladco.org]; Bowker, George[Bowker.George@epa.gov]; Darcy Bybee[darcy.bybee@dnr.mo.gov]; David Foerter[dfoerter@otcair.org]; Davidson, Ken[Davidson.Ken@epa.gov]; Dolce, Gary[Dolce.Gary@epa.gov]; Eyth, Alison[Eyth.Alison@epa.gov]; Fisher, Brian[Fisher.Brian@epa.gov]; Fox, Tyler[Fox.Tyler@epa.gov]; george.aburn@maryland.gov[george.aburn@maryland.gov]; James Boylan[James.Boylan@dnr.state.ga.us]; Stenhouse, Jeb[Stenhouse.Jeb@epa.gov]; Vukovich, Jeffrey[Vukovich.Jeffrey@epa.gov]; jeffrey.underhill@des.nh.gov[Jeffrey.Underhill@des.nh.gov]; Jim Smith[jim.smith@tceq.texas.gov]; jjakuta@otcair.org[JJakuta@otcair.org]; hornback@metro4-sesarm.org[hornback@metro4-sesarm.org]; Julie McDill[jmcdill@marama.org]; julies@nezperce.org[julies@nezperce.org]; Kathy Pendleton[kathy.pendleton@tceq.texas.gov]; Baker, Kirk[Baker.Kirk@epa.gov]; Langdon, Robin[Langdon.Robin@epa.gov]; Ling, Michael[Ling.Michael@epa.gov]; Mark Janssen[janssen@ladco.org]; Mary Uhl[maryuhl@westar.org]; Matthew Johnson[matthew.johnson@dnr.iowa.gov]; McKinley, Gobeail[McKinley.Gobeail@epa.gov]; ndaher@utah.gov[ndaher@utah.gov]; Paul Miller[pmiller@nescaum.org]; pbarickman@utah.gov[pbarickman@utah.gov]; Possiel, Norm[Possiel.Norm@epa.gov]; Jones, Rhea[Jones.Rhea@epa.gov]; Haeuber, Richard[Haeuber.Richard@epa.gov]; Risley, David[Risley.David@epa.gov]; Rob Kaleel[kaleel@ladco.org]; Rob Sliwinski[rob.sliwinski@dec.ny.gov]; Roberts, Sarah[Roberts.Sarah@epa.gov]; Kayin, Serpil[Kayin.Serpil@epa.gov]; Stevens, Gabrielle[Stevens.Gabrielle@epa.gov]; swierman@marama.org[swierman@marama.org]; Theresa Pella[tpella@censara.org]; Timin, Brian[Timin.Brian@epa.gov]; Tom Moore[tmoore@westar.org]; Wayland, Richard[Wayland.Richard@epa.gov]; Werner, Christopher[Werner.Christopher@epa.gov]; Wilbur, Emily[emily.wilbur@dnr.mo.gov]; Zawacki, Margaret[zawacki.margaret@epa.gov]; sushma.masemore@ncdenr.gov[sushma.masemore@ncdenr.gov]; Randy Strait[randy.strait@ncdenr.gov]; kari.palmer@state.mn.us[kari.palmer@state.mn.us]; Leopold, Scott[scott.leopold@illinois.gov]; stephanie.shirley@tceq.texas.gov[stephanie.shirley@tceq.texas.gov]; Hannah Ashenafi[hannah.ashenafi@maryland.gov]; Emily Bull[emily.bull@maryland.gov]; Witcraft, Nick[nick.witcraft@ncdenr.gov]; 'michael.woodman@maryland.gov'[michael.woodman@maryland.gov]; Eschmann, Erich[Eschmann.Erich@epa.gov]; Palma, Elizabeth[Palma.Elizabeth@epa.gov]; LaCount, Melanie[LaCount.Melanie@epa.gov]; McLamb, Bradley[bradley.mclamb@ncdenr.gov]; Tardif, Elliot M[elliot.tardif@ncdenr.gov]; Sheehan, Michael P (DEC)[michael.sheehan@dec.ny.gov]; margaret.mccourtney@state.mn.us[margaret.mccourtney@state.mn.us]; Valis, Margaret (DEC)[margaret.valis@dec.ny.gov]
From: Theresa Pella
Sent: Thur 3/2/2017 1:59:36 PM
Subject: materials for today's Fed/State Tech Work Collaborative Group call
17-03-02_fed state coll grp conf call agenda_DRAFT.docx
CAMx6.4_Updates_2Mar17.pptx
EPA 2011 2028 modeling platform file list as of 2_17_2017.xlsx

Times and call in info are on the agenda.

Theresa

Theresa Pella, Executive Director

Central States Air Resource Agencies Association (CenSARA)

P.O.Box 617, 707 N. Robinson Ave.

Oklahoma City, OK 73101

Ex. 6 (office)

Ex. 6 (mobile)

tpella@censara.org

http://www.censara.org

DRAFT 2/28/17
Federal/State Technical Work Collaboration Group
Conference Call Agenda
March 2, 2017
10:30 – 12:00 eastern
9:30 – 11:00 central
8:30 – 10:00 mountain
7:30 – 9:00 pacific

Ex. 6 passcode Ex. 6

(EST)

10:30-10:35	Welcome and roll call – Chet Wayland (OAQPS)
10:35-10:45	Update on new Base Year recommendations subgroup – Alex Cohan (LADCO)
10:45-10:55	MJO/State emissions inventory needs for a potential 2015/2016 modeling base year – Julie McDill (MARAMA) for the Inter RPO Inventory Share Group
10:55-11:00	Status of ERTAC/EPA group activities – Mark Janssen (LADCO)/Serpil Kayin (CAMD)
11:00–11:05	Status of 2015 Ozone NAAQS modeling platform data transfers to MJOs/states - Norm Posseil (OAQPS) and Jim Boylan (Georgia) and MJO/state coordination of data reviews (see attached) – Theresa Pella (CenSARA)
11:05-11:20	Next steps regarding February call Q&A of technical questions for 2015 Ozone transport NODA – Norm Posseil/Theresa Pella
11:20-11:30	Open mic
11:30-noon	Overview of CAMx updates (see attached) – Chris Emery (Ramboll Environ)
noon	Action items and wrap up - Theresa Pella

Next call – Thursday, April 6, 2017, 10:30 – noon eastern

To: Walters, Justin T.[JWALTERS@southernco.com]
Cc: Bridgers, George[Bridgers.George@epa.gov]; Owen, Chris[Owen.Chris@epa.gov]; Baker, Kirk[Baker.Kirk@epa.gov]
From: Fox, Tyler
Sent: Mon 11/13/2017 10:40:31 PM
Subject: AWMA Plenary session presentations: Fox and Baker
GuidelineUpdate_2017AWMAconference.pdf
AWMA2017 singlesource O3 and PM.pdf

Justin

Please find attached the PDF versions of my overview presentation and Kirk's single-source modeling introduction (which I will present in his absence).

I will have ppt version with me in the morning if those are preferable for viewing.

Thanks,

Tyler

Single-Source Ozone and PM2.5 Demonstrations: Introduction

Kirk Baker
EPA's Air Quality Modeling Group

November 14, 2017

Final Action: Single-Source Impacts on Ozone and Secondary $PM_{2.5}$

- The EPA believes photochemical grid models are generally most appropriate for addressing ozone and secondary $PM_{2.5}$, because they provide a spatially and temporally dynamic realistic chemical and physical environment for plume growth and chemical transformation.
- Lagrangian models (e.g. SCICHEM) applied with a realistic 3-dimensional field of chemical species could also be used for single source O_3 or $PM_{2.5}$ assessments.
- The EPA has finalized in Section 5 of revised *Guideline* a two-tiered demonstration approach for addressing single-source impacts on ozone and secondary $PM_{2.5}$.
  - Tier 1 demonstrations involve use of technically credible relationships between emissions and ambient impacts based on existing modeling results or studies deemed sufficient for evaluating a project source's impacts.
  - Tier 2 demonstrations would involve case-specific application of chemical transport modeling (e.g., with an Eulerian grid or Lagrangian model).

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Section 5 of Appendix W: Overview

- Totally new section in 2017 Appendix W update
- Clear distinction between nonattainment planning for NAAQS (multi-source) vs. permit (single source) modeling recommendations
- Outlines a multi-tiered approach for single source permit assessments that reflects a screening approach with no preferred model
- Emphasizes the importance to develop modeling protocols and consult with the reviewing authority
- Emphasis on use of chemical transport models (e.g. photochemical & Lagrangian models) or techniques that reflect state of science atmospheric chemistry <u>for the less-anticipated situations</u> where a refined assessment is necessary
- <u>Section 5 does not provide a requirement for chemical transport modeling</u>

ED_001650_00033068-00003

Section 5 of Appendix W: Outline

- Models for Ozone and Secondarily Formed Particulate Matter
  - 5.1 Discussion – Describe ground level ozone and secondary PM2.5
  - 5.2 Recommendations – What types of modeling systems would be appropriate for either single or multi-source assessments for secondary pollutants?
  - 5.3 Recommended Models and Approaches for Ozone – Background relevant to both permit and non-permit assessments
    - 5.3.1 Models for NAAQS Attainment Demonstrations and Multi-Source Air Quality Assessments – Projected future year O3 NAAQS attainment
    - 5.3.2 Models for Single-Source Air Quality Assessments – Current year O3 SIL or NAAQS comparison for permit related assessments
  - 5.4 Recommended Models and Approaches for Secondarily Formed PM2.5 – Background relevant to both permit and non-permit assessments
    - 5.4.1 Models for NAAQS Attainment Demonstrations and Multi-Source Air Quality Assessments – Projected future year PM2.5 NAAQS attainment
    - 5.4.2 Models for Single-Source Air Quality Assessments – Current year PM2.5 SIL or NAAQS comparison for permit related assessments

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Applicable Guidance

- Guidance on the Use of Models for Assessing the Impacts of Emissions from Single Sources on the Secondarily Formed Pollutants: Ozone and PM2.5 (EPA-454/R-16-005 - December 2016)
- Guidance on the Development of Modeled Emission Rates for Precursors (MERPs) as a Tier 1 Demonstration Tool for Ozone and PM2.5 under the PSD Permitting Program (EPA-454/R-16-006 - December 2016)
- Guidance for PM2.5 Permit Modeling (EPA–454/B–14–001 - May 2014)
- Guidance for Ozone and PM2.5 Permit Modeling (*Projected for Draft / Comment Release in Fall 2017*)
- Guidance on Significant Impact Levels for Ozone and Fine Particles in the Prevention of Significant Deterioration Permitting Program (*Currently being reviewed by Sr. management for OMB review*)

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O3 and PM2.5 Permit Modeling Guidance

- Update to 2014 version of *Guidance for PM2.5 Permit Modeling* that includes O3 and reflects FRM revisions to *Guideline*
- Provides the framework by which to conduct PSD compliance demonstrations for NAAQS and PSD increment
  - Flow diagrams of process (similar to previous guidance)
  - Recommendations of conduct of Source Impact and Cumulative Impact Assessments under two-tiered demonstration approach for these pollutants
  - Leaves details to the other guidances, e.g., MERPs and single-source photochemical modeling
- Expect to release draft for public comment by early 2018

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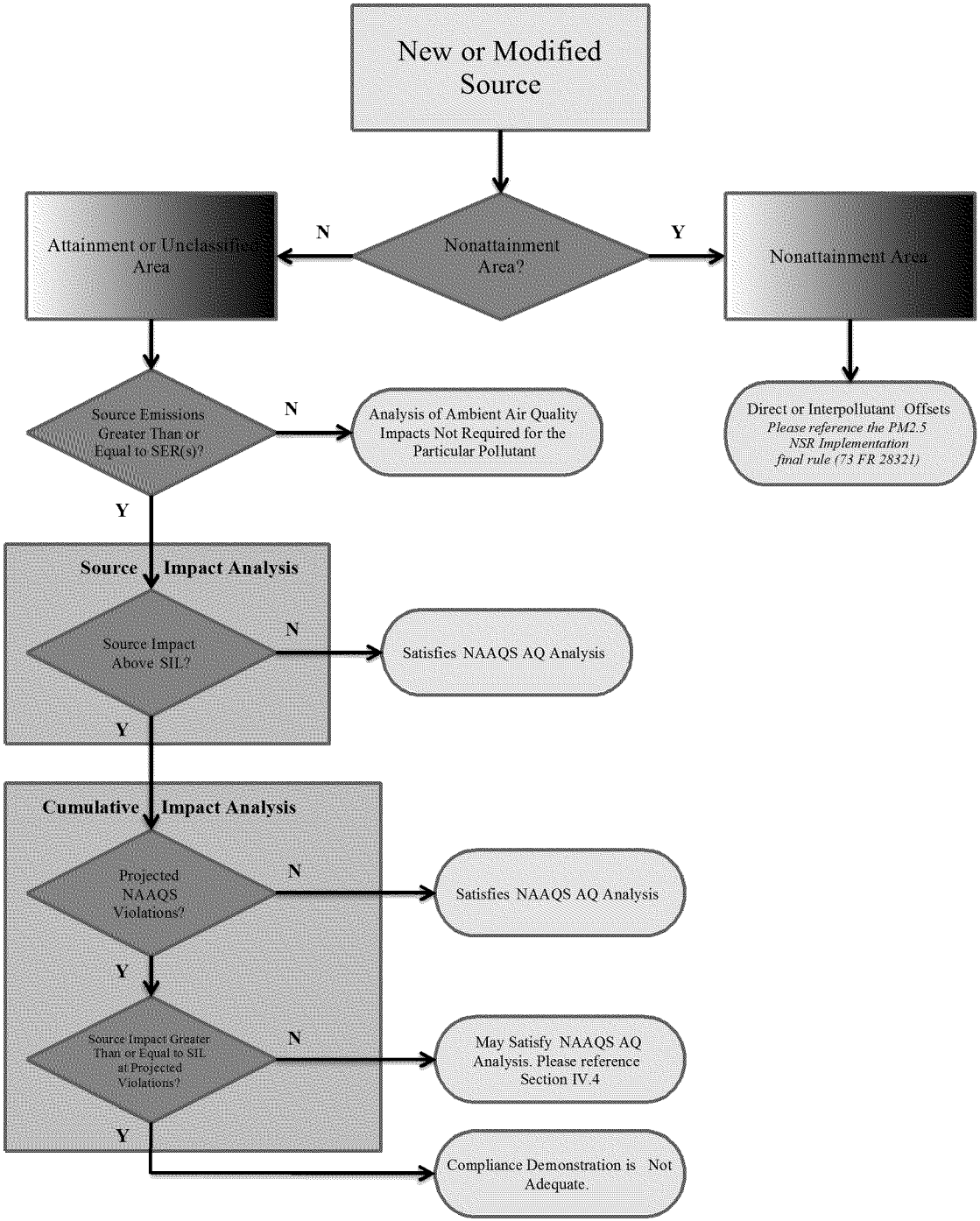

- O3/PM2.5 Permit Modeling Guidance frames the conduct of PSD compliance demonstrations.
- For NAAQS compliance demos under PSD, flow chart indicates the sequence of steps for source and cumulative impact analyses that use SILs and other demonstration tools (*separate diagram for PSD increment*).

Chemical Transport Models for Permit Related Regulatory Assessments

- Since there is no preferred model, EPA recommends chemical transport models for estimating single source O3 and secondary PM2.5 impacts
- Chemical transport models include Lagrangian puff models and Eulerian grid (e.g. photochemical transport) models
- Lagrangian puff models need as input a realistic chemical environment
- Photochemical transport models typically estimate a realistic chemical environment
- Even though single source emissions are injected into a grid volume, comparisons with in-plume measurements indicate these types of models can capture downwind secondary pollutant impacts when applied appropriately for this purpose
- Further testing is needed for both types of chemical transport modeling systems (Lagrangian and Eulerian) to best understand the configurations appropriate for permit related assessments

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Photochemical Grid Models for Regulatory Assessments

- The use of photochemical grid models for single source secondary impacts has been documented and peer reviewed
- Photochemical model methods evaluation and comparisons for estimating single source secondary impacts
  - Baker, K.R., Woody, M.C., 2017. Assessing Model Characterization of Single Source Secondary Pollutant Impacts Using 2013 SENEX Field Study Measurements. Environmental Science & Technology 51, 3833-3842.
  - Kelly, J.T., Baker, K.R., Napelenok, S.L., Roselle, S.J., 2015. Examining single-source secondary impacts estimated from brute-force, decoupled direct method, and advanced plume treatment approaches. Atmospheric Environment 111, 10-19.
  - Baker, K.R., Kelly, J.T., 2014. Single source impacts estimated with photochemical model source sensitivity and apportionment approaches. Atmospheric Environment 96, 266-274.
  - Baker, K.R., Hawkins, A., Kelly, J.T., 2014. Photochemical grid model performance with varying horizontal grid resolution and sub-grid plume treatment for the Martins Creek near-field SO 2 study. Atmospheric Environment 99, 148-158.
- Application of photochemical models to estimate single source secondary impacts
  - Baker, K.R., Foley, K.M., 2011. A nonlinear regression model estimating single source concentrations of primary and secondarily formed PM2.5. Atmospheric Environment 45, 3758-3767.
  - Baker, K.R., Kotchenruther, R.A., Hudman, R.C., 2016. Estimating ozone and secondary PM 2.5 impacts from hypothetical single source emissions in the central and eastern United States. Atmospheric Pollution Research 7, 122-133.

Photochemical Grid Models for Permit Related Regulatory Assessments

- Multiple photochemical models have been applied for single source assessments
  - CMAQ (Community Multiscale Air Quality model) www.epa.gov/cmaq
  - CAMx (Comprehensive Air Quality Model with eXtensions) www.camx.com
- Multiple source sensitivity approaches to isolate specific source impacts
  - Brute-force difference
  - HDDM
- Source apportionment approaches also allow for single source impact assessment
  - ISAM (CMAQ)
  - OSAT/APCA & PSAT (CAMx)

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Photochemical Grid Models for Regulatory Assessments

- EPA prepared a memorandum that shows CMAQ and CAMx photochemical models are appropriate to use for the purposes of estimating O3 and PM2.5 for permit related program demonstrations and NAAQS attainment demonstrations

  https://www3.epa.gov/ttn/scram/guidance/clarification/20170804-Photochemical_Grid_Model_Clarification_Memo.pdf
- Appendix W outlines elements needed for an alternative model demonstration where no preferred model exists for a particular situation so this memorandum documents that CMAQ and CAMx meet these criteria
- This does not replace the need to provide project specific evaluations that focus on model performance near the project source and key receptors, but does provide a “fit for purpose” basis so that all applicants do not need to provide such a demonstration for each project

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Tier 1 Demonstrations for O3 & Secondary PM2.5

- For Tier 1 assessments, EPA generally expects that applicants would use existing empirical relationships between precursors and secondary impacts based on modeling systems appropriate for this purpose.
- The use of existing credible technical information that appropriately characterize the emissions to air quality relationships will need to be determined on a case-by-case basis.
- Examples of existing relevant technical information that may be used by a permit applicant, in consultation with the appropriate permitting authority, include:
  - air quality modeling conducted for the relevant geographic area reflecting emissions changes for similar source types as part of a State Implementation Plan (SIP) demonstration, other permit action, or similar policy assessment
  - air quality modeling of hypothetical industrial sources with similar source characteristics and emission rates of precursors that are located in similar atmospheric environments and for time periods that are conducive to the formation of O_3 or secondary $PM_{2.5}$.

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Tier 1 Demonstrations for O3 & Secondary PM2.5

- In the preamble of the Appendix W NPRM, EPA discussed plans to develop a PSD compliance demonstration tool for ozone and $PM_{2.5}$ precursors called Modeled Emission Rates for Precursors (MERPs).
- MERPs can be viewed as a type of Tier 1 demonstration tool under the PSD permitting program that provides a simple way to relate maximum downwind impacts with a critical air quality threshold.
- For PSD, separate MERPs could be developed to relate:
  - volatile organic compounds (VOCs) and/or nitrogen oxides (NO_x) to O_3
  - sulfur dioxide (SO_2) and/or NO_X to secondary $PM_{2.5}$
- EPA has provided technical guidance to provide a framework for development of Tier 1 demonstration tools under Appendix W for PSD permitting.
  - Guidance on the Development of Modeled Emission Rates for Precursors (MERPs) as a Tier 1 Demonstration Tool for Ozone and PM2.5 under the PSD Permitting Program (EPA-454/R-16-006 December 2016)

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MERPs Guidance Document

- The draft guidance provides a framework on how to arrive at values for MERPs based on existing relevant modeling or newly developed area specific modeling that source/states can utilize in their PSD compliance demonstrations.
  - The guidance does not endorse a specific MERP value for each precursor.
  - Presents the EPA's modeling of hypothetical single source impacts on ozone and secondary $PM_{2.5}$ to illustrate how this framework can be implemented by stakeholders.
  - Public comments made available on SCRAM on May 26, 2017
- Currently reviewing comments and plan to provide a revised version of the guidance after release of final SIL guidance that addresses public comments with emphasis on:
  - More clarity on use of MERPs at national, regional and local level with more detail in the examples provided in the guidance

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Tier 2 Demonstrations

- A Tier 1 demonstration is not a requirement before performing a Tier 2 demonstration
- EPA anticipates few situations where a Tier 2 demonstration would be necessary, we expect most situations could be demonstrated under Tier 1
- For second tier assessments when necessary, EPA technical guidance is provided on the air quality models, inputs, run time options, receptor placement, and application approach for the purposes of estimating the impacts on ozone and secondarily formed PM2.5 from single project sources
  - Guidance on the Use of Models for Assessing the Impacts of Emissions from Single Sources on the Secondarily Formed Pollutants: Ozone and PM2.5 (EPA-454/R-16-005 December 2016)
- Within the second tier described the revised Guideline, the EPA's guidance provides applicants with flexibility in terms of the complexity of model application for comparison to both the SIL and NAAQS
- This flexibility allows for simpler approaches to be compared conservatively to the SIL and NAAQS and more sophisticated approaches could be applied to provide a more representative impact for a source's impact

Model Input/Output Data Availability

- The availability of model inputs and outputs of photochemical models (i.e., model platform data) allows for their application as a Tier 2 demonstration to be streamlined
- EPA and other organizations have made such model platform data freely available to interested users. For instance, model-ready inputs for both CAMx and CMAQ for the entire year of 2011 are available at http://views.cira.colostate.edu/tsdw/
- Further, multi-jurisdictional organizations typically either have existing photochemical grid model inputs or can direct those interested to other groups/organizations in the same region that may have suitable data

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Multi-Jurisdictional Organizations

Organization	Region of the country	Internet site
CENSARA	Central U.S.	http://www.censara.org/
LADCO	Upper Midwest	www.ladco.org
MARAMA	Mid-Atlantic	http://www.marama.org/
NESCAUM	Northeast U.S.	http://www.nescaum.org/
NW-AIRQUEST	Northwestern U.S.	http://lar.wsu.edu/airpact/
SESARM	Southeast U.S.	http://www.metro4-sesarm.org/content/metro-4sesarm-partnership
WRAP	Western U.S.	https://www.wrapair2.org/

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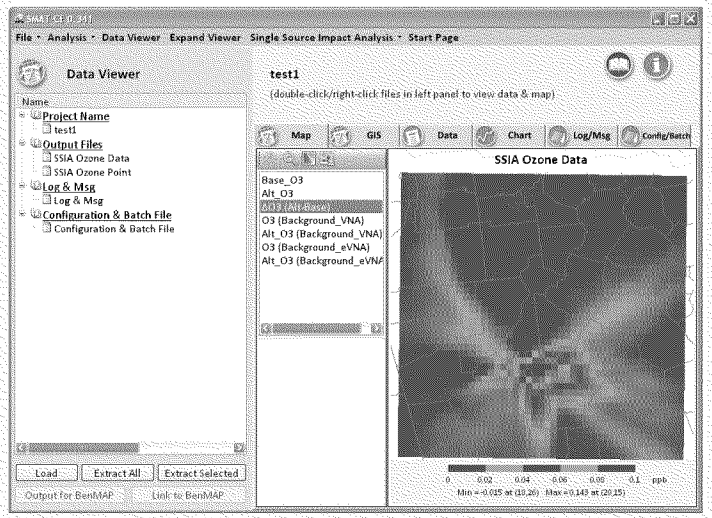
PSD Tier 1 & 2 Demonstration Support Tools

- EPA is working toward making tools available that add sources to existing model inputs and post-process outputs for Tier 1 and Tier 2 demonstrations
- Also working on a new Windows based single source assessment tool
- This tool (SSIA) would work with standardized asci format inputs that are processed from raw model output
- Tool would allow for visualization of source impacts, subsetting impacts, comparison against SIL, and provide a spatial field of ambient data for NAAQS cumulative demos



To: Jason Sloan[jsloan@csg.org]
Cc: Wayland, Richard[Wayland.Richard@epa.gov]; Bridgers, George[Bridgers.George@epa.gov]
From: Fox, Tyler
Sent: Tue 7/11/2017 5:46:33 PM
Subject: RE: AAPCA Modeling Committee

Jason

Thanks for your voicemail and all set on my end with the call information below.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Monday, July 03, 2017 2:13 PM
To: Fox, Tyler <Fox.Tyler@epa.gov>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov; Bridgers, George <Bridgers.George@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>
Subject: RE: AAPCA Modeling Committee

Tyler,

We look forward to having you on AAPCA's Modeling Committee call next Tuesday. In addition to anything that you may have, there was interest from our members in hearing updates on: Appendix W and AERMOD, including the revised "Model Formulation and Evaluation Document"; major comments/feedback on recent MERPs and PM2.5 Precursor Demonstration guidance; EPA's NODA for Preliminary Interstate Ozone Transport Modeling Data for the 2015 Ozone NAAQS; 2028 modeling for Regional Haze; and, EPA Office of Inspector General's project notification, "Evaluation of EPA's Approval Process for Air Quality Dispersion Models."

I can make sure to touch base next week, but the **call-in information will be:** Ex. 6
passcode Ex. 6 Please let us know if you have any questions.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

jsloan@csg.org

http://www.cleanairact.org

From: Fox, Tyler [mailto:Fox.Tyler@epa.gov]
Sent: Thursday, June 15, 2017 12:10 PM
To: Jason Sloan <jsloan@csg.org>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov; Bridgers, George <Bridgers.George@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>
Subject: RE: AAPCA Modeling Committee

Jason

Thanks for your note and I am available to provide a modeling update on July 11th. As you noted, please let me know if there are particular items that you'd like more information on so I can focus the update accordingly.

Thanks again and look forward to talking with the committee.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Thursday, June 15, 2017 11:57 AM
To: Fox, Tyler <Fox.Tyler@epa.gov>
Cc: Wayland, Richard <Wayland.Richard@epa.gov>; Clint Woods <cwoods@csg.org>; lbb@adem.alabama.gov; James.Boylan@dnr.ga.gov
Subject: AAPCA Modeling Committee

Tyler,

I hope all is well! AAPCA's Modeling Committee has a call scheduled for July 11 at 3:00 PM Eastern, and we were hoping you could join us to provide a modeling update from OAQPS. With the available AERMOD revisions and Appendix W now in effect, a 20-minute or so update at the outset of the call would be helpful to the committee.

Include on this email are the committee co-chairs, Leigh Bacon from the Alabama DEM and Jim Boylan from the Georgia EPD, who may have some additional feedback on topics that may be of particular interest.

Please let us know if you are available, and we can send over a few more details, including the call-in information.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 office

jsloan@csg.org

http://www.cleanairact.org

To: Jason Sloan[jsloan@csg.org]
From: Fox, Tyler
Sent: Fri 9/15/2017 10:59:57 PM
Subject: RE: AAPCA Fall Meeting Presentation Details/Reminders
AAPCA_Fall2017_PresentationAQMG.pdf

Jason

Please find attached the presentation for the modeling portion of Thursday's Modeling & Monitoring Updates session.

Have a great weekend.

Tyler

From: Jason Sloan [mailto:jsloan@csg.org]
Sent: Monday, September 11, 2017 2:31 PM
To: Fox, Tyler <Fox.Tyler@epa.gov>
Subject: RE: AAPCA Fall Meeting Presentation Details/Reminders

Tyler,

We look forward to your participation at AAPCA's Fall Business Meeting next week. We wanted to see if the bio below still works for you, as we are looking to print packets tomorrow morning:

Tyler Fox, U.S. EPA, Air Quality Assessment Division

Tyler Fox is the Group leader for EPA's Air Quality Modeling Group in the Office of Air Quality Planning and Standards. He joined the EPA in 1999 as an economist and has served in

his current management position for the past 12 years. He has a BA in economics/political science from the University of Michigan and a MA in economics from the University of Virginia.

Thanks!

Jason E. Sloan

Policy and Membership Associate

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

jsloan@csg.org

http://www.cleanairact.org

From: Clint Woods
Sent: Thursday, September 7, 2017 1:38 PM
To: Clint Woods <cwoods@csg.org>
Subject: AAPCA Fall Meeting Presentation Details/Reminders

AAPCA Fall Business Meeting Presenters,

Thanks again for your participation at the upcoming Association of Air Pollution Control Agencies' (AAPCA) 2017 Fall Business Meeting. The meeting will be held September 20 – 22 in Raleigh, North Carolina, at the DoubleTree by Hilton Hotel Raleigh - Brownstone - University. This email is to provide an updated agenda (attached) and a reminder about some key logistics for the meeting, which are included below.

- Biography. Please send a 1 – 2 paragraph biography to jsloan@csg.org by **6:00 PM Eastern this Friday, September 8**. These biographies will be provided to all attendees with other meeting materials.
- Agenda & Session Information. Attached to this email is the current working agenda for the Fall Business Meeting. AAPCA members will be serving as moderators and providing a brief introduction to each panel/presentation. Please let me know if there are any necessary changes to your title or the title of your session by **6:00 PM Eastern this Friday, September 8**.
- Presentation Materials. At the meeting, AAPCA will have a computer, screen package, podium, and head table with two microphones. Please provide a copy of any slides or presentation materials to jsloan@csg.org by **6:00 PM Eastern on Friday, September 15**. Please also let us know as soon as possible if you will need video, sound or internet capability for your presentation, or if there are any restrictions on placing slides or other presentation materials on AAPCA's website.
- Registration. If you have not already registered for AAPCA's Fall Business Meeting, please do so under the category of "Speaker." The registration page should be available until September 15, and this will ensure we have the correct information for meeting materials. Please contact me with any questions or concerns regarding registration or hotels (additional hotel information is also available here).

As a reminder, the topical session on long-term and succession planning (1:00 – 3:25 PM) and Opening Reception (6:00 PM) on September 20 are open to all governmental and non-governmental participants, as is all programming on September 21, which will run from 8:00 AM until 5:30 PM. The sessions on September 22, scheduled from 8:00 AM until 12:30 PM, are limited to state, local, and federal attendees. All sessions are closed press. We will send out a registration list, final agenda, and other meeting details one week in advance of the meeting, but we are expecting more than 100 participants during open sessions, including approximately 60 senior officials from more than two dozen state and local air agencies and more than 30 participants from throughout U.S. EPA and other federal agencies.

Please let me know if you have any other questions, suggestions, or if there is anything else we can do to help facilitate your participation – Thanks!

Clint Woods

Executive Director

Association of Air Pollution Control Agencies

1776 Avenue of the States

Lexington, KY 40511

Ex. 6 – office

cwoods@csg.org

http://www.cleanairact.org

AAPCA ASSOCIATION OF AIR POLLUTION CONTROL AGENCIES

2017 FALL BUSINESS MEETING

September 20–22 | Doubletree by Hilton | Raleigh, North Carolina

To: Grant Fox[gtfox@uncg.edu]; Fox, Sierra[snfox0427@email.campbell.edu]; Maria[Ex. 6]
From: Fox, Tyler
Sent: Wed 12/21/2016 11:28:14 PM
Subject: FW: Final Revision to EPA's Guideline on Air Quality Models
Appendix_W-Fact_Sheet.pdf
AppendixW_2016.pdf

FYI—this is the rulemaking that has been consuming my time for over 2 years, finally signed by the EPA Administrator yesterday at 4:59!!!

From: Bridgers, George
Sent: Wednesday, December 21, 2016 5:52 PM
To: Avey, Lance <Avey.Lance@epa.gov>; Biton, Leiran <biton.leiran@epa.gov>; Blakley, Pamela <blakley.pamela@epa.gov>; Bohnenkamp, Carol <Bohnenkamp.Carol@epa.gov>; Bohning, Scott <Bohning.Scott@epa.gov>; Colecchia, Annamaria <Colecchia.Annamaria@epa.gov>; Cox, Kyndall <Cox.Kyndall@epa.gov>; Dresser, Chris <Dresser.Chris@epa.gov>; Feldman, Michael <Feldman.Michael@epa.gov>; Fry, Jessica <fry.jessica@epa.gov>; Gillam, Rick <Gillam.Rick@epa.gov>; Hawkins, Andy <hawkins.andy@epa.gov>; Holladay, Cleveland <Holladay.Cleveland@epa.gov>; Howard, Chris <Howard.Chris@epa.gov>; Imhoff, Robert <imhoff.robert@epa.gov>; Ko, Joseph <ko.joseph@epa.gov>; Kay, Rynda <Kay.Rynda@epa.gov>; Krivo, Stan <Krivo.Stanley@epa.gov>; Langman, Michael <langman.michael@epa.gov>; Leon-Guerrero, Tim <Leon-Guerrero.Tim@epa.gov>; Leslie, Michael <leslie.michael@epa.gov>; Liljegren, Jennifer <Liljegren.Jennifer@epa.gov>; Lusky, Katy <Lusky.Kathleen@epa.gov>; Matichuk, Rebecca <Matichuk.Rebecca@epa.gov>; McAlpine, Jay <McAlpine.Jay@epa.gov>; Mohr, Ashley <Mohr.Ashley@epa.gov>; Monteith, Richard <Monteith.Richard@epa.gov>; Nguyen, Phuong <Nguyen.Phuong@epa.gov>; Carlton-Carew, Njeri <carlton-carew.njeri@epa.gov>; Persoon, Carolyn <persoon.carolyn@epa.gov>; Portanova, Mary <portanova.mary@epa.gov>; Rinck, Todd <Rinck.Todd@epa.gov>; Robinson, Randall <robinson.randall@epa.gov>; schmidt, howard <schmidt.howard@epa.gov>; Schwartz, Colin <Schwartz.Colin@epa.gov>; Snyder, Erik <snyder.erik@epa.gov>; Tonnesen, Gail <Tonnesen.Gail@epa.gov>; Walther, Katherine <Walther.Katherine@epa.gov>; Wiley, Adina <Wiley.Adina@epa.gov>; Worstell, Aaron <Worstell.Aaron@epa.gov>
Cc: Timin, Brian <Timin.Brian@epa.gov>; Jang, Carey <Jang.Carey@epa.gov>; Misenis, Chris <Misenis.Chris@epa.gov>; Owen, Chris <Owen.Chris@epa.gov>; Dolwick, Pat <Dolwick.Pat@epa.gov>; Bridgers, George <Bridgers.George@epa.gov>; Simon, Heather <Simon.Heather@epa.gov>; Henderson, Barron <henderson.barron@epa.gov>; Kelly, James <kelly.james@epa.gov>; Thurman, James <Thurman.James@epa.gov>; Baker, Kirk <Baker.Kirk@epa.gov>; Possiel, Norm <Possiel.Norm@epa.gov>; Brode, Roger <Brode.Roger@epa.gov>; Phillips, Sharon <Phillips.Sharon@epa.gov>; Baker, Thomas <Baker.Thomas@epa.gov>; Tillerson, Clint <Tillerson.Clint@epa.gov>; Fox, Tyler

<Fox.Tyler@epa.gov>; baanderson02@fs.fed.us; Beaver, Melinda <Beaver.Melinda@epa.gov>; Buckler, Charles <Buckler.Charles@epa.gov>; cnicholl@blm.gov; Deroeck, Dan <Deroeck.Dan@epa.gov>; Etchells, Elizabeth <Etchells.Elizabeth@epa.gov>; Hawes, Todd <Hawes.Todd@epa.gov>; Jill_Webster@fws.gov; john_notar@nps.gov; Misenis, Chris <Misenis.Chris@epa.gov>; Montanez, Jessica <Montanez.Jessica@epa.gov>; Rick Graw <rgraw@fs.fed.us>; Shaltanis, Jennifer <Shaltanis.Jennifer@epa.gov>; Tim_Allen@fws.gov; Timin, Brian <Timin.Brian@epa.gov>; Tom Coulter <ccoulter@blm.gov>
Subject: Final Revision to EPA's Guideline on Air Quality Models
Importance: High

Regional Office Modeling Contacts and Federal Partner Agencies,

On December 20, 2016, the Administrator signed a final rule that revises the Guideline on Air Quality Models. The Guideline provides EPA-recommended models and other techniques, as well as guidance for their use, for predicting ambient concentrations of air pollutants. EPA's finalized changes enhance the formulation and application of the agency's AERMOD dispersion model, prescribe modeling techniques for secondarily formed fine particle and ozone pollution for single sources and makes various editorial improvements.

A Fact Sheet for the final rule and the pre-Federal Register version of the Final Rule are attached to this email for easy reference. Additionally, there is an informational 2016 Appendix W Final Rule webpage available on the EPA's SCRAM website at the following link: https://www3.epa.gov/ttn/scram/appendix_w-2016.htm. This webpage provides access to updated model code, documentation, and technical guidance related to this final action.

The EPA will be scheduling webinars and other outreach to the stakeholder community in January 2017. Information on these webinars and other engagements will be posted to the EPA's SCRAM website once scheduled. In the interim, direct all questions to Mr. George M. Bridgers, email: Bridgers.George@epa.gov.

Please share this announcement and information with your respective tribal, state, and local air agencies and any other colleagues and interested parties as soon as possible.

Happy Holidays!

George Bridgers

George M. Bridgers, CPM, Environmental Scientist
U.S. Environmental Protection Agency
Office of Air Quality Planning and Standards
AQAD - Air Quality Modeling Group
109 TW Alexander Drive
Room C431B - Mail Drop C439-01
Research Triangle Park, NC 27711
Phone: 919-541-5563
Fax: 919-541-0044

To: mgoblu[redacted] Ex. 6
From: Fox, Tyler
Sent: Thur 2/23/2017 5:49:40 PM
Subject: Fwd: Favor on SILs
Ozone and PM2 TBD.docx
ATT00001.htm
Ozone PM2.5 SILs Legal Support Document.docx
ATT00002.htm
PM2 5 SILs and Ozone Policy.docx
ATT00003.htm

Sent from my iPhone

Begin forwarded message:

From: "Owen, Chris" <Owen.Chris@epa.gov>
To: "Fox, Tyler" <Fox.Tyler@epa.gov>
Subject: Re: Favor on SILs

pretty sure these are the latest.

R. Chris Owen, PhD

U.S. EPA/OAR/OAQPS/AQAD

Room C431A
109 TW Alexander Drive

Research Triangle Park, NC 27711
Phone: 919-541-5312
Fax: 919-541-0044

From: Fox, Tyler
Sent: Wednesday, February 22, 2017 11:55 PM
To: Owen, Chris
Subject: Favor on SILs

Could you please send me the latest versions with reference to the sections/pages dealing with rationale for CI selection?

I am having trouble getting caught up and want to be able to weigh in for call on Thurs afternoon.

Thx much

Tyler

Sent from my iPhone

From: Darlene P Santos
Location: Call-in Number: Ex. 6 / Conf ID: Ex. 6
Importance: Normal
Subject: MONTHLY TAMS Steering Committee Conference Call
Start Date/Time: Wed 2/18/2015 6:00:00 PM
End Date/Time: Wed 2/18/2015 7:00:00 PM

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HELLO EVERYONE!

PLEASE SAVE THE DATE FOR THE NEXT TAMS STEERING COMMITTEE CONFERENCE CALL SCHEDULED FOR EVERY THIRD WEDNESDAY OF THE MONTH @ 10AM PACIFIC. HERE IS CALL-IN INFO:

Conf Phone Number: Ex. 6
Conf ID: Ex. 6
The agenda and supporting documents will be forthcoming.
Thanks!
-Darlene

Darlene P. Santos, Administrative Associate
Tribal Air Monitoring Support (TAMS) Center
4220 S. Maryland Parkway, Bldg C
Las Vegas, NV 89119
Ex. 6 **phone**
702-784-8201 fax

TAMS Steering Committee Meeting, Las Vegas
March 10-12, 2015

In attendance: Randy Ashley, Joe Cebe, Pat Childers, Ann Marie Chischilly, Marvin Cling, Farshid Farsi, Mike Flynn, Ron Fraass, Scott Hamilton, Jed Harrison, April Hathcoat, Mehrdad Khatibi, Craig Kreman, Chris Lee, Laura McKelvey, Tracie Merrill, Kris Ray, Daniel Ruehle, Darlene Santos, Kaibah Tsosie

Tuesday, March 10, 2015

Welcome and Introductions -

The meeting was called to order by Chairperson Kris Ray. Chris Lee gave the invocation, and everyone was welcomed.

Approval of Agenda and Minutes -

The agenda was approved as were the October 7-9, 2014 minutes.

Regional Discussion and Recommendations -

Joe Cebe, Forrest County Potawatomi – Region 5 Update

Fracking sand mining is still an area of concern. The state has found no PM2.5 or PM10 concerns. According to a state study, it is considered to be a water issue and not an air issue. The water issues are erosion and water pollution. The main monitoring concern in Region 5 is mercury deposition.

Marvin Cling, Pleasant Point Passamaquoddy Tribe – Region 1 Update

PM forecasting is difficult to predict. States are working with the tribes. It is easier to work with regional sources than local sources. Mercury in fish is a concern. Climate change is also a concern, ozone may damage crops and vegetation. Indoor air quality is still a problem in a cold wet climate in Maine. Additionally, radon, diesel exhaust and dioxin deposition are issues. Monitoring ozone and PM at Pleasant Point will continue (not for comparison to the NAAQS). Funding – should have two more years, but state may compete for some of 103 grant. There should be a state pot and a tribal pot. Pat to follow up with Marvin.

April Hathcoat, Cherokee Nation – Region 6 Update

- **Ozone**
  - NAAQS proposal – final decision to be issued October 1st. The proposed range of the primary health standard is 65–75 ppb (and EPA is taking comments on a health standard as low as 60 ppb). When reviewing the annual fourth-highest daily maximum 8-hr concentrations averaged for 2012-2014 for CNEP's sites, three sites are at or above 70 ppb, and two are at or above 65 ppb.
  - OK DEQ v. EPA D.C. Circuit Decision - vacates EPA's Indian country NSR rule for non-reservation areas. Under CAA sec. 107(a), states, not EPA or tribes, have initial primary responsibility for, and jurisdiction over, **non-reservation** Indian country for purposes of implementation plans. This decision applies to non-reservation Indian country throughout the U.S., not just lands in Oklahoma. As a result of the court's decision, SIP actions (under CAA sec. 110) in states with non-reservation areas of Indian country could affect tribes. OAQPS (Laura Bunte) requested feedback on how EPA might offer consultation to tribes regarding upcoming SIP actions. Not sure how of if this decision will affect monitoring, if at all. CNEP does review permits from ODEQ and ADEQ.
- **Ambient air monitoring**
  - AQS – Still get requests for assistance; the training videos posted by ITEP should help. Loading data does not seem to be an issue, but correcting data is. I have also had questions about using the QA Transaction Generator, which replaced the P&A Excel spreadsheet. Not sure how many R6 tribes participate on the tribal AQS conference calls.
  - All Oklahoma tribes that I have worked with use either E-DAS/AirVision or Wincollect/Airodis.

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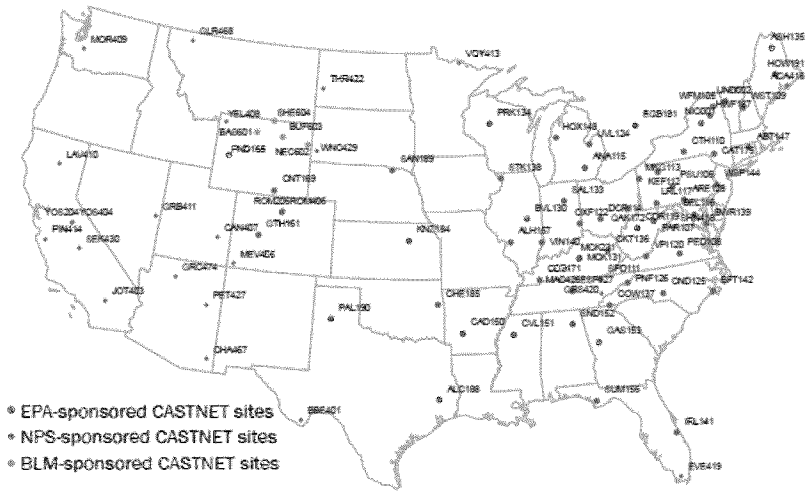
- Have had questions about monitoring for pollutants other than ozone & PM. Could OK tribes consider MDN or CASTNet monitors, maybe the small-footprint CASTNet sites as described at the National Air Monitoring Conference?



- **Funding**
  - If NAAQS are lowered, more tribes may be interested in monitoring ozone.
  - I've been in contact with a couple of tribes that have defunct monitoring sites, but now they want to begin monitoring again. Will there be enough money to support the programs already in place **and** fund new monitoring efforts?
  - Are tribes familiar with the grants.gov online process?
- **R6 staffing**
  - Currently only four staff remaining in air monitoring section (should be adding new staff in early/late summer); the section chief has left for another position
  - Not sure if staffing will affect QAPP and/or grant reviews
  - At one time regions had dedicated AQS contacts; this really helped catch issues and improved data capture/quality.
- **Climate change programs** - Per R6, climate change projects can be supported with tribal funds (CAA Section 103); outreach, training, and general baseline assessments have been supported. The Chickasaw Nation and Choctaw Nation are active in the South Central Climate Science Center; not sure what other tribes in R6 are doing.
- **Indoor Air Quality** - CNEP offers radon, lead-based paint and asbestos assessments, but does not have an indoor air quality program per se; would it be beneficial to coordinate these programs? What are other tribes doing?
- **Upcoming ITEC conference** (tentatively scheduled for week of July 6th) – will be held in Tulsa, most likely at the Hard Rock Hotel & Casino. Please contact me if you know of any tribes which would like to present on air monitoring topics.
- **Exchange Network/E-Enterprise** – CNEP has an Exchange Network grant and participates on the EN Tribal Governance Group (TGG). Several other R6 tribes have EN grants also.
  a. Exchange Network = National System Flows & Data Exchanges
  b. E-Enterprise = Modernizing and Streamlining Programs and Regulations
  - E-Enterprise Portal - Key to the vision of E-Enterprise is the development of a portal to serve regulated entities and the public. The portal will provide a consolidated entry point for businesses and citizens to efficiently locate, obtain access to, and perform transactions with relevant EPA, state and tribal environmental programs and web resources. The portal will also integrate information access from E-Enterprise partners to provide a seamless experience to users moving between the E- Enterprise Portal and partner portals or applications.
  - Not sure how tribes will be involved with the portal; a webinar was hosted specifically for tribes and referred to as "consultation", which was brought up as an issue. It should be noted that involvement with the portal is voluntary.

Craig Kreman, Quapaw Tribe of Oklahoma – Region 6 Update

- BIA funding for climate change with the eight tribes in the area.
- Indoor air – Eastern Shawnee Tribe is hosting R6/R7 stakeholders meeting July 28th-30th (Bob Haskins to lead

meeting). ITEP will be sending diagnostic equipment and will be offering a one day training on the last day of the meeting.

- Four States Clean Air Alliance – developed clean air action plan and submitting proposal to Carrie Paige/R6 for Ozone Advance.
- Unsure how ozone NAAQS will affect monitoring.
- Scott Weir/R7 – excited about equipment list.
- Otoe/Missoria tribe – There is SO2 concern from Sooner Plant.

Tracie Merrill, Seldovia Village Tribe – Region 10

- ANTHC is now testing for pollutants in food supplies by collecting samples from subsistence mammals using filter paper.
- Hardly any snow in Alaska has caused road dust issues earlier than normal, which is aggravated by storms/winds.
- Currently working on AQS method codes for DustTraks.
- Borrowing hi-vols from the state, so it will fall under their QAPP. The state had to approve data submittal to AQS. Because of this, some tribes are going to purchase their own equipment versus borrowing from the state.
- Alaska Forum on the Environment in February – Many tribes were concerned and wanted to know why there were no air quality discussions.
- ITEP trainings have been offered in Alaska.
- Some progress being made getting air monitoring data from Alaska tribes – many tribes don't submit to AQS, some are short-term projects.
- Climate change issues – more frequent blooms; performing more plankton monitoring.

Kris Ray, Colville Tribe – Region 10 Update

- Smoke management issues on the "dry side" of WA. Forest Service has monitors for loan.
- Preparing for wild fire season.
- Region is updating Title V permits.
- Four tribes/five individuals have air inspector credentials (these are federal credentials) – confusion over new requirements (dealing with region to resolve issues).
- Ambient air monitoring still high priority – many tribes need to update equipment (NTC working on a list of equipment that will need to be updated so they can get an estimate of what $ needs will be).
- Indoor air quality needs its own funding separate from ambient monitoring. See Northwest Tribal Healthy Homes sites.
- Issues with older monitors becoming outdated, especially TEOMs.
- Keeping up with regional and national issues can be a problem (glad NTAA is around to help).
- EPA personnel turnover could be a problem in several regions.
- Ozone nationwide will be an issue with the new levels.
- AQS data management is an issue.
- Mercury monitoring is an issue.

Ex Officios Discussion and Recommendations -
Pat Childers, Office of Air and Radiation -

- Communications has improved between tribes and EPA.
- The steering committee has raised visibility of TAMS and SC. The steering committee must decide what to focus on.
- Stay involved with the NTF.
- Needs Assessment Review – Need to prioritize needs and look at funding; need to be flexible.
- Overall funding has decreased – some tribes no longer apply for grants due to decrease.
- Region 5 is now the tribal air lead for regions.
- Need to coordinate when requesting things from tribes; some groups may be requesting for the same things.

Jed Harrison, ORIA Sr. Advisor for Tribal Affairs –

- Tribal indoor air programs are moving forward. EPA will try to strengthen relationships with tribes regarding indoor air.
- Tribal strategy is an important development. There is a need to lay out some principles to follow.

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- Fukushima – EPA's role is narrow, but they heard concerns from AK natives and were able to use response to get other agencies involved for more targeted sampling.
- Kicked off federal collaboration on healthy homes (HUD, IHS, BIA, etc.) to more effectively work with tribes in first stages of work. Mike Flynn is reaching out to other agencies to solicit their commitment; response has been positive. Need to find out tribal priorities as next step.
- New 3-year project with the American Lung Association assessing asthma risk in homes. Provide training to perform assessments in homes.
- Region 10 – provide reimbursement for home health care visits through Medicaid (has to be done at the state level).
- Region 6/7 IAQ Meeting – this may be one of the first regional attempts to focus specifically on indoor air quality for tribes. Would like to see this duplicated in other regions.
- University of Tulsa – STAR grant (three tribes participating: Cherokee, Nez Pearce and Navajo)
- Site visits can be really influential with decision makers.

Scott Hamilton, Region 5 –

- There is a 5-year network assessment that evaluates equipment at monitoring sites. Tribes are involved in Region 5, unsure about other regions, but tribes in Region 6 do not have to submit a 5 year network assessment.
- Region 5 tribes work with states to assist with QA and data submittal. CA tribes have organized a PQAO (still working on QMP) – could be beneficial for other tribes, per Laura.

Randy Ashley/NTAA –

- Technical System Audits (TSA) have not been performed on schedule; can only perform one tribal TSA per year. Should be done every 3 years if you are a PQAO. This is an emerging issue.
- Needs assessment – long list of needs from long ago. Glad to see formal document.
- NTAA membership – 93rd tribe just applied from Alaska; membership is accelerating. More participation on policy calls.
- STAR report deadline coming up – final by May 19th. Submit priorities to Cristina.
- Andy gave update to R6 RTOC a few weeks ago – Ivy Smith is interim rep; should have decision on new R6 rep by end of March.
- Policy response kits are available on NTAA website.

Ron Fraass, National Center for Radiation Field Operations (NCRFO) –

- Farshid reviews all data from contract laboratory before it is sent to the tribes.
- New $10 million study to create collocated work site for all EPA employees in Nevada.
- EPA at upper level is thinking more about Environmental Justice.
- Climate Change – are tribal elders noticing issues; have they seen changes in their lifetime? Tracie reports, definitely yes in Alaska. LEO – Local Environmental Observers. Some tribes are using cameras to document changes

Ann Marie Chischilly, Institute for Tribal Environmental Professionals –

- $18 million deficit at NAU affecting ITEP. One strategic goal is to become leading university serving tribes.
- NTF planning is underway. Make it interesting!!!
- Protect Traditional Knowledge - guidelines for climate change initiatives; people should record themselves instead of someone else recording to keep ownership; secretary will review at the end of April.

Mehrdad Khatibi, Institute for Tribal Environmental Professionals –

- AIAQTP grant is at end of fifth and final year of cooperative agreement (this includes TAMS, workshops, NTF, and student internship program).
- RFA is out; putting proposal together.
- Addressing the need from Alaska for more collaborative training.
- Climate change – Sue Wotkyns – current agreement is waning; reaching out to other organizations such as BIA to possibly grow that effort.

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Laura McKelvey, OAQPS -

- 2018 regional haze SIPS dues – face-to-face meeting last week with at least one tribe from the RPO's. Will have a regroup meeting to discuss how tribes can be put back at the table. Putting together proposal to request funding for travel for tribes and for training. How does TAMS want to be involved? May apply to things other than regional haze; may also apply to ozone SIP development as well.
- Oil and gas – to be discussed later
- Clean Power Plant rule – 3.5 million comments. Series of training for tribes and states via webinar on electricity grid, how training markets work, etc. so people have the background to review SIP's.
- Ozone NAAQS – comment period closes on March 17th.
- SO2 designations – will see letters coming out in the near future. Still focused on larger power plants.
- PM NAAQS implementation rule – tells states how to develop SIP's. States asked to target some of their reductions for low-income communities since they are more susceptible.
- Petroleum refinery rule – working to finalize; proposed doing fence line monitoring for fugitive emissions.
- Tribal NSR – bundle 1 should be done soon, with bundle 2 to follow.
- TREX – to be discussed later
- Citizen science workshop to be held; tribes have been nominated from each region.
- Leech Lake sensor project finalized; good pilot for tribes that want to monitor but do not have funds or have no background information.
- Office is revising guidance on modeling; applies more to states, but tribes want more information. Developing a "plain language guide to modeling"; would like feedback on first draft.
- Wood stove and outdoor NSPS should be out March 16th.
- Community Air Toxics grant applications are being reviewed.
- TurboQAPP and TEISS – Working to restructure TEISS to be more in line with inventory system. Do we want to incorporate GHG emissions? Also having issues working with TEISS contractors. TurboQAPP licensing fees can be an issue. ($30k between the two)

TAMS Technical Needs Assessment Implementation Report Review and Action Items -

- Needs Assessment is based on 2014 action items and was widely distributed; found in the TAMS and NTAA website.
- What is the effect of this document?
- How do we use the information to bolster TAMS services? Chris reports some tribes did not think the needs assessment related to them because they don't have an air monitoring agent. We should consider turning it into a more routine effort and let tribes know they can provide input.
- This document should be sent with formal cover letter to Janet McCabe and cc Mike Flynn.
- Need to develop distribution strategy.
- How do we get people to respond?
- How do we leverage product?
- Suggestion to include assessment with response to NPM.
- Need to articulate what needs are as well as how successful our programs are.
- Plan to present at NTF plenary session.
- Use to assist EPA and SC with identifying activities to prioritize.
- Increase in Nox and SO2 monitoring for oil and gas areas; look at other trends coming out. Important to consider for new equipment purchase.
- Continue work on monitoring equipment list. (action item under Focus Area 1)
- TAMS SC to use the equipment list to inform TAMS what should be maintained in equipment inventory list.
- Develop guidance document for IAQ equipment loan program.
- Evaluate sensors for purchase to be used in pilot studies.
- TAMS to investigate portable continuous monitors.
- New sensors need to be introduced into the curriculum.

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- SOP's and QAPP's on NAU server require authorization through Lydia to protect Tribal Privacy.
- Create a matrix to track action items with periodic progress update every 6 mos and when SC meets in October.
- Review work plan and develop new items by October.

TAMS Equipment Loan Program – Dan Ruehle

- Create lists: one for useable/ready to deploy; one for fixable; one for trash/parts. Need to standardize language for easier sorting.
- Confirm equipment that Glenn has and incorporate on to lists.
- Determine how many monitors are filter-based. Because there is no filter weighing service, would be a good idea to keep, still need for collocation purposes.
- Develop strategy for types of monitors needed (screening, portable continuous monitors, sensors).
- Laura to request list of sensors from OAQPS; TAMS will work on list for continuous monitors.
- Need to use School Air Toxics money, or shift money to purchase new equipment/monitors.
- Tribes have expressed interest in pilot studies on equipment/monitors.
- Developed QAPP's and SOG's for minivols.
- Working on quick start guides for IAQ.
- Prepare guidance documents and quick start guides for new equipment (DustTrak, EBAM).
- Inform people that resources are available (TurboQAPP, equipment loan program, etc.). Develop brochure, update website.
- Idea for one-stop-shop; where to go for TurboQAPP and SOP's, RIC? ORCA? – Explain on website availability of other Regions information.

Tribal School Air Toxics –

- Update equipment
- Purchase new equipment - $130k available
- Demand for toxic screening
- Create list

Regional Tribal Monitoring Equipment -

- Still need input; should be updated annually, as equipment changes often.
- Many tribes are just doing MET station; not certain how much detail will be required.
- The monitoring equipment by regions document should be distributed when finalized by the steering committee.

Tribal Caucus

Meeting session for TAMS Steering Committee voting members – held in hotel lobby.

<u>Wednesday, March 11, 2015</u>

Indoor Air Quality – Jed Harrison

- Developing TAMS IAQ concept paper (see attachment A)
- From analysis of the needs assessment data, IAQ is top 3 priorities
- TAMS currently provides: IAQ Diagnostic Tools, Level 2 course; IAQ equipment loan program; resources; Professional Assistance.
- IAQ Training: would prefer to use tribal homes; could take course on the road, but may be difficult to do "mock-ups"; lean heavily on individuals for expertise that are not part of TAMS (Jed retiring soon); use alumni as tribal instructors; show data and photos of real housing; work with IHS to assess unhealthy homes.
- Equipment Loan – need to discuss what the rules will be; will need equipment back for courses; equipment needs to calibrated on a schedule; need to market IAQ equipment loan program (R10 has an equipment loan program).
- Suggestion to form an IAQ subcommittee – identify areas of concern; identify tribal professionals that are focused on IAQ and develop tribal experts in regions; work to resolve issues; provide clear tasking by reviewing assessment; outline what the subcommittee should be doing, then approve it; delineate between what NTAA is doing and what TAMS will be doing (may not need two subcommittees).
- SC members agreed to have Jed develop concept paper. Consideration for concept paper - identify training needs;

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identify resources and promoting those resources (networking).

- Who do we want to handle the concept paper? Have technical advisors let us know if this is a need for tribes.

Radon –
April 2014 Las Vegas Radon Lab shut down. Is there a need for an IAQ course Level 2 Radon? Consideration for concept paper: technical support; testing support; PA (bundled with finding technical expertise in general IAQ); have continuous monitors, but no guidance; mitigation; collaboration (AARST, CRCPD, MURC).

Fracking – Laura McKelvey

- Methane strategy was announced by Obama last year.
- EPA is working on oil/gas rules-New Source Performance Standards (NSPS) from well to refinery in Indian Country.
- How should we address permitting for new sources in Indian Country? NESHAPS, NSR
- Kickoff meeting was last week. Reviewing responses from white papers; gather information for rulemaking; develop rules; sort issues. Requested self-nominations for tribes working directly with sources.
- Workgroup working with Laura include: Cherokee, Southern Ute, Ute Mountain Ute, Fond du Lac, and Orutsararmuit. Do we want to report back to TAMS on workgroup progress?
- TAMS should consider Nox monitoring or Nox sensors (future monitoring and training in oil & gas areas).
- Need to research what type of monitor is needed; test out sensors.
- Add Nox and Methane monitors to equipment loan list.
- Laura to provide "Overview of Fracking" document to SC.

Increasing interaction with OAP and OTAQ -
OAP – Erika Wilson, EPA OAP
(see Attachment B)

OTAQ – Rosalva Tapia, EPA OTAQ
(see Attachment C)

TAMS Center Activity Update –
Glenn Gehring –

- PA's - trouble shooting issues with monitor and data logger.
- NIST traceable certificate on flow-BGI not accurate (calibration off).
- Suggest TAMS equipment loan to include calibrators.
- Shoban and Hualapai had trouble with DeltaCals. Farshid contacted Mesa lab regarding NIST issues.
- GIS course went well – 11 participants.
- GIS mapping – working with tribes requesting information; has given them shapefiles to work on.
- Working on ozone map for 2013 – could present at NTF breakout session; need to update design values; will add trends for design values to help illustrate impact/change.

Melinda Ronca-Battista –

- EI Advanced Webinar – 12 participants, through October
- Revised Toolbox 3.0 with Angelique.
- Assembled and completed a series of AQS tutorial videos – 14 total.
- QA 101 video for Alaskan Tribes.
- Assist tribes with QA plan.
- TurboQAPP – used by 130+ individuals so far (at least that many receive license updates every January)

Angelique Luedeker –

- Provides support on TEISS.
- Released a new version of the Tribal Data Toolbox 3.0
- Working on on-line training module.
- Working on submitting data to NEI for tribes.

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TAMS Needs Assessment –
Other Focus Areas:

- **Focus Area 2. Air Monitoring Data Reporting:**
  - Need survey of what data acquisition systems are being used by tribes to determine training needs.
  - Last data logger course was in 2008. There may be a demand for the course.
  - Is there a feedback loop on the webinars for data reporting?

  Professional Assistance -
  - Is there enough staff to provide adequate professional assistance?
  - Reach out to other support organizations to assist with professional assistance for air monitoring data reporting and Air Quality System (AQS) data submittal.
  - Suggestion to bring back "Speak to the Trainer"
  - Keep up on trends; gaseous monitor training.
  - Build tribal technical capacity (i.e., QA, auditing, etc.).

  Other Pollutant Air Monitoring –
    - Does TAMS staff receive enough training?
    - Request for more training on air sensors.
    - Apprenticeship program could be an option.
- **Focus Area 3. Quality Assurance Documentation –**
    - Review the current IAQ QAPP/SOP documents to determine a strategy for support.
    - Continue discussion with Mike Papp and follow differences in QAPP requirements between the regions.

Next Needs Assessment:

- Next survey in 2017
- Collect data and request ITEP to share data from participants and clients; identify what trends are emerging.
- Respond to the tribe's feedback on the needs assessment and provide them with an update on how we use their input.
- EPA is reviewing filter weighing concept paper. When can we expect update? Request a progress report through informal channels (per Laura).

TAMS SC Coordination Discussion – Craig Kreman

- NTAA communication began in late December 2014. He has not been on a call since he was elected. No updates at this time but has been coordinating with Cristina to coordinate NTF.
- NTAA is currently fostering partnerships.
- Groups should interact to help tribes succeed.
- TAMS page with contact information and short description was added to the NTAA website per Andy. Also, add links to TAMS website.
- Use NCAI resolutions to support funding issues (resolutions need to be brought forth by a tribal entity – have used Bill Thompson in the past).
- TAMS/NTAA meeting at NTF – caucus will be held on Wednesday evening.

Outreach Discussion:

- Increase communication with Tribal Air Coordinators (TACs) – still have issues with Region 9, but six of the TACs will be at NTF. Ensure that regional websites have relevant contact information.
- Keep communication open with ANTHC for Alaska tribes.
- Is there a state equivalent of the TAMS Center?
- Regional haze outreach to tribes.
- Provide update at RTOC.
- Workload for the TAMS Center – don't want to overload staff.

Election of New TAMS SC Members –

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Membership terms for Kris Ray and Marvin Cling will expire September 30, 2015. There were three nominations received to fill the two upcoming vacancies. The three nominees are: Kris Ray, Confederated Tribes of the Colville Reservation; Frank Spurgeon, La Jolla Band of Luiseno Indians; and Darold Wallick, Pala Band of Mission Indians. All nominees have supervisor approval to serve, if elected. After discussion regarding regional representation, a motion was received to adopt two nominees. Kris Ray and Frank Spurgeon were elected by consensus. Their terms will run October 1, 2015 through September 30, 2018.

Virgil Masayesva Award –
By consensus, the Steering Committee selected Dan Blair, Gila River Indian Community, to receive the Virgil Masayesva Excellence Award in the category for Tribal Program Development, and Randy Ashley, Confederated Salish & Kootenai Tribes, to receive the Virgil Masayesva Excellence Award in the category for Technical Excellence. The awards will be presented at the National Tribal Forum in May 2015.

Thursday, March 12, 2015
EPA Funding Discussion – Pat Childers

- STAG grants (103/105 dollars)
- For FY15 and FY16, tribal air grants total $12.8M.
- Requested additional $31M increase for GAP funding; can be used for IAQ.
- How do we determine if tribes are interested in developing an air quality program?
- Many tribes do not apply for grants and have given up. Difficult to continue funding mature programs and fund new programs.
- Regions look at how many STAG requests they receive vs. how much they give out.
- Look at trends in course attendance to identify needs; how many tribes advance, and how many disappear due to lack of funds. This can be included in the STAR report.
- Tribes are told to use GAP to start their programs and switch to other funding, but there is no other funding.
- 103 grant description and usage are different; many tribes on 103 should be on 105.
- Tribal participation in Multi District Organizations (MDOs) is difficult; requires commitment and tribes can't afford to participate.
- EPM funding – internal money that Janet sets aside for tribal use to update websites, training, special projects – also funds some of AIAQTP and also non-AIAQTP activities for the TAMS Center.
- Request money specifically for new equipment.

NTF – Lydia Scheer (by phone)

- Registration for attendees is now open. (started 4 weeks ago)
- Request for scholarships is open; deadline approaching.
- Working to get sponsors and exhibitors for NTF – two official sponsors have signed on.
- Still room for presentations in the breakout sessions and the EcoCafe. Encourage people to submit request forms on website.
- Working on coordinating shuttle reservations.
- NTAA/SC caucus should be held on Wednesday evening. Pat requested TAC Meeting at same time.
- TAMS SC plenary session – Thursday morning (45mins)
    - Main focus should be on the Needs Assessment – Kaibah or Tracie to present.
    - Slideshow of TAMS Center course participants, TAMS SC (past & present), services, VM award recipients.
    - Highlight monitoring equipment per region
    - Next steps/Q&A

AIAQTP Input for FY16 – Pat Ellsworth (by phone)

- Alaska Course: "Management of Tribal Air Quality & Grants in Alaska" title should be changed to more descriptive title: "Project Planning, QAPPs and Grants"
- Will have to wait on scheduling another SIP course (depends on funding). 18 people enrolled for April CAAP course.
- Climate Change Adaptation courses is funded under Sue Wotkyns/Climate Change.
- Add new monitoring course to cover basic criteria pollutants, i.e. gaseous, etc.; level 2 & 3 monitoring courses is a must and move into level 3 web-based trainings.

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- Trend for increased need in advanced courses. Many Level 3 training is moving to a web-based format.
- May need to add a sensor technology course in the future (include calibration accuracy). Leech Lake will be testing some of the PM sensors.

Meeting Closeout -
Tribal Caucus Report –
Spread work load out to Staff and EPA to help compile drafts for review. What contribution does the SC members want to have on the regional haze effort or for oil and gas issues? TAMS co-directors should participate in calls for feedback and plan on how to move forward. Continue communication with TACs and keep them involved to obtain information from the regions. Continue to include TAC member in SC meetings and calls. Continue collaboration with NTAA.

Review Action Items –
1) Work on list of portable continuous PM monitors that we can add to the equipment loan program.
2) Upgrade gaseous ozone and Nox monitors.
3) Jed will put together a concept paper and guidance document for IAQ; hope to have draft ready by NTF.
4) Work on proposal for an IAQ kit.
5) Plan on next needs assessment – who can we pull in from NAU to assist?
6) Tribal caucus at NTF with NTAA – work group interaction; brief discussion on subject matters; additional monitoring for ozone after final NAAQS issued; further discussion with NCAI.
7) Steps taken to broaden our workload.
8) Obtain list from Laura's group regarding sensor technologies.
9) Farshid to update "School Air Toxics Monitoring" to "Air Toxics Monitoring".
10) Allow more time on agenda for TAMS staff to report updates at next in-person meeting.
11) Allow TAMS staff attendance (Glenn, Melinda) at every other in-person meeting.
12) Invite TAMS Staff to participate in monthly TAMS SC calls.
13) Executive summary for needs assessment.
14) Letter to introduce needs assessment and filter weighing concept paper.
15) Continue communication between committees.
16) TAMS Center to arrange technical calls on specific subjects or concerns needing immediate attention. Maybe host a webinar if there is a critical need rather than having a scheduled call.
17) Letter outlining results from equipment survey – we need more funding to replace old equipment; Joe/Craig to draft letter.
18) Keep TACs involved.
19) Contact Frank Spurgeon and welcome him to SC; invite to monthly SC calls.
20) Laura to follow up with TACs on total system audits and QAPP review time between regions.
21) Glenn to complete map on tribal ozone design values.

Final Business -
The next fall meeting proposed – October 6-8, 2015. The next monthly call is April 15, 2015.

The meeting was adjourned at 11:30 a.m.

Submitted by:
Darlene Santos

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TAMS Steering Committee Call

January 21, 2015 @ 10:00 A.M. PDT

Attending: Randy Ashley, Andy Bessler, Joe Cebe, Pat Childers, Marvin Cling, Craig Kreman, Farshid Farsi, Aunjanee Gautreaux, Jed Harrison, April Hathcoat, Mehrdad Khatibi, Laura McKelvey, Tracie Merrill, Kris Ray, Daniel Ruehle, Darlene Santos, Kaibah Tsosie.

Opening Business

Roll Call was completed, and there was a quorum of voting members.

There were no call notes to approve.

March In-Person Meeting is confirmed for March 10-12, 2015 in Las Vegas. The draft agenda and fact sheet will be emailed to all.

TAMS SC / NTAA Coordination Call

Craig Kreman is the liaison between the TAMS SC and the Executive Committee members of the NTAA and has participated in the January 6 call. Craig reported that he is receiving input from all Regions, except Region 9 on updates of their equipment list and what each tribe is monitoring for. Tracie Merrill and Cristina Gonzalez-Maddux have volunteered to reach out to the Regions and assist with putting list together and establish a table indicating the type of air monitoring equipment deployed in the Indian Country and used by tribal environmental programs. Pat will reach out to Region 9 for their input. Information will be shared at the next in-person meeting in March. Randy Ashley has volunteered to be the liaison for the NTAA to the TAMS SC and will participate in the conference calls and in-person meetings. Andy will set-up call in February (to include Randy, Craig, Chris, Farshid, Kris) to work on draft agenda for the NTF joint session between the SC and the NTAC and also plan out what it is that both organizations would like to discuss and work on specifically, i.e. STAR. Kris reported that the NTAA is forming an indoor air quality (IAQ) workgroup which will be a major topic of discussion at the March in-person meeting. The decision to form an IAQ workgroup within TAMS will also be discussed.

NTF Update

The NTF planning call was on December 11. Kaibah reported the location selected for the NTF is Battle Creek, Michigan, May 19-21. The planning of the agenda, development of courses and plenary sessions on "fracking", key note speakers, vendor training and ozone standard revision were the topics of discussion.

Air Quality Filter Weighing Service

Concept Paper - Kris reported the concept paper was out for review. Excellent feedback was received from all SC members. All voted in favor of finalizing the document as is. Pat suggested that the final document be addressed to him and he will forward to Janet McCabe and OAR leaders. Kris will also send document to his Regional TAC and suggested that all SC members send out to their Regional TAC as well.
Guidance Document – All SC members are in favor of moving forward with the guidance document.
Filter weighing RFP – Farshid reported there is a conference call set tomorrow morning with the project officer in D.C. There are no other updates to report.

Technical Needs Assessment Report and Implementation Plan
All SC members approved on the revised documents. Pat suggested these documents should be available on memory sticks along with the NTF STAR report and shared at the NTF. All SC members also agreed with Craig's suggestion to present these documents during the breakout session at the NTF. Farshid indicated a correction needs to be made on Page 9, Table A, Current Staff and Workload. It was suggested to either remove the names of Ron Gibson and Robert Mosley due to the termination of the gravimetric lab services or change "Current Staff and Workload" to read "As of 2014 Staff and Workload".

Equipment Program
Farshid reported a notice was received indicating additional funds of $20,000-$22,000 may be available under the EPM funds. After consulting with Glenn Gehring, a request was sent to Betsy Shaw yesterday to order two additional E-BAMS. The TAMS Center is gradually receiving orders from the previous order submitted last year. Mehrdad mentioned that EPM funding should be explained in further detail. The TAMS SC should have the opportunity to discuss and identify the unmet needs and equipment priorities for special projects or funding requests. Pat reported there is no guarantee of EPM funds beyond the basic grants that are funded. Funding requests go to EPA headquarter offices and Regions for tribal related projects that aren't generally funded. Part of the basic funding covers the general operation of the TAMS Center. It is uncertain if additional funds will be available for smaller special projects. Kris expressed the importance of having the SC develop a strategy and guidance document for the equipment loan program for the TAMS Center. To be discussed further at the next in-person meeting.

Tribal School Air Toxics
Farshid reported the funding available for school air toxics is $100k. The Churchrock Chapter of the Navajo Nation started the program last month. It was suggested to continue advertising the program or SC members can discuss using available funds for other purposes. To be discussed further at the next in-person meeting.

Other Subjects
Co-Director Report – Farshid announced the upcoming training at the TAMS Center is the GIS course, February 10-12. Chris and Farshid are preparing for the manager's meeting next week, beginning Tuesday, January 27.
Virgil Masayesva Award – Two nominations received.
SC Nominations – There are no nominations received.
OAQPS Funding – Mehrdad reported there is funding set aside through the OAQPS project. The scope of work includes providing support in organizing meetings for the tribes base on demands. ITEP requesting feedback from SC members. To be discussed further.

Next Conference Call – February 18, 2015, Las Vegas

Next Face-to-Face Meeting - March 10-12, 2015, Las Vegas

Submitted by:

Darlene Santos

TAMS Steering Committee Call

Wednesday, December 17, 2014 @ 10:00 A.M. PDT

Attending: Pat Childers, Farshid Farsi, Jed Harrison, Mehrdad Khatibi, Craig Kreman, Christopher Lee, Tracie Merrill, Kris Ray, Daniel Ruehle, Darlene Santos

Opening Business

Roll Call was completed, and there was not a quorum of voting members.

The agenda was approved.

There are no call notes to approve.

Action Items

TAMS SC/NTAA – Last week's NTAA conference call was a good start for communication for both organizations involved. Craig Kreman will be liason/coordinator.

Air Quality Filter Weighing Service Concept Paper – Received great comments on the draft concept paper and draft guidance document. It was discussed whether or not this type of document should be used to get the service reinstated at TAMS. Draft should be addressed to Pat Childers, Mike Flynn or Janet McCabe. Final draft to be sent out next week. Farshid reported that there is no new update on the RFP.

Needs Assessment Report – Revisions from Kaibah and Tracie were sent to Kris for review. Currently working on final edits. January 21st is scheduled date for completion.

Radon Testing Service – The subcommittee currently working on concept paper is Kris Ray, Kaibah Tsosie, Jed Harrison and Mehrdad Khatibi. Kris to send draft out for review and comments, potential approval date is March 10th.

Equipment Loan Program – Dan reported the purchase order for repair parts is still in process. He is currently working on the SOG for the new Dust Trak II. It was mentioned that the guidance document development should include how to move forward with the equipment loan program due to the changing need throughout the nation. Chris suggested to refer to the needs assessment report which identifies the priorities for the equipment loan program and to utilize the needs assessment report as a guide for developing the concept paper.

Tribal School Air Toxics – The remaining budget for this program is $100,000. A conference call will be planned to brainstorm and decide if some of the funds can be utilized for other areas of monitoring, i.e. purchasing new monitors for the tribes. Continue to work directly with Laura McKelvey and Laurie Trinca for exact details on cost. The Churchrock Chapter on the Navajo Nation started the program and the site is currently being set-up.

Co-Director report – Chris is working on updating the TAMS website and information has been submitted to the IT department. The GIS course is scheduled for February at the TAMS Center. There

are currently 8 applicants. We are seeking 2 to 4 more applicants for the course. It was suggested that the SC members inform their tribes that applications are still being accepted. In regards to the NTF, there was a suggestion to have someone from the SC represent as a co-chair for the technical ambient air session with full support from Chris and Farshid. Looking for tribal case study presentations. Farshid reported that a set of IAQ equipment is now available. A request from the Manzanita tribe was received for IAQ equipment.

Other Subjects -

1) Pat Childers announced that the senate passed the budget. The money will be distributed to the tribes in the Regions that submitted applications for the Stag103/105 air programs.
2) Pat reported continuous NTF planning.
3) There was a recent White House meeting for tribal issues, mostly water issues and treaty fishing rights were discussed mainly in Region 10 tribes. The administrator announced that EPA will be looking at treaties in a more holistic and forceful manner.
4) The NTAA Executive committee will be meeting in DC the week of January 6-8 to discuss issues. Jed Harrison reported that Mike Flynn and Dave Rowson from ORIA will also attend the meeting to discuss how to move forward on IAQ and radon issues.
5) Jed also reported part of the budget that was passed includes the continuation of funding for radon grants.
6) Pat reported, on the most recent call for the next 5 year of AIAQTP grant there were quite a few Alaska native villages and tribal representatives that participated on the call. They all expressed specific interest on how to provide trainings in Alaska. All comments will be considered for the AIAQTP grant request.
7) It was reported that there are technical concerns with the new proposed ozone standards. The NTAA will be addressing comments and concerns. The NTAA policy call is scheduled for tomorrow and SC members are encouraged to participate in the call.
8) Two nominations were received for the Virgil Masayesva Award: Randy Ashley and Rose Kalistook.
9) There are two positions open for SC nominations for 2015. Kris Ray will nominate himself.

Next Conference Call – January 21, 2015, Las Vegas

Submitted by:
Darlene Santos

Joint TAMS Steering Committee/NTAA Meeting
Flagstaff, AZ
September 12, 2017

In attendance:
Andy Bessler, Joe Cebe, Pat Childers, Ann Marie Chischilly, Farshid Farsi, Glen Gehring, April Hathcoat, Nicole Johnson, Monika Lacka, Chris Lee, Laura McKelvey, Steve Page, James Payne, Camille QuickBear, Kris Ray, Melinda Ronca-Battista, Darlene Santos, Frank Spurgeon, Shaina White, Ed Wilds, Jr., Alfonso Yadao

NTAA EC Reps: Angela Benedict (R2), Brian Holter (AK), Tiffany Janes (R4), Carolyn Kelly (R10), Craig Kreman (R6), Carol Kriebs (R7), Wilfred Nabahe (R9), Jan Paul (R1), Brandy Toft (R5)

Tuesday, September 12, 2017
Welcome and Introductions –
The meeting was called to order by TAMS Outgoing Chairman Craig Kreman and NTAA Chairman Wilfred Nabahe. Chris Lee gave the invocation, and everyone was welcomed.

Review and Approval of Agenda –
The agenda was approved.

Discussion with EPA OAR Office Heads -
OAR/Sarah Dunham: Acting Assistant Administrator since late January.

- Bill Wehrum nominated for the position (was in position previously from 2005-2007)
- OAR has worked on AirNow resources for wildfires and mobile air monitoring for areas affected by hurricanes; the President signed a bill for assistance effort for hurricane disaster recovery
- OAR-Budget and Planning Update – The President signed a continued resolution; continue current levels of funding through December 8th
- EPA FY19 funding request was submitted to OMB last week; also submitted draft FY2018-2022 Strategic Plan, next 4 years align with administrative priorities; plan should be available for review in the fall
- The Agency is developing an Executive Order comprehensive for reorganization for executive branch, ways to improve effectiveness for reformed plans; will be rolled into overall government reform plan (LEAN tools & permitting) efficiency, transparency
- Finalizing comments for the FY2018-2019 OAR NPM (National Project Managers) guidance by the end of September 2017

OAQPS/Steve Page and Laura McKelvey:

- Clean Power Plan (CPP) has pending court case at supreme court level; did EPA do good enough job of using cost; developed proposal; administer looking at the rule, Admin claims it should have stayed with facility
- Toxics - court ordered toxics rules for technology and NOx reduction / MACT (Maximum Achievable Control Technology) rule, half way through
- NSPS (New Source Performance Standards) – oil and gas; petitions for reconsiderations granted; comment period closed 2 weeks ago; the new administration does not like Federal Implementation Plan (FIP); permits are tied to that outcome; is required by the federal government
- Ozone non-attainment issues and discussion are ongoing
- Wood Heaters – implementing rule (targeted airsheds and changeout programs); legal challenges, particulate matter (PM) violations; opportunity for funding; Supplemental Environmental Project (SEP) money provides changeouts; pulled by Administrator – stay tuned, don't know future
- Regional Haze – tried to streamline implementation; under legal challenges
- NATA – air toxics inventory; coming out in spring

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- Tracking Mercury Emissions – will keep us updated
- Court order rules phosphoric acid manufacturing
- Designations – SO2 is complete
- Ozone NAAQS - delayed actions by Administrator, tribes with TAS (Treatment as State); tribes should see 120-day letter soon
- Voluntary ozone advance program continues to move forward; avoid going into non-attainment
- 60 outreach/consultations were held last year
- Training for TAS and wildfire preparedness
- 3-part series on the NAAQS was conducted; want to do a 3-part series on permitting
- Want feedback on future webinars and how to give fundamentals to tribal reps
- 31 applications for community-scale air toxics grants are being reviewed
- Technical assistance - Working on how to improve the TSA-LEAN process
- Appendix W – monitoring technical guidance for NO2
- Region 8 and Tribes are discussing how to balance air quality issues with income generation by the tribes.

OTAQ/Lee Cook:

- VW Settlement – 600,000 vehicles affected with Defeat devices / 2.7 B dollars
- DOJ filed trust agreement, parties have not signed yet; provided to court for approval on September 6; tribes will have 90 days from the trust effective date (TED) to request funds for the first year only; thereafter, following years will have a September 1st submittal date
- Projects that reduce NOx to protect public health
- 10 eligible mitigation actions / voluntary
- Jennifer Keller or Lee Cook – let them know if webinar is needed
- ITEP will provide technical assistance for non-DERA projects
- Recipients must submit audit reports; Trustee is receiving annual audit and accountability to the court
- Can tribes request their own audit on trustee? Lee will look into it
- When will fact sheets be released? Lee doesn't have specific knowledge but will know more after court's finalization
- DERA program – FY2016: 1.5 Mill / Six tribal awards over three regions
- 1.5 Mill is available again, Draft of tribal DERA RFP is being reviewed; making its way through internal process; should go out Sep 26, 2017; close by Feb 2018

OAP/Reid Harvey and Erika Wilson:

- Cross-State Air Pollution Rule – intent to reduce summer emissions from NOx, ozone pollution, down to 2008 Ozone level; rule took effect this year (2017 ozone season), but litigation is underway and proceeding; nine reconsideration petitions
- NOx emissions down 11% lower emissions this year than last year, should be in compliance
- AQ (Air Quality) Monitoring - CASTNET (Clean Air Status and Trends Network) – 3 full tribal sites, 3 smaller footprint sites on tribes; concentration of ammonia monitoring network
- Assist communities / technical support for tribal greenhouse gas (GHG) reporting
- 5 year cooperative agreement with Morongo and Pala Band; benefits for multiple tribes
- EPA providing immediate relief for hurricane Harvey and Irma; mold prevention; IAQ info being put forth for longer term type of actions needed
- National Climate Assessment Report to be published; there is a tribal section

ORIA/John Edwards and Dave Rowson:

- Bill Thompson has joined ORIA EPA on a temporary assignment
- Utilize the findings and recommendations from the NTAA IAQ Needs Assessment
- Federal – Tribal Collaboration – 3 federal partners: HUD, HHS, USDA in collaboration with Native American Housing Council (NAHC); two prong collaboration project; build tribal capacity
- Access resources and collaboration - 6,000 subscribers thru social media platform; HUD's grant announced

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- Next IAQ course being held by ITEP in September is already full; 19 are on wait listed for a training course in October, to be held somewhere in Region 6
- Indoor Air Plus – Osage tribe has built 15 new energy-efficient homes
- Radon – priority for ORIA - 21,000 lung cancer deaths per year; National Radon Action Plan w/ ALA making progress; Aug 23 EPA publishes notice asking for public comment for credential radon mitigation providers; looking at administrative waivers for 40% match
- 8 tribes awarded radon grants in 2016
- Asthma – address enviro triggers; success story in upper mid-west; in collaboration with the American Lung Association (ALA); 26 tribes on asthma induced reduction project; indoor air assessment; capacity building, education and assess and remediate; 120 indoor home assessments
- 11 summits successful – 15 states and tribal nations; expanded network; stop it at source of triggers (in home)
- Navajo Wood Stoves – 2015 settlement with 4 Corners PP; $3.2 million replacement program; 700 change out stoves; additional 1.5 million to weatherize stoves; collaborate with Region 9 and TAMS; monitor pre and post work to compare results
- Radiation – Subpart W finalized; radon emissions from uranium mill tailing; upgrade old rule signed by administrator by December
- Uranium Extraction from aquifer – comment period extended to mid-October
- Kris Ray – wildfire smoke intrusion into homes/structures – how to get indoor air ready; what's the EPA effort to address this? Answer: resource available; last week sponsored indoor PM, updating the guidance on PM in regards to wildfires; releasing public documents soon; NTAA IAQ to be tracking this

Discussion with Felicia Wright/Andrew BACA – AIEO
FY18 Budget Update –

- Original budget had deep cuts for EPA
- Some cuts in IGAP (Indian General Assistance Program)
- House appropriations committee had markup of 7.52 B; 1.7 B higher than President's budget which would restore a lot of the EPA budget
- Full house expected to vote on EPA Appropriations Bill, part of Omnibus Bill
- Senate, mark up in mid-Sep, floor action until end of year
- Expect continuing resolution

DRAFT

FY19 Budget –

- EPA will submit to OMB (Office of Management and Budget) at any time now – looking @ February 5, 2018 submission to Congress/President
- International negotiation on budget
- Kris Ray: cautioned in using term "priority" as everything he does is a priority; additionally, National Tribal Caucus (NTC) does not always voice the opinions or perspectives of all tribes

Strategic Plan – there will be a new strategic plan and draft will be published for comment soon. Two calls will be set up, and letters will be sent to all tribes.

NTOC meeting on October 11, 2017 – Administrator will be attending this meeting; how to maintain momentum and leverage programs; need to define cooperative federalism from a tribal perspective; states have outlined 9 principles; EPA AIEO wants to help define this and look at tools for programs to stay strong; 32 tribes don't receive IGAP and its failing in EPA R9; funds should stay within R9; EPA allocates based on national model; funds would stay within region. Joe Cebe: commented that air funds not be transferred over to water, etc.; GAP is stand-alone funds and can't move it into a separate pot of funds/programs. NTAA R6 Rep: could TAMS be a partnership group to NTC? They are aware of Tribal needs in air quality and request to be added as partnership.

Debrief with Pat/Laura on EPA updates –

- Concerns with doing effective consultation – ORIA; OAQPS/Laura – will help out with engagement; consultation letters – sends emails to environmental department, then letter to tribal leaders
- Subpart W issue should be sent out to tribal water quality folks too
- Budget 101 webinar would be helpful
- Question #3. Pat sent out question to EPA staff to get response
- Laura: Woodstove change out – possibly form a work group; testing new stoves and will get report to NTAA and TAMS
- Steve: Tribes applied for "targeted airshed program" in non-attainment areas due to woodstoves, indoor/outdoor air issues; possibly develop new model to showcase; many would like to see a DERA like program for woodstoves
- NTAA R7 Rep: include woodstove issue in the 2018 STAR; data on how a woodstove change out will be included or addressed; partnership with state/tribal?
- Contact Mike King (Four Corners Settlement) – to inquire about best practices; Nez Perce and Oneida may also have experiences to share
- TREX – will continue to maintain service/support for a year
- Sensors – could they be used around Superfund sites?
- Laura: Policy for hardship waiver issue; she'll look for an old draft document that was initiated by William Bradley

Joint TAMS/NTAA Meeting Adjourned.

2017 Fall TAMS Steering Committee Meeting

Tuesday, September 12, 2017 - Afternoon

Welcome/Invocation - The meeting was called to order by Craig Kreman; he shared his final thoughts. The agenda was approved with a minor change to add the TREX network update. The TAMS SC members elected Shaina White as Chairperson and Frank Spurgeon as Vice-Chair.

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New Member Orientation – Farshid covered expected requirements and mentions that it is great to have representative from Region 8; the last time Region 8 was represented was 2008. Chris reviewed the SC charter. Pat reviewed how the TAMS Center is funded (AIAQTP grant) and discussed how courses are chosen. Camille mentioned the 8-hour refresher for HAZWOPER is no longer available at the local university.

Regional Discussions and Recommendations –

Kris Ray, Colville Tribe – Region 10

- Wildfire smoke issues, coastal and inland tribes affected. Working on webinar course to assist tribes on how to deal with smoke issues; James and Chris on planning committee.
- Monitoring equipment upgrades – upgraded to BAM 1022; set up takes long.
- Region 10 partnerships – How do we participate on a national scale? How do we follow through? Currently working with Mehrdad.
- Region 10 Tribal Newsletter – only air issue mentioned was a list of ITEP courses; work on expanding and mention on October meeting.
- Capacity issue – woodstove change out; small grants, etc., how to build.
- Funding – in their region, if cut 10%, they will lose some air programs.

Shaina White, Inter Tribal Council of Arizona – Region 9

- Gila River was dealing with guidance on setting up boundaries for ozone designations. Laura – update and put clarity on setting boundaries on 2015 policy for next round of designations; will recognize that tribes can determine their own boundaries (won't necessarily be at the county level).
- City of Scottsdale wanted to expand their airshed to include tribal areas, but the city can't do that… it would be the tribe or the governor.

- Funding – tribes can help other tribes – Ak-Chin has 2 dust tracks; be open and communicate with your neighboring tribes.

Nicole Johnson, – Region 10 - AK

- Getting communication out to Alaska villages will be a big challenge; plan on presentation of TAMS at ATCEM.
- Issues with funding due to high turnover rates. Alaska is so large, each area has its own issues, i.e., road dust, diesel for heat and power; IAQ issues.
- Pebble mine debate – concerned with mine located near Bristol Bay; looking at clean water act; air quality issues and concerns.

April Hathcoat, Cherokee Nation – Region 6

- Funding – rollovers
- Delaware Nation ozone shut down.
- Choctaw will get funding.
- Ozone alert for OK; sites low; may shut down one of the sites.

Frank Spurgeon, La Jolla Band of Luisueno Indians – Region 9

- Funding is biggest concern; most people have issues with funding.
- Manzanita needed help with audits; may be requesting equipment from TAMS for flow audits (volume metric flow calibrator)

Joe Cebe, Forrest County Potawatomi - Region 5

- Frack sand mining – only Ho-Chunk is monitoring for it using their own monitors. Other tribes would also like to monitor but may not be able to due to possible reduction in funds.
- Experiencing odd ozone readings; large areas report unusually low during the middle of the day.
- Mercury recycling plant had a release on July 4; cause high ozone readings and 20ng mercury readings. Glenn mentions that mercury can mess up your ozone analyzer.

TAMS Center Activity Updates -

Melinda Ronca-Battista –

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- QAPP "How to Course" – include videos, examples, links; there will be 9 modules and it will be a self-paced course.
- Tribal Data Toolbox – for VW settlement; working on calculator tool for diesel retrofit/NOx emissions; on hold pending decision.
- Developing Toolbox with Angelique (New Toolbox version is amazing) – Air Vision and TREX to track data; interactive validation system; AQI calculations and completeness reports; will be the next course; self-paced; new features.

Angelique Luedeker –

- New Toolbox Version – allows you to import text file or spreadsheet; can name and save file.
- AQI reports – all data imported in toolbox to show value; will flag repetitive values; updated ozone NAAQS standard reports; should be done by the end of the year.
- Issues submitting data to the NEI – location field error; trying to add a location field when you submit data for tribes – EPA should have a fix soon.

Glenn Gehring –

- A total of five PA's were scheduled over the next six weeks: Pyramid Lake Paiute Tribe, Leech Lake, Lower Sioux, Hualapai and Hoopa Valley Tribe.
- GIS for Air Quality Course is scheduled for April 2017; will review presentation and will need to revise exercise due to new updated software; James Payne is tribal instructor.

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- Fundamentals of Air Monitoring course scheduled February 6-8, 2018.
- Announcement was made that he will be retiring June 2018 – advise people to apply for his position
- Will continue to work on videos before he retires; already completed one video.

TAMS Equipment Loan Program -
Farshid reported that Alfonso is working on certifying and calibrating equipment. The Navajo Wood Stove Change Out project has started; Mike King, Navajo Nation is lead; project is for two years, winter months; pretest; dual purpose burning stove; coal switch to wood; found manufacturer in England that can make stove switch from coal to wood; testing is being done for existing technology; per Laura, testing this week; working on final report. Region 9 IED/ORIA/OAR has funding for IAQ monitors, Dusttrak and particle counter; TAMS Center to prepare PR for purchase; to be done by October 1; 70 families selected; will be done in phases.

TREX Network Update –
Chris reported that Walker River did not get funded for their EN grant and they were funding the entire TREX network for 17 tribes. Sutron manages the network, and ITEP houses the servers. Some money was found (per Pat) to keep the network going. Chris will set up a call for early next week for agreement on how they want to continue this network moving forward.

Tribal Caucus - Meeting session for TAMS SC voting members.

Joint TAMS Steering Committee/NTAA Meeting

Wednesday, September 13, 2017
Strategic Discussion - Tribal planning meeting/June 14th, 2017 – reviewed notes and action items. Had to apply what we've been doing to what EPA wants us to do, using their language. Pat – what's missing from the NPM guidance is more telling than what is there. Laura – white paper on tribal air program and EPA priorities. Three components covered:

1. Rule of law
2. Cooperative federalism
3. Public participation

Reviewed infographic that will go along with white paper. Need to update some of the numbers; should have better numbers for monitoring sites after Frank gets the information from Region 8. Add number of tribes/individuals who have taken classes at the TAMS Center/ITEP. How will this be presented? Could be used by any of the tribal organizations as a starting point. Erika – used pictochart (free resource). Ann Marie to have Ty work with Erika Wilson on modifying and finalizing tribal graphics. Laura to finish up the numbers, and will turn over the project to Andy/Ann Marie. Core group/subcommittee – Caroline, Craig, Andy, Will, Shaina, Brandy. Want this to be completed before October 11th meeting. Scott Clow/NTC – not sure of agenda yet.

Also reviewed action item list from the meeting.

Will – need to get all of the partnership groups together, regardless of media.

Pat – how often do we want to have this joint meeting with NTAA/TAMS?

TAC Updates –
Region 10 – Mehrdad: Strong relationship and good communication with tribes in Region 10 and office; good representation on committees. Struggle with funding – not enough to go around; not able to update old monitors/equipment often, but do make that a priority when funding is available. What support would make tribal programs more successful? Will look for other funding channels elsewhere and form other partnerships where possible.

Region 9 – Sara Bartholomew/Lauren: Find loaner equipment from TAMS very helpful; could use more. 1. A lot of turnover,

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which sets the program back. Some tribes still having trouble entering data into AQS. Have ended two tribal grants due to poor performance. 2. Like to see where resources are leveraged. 3. Added two new tribes when the other two grants ended. Some tribes do work under GAP funding. 4. Not productive to speculate. Wilfred: were the two tribes whose grant ended monitoring? They were supposed to be; had procured equipment a while ago. Don't have a condition for equipment return. Region 7 was told that they have to return old equipment when it is replaced. Region 1 questions – how many tribes actually want to monitor? Some tribes in southern California collaborate to share equipment. Laura – the need outstrips the funding

Region 8 – Kyle Olson: No tribes outright failing, but some struggling. QAPPs – currently low rate and will start getting some through. Most successful tribes have been trained and know their projects and their needs. Fear that we'll have less funding in the future… not sure where they would cut. Have a lot of indoor air issues; IAQ is a huge priority.

Region 7 – Paula Higbee: Nine recognized tribes, seven with grant. Two are struggling, and was not refunded for the following year. Working to update QAPPs and get them approved. Most tribes have equipment that they need and have MET stations. No capacity under GAP at all. Capacity building is built into their air grant. Only speculation about funding; will deal with it when it comes. Brandon – have looked to other agencies for funding opportunities – have received funding from ANTHC.

Are other tribes aware of why the other tribe was unsuccessful so they could avoid the same pitfalls?

Region 6 – Aunjanee: Issue with one tribe not submitting progress reports. 18 grants application received, generally able to fund 11-14 grants. Roll money when possible. Not able to tap into additional funds in GAP this year. Future funding approach: haven't had issues yet… if they have to prioritize, it will be 105 grants and then those that are monitoring. Region 6 lets everyone keep their monitoring equipment.

Region 5 – Ben/Avi/Monica: Small tribal team in Region 5. 17 active air grants, 7 are 105 grants (these are considered monitoring programs). Lot of demands for funds – far exceeds the funding available. Two or three tribes struggle due to turnover/inability to recruit new staff. Support - Training and leveraging resources is important – have the inter-tribal council of Michigan, leveraging resources. Tribes with best programs tend to collaborate with state programs. The tighter the work plan, the easier to follow and track their progress. Also, they need to be realistic. Made best attempt in FY17 to keep 105 grants funded.

Region 4 – Anna Oquendo/Mario: 6 federally recognized tribes – 5 have air programs. 2-3 tribes are struggling due to turnover or decreased funding. Issues with training new personnel and passing on information. Tribe in region 4 could use trainings about how to work with other departments or other organizations. Continue to provide networking opportunities. Some tribes are having trouble getting their grant application packages together. Mostly funding building capacity and training for new tribes, but this has impacted the original tribe (which is 105). Will likely become more competitive. Ultimately award below what is requested. Not sure how they would manage a 30% cut. Brandon/Region 10 – tribes can join a conservation district for more funding opportunities

Region 2/Brian: Only one tribe active in air monitoring – older relationship. Support – a lot of topics deal with indoor air pollution; mold; demo of older homes; need more support with IAQ issues. Had discussion with tribe regarding grant reduction. Two or three tribes with GAP have air goals written into them, but don't receive CAA funding.

Region1/Eugene Benoit: 10 tribes – funded 6 to 7. One tribe has failed due to governance issues, but other tribes doing a great job. Run a non-competitive program. Want 103 programs to apply for 105, but most are not interested. Air funds have gone down. Loss of funding in other areas put strain on air funds as well. Thinks every tribe should evaluate data every 5 years, but most won't do it without additional funds (say it will cost around $60K to do one).

Review of FY2018 Courses – Pat Ellsworth

- Discussion of changes and additions to FY2018 schedule
- IAQ course has 20 in class and 19 on the waitlist. Because of this, will hold the course again in Albuquerque (possibly) Didn't want to impose on Creek Nation twice by holding it in OK again
- May have to move management course depending on NTF
- Virtual Mode: any environmental data that is used, only St. Regis using it now; training on this was discussed
- Are there training resources available for radiation exposure from Fukishima and N. Korea in AK? Tribal leaders were

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asking about how they could prepare for that. Tribes in R6 asked about exposure from radiation due to Jackpile mine being listed as a superfund site. Ed: lab will make equipment available

- How could tribes monitor for radioactive releases? Ute Mountain Ute does it
- AK tribes are interested in this; TAMS offered this kind of training in the part – Fundamentals of Radiation Exposure
- Not all tribes have enough bandwidth for online courses, but a lot of tribes really appreciate them due to lack of travel dollars
- Laura – NM tribes would like some webinars on the CAA, but would like in-person meeting on permits
- Angela – need course on submitting to AQS via the virtual node. Person who built their node is no longer there
- Lydia Scheer discussed ideas for NTF and asked for feedback on any training ideas for the future. Monday trainings have strained the conference budget so may alter funding for that extra day. NTAA R5 Rep heard feedback that folks found the Monday trainings helpful.
- Laura – Talked about upcoming trainings on policy based issues; National Air Toxics Assessment (NATA), budget training, etc.

Opportunities to Provide Services to Tribal Air Programs –
How can ITEP, NTAA and TAMS continue to meet the needs of tribal programs in the context of perceived changes?

IAQ Discussion/Update –
TAMS updates – in 2008, people indicated that IAQ was becoming an issue on reservations. Everyone really likes the hands-on training in homes, but it is hard to find homes to use. In 2012, Jed became tribal liaison for ORIA and worked with the TAMS Center. Ordered equipment and offered first level II course in 2013. Have developed quick-start guide for equipment, and it has gone so well that they are loaning more IAQ tools than ambient. Camille – some of the reservation homes have way more issues than the homes used during the course. Angela – how do you present your finding to the homeowner? Farshid – communication is an art, numbers are not usually good. They do have some sessions that address this. Mansel has done several walk-throughs that have been helpful. Camille – Mansel suggested opening windows at the school to let in fresh air, but the windows didn't open. Mansel does PAs when requested. Pat – are PAs more important than the class? But you may not know that you need a PA without the class.

Carol/NTAA update – October 19th webinar – meth in homes. Presenter said he also would be interested in going to NTF. Camille – you can test home with test strips – it measures several things along with meth.

What should NTAA do now? See questionnaire results paper. Will revamp webpage.

Pat sees a disconnect between our priorities and what he hears from regions. Wil – sometimes when things need to be done, they just get done and aren't reported. Pat – IAQ not being funded on pres bud, but war on drugs is important. Need to relate IAQ to the drug problem (cleaning up meth houses). Carol – hoarding is also an issue.

VW settlement partnership –
Workgroup actions – insurance letter and tax on income issue letter. Insurance was covered by the state… not an issue anymore. Pilar is going to tackle the tax question. IRS told DOJ they had to tax it this way. We just want clarification on this issue. Andy – settlement can be amended down the road if necessary. Ann-Marie - ITEP to meet with trustee this Friday at 1:00; it has been delayed because the funding wasn't there for the meeting. Let Carolyn or Andy know if there are any questions.

Tribal Advisory Council - $30K for the whole six years

What is goal of TAC? What is the makeup? Is there a conflict of interest for tribes that serve on the TAC? Goal of TAC will be different than the workgroup. Will wait until after the meeting on Friday to determine who will be on the TAC.

Would be good to know which tribes have applied for funding and what they have done. Dana – there is a placeholder on the website for this.

What is working and what is not? –

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- Funding has been trending downward
- High turnover in Indian Country
- In Region 9, 1 in 5 tribes won't receive GAP funds.
- What can we do differently? How can we show a need? Have we done a needs assessment for air programs? Laura – we ask regions to let us know how many tribes have applied and did not get funded, but did not get very far.
- Inconsistencies among the EPA regions; need to have regional consistency for EPA to do a better job training their staff (TACs) in how to work effectively with tribes
- Seek funds from other entities outside EPA such as HUD for IAQ funds (Tribal liaison is Hilary Atkin), non-profits (Robert Wood Johnson Foundation), USDA Tribal Conservation District, Fish and Wildlife, BLM; ask these other entities and say that we used to do all these things until this administration, can you help?
- Seek other resources (partnering with NACAA (National Association of Clean Air Agencies)/states)
- Nowhere in the guidance does it reflect the 1984 Indian policy
- Could tribes set up an equipment fund in each region?
- Is the ETEP (EPA Tribal Environmental Plan) helpful to tribes in filling the need for AQ programs? It's an unfunded mandate; AK: put all possible tasks/activities into ETEP; uses sections of it for grant applications; ETEPs beneficial to some, others ignore them all, pick challenges, find they don't use the documents at all; too many unknowns, not enough flexibility; strategic plans don't always reflect; budget and planning not linked or aligned
- How to get tribes new monitors – are there ways we can do monitoring jobs more effectively; possibly funding a particular state/tribe within a region, on a rotational system (has been used in infrastructure funding)

Meeting adjourned.

<u>Thursday, September 14, 2017</u>

TAMS SC Joint Meeting Debrief –

What was good about the meeting, and what can be improved?

- Joe – what is the plan for replacing Glenn? Are we going to try and hire someone before he leaves? Chris – they've been on the lookout for someone who could potentially replace him. They've made contact with a few people; they don't want to pull anyone away from a tribe. They want this person to shadow Glenn before he leaves. Also, Glenn has offered to come back as a contractor for more difficult PAs if necessary.
- Kris - TAC call was really good, was good to see how the NTAA EC functions, and they really appreciated the TAC call. Not all TACs seemed to have good relationships with their tribal partners. Pat – there are some things that you can't teach. Farshid – Many TACs have their hearts in the right place, but they don't have the skill to work with tribes.
- Maybe provide PA for grant assistance/management? But would really need another person.
- James – helps if TACs can visit your tribe.
- Some regions have cooperative agreements instead of grants.
- Ann Marie – could we have answers in writing ahead of time before the TAC conversation? Ed – anything in writing could potentially be FOIA'd.
- Shaina – worries that TACs weren't communicating with the tribes that were cut in Region 9.
- It was a bit much for a new SC member to come in to this joint meeting versus just a TAMS SC meeting; should have separate TAMS meeting the first day, especially for new members before joint meeting; need prep calls prior to meeting to prepare new members

Ex-Officio Discussion and recommendations –

Pat Childers –Not much further advance on our budget than we were in June. Staff is still doing their job until they are specifically told not to (indoor air, climate change).

Ed Wilds– with the latest natural disasters, it has put EPA in a different light.

James Payne – technical guidance update – still waiting on update from AQS team and modeling team. Issue with Dropbox. Would be good to have more tribal stories… created questionnaire to distribute through the TAMS Center. This will be a living document;

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could we possible host a webpage with more stories? Chris – can host on the TAMS website.

James – NPAP/PEP field scientists program through the TAMS Center – would receive some equipment from Region 9 to use for audits. Trying to figure out status of equipment. Certification training for Region 9 PQAO members.

James – new trends report: https://gispub.epa.gov/air/trendsreport/2017/#highlights

How can Arthur Zuco incorporate tribes into this report? Also, can access source code through GITHUB (link on webpage).

Tribal webpage – could this be a tribal E-Enterprise project? Would need formal request to Lydia. What is web address?

James – good to have Amanda Kaufman on next TAMS SC call and have her present on sensors. She is planning on int'l conference in Southern California in Sept. 2018. Would like a tribal professional on the planning committee. 919-541-2388 kaufman.amanda@epa.gov. Could put out a question on the listserv.

Working on disposal of old BAM instruments. Ask state if they've ever dispose of a Thermo instrument. Ed – compact law will not allow you ship across compact lines. Could find vendors that recycle the source.

Woodstove studies – report pending.

Chris – working on Dropbox issue

Ann Marie Chischilly – looking at courses and the way we deliver services. More hybrid courses may be offered.

Writing is powerful; continue to develop documents. ITEP had a workshop on Monday; had exercise where they gave affirmations to each other. Staff later told her that was exactly what they needed, and she had no idea.

Monika Lacka – may get request to modify your workplan; there are certain trigger words you cannot use (climate change, indoor air, etc.).

DRAFT

Ed – TEISS program has been funded; will be moved to the cloud. Working on a PO for $50K for the woodstove study; also wanted to buy equipment that can be used by tribe after the study. Updated computers in the learning center; working on purchasing new furniture. NCRFO is pulling in Farshid on calls where remediation involves tribes.

Needs assessment – Shaina

Need to come up with appropriate action items gleaned from needs assessment information. Kris – need a draft report. Shaina – still working on the report, should have draft soon.

Farshid – Alfonso started July 5th

Equipment loan webpage – ready to get back on the project. Want to be live by the end of the year.

Direction of the TAMS Center –

- Make sure current services are going in the right direction; keep current and update any changes and add to TAMS to do list i.e. VW Settlement
- Adding or changing current TAMS services
- Succession planning for SC members and Glenn's position (June 2018); Pat Ellsworth, Dennis Wall will also be leaving June 2018
- James to eventually succeed Laura
- 3 SC member positions ending term Sept, 30, 2018; Joe, April, Kris; suggestion to start recruiting; Cherylyn Atcitty, Taos Pueblo, Melanie Larson, Choctaw; Monika suggest TACs to recruit; need reps from Region 2 (Angela Benedict suggest her new assistant to take ITEP courses and apply for SC)
- How to Promote TAMS services more effectively; usually known through ITEP

- Suggestion for coordinating mini satellite TAMS center in Alaska (Nicole) offer specialized training courses specific to Alaska; partner with ANTHC to reach out to 229 tribes
- Need for more PA for Alaska
- Training in Alaska more specific to tribes; need more advance courses applicable to their work plan
- Suggestion for TAMS to provide post webinar training for how to communicate IAQ data report to homeowners per Angela Benedict's question; PA support on data mgmt., analysis available for tribes find ways how to best report out to homeowners; possibly have a page you fill out that will populate graphs; Jed might be able to assist with this; Ed – can't really have a template for risk
- Request ORIA for more support work on IAQ needs; find IAQ expert; get IED engaged with tribal work; use TAMS for other tribal work suggested by Pat

Meeting Closeout –
Caucus report out – mostly discussed the joint meeting, which we discussed earlier today. With the change in administration, it seemed timely to have one. May not be necessary to have one very several more years.

Final Business and Set Fall 2017 Meeting Date-
Action Items:

- Send email invite to NTAA EC for next TAMS SC Call, September 20
- Recommendations for Tribal Advisory Council: define roles; negotiating all summer.
- Write up EPA success story for NCRFO for Star report.

Spring 2018 In-person meeting date set for March 6-8.

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Meeting adjourned.

Submitted by:
Darlene Santos

From: Andy Bessler
Location: Call into Ex. 6 with code Ex. 6
Importance: Normal
Subject: NTAA EC Standing Call
Start Date/Time: Mon 1/9/2017 7:00:00 PM
End Date/Time: Mon 1/9/2017 9:00:00 PM
NTAA EC Meeting Summary Dec 12 2016.docx
NTAA EC Meeting Minutes Dec 12 2016.docx
EPA&NTAA Webinar Series on the NAAQS.PDF
NTAA Drft Cmmt Ltr on GenPrmt CA GDFs 01-05-17.doc
NTAA_Fact Sheet_CA_GDFs_.pdf
HUD EJ Strategy Fact Sheet.docx
NTAA Action Item Matrix 2017 updated 1.4.17.xlsx
Website Report Dec 2016.docx

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NTAA EC Call Agenda
January 9th, 2017
10 am AK / 2 pm ET
Call into Ex. 6 **with code** Ex. 6
To view documents discussed on the call, please click here:
Ex. 6

NTAA EC Call Agenda
January 9th, 2017
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Ex. 6

1. INTRODUCTIONS: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chairman
A. Invocation
B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Office of Air and Radiation (OAR) Update
D. Office of Air Quality Planning and Standards (OAQPS) Update
E. Approval of EC Meeting Minutes and Summary from the December EC Meeting
2. NTAA PARTNERSHIP UPDATES (IF NEEDED): Wilfred J. Nabahe, NTAA Executive Committee (EC) Chairman
A. Tribal Air Monitoring Support (TAMS) Center
B. National Tribal Caucus (NTC)
C. Clean Air Act Advisory Committee (CAAAC)
D. Alaska Forum on the Environment

E. National Conference of State Legislators: http://www.ncsl.org/

3. NTAA PROJECT TASKS AND UPDATES: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chairman

A. Review and approval of final vote and next steps on NTAA Ballot for NTAA member Tribe vote on bylaw amendments
B. Review Travel Sheet and Draft Agenda for next in-person EC meeting
C. NTAA Work Group Updates

1. STAR
2. VW Settlements
3. IAQ

D. Discussion of NTAA proposed Policy Response Kit issues including:

4. NAAQS Webinars with EPA's OAQPS

5. R9 MNSR general permits rule for CA Tribes

6. HUD EJ Policy

4. Discussion of existing and upcoming EPA announcements / rules to prioritize for future PRK's

E. NTAA Website Update

F. Review of NTAA Action Item Matrix

G. Regional Updates
H. Open Forum

I. **Decision on February EC Call since EPA webinar will take place during normal EC call time**

Andy Bessler
Project Director

NTAA

National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004
Office: Ex. 6
Cell: Ex. 6

Fax: 928-523-1266
www.ntaatribalair.org

NTAA

www.ntaatribalair.org
928.523.0526 office
928.523.1266 fax

National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004

Executive Committee

Region 1
Bill Thompson
Penobscot Nation

Region 2
Angela Benedict
Secretary
Saint Regis Mohawk Tribe

Region 4
Scott Hansen
Treasurer
Catawba Indian Nation

Tiffany Janes
Poarch Creek Band of Indians

Region 5
Brandy Toft
Vice-Chairperson
Leech Lake Band of Ojibwe

Joy Wiecks
Fond du Lac Band of Lake Superior Chippewa

Region 6
Craig Kreman
Quapaw Tribe of Oklahoma

Jeremy Fincher
Sac and Fox Nation

Region 7
Carol Kriebs
Sac and Fox Nation of Missouri in Kansas and Nebraska

Billie Toledo
Prairie Band Potawatomi Nation

Region 8
Randy Ashley
Confederated Salish & Kootenai Tribes

Linda Weeks Reddoor
Fort Peck Assiniboine-Sioux Tribes

Region 9
Wilfred J. Nabahe
Chairman
Colorado River Indian Tribes

John C. Parada
Los Coyotes Band of Cahuilla Cupeno Indians

Region 10
Kevin Greenleaf
Kootenai Tribe of Idaho

Carolyn Kelly
Quinault Indian Nation

Alaska
Brian Holter, Jr.
Klawock Cooperative Association

Sue Flensburg
Bristol Bay Native Association

January 5, 2017

Lisa Beckham (AIR-3)
U.S. Environmental Protection Agency, Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

Subject:

DRAFT

Draft General Permit under the Federal Indian Country r

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New Source Review Program

Docket ID: EPA-R09-OAR-2016-0580

Dear Ms. Beckham:

The National Tribal Air Association (NTAA) is pleased to submit these comments regarding the Draft General Permit under the Federal Indian Country Minor New Source Review Program, 81 Fed. Reg. 69814 (October 7, 2016), for new and modified gasoline dispensing facilities (GDFs) located in Indian Country within the State of California (Proposed Rule).

The NTAA is a member-based organization with 116 principal member Tribes. The organization's mission is to advance air quality management policies and programs, consistent with the needs, interests, and unique legal status of Indian Tribes. As such, the NTAA supports the efforts of all federally recognized Tribes in protecting and improving the air quality within their respective jurisdictions. Although the organization always seeks to represent consensus on any given issue, it is important to note that the views expressed by the NTAA may not be agreed upon by all Tribes. Further, it is also important that EPA understands interactions with the organization do not substitute for government-to-government consultation, which can only be achieved through direct communication between the federal government and Indian Tribes.

The NTAA approves generally of the Proposed Rule. Volatile organic compounds (VOCs) emitted by GDFs are of concern to the NTAA and its member Tribes. However, the NTAA finds it necessary to provide its comments and recommendations about the necessity of imposing the Stage II controls on GDFs identified in the Proposed Rule and how the rule and its supporting documents should affirm that the State of California doesn't have legal jurisdiction over the GDFs and the Tribal lands upon which they are located.

Stage II Controls

The Proposed Rule provides that new or modified GDFs located in nonattainment areas for the ozone national ambient air quality standards (NAAQS) will be required to recover vapors displaced from vehicle fuel tanks by using pump-based controls, also known as Stage II controls, in order to limit VOC emissions caused by vehicle refueling.[1]

The NTAA finds the Stage II controls to be archaic and unnecessary. In May 2012, EPA adopted a final rule waiving the requirement for states to implement Stage II controls at GDFs

[1] Proposed Rule at 69815.

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located in nonattainment areas for the ozone NAAQS, finding that onboard refueling vapor recovery (ORVR) technology, required under Section 202(a)(6) of the Clean Air Act, is widspread enough throughout the Nation's highway motor vehicle fleet to justify the waiver of the controls (Waiver Rule).[2] The Waiver Rule provides that vehicles with non-ORVR systems will continue to be replaced by vehicles with ORVR systems, and that emission reductions from ORVR systems will soon surpass the same types of reductions achieved by Stage II controls.[3] Further, ORVR systems have certain design characteristics that aren't compatible with Stage II controls. Hence, when the two systems work in conjunction, they are much less efficient in vapor recovery than if each system functioned on its own.[4]

The Waiver Rule was finalized more than four-and-a-half years ago. Since then, a number of states have eliminated or are in the process of eliminating Stage II controls for new GDFs, and have required or are requiring existing GDFs with such controls to decommission the equipment.[5] However, EPA is choosing to push against this trend and force GDFs located in those parts of Indian Country affected by the Proposed Rule to install Stage II controls in contradiction of the Waiver Rule, even though ORVR systems are widespread and the combination of these systems amid the Stage II controls will cause inefficiencies in the recapture of VOC vapors and may, in fact, increase release of these vapors.

The NTAA recommends that the Proposed Rule eliminate the requirement that GDFs in nonattainment areas for the ozone NAAQS install Stage II controls. This recommendation is not only based on EPA's acknowledgment that such controls shall be surpassed by ORVR systems in widespread use and that the controls are incompatible with ORVR systems. The costs to GDFs covered by the Proposal Rule could also be devastating. The operating profit margin for many of these GDFs, after paying for such variable costs of production as raw materials and wages, is very slim. The added cost of having to install Stage II controls could cause the GDFs to go out of business which, in turn, would have substantial negative impacts to the Tribal communities that they serve such as the inability of Tribal members to fuel their vehicles and to travel to other locations to accommodate their basic needs such as food, clothing, and healthcare. Further, the Tribes located in the areas of Indian Country affected by the Proposed Rule have contributed little if any to the air pollution problems of California. As such, they should not be forced to pay for controls that should be shouldered by California itself.

State of California Jurisdiction

The Proposed Rule and supporting documents make several references to California, largely because the GDFs located in the areas of Indian Country affected by the Proposed Rule would be required to adopt standards consistent with those required of GDFs located in California. The NTAA wants EPA to make it clear that the adoption of any California-like standards by GDFs located in Indian Country will not infer any jurisdiction by California over

[2] U.S. Environmental Protection Agency, "Air Quality: Widespread Use for Onboard Refueling Vapor Recovery and Stage II Waiver," 77 Fed. Reg. 28772 (May 16, 2012).
[3] *Id.*
[4] Waiver Rule at 28775.
[5] *See* "Updates to Illinois Stage II Vapor Recovery Decommissioning" at https://passtesting.com/2016/11/stage-ii-vapor-recovery-systems-must-decommission (last visited on January 1, 2017).

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them or the Tribal lands on which they are located. To this effect, the NTAA recommends that the following language be included in the final version of the Proposed Rule and any supporting documents:

> "The general permit for gasoline dispensing facilities for use in Indian Country within the State of California pursuant to the Clean Air Act Federal Indian Country Minor New Source Review program for new and modified minor sources shall not confer any jurisdiction to the State of California over such facilities nor the areas of Indian Country in which these facilities are located."

Conclusion

In summary, the NTAA is pleased to provide the aforementioned comments and recommendations concerning the Proposed Rule.

On Behalf of the NTAA Executive Committee,

Wilfred J. Nabahe
Chairman
National Tribal Air Association

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From: Andy Bessler
Location: Call into Ex. 6 or toll free Ex. 6 and use code Ex. 6
Importance: Normal
Subject: Documents and DOJ Presentation Added: NTAA EC Standing Monthly call
Start Date/Time: Mon 8/14/2017 6:00:00 PM
End Date/Time: Mon 8/14/2017 8:00:00 PM
July 2017 NTAA EC Meeting Summary.docx
July 2017 NTAA EC July Meeting Minutes_EW.docx
NTAA Action Item Matrix 2017 updated 8.9.17.xlsx
NTAA EC In-Person Mtg Agenda_withTAMS_Sept 2017.docx
NTAA VW Settlement WG Questionaire on insurance issue.docx

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NTAA EC Standing Monthly Call
August 14, 2017
10 am AK / 2 pm ET
Call into Ex. 6 **or toll free** Ex. 6
Use code Ex. 6
To view documents discussed on the call, please click here:
https://global.gotomeeting.com/join/117860029

Stand by for a revised call agenda
1. INTRODUCTIONS: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Invocation
B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Office of Air and Radiation (OAR) Update
D. Office of Air Quality Planning and Standards (OAQPS) Update
E. Approval of July EC Meeting Minutes and Summary

F. Approval of NTAA Member Tribe Applications: None at this time

2. NTAA PARTNERSHIP UPDATES (If Needed**)**: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Tribal Air Monitoring Support (TAMS) Center
B. National Tribal Caucus (NTC)
C. Clean Air Act Advisory Committee (CAAAC)
D. National Radon Action Plan

3. NTAA PROJECT TASKS AND UPDATES: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Work Group Updates

1. IAQ
2. VW Settlement

A. Review of Draft Agenda of September's NTAA EC In-Person Meeting and Joint Meeting with TAMS Steering Committee

A. NTAA Staff Updates (If needed)

1. NTAA Website Update
2. Review of NTAA Action Item Matrix

A. Discussion of NTAA Proposed Policy Response Kits

1. Match Requirement Letter

2. Support Letter for Alaska Energy Authority

A. Regional Updates (If needed)

A. Briefing on the VW Settlement by DOJ: Rob Mulhaney

MEETING MINUTES
NTAA STANDING MONTHLY MEETING
July 10, 2017

NTAA Executive Committee: Primary and Alternate Members in Attendance

Region 1	Jan Paul		Region 6	Craig Kreman	X	Region 9	Wilfred J. Nabahe	X
				Jeremy Fincher			John C. Parada	
Region 2	Angela Benedict	X		Phillip Mee				
			Region 7	Carol Kriebs	X	Region 10	Kevin Greenleaf	X
Region 4	Scott Hansen			Billie Toledo	X		Carolyn Kelly	X
	Tiffany Janes	X				Alaska	Brian Holter, Jr.	X
			Region 8	Randy Ashley	X		Sue Flensburg	X
Region 5	Brandy Toft			Linda Weeks Reddoor				
	Joy Wiecks							

EPA Representatives			NTAA Staff / Fiduciary Representatives		Ex-Officio Members / Others	
Betsy Shaw	OAR		Andy Bessler	X	Ann Marie Chischilly, ITEP	
Pat Childers	OAR	X	Elaine Wilson	X		
Laura McKelvey	OAQPS		Dara Marks Marino	X		
Toni Colón	OAQPS	X				

X = present on the call

NTAA Action Items Generated During This Call

ITEM	RESPONSIBLE PARTY	DUE DATE
Action Item 1: Discussion of roll call and the time it takes on calls; how best to handle the roll calls.	NTAA EC	Sep 30, 2017
Action Item 2: NTAA PD will follow up on NRAP Work Group time commitment, etc., with Region 5 Rep and/or call Janice Nolan to get the additional information needed.	NTAA Project Director	Aug 14, 2017
Action Item 3: EPA Radon Grant – Elevate article on EPA radon grant to Pueblo of Pojoaque in NTAA Weekly Update (WU) to the top stories segment; highlight Administrator Pruitt's quote.	NTAA Staff	July 19, 2017
Action Item 4: IAQ WG Questionnaire - Include project effective dates of implementation and a deadline date for submission of questionnaire. Send revised copy to the EC for review and final approval by July 14th.	NTAA Staff / NTAA EC	July 17, 2017
Action Item 5: Draft FY 2018-2019 NPM Guidances – Develop comments on the OAR NPM Guidance, and send out for review and approval by the NTAA EC. NTAA Project Director (PD) will look for last year's comments and send out to EC.	NTAA Staff / NTAA EC	July 28, 2017; Extended deadline 8/4/17

NTAA EC Standing Monthly Call

July 10, 2017
10 am AK / 2 pm ET

1. INTRODUCTIONS: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Invocation
B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Office of Air and Radiation (OAR) Update
- Toni Colon will be working in OAR front office part time to make sure deliverables from June meeting are moving forward. Part of making sure Tribal programs are well supported in the future.
- DOJ responded to VW letter; looking to see what NTAA responses are.
- Tomorrow at 3:00 P.M. ET, there is a NPM guidance meeting (teleconference). Guidance has been significantly pared down. Did keep an air tribal section. No inclusion of IAQ or climate change.
- Congressional Appropriations: President's budget submitted; may not move forward until September. A continuing resolution (CR), may be best case scenario.

D. Office of Air Quality Planning and Standards (OAQPS) Update – No update at this time.

E. Approval of EC Meeting Minutes and Summary
   - June Meeting Minutes and Summary – Region 6 Rep has not read them yet; He motioned to read them and approve by July 14th; Region 6 Rep motions; Region 7 Rep seconds the motion. There were no objections to the extension date to July 14, 2017, via email.

F. Approval of NTAA Member Tribe Application
   - Shoshone-Bannock Tribe's NTAA application – Region 10 Rep: Motion to accept and approve the application as written; Region 7 Rep: second the motion; no objections; there was consensus for approval for Shoshone-Bannock Tribe's membership application to NTAA.

G. Discussion of roll call and time it takes on calls.
   - R7 Rep: There's concern expressed that roll call takes too much time; need to explore options; GoToMeeting has a feature that shows names of participants. **Action item 1**: Put this issue on the parking lot for further discussion.

2. NTAA PARTNERSHIP UPDATES (If Needed**)**: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Tribal Air Monitoring Support (TAMS) Center
   1. R6 Representative attended a meeting with the Tribal Science Council last month. Rolling out web interface; monitoring equipment; a joint call between NTAA EC reps and TAMS SC reps was held to plan agenda for the face-to-face meeting in September.

B. National Tribal Caucus (NTC)
   1. No report

C. Clean Air Act Advisory Committee (CAAAC)
   1. Big void, EPA staff of CAAAC is questionable right now; full committee hasn't had activity recently.

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      - Put on hold until further information comes from Alaska Energy Authority (AEA) as it relates to the request for a support letter from NTAA.
      - Letter regarding match requirements in general in regards to EPA programs – keep this on NTAA's radar.
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      - Available for comment from June 28-July 28, 2017
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G. Regional Updates (If needed)
   - Alaska – Had call with EPA in June and provided updates on guide for wildfires, etc., and they are testing "Smoke Sense" as an application.
   - R10 –
   - R9 – RTOC meeting scheduled Aug 22-24, 2017, to be held in Peach Springs, AZ, hosted by the Hualapai Tribe.
   - R8 – No further update
   - R7 – RTOC to be held next week at Potawatomi Nation; had face-to-face meeting with Region 8 Tribal Science Council (TSC) last month; will attend Tribal Lands Forum; TSC newsletter coming out at end of month.
   - R6 – RTOC is this week in Albuquerque and will do a report out; continue working on the TAS lean process and working on document.
   - R4 – No further update
   - R2 – No further update

H. Open Forum

Next NTAA EC Standing Call: August 14th, 2pm ET.

MEETING SUMMARY
NTAA STANDING MONTHLY MEETING
July 10, 2017

NTAA Executive Committee: Primary and Alternate Members in Attendance

Region 1	Jan Paul		Region 6	Craig Kreman	X	Region 9	Wilfred J. Nabahe	X
				Jeremy Fincher			John C. Parada	
Region 2	Angela Benedict	X		Phillip Mee				
			Region 7	Carol Kriebs	X	Region 10	Kevin Greenleaf	X
Region 4	Scott Hansen			Billie Toledo	X		Carolyn Kelly	X
	Tiffany Janes	X				Alaska	Brian Holter, Jr.	X
			Region 8	Randy Ashley	X		Sue Flensburg	X
Region 5	Brandy Toft			Linda Weeks Reddoor				
	Joy Wiecks							

EPA Representatives			NTAA Staff / Fiduciary Representatives		Ex-Officio Members / Others	
Betsy Shaw	OAR		Andy Bessler	X	Ann Marie Chischilly, ITEP	
Pat Childers	OAR	X	Elaine Wilson	X		
Laura McKelvey	OAQPS		Dara Marks Marino	X		
Toni Colón	OAQPS	X				

X = present on the call

NTAA Action Items Generated During This Call

ITEM	RESPONSIBLE PARTY	DUE DATE
Action Item 1: Discussion of roll call and the time it takes on calls; how best to handle the roll calls.	NTAA EC	Sep 30, 2017
Action Item 2: NTAA PD will follow up on NRAP Work Group time commitment, etc., with Region 5 Rep and/or call Janice Nolan to get the additional information needed.	NTAA Project Director	Aug 14, 2017
Action Item 3: EPA Radon Grant – Elevate article on EPA radon grant to Pueblo of Pojoaque in NTAA Weekly Update (WU) to the top stories segment; highlight Administrator Pruitt's quote.	NTAA Staff	July 19, 2017
Action Item 4: IAQ WG Questionnaire - Include project effective dates of implementation and a deadline date for submission of questionnaire. Send revised copy to the EC for review and final approval by July 14th.	NTAA Staff / NTAA EC	July 17, 2017
Action Item 5: Draft FY 2018-2019 NPM Guidances – Develop comments on the OAR NPM Guidance, and send out for review and approval by the NTAA EC. NTAA Project Director (PD) will look for last year's comments and send out to EC.	NTAA Staff / NTAA EC	July 28, 2017; Extended deadline 8/4/17

NTAA EC Standing Monthly Call

July 10, 2017
10 am AK / 2 pm ET

1. INTRODUCTIONS: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Invocation
B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Office of Air and Radiation (OAR) Update
- Toni Colon will be working in OAR front office part time to make sure deliverables from June meeting are moving forward. Part of making sure Tribal programs are well supported in the future.
- DOJ responded to VW letter; looking to see what NTAA responses are.
- Tomorrow at 3:00 P.M. ET, there is a NPM guidance meeting (teleconference). Guidance has been significantly pared down. Did keep an air tribal section. No inclusion of IAQ or climate change.
- Congressional Appropriations: President's budget submitted; may not move forward until September. A continuing resolution (CR), may be best case scenario.

D. Office of Air Quality Planning and Standards (OAQPS) Update – No update at this time.

E. Approval of EC Meeting Minutes and Summary
   - June Meeting Minutes and Summary – Region 6 Rep has not read them yet; He motioned to read them and approve by July 14th; Region 6 Rep motions; Region 7 Rep seconds the motion. There were no objections to the extension date to July 14, 2017, via email.

F. Approval of NTAA Member Tribe Application
   - Shoshone-Bannock Tribe's NTAA application: Region 10 Rep: Motion to accept and approve the application as written; Region 7 Rep: second the motion; no objections; there was consensus for approval for Shoshone-Bannock Tribe's membership application to NTAA.

G. Discussion of roll call and time it takes on calls.
   - R7 Rep: There's concern expressed that roll call takes too much time; need to explore options; GoToMeeting has a feature that shows names of participants. **Action item 1**: Put this issue on the parking lot for further discussion.

2. NTAA PARTNERSHIP UPDATES (If Needed**)**: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Tribal Air Monitoring Support (TAMS) Center
   1. R6 Representative attended a meeting with the Tribal Science Council last month. Rolling out web interface; monitoring equipment; a joint call between NTAA EC reps and TAMS SC reps was held to plan agenda for the face-to-face meeting in September.

B. National Tribal Caucus (NTC)
   1. No report

C. Clean Air Act Advisory Committee (CAAAC)
   1. Big void, EPA staff of CAAAC is questionable right now; full committee hasn't had activity recently.

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Next NTAA EC Standing Call: August 14th, 2pm ET.

From: Andy Bessler
Location: Ex. 6 and use code Ex. 6
Importance: Normal
Subject: NTAA EC Standing Call: reminders and time confirmation, Call at 2 pm ET
Start Date/Time: Mon 3/13/2017 6:00:00 PM
End Date/Time: Mon 3/13/2017 8:00:00 PM
NTAA EC Meeting_Summary_Feb 14_2017.docx
NTAA EC Meeting Minutes_Feb14_2017.docx
DraftCourseListFY18.doc
NTAA Action Item Matrix 2017 updated 3.12.17.xlsx
NTAA Action Item Matrix 2017 updated 3.12.17.xlsx

A reminder that daylight savings time starts on the 12th, so my calendar reminder will hopefully match the same time for our call:
10 am AK
11 am PT
12 pm MT
1 pm CT
2 pm ET
FYI: There are some follow-up items to discuss after our In-person meeting last week. This call should only take an hour and I have deleted general updates since they were provided last week. If Pat Childers has any important EPA updates, he can let us know.

Andy

NTAA EC Call Agenda

March 13th, 2017
10 am AK / 2 pm ET

Call into Ex. 6 **with code** Ex. 6

To view documents discussed on the call, please click here:
https://global.gotomeeting.com/join/117860029

1. INTRODUCTIONS: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chairman
A. Invocation
B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Approval of Meeting Minutes and Summary from Feb. 14th Meeting

D. Request from AIQTP on FY 18 Trainings

2. NTAA PROJECT TASKS AND UPDATES: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chairman
A. Follow up Items from In-Person Meeting (Action Item Matrix)

C. B. Discussion of NTAA proposed Policy Response Kit issues including:
1. Tribal Funding PRK

2. Match letter to OAR
3. Discussion of existing and upcoming EPA announcements / rules to prioritize for future PRK's
C. NTAA Website Update
E. D. Review of NTAA Action Item Matrix
F. E. Regional Updates
F. F. Open Forum
Next NTAA EC meeting will be on April 10th at 2pm ET.

Possible ITEP Air Quality Courses for FY18

Level 1 Classroom
Air Quality Computations
Indoor Air Quality in Tribal Communities
Introduction to Tribal Air Quality *[can fill this course every 7-9 months]*

Level 2 Classroom
Air Pollution and Ecosystems *(including air/water interface)*
Air Pollution Technology
Fundamentals of Air Monitoring – *(include PM, O3, Met, Hg, Toxics)*
IAQ Diagnostic Tools *(for lower 48)*
Management of Tribal Air Programs and Grants
Basic NSR or CAA & Permitting *(OAQPS course)*
Tribal Participation in the SIP Process *(OAQPS course)*

Level 3 Classroom
Air Pollution Modeling
Gaseous Pollutant Monitoring *(emphasize Ozone formation, transport, theory of analyzer function, new Ozone NAAQS)*
GIS for Air Quality *(not offered in FY17)*
Reviewing NSR and Title V Permits *(sequel to Basic NSR) (OAQPS course)*

Alaska Classroom *(collaborate with Regional Health entities, ANTHC, ADEC, U-AK)*
Air Pollution and Ecosystems *(including air/water interface)*
Air Quality Project Planning, QAPPs, and Grants for Alaska
Air Quality and Indoor Air Quality in Alaska (Level 1)
IAQ Diagnostic Tools in Alaska (Level 2)

Notes for AIAQTP Courses
Budget for 10 classroom courses in lower 48
Budget for 2 classroom courses in Alaska and an air training at ATCEM in Anchorage
Budget for 3 mini-courses (smaller group, fewer instructors, topics vary, as need arises)
Take a course to the Midwest or Eastern U.S. in FY18

Notes for OAQPS Courses
Budget for 2 classroom courses in lower 48
Budget for 1 community training
Budget for training at a national meeting

Revised
3/7/17

Revised

3/7/17

Online Courses

Self-Paced Online Courses

AQS *(14 videos)*

Building Performance: Improving Energy Efficiency and IAQ in Cold Climates *(8 hours of online coursework; 3 modules)*

QA Fundamentals *(10 hours of online coursework; 3 modules)*

Radon Fundamentals (*7 hours of online coursework; 4 modules*)

–Radon – Presentations from NTF?

Introduction to Data Management (5 *hours of online coursework; 5 modules*)

–This is one of at least 6 online courses in a series that Melinda has planned.

Instructor-Led Online Courses

Emissions Inventory–Fundamentals *(1st in series) (50 hours of online coursework; 6 modules)*

Emissions Inventory–Advanced *(2nd in series) (120 hours of online coursework; 11 modules)*

–These are estimates of time for the EI courses

Tribal Data Toolbox *(Number of sessions?)* (upload summer 2017)

Possible Future Online Courses

Air Quality and Wildfire (NEW)

Building Performance: Improving Energy Efficiency and IAQ in Warm Climates

Climate Change on Tribal Lands (Level 1) *(format uncertain)*

Community Outreach (series of webinars?) (NEW)

Data Management additional courses

–Field data management, QA/QC, QAPPs, AQS using AQS Fast Track videos

Online prerequisite course for IAQ Diagnostic Tools 2018

Online prerequisite course for Management of Tribal Air Programs & Grants 2018?

Other Online Training Ideas

Asthma

Community Education – Mold/Mildew

Grant Management: writing, EPA forms, closeout

Meth

Smoke management/smoke forecasting

Tobacco Smoke

Wood Smoke

Alaska-specific courses

Revised

3/7/17

From: Darlene P Santos
Location: New Call-in Number: Ex. 6 / Conf ID: Ex. 6
Importance: Normal
Subject: MONTHLY TAMS Steering Committee Conference Call
Start Date/Time: Wed 2/21/2018 6:00:00 PM
End Date/Time: Wed 2/21/2018 7:00:00 PM
TAMS SC Mtg Agenda2-21-18.doc
DRAFT-TAMS-SC-JointNTAA-Mtg-notes_Sept2017_CLedits.docx
DRAFT-TAMS-SCNotes_Dec2017.doc

;;;;;
;;;;;
HELLO EVERYONE!

The agenda, September and December call notes are attached for your review. Please note the new call-in information below:

Conference Phone Number: Ex. 6
Conf ID: Ex. 6

Thanks!
-Darlene
Darlene P. Santos, Administrative Associate
Tribal Air Monitoring Support (TAMS) Center
4220 S. Maryland Parkway, Bldg C
Las Vegas, NV 89119
Ex. 6 **phone**
702-784-8201 fax

From: Andy Bessler
Location: Ex. 6 or toll free Ex. 6 and use code Ex. 6
Importance: Normal
Subject: Updated Friday: NTAA EC Standing Call with draft agenda and documents attached
Start Date/Time: Mon 6/12/2017 6:00:00 PM
End Date/Time: Mon 6/12/2017 8:00:00 PM
NTAA Action Item Matrix 2017 updated 6.8.17.xlsx
Travel Sheet and Rooming List for NTAA EC Members Flagstaff, 2017.docx
NTAA Support Ltr 29 Palms Band of Mission Indians kg revision 6-6-17.doc
NTAA EC Meeting Minutes May 2017.docx
May 15 2017 NTAA EC MEETING SUMMARY.docx
NTAA Air Quality Funding Fact Sheet.pdf
Email Version_NTAA_2017_NTFAQ_Summary_Report_DRAFT.pdf
Draft NTAA Letter to EPA on costshares_6.9.17.doc
Draft NTAA Letter to Congress_6.9.17.docx
Rep. O'Halleran Letter to NTAA_ITEP.pdf

;;;

NTAA EC Standing Monthly Call
June 12, 2017
10 am AK / 2 pm ET
Call into Ex. 6 or toll free Ex. 6
with code Ex. 6

To view documents discussed on the call, please click here:
Ex. 6

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B. Roll Call of NTAA EC Members, NTAA, EPA Staff and others
C. Office of Air and Radiation (OAR) Update
D. Office of Air Quality Planning and Standards (OAQPS) Update
E. Approval of EC Meeting Minutes and Summary
a) May In-Person Meeting Minutes and Summary
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A. Tribal Air Monitoring Support (TAMS) Center
B. National Tribal Caucus (NTC)
C. Clean Air Act Advisory Committee (CAAAC)
D. National Radon Action Plan
3. NTAA PROJECT TASKS AND UPDATES: Wilfred J. Nabahe, NTAA Executive Committee (EC) Chair

A. Approval of National Tribal Forum on Air Quality Summary Report

A. Work Group Updates

a. IAQ

b. VW Settlement

A. Draft Agenda of the next NTAA EC In-Person Meeting

A. NTAA Staff Updates (If needed)

a. NTAA Website Update
b. Review of NTAA Action Item Matrix

A. 29 Palms Band of Mission Indians Letter Request (Tribal Caucus)

A. Discussion of NTAA proposed Policy Response Kit (Tribal Caucus)

a. Funding PRK

b. Match Requirement Letter

A. Regional Updates (If needed)

A. Open Forum

A. Next NTAA EC Standing Call: July 10th, 2pm ET and then August 14, 2pm ET.

Andy Bessler
Project Director
National Tribal Air Association
P.O. Box 15004
Flagstaff, AZ 86011-5004
Office: 928-523-0526
Cell: Ex. 6
Fax: 928-523-1266
www.ntaatribalair.org

To: NTAA@LISTS.NAU.EDU[NTAA@LISTS.NAU.EDU]
From: NTAA
Sent: Wed 7/5/2017 9:44:37 PM
Subject: July 5 NTAA Weekly Update
7.5.17NTAAWeeklyUpdate.pdf

Hello, attached you will find the NTAA Weekly Update for the week of 7/3/17-7/7/17. Enjoy!

Dara Marks Marino, MS

Research Specialist: National Tribal Air Association

Professional Development Coordinator: Climate Science and Solutions

Northern Arizona University

Office: PS 110 Email: Dara.Marks-Marino@nau.edu

National Tribal Air Association

NTAA Weekly Update

Week of July 3rd – July 7th, 2017

If you have difficulty reading this email, click here to view it online.

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Most Recent Listing: EPA Rules from the Federal Register.....14

TOP STORIES

The New York Times - Court Blocks EPA Effort to Suspend Obama-Era Methane Rule

E&E News – D.C. Circuit rejects EPA bid to delay methane rule

Seattle PI - Connelly: Stop flouting the Clean Air Act

HEADLINES

Ambient Air Quality/EPA/NTAA/Tribes

Indianz - Tribes plan renewable energy projects with help of $7.8M in federal funds

Indianz - Cronkite News: Navajo Nation prepares for changes at coal power plant

National Association of Clean Air Agencies – Washington Update

Climate Change/Energy

Indian Country Today - Climate Change Is Shrinking the Colorado River

Climate Central - Climate Change Will Hit the Poorest the Hardest in the U.S.

Think Progress - Climate kids to get their day in court against the Trump administration

The Washington Post - Scientists find a surprising result on global wildfires: They're actually burning less land

NPR - Hundreds Flee Arizona Blaze As Conditions Spur Numerous Wildfires Across Southwest

NPR – Researchers Analyze Economic Impact Of Climate Change In The U.S.

Toxics/Mobile Sources

EPA - EPA awards $513K to Alaska & Washington tribes to protect communities from diesel emissions

Los Angeles Times - Volkswagen submits revised plan for installing charging stations as part of emission-cheating settlement

Indoor Air Quality

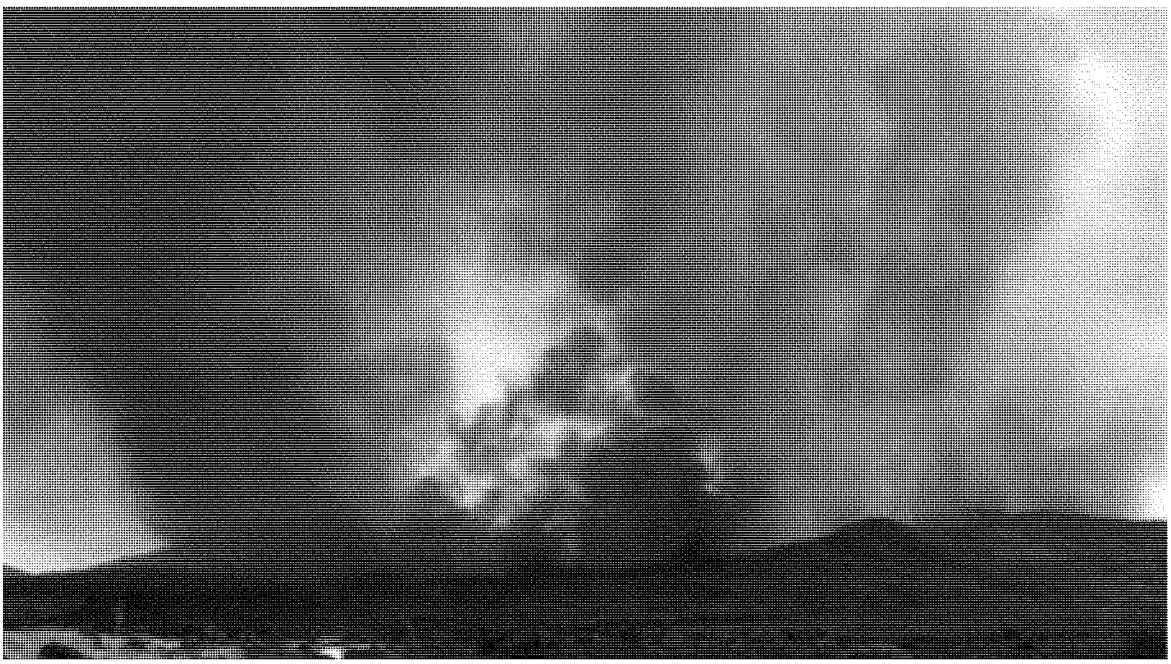
EPA – EPA and Pueblo of Pojoaque Prevent Radon Exposure

KCWY13 News - Dangers of Indoor Air Quality

Trusted Reviews - Foobot Indoor Air Quality Monitor review

KUTV.Com - Non Smokers At Risk For Lung Cancer: Radon

Photo from the field



Flames and smoke rise from a fire near Mayer, Ariz. By Thursday, the Goodwin Fire had burned more than 20,000 acres and was just 1 percent contained.