by the Office of Management and Budget.

Paperwork Reduction Act

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

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Unfunded Mandates Reform Act

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

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will 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).

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

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

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

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

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTAA do not apply.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: April 6, 2007.

Walter W. Kovalick,

Acting Regional Administrator, Region 5.

[FR Doc. E7–7348 Filed 4–17–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2006–1022; FRL–8301–7]

Redesignation of the Ohio Portion of the Youngstown Area to Attainment of the 8-Hour Ozone Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 15, 2007, the Ohio Environmental Protection Agency (Ohio EPA), submitted a request for a redesignation of its portion of the Youngstown area to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and a request for EPA approval of an ozone maintenance plan for Mahoning, Trumbull, and Columbiana Counties, Ohio. The State public hearing on the submittal was held on January 9, 2007.

EPA is proposing to determine that the Youngstown area has attained the 8-hour ozone NAAQS. EPA believes that the State's ozone maintenance plan for the area is acceptable and, in conjunction with projected emissions in the Pennsylvania portion of the area (Mercer County), will provide for maintenance of the 8-hour ozone NAAQS in these Counties through 2018. EPA is proposing approval of the State's request to redesignate Mahoning, Trumbull, and Columbiana Counties, Ohio to attainment of the 8-hour ozone NAAQS. EPA is also proposing to approve the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO_X) Motor Vehicle Emission Budgets (MVEBs) for Mahoning, Trumbull, and Columbiana Counties, Ohio for purposes of transportation conformity determinations.

DATES: Comments must be received on or before May 18, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2006–1022, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: mooney.john@epa.gov.*
- *Fax:* (312) 886–5824.
- *Mail:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
- *Hand Delivery:* John M. Mooney, Chief, Criteria Pollutant Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77

West Jackson Boulevard, Chicago, Illinois. Such deliveries are only accepted during the Regional Office's normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office's official hours of operation are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R05–OAR–2006–1022. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI, or otherwise protected, through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption, and should be free of any defects or viruses. For additional instructions on submitting comments, go to section I of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hardcopy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hardcopy 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 Patricia Morris, Environmental Scientist, at (312) 353–8656, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Patricia Morris, Environmental Scientist, Criteria Pollutant Section, Air Programs Branch (AR–18), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8656, *morris.patricia@epa.gov*

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

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

When submitting comments, remember to:

1. Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).

2. Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

3. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

4. Describe any assumptions and provide any technical information and/or data that you used.

5. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

6. Provide specific examples to illustrate your concerns, and suggest alternatives.

7. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

8. Make sure to submit your comments by the comment period deadline identified.

II. What Action Is EPA Proposing To Take?

We are proposing to take several related actions for Mahoning, Trumbull, and Columbiana Counties, Ohio. First, we are proposing to determine that the interstate Youngstown area (officially, the Youngstown-Warren-Sharon PA-OH area as defined for 8-hour ozone designation purposes) has attained the 8-hour ozone NAAQS. Second, we are proposing to approve Ohio's ozone maintenance plan for Mahoning, Trumbull, and Columbiana Counties as a requested revision to the Ohio State Implementation Plan (SIP). The maintenance plan is designed to keep the area in attainment of the 8-hour ozone NAAQS for the next 11 years, through 2018. Thirdly, we are proposing to find that the Ohio portion of this area (Mahoning, Trumbull, and Columbiana Counties), has met the requirements for redesignation to attainment of the 8-hour ozone NAAQS under section 107(d)(3)(E) of the Clean Air Act (CAA). Fourth, as supported by, and consistent with, the ozone maintenance plan, we are also proposing to approve the 2009 and 2018 VOC and NO_X MVEBs for Mahoning, Trumbull, and Columbiana Counties for transportation conformity determination purposes.

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

III. What Is the Background for These Actions?

A. General Background

In EPA's April 30, 2004, rulemaking establishing designations and classifications for the 8-hour ozone standard, EPA designated the Youngstown area as subpart 1 nonattainment for the 8-hour ozone standard. EPA based the designation on ozone data collected during the 2001–2003 period.

On December 4, 2006, the State of Ohio submitted a request for redesignation of Mahoning, Trumbull,

and Columbiana Counties to attainment of the 8-hour ozone NAAQS based on ozone data collected in these counties and Mercer County, Pennsylvania during the 2004–2006 period. On January 9, 2007, the State of Ohio held a public hearing on the ozone redesignation request and ozone maintenance plan. Based on a February 15, 2007, submittal from the State, all information contained in the State's December 4, 2006, ozone redesignation request submittal was unchanged through the State's public review process.

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

1. Summary of Court Decision

On December 22, 2006, the U.S. Court of Appeals for the District of Columbia Circuit vacated EPA's Phase 1 Implementation Rule for the 8-hour Ozone Standard (69 FR 23951, April 30, 2004). *South Coast Air Quality Management Dist.* v. *EPA*, 472 F. 3d 882 (D.C. Cir. 2006). The Court held that certain provisions of EPA's Phase I Rule were inconsistent with the requirements of the Clean Air Act. The Court rejected EPA's reasons for implementing the 8-hour standard in nonattainment areas under Subpart 1 in lieu of subpart 2 of Title I, part D of the Act. The Court also held that EPA improperly failed to retain four measures required for 1-hour nonattainment areas under the anti-backsliding provisions of the regulations: (1) Nonattainment area New Source Review (NSR) requirements based on an area's 1-hour nonattainment classification; (2) Section 185 penalty fees for 1-hour severe or extreme nonattainment areas; (3) measures to be implemented pursuant to section 172(c)(9) or 182(c)(9) of the Act, on the contingency of an area not making reasonable further progress toward attainment of the 1-hour NAAQS, or for failure to attain that NAAQS; and (4) certain conformity requirements for certain types of Federal actions. The Court upheld EPA's authority to revoke the 1-hour standard provided there were adequate anti-backsliding provisions.

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

2. Requirements Under the 8-Hour Standard

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

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

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

3. Requirements Under the 1-Hour Standard

With respect to the 1-hour standard requirements, Mahoning and Trumbull Counties and also, separately, Columbiana County were designated as an Attainment area subject to a Clean Air Act section 175A maintenance plan under the 1-hour standard. The Court's ruling does not impact redesignation requests for these types of areas.

First, there are no conformity requirements that are relevant for redesignation requests, including the requirement to submit a transportation conformity SIP.[1] Under longstanding EPA policy, EPA believes that it is reasonable to interpret the conformity SIP requirement as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. 40 CFR 51.390. See *Wall* v. *EPA*, 265 F. 3d 426 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748 (Dec. 7, 1995) (Tampa, FL redesignation). EPA approved Ohio's general and transportation conformity SIPs on March 11, 1996 (61 FR 9646) and May 30, 2000 (65 FR 34395), respectively.

Second, with respect to the three other anti-backsliding provisions for the 1-hour standard that the Court found were not properly retained, Mahoning and Trumbull Counties and separately

[1] Clean Air Act section 176(c)(4)(E) currently 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 motor vehicle emissions budgets that are established in control strategy SIPs and maintenance plans.

Columbiana County are attainment areas subject to maintenance plans for the 1-hour standard, and the NSR, contingency measure (pursuant to section 172(c)(9) or 182(c)(9)) and fee provision requirements no longer apply to an area that has been redesignated to attainment of the 1-hour standard.

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

IV. What Are the Criteria for Redesignation to Attainment?

Section 107(d)(3)(E) of the CAA allows for redesignation from nonattainment to attainment provided that:

(1) The Administrator determines that the area has attained the applicable NAAQS based on current air quality data; (2) the Administrator has fully approved an applicable state 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 emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area under section 110 and part D of the CAA.

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

V. What Is EPA's Analysis of the State's Request and What Is the Basis for EPA's Proposed Actions?

EPA is proposing to: (1) Determine that the Youngstown area has attained the 8-hour ozone standard; (2) approve the ozone maintenance plan for the Ohio portion of this area (Columbiana, Mahoning and Trumbull counties) and the VOC and NO_X MVEBs supported by this ozone maintenance plan; and, 3) approve the redesignation of the Ohio portion to attainment of the 8-hour ozone NAAQS.

The basis for our proposed determination and approval is as follows:

1. The Youngstown Area Has Attained the 8-Hour Ozone NAAQS

For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations of the NAAQS, as determined in accordance with 40 CFR 50.10 and 40 CFR part 50 appendix I based on the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at all monitoring sites in the area. For each monitor in the area and nearby, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations measured and recorded over a three-year period must not exceed the ozone standard. Based on the ozone data rounding convention described in 40 CFR part 50 appendix I, the 8-hour standard is attained if the area's ozone design value [2] is 0.085 ppm (85 ppb) or lower. The data must be collected and quality-assured in accordance with 40 CFR part 50, and must be recorded in EPA's Air Quality System (AQS). The ozone monitors generally should have remained at the same locations for the duration of the monitoring period required to demonstrate attainment (for three years or more [3]).

As part of the December 4, 2006, ozone redesignation request, the Ohio EPA submitted summarized ozone monitoring data indicating the top four daily maximum 8-hour ozone concentrations for each monitoring site in the Youngstown area during the 2004–2006 period. When the redesignation request was submitted, the complete 2006 monitoring data had not been quality assured and the data table submitted by Ohio EPA shows less than 75% data for the Ohio monitoring sites. However, now the Ohio EPA has completed all quality assurance procedures and the AQS system has over 75% data completeness for the Ohio sites. The following table summarizes the worst-case ozone concentrations that are part of the quality-assured ozone data collected and recorded in these Counties. These data have been entered into EPA's AQS. The annual fourth-high 8-hour daily maximum ozone concentrations, along with their three-year averages are summarized in Table 1.

TABLE 1.—FOURTH-HIGH 8-HOUR OZONE CONCENTRATIONS

[In parts per billion (ppb)]

County	Monitoring site	2004	2005	2006	Average
Mahoning OH	345 Oakhill	74	83	76	77
Trumbull OH	6346 Kinsman-Bloomfield Rd	78	83	74	78
Trumbull OH	842 Youngstown-Kingsville Rd	80	87	82	83
Mercer PA	Pa518 (New Castle Road) & Pa418	76	87	79	79

These data show that the site-specific ozone design values (average fourth-high daily maximum 8-hour ozone concentrations over the period of 2004–2006) for all monitoring sites in the Youngstown area are below the 85 ppb average ozone standard violation cut-off. These data support the conclusion that the Youngstown area ozone monitors did not record a violation of the 8-hour ozone standard during the 2004–2006 period, and monitored attainment of the standard during this period.

As discussed below with respect to the ozone maintenance plan, the State commits to continue ozone monitoring in these Counties.

We believe that the data submitted by the State to the AQS provide an adequate demonstration that the Youngstown area has attained the 8-hour ozone NAAQS. Therefore, we propose to find that the Youngstown

[2] The worst-case monitoring site-specific ozone design value in the area.

[3] EPA generally opposes terminating or relocating monitors at sites that are currently recording violations of the ozone standard. In addition, EPA encourages states to continue monitoring at most sites over the long term to confirm maintenance of the ozone standard and to support the determination of robust ozone concentration trends.

area, including Mahoning, Trumbull, and Columbiana Counties, Ohio, has attained the 8-hour ozone NAAQS.

2. Mahoning, Trumbull, and Columbiana Counties Have Met All Applicable Requirements Under Section 110 and Part D of the CAA and These Areas Have a Fully Approved SIP Under Section 110(k) of the CAA

We have determined that the State of Ohio has met all currently applicable SIP requirements for Mahoning, Trumbull, and Columbiana Counties under section 110 of the CAA (general SIP requirements). We have determined that the Ohio SIP meets currently applicable SIP requirements under subpart 1 part D of title I of the CAA (requirements specific to basic ozone nonattainment areas). See section 107(d)(3)(E)(v) of the CAA. In addition, we have determined that the Ohio SIP is fully approved with respect to all applicable requirements. See section 107(d)(3)(E)(ii) of the CAA. In making these determinations, we noted the CAA requirements that are applicable to the areas, and determined that the applicable portions of the SIP meeting these requirements are fully approved under section 110(k) of the CAA. We note that SIPs must be fully approved only with respect to currently applicable requirements of the CAA, those CAA requirements applicable to Mahoning, Trumbull, and Columbiana Counties at the time the State submits the final, complete ozone redesignation request for these areas.

a. Mahoning, Trumbull, and Columbiana Counties Have Met All Applicable Requirements Under Section 110 and Part D of the CAA

The September 4, 1992, Calcagni memorandum (see ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. To qualify for redesignation of an area to attainment under this interpretation, the state and the area must meet the relevant CAA requirements that come 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 66 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 come due subsequent to the state's submittal of a complete redesignation request remain applicable until a redesignation of the area to attainment of the standard is approved, but are not required as prerequisites to redesignation. See Section 175A(c) of the CAA. *Sierra Club* v. *EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

General SIP requirements: Section 110(a) of title I of the CAA contains the general requirements for a SIP, which include: Enforceable emission limitations and other control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the emission limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements and SIP elements include, but are not limited to, the following: (a) Submittal of a SIP that has been adopted by the State after reasonable public notice and a hearing; (b) provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; (c) implementation of a source permit program; (d) provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and part D requirements (New Source Review (NSR)) for new sources or major source modifications; (e) criteria for stationary source emission control measures, monitoring, and reporting; (f) provisions for air quality modeling; and, (g) provisions for public and local agency participation.

SIP requirements and elements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''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; and ''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, September 17, 1993.

Section 110(a)(2)(D) of the CAA requires SIPs to contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA required states to establish programs to address transport of air pollutants (NO_X SIP call and Clean Air Interstate Rule (CAIR)). EPA has also found, generally, that states have not submitted SIPs under section 110(a)(1) of the CAA to meet the interstate transport requirements of section 110(a)(2)(D)(i) of the CAA (70 FR 21147, April 25, 2005). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's classification. EPA believes that the requirements linked with a particular nonattainment area's classification 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.

We believe that these requirements should not be construed to be applicable requirements for purposes of redesignation. Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan submissions and that are not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with an area's designation and classification are the relevant measures for evaluating this aspect of a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. *See:* Reading, Pennsylvania proposed and final rulemakings (61 FR 53174–53176, October 10, 1996 and 62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on 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 believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Nonetheless, we also note that EPA has previously approved provisions in the Ohio SIP addressing section 110 elements under the 1-hour

ozone standard. We have analyzed the Ohio SIP as codified in 40 CFR part 52, subpart KK and have determined that it is consistent with the requirements of section 110(a)(2) of the CAA. The SIP, which has been adopted after reasonable public notice and hearing, contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications of existing sources; provisions for adequate funding, staff, and associated resources necessary to implement its requirements; requires stationary source emissions monitoring and reporting; and, otherwise satisfies the applicable requirements of section 110(a)(2).

Part D SIP requirements: EPA has determined that the Ohio SIP meets applicable ozone SIP requirements under part D of the CAA. Under part D, for ozone, an area's classification (subpart 1, marginal, moderate, serious, severe, and extreme) indicates the requirements to which it will be subject. Subpart 1 of part D, found in sections 172–176 of the CAA, sets forth the basic nonattainment area plan requirements applicable to all nonattainment areas. Subpart 2 of part D, found in section 182 of the CAA, establishes additional specific requirements for ozone nonattainment areas depending on the area's nonattainment classification.

Part D, subpart 1 requirements: For purposes of evaluating this redesignation request, the applicable requirements are those contained in Subpart I of Part D, in particular in sections 172(c)(1)–(9) and 176. A thorough discussion of the requirements of section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498). See also 68 FR 4852–4853, in an ozone redesignation notice of proposed rulemaking for the St. Louis area, for a discussion of section 172 requirements.

No requirements for the 8-hour ozone standard under part D of the CAA will come due for Mahoning, Trumbull, and Columbiana Counties prior to June 15, 2007. For example, the requirement for an ozone attainment demonstration, as contained in section 172(c)(1), is not yet applicable, nor are the requirements for Reasonably Available Control Measures (RACM) and Reasonably Available Control Technology (RACT) (section 172(c)(1)), Reasonable Further Progress (RFP) (section 172(c)(2)), and attainment plan and RFP contingency measures (section 172(c)(9)). All of these required SIP elements are required for submittal after June 15, 2007, and Ohio has submitted the public hearing transcript and response to comment to complete the ozone redesignation request and maintenance plan for Mahoning, Trumbull, and Columbiana Counties prior to the due date. Therefore, none of the part D requirements are considered to be applicable to Mahoning, Trumbull, and Columbiana Counties for purposes of redesignation for ozone.

Section 176 conformity requirements: Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity). State conformity SIP revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate.

In addition to the fact that part D requirements will not become due prior to Ohio's submittal of the complete ozone redesignation request for Mahoning, Trumbull, and Columbiana Counties, and, therefore, are not believed by the EPA to be applicable for redesignation purposes in this case, EPA similarly believes that it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the ozone redesignation request under section 107(d) of the CAA. EPA believes that it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the ozone redesignation request under section 107(d) of the CAA because state conformity rules are still required after redesignation of areas to attainment of a NAAQS and Federal conformity rules apply where state rules have not been approved. See *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001). See also 60 FR 62748 (December 7, 1995) (Tampa, Florida). EPA approved Ohio's general and transportation conformity SIPs on March 11, 1996 (61 FR 9646) and May 30, 2000 (65 FR 34395), respectively.

We conclude that Mahoning, Trumbull, and Columbiana Counties have satisfied all applicable requirements under section 110 and part D of the CAA to the extent that these requirements apply for purposes of reviewing the State's ozone redesignation request.

b. Mahoning, Trumbull, and Columbiana Counties have a fully approved applicable SIP under section 110(k) of the CAA

EPA has fully approved the Ohio SIP for Mahoning, Trumbull, and Columbiana Counties under section 110(k) of the CAA for all applicable requirements. EPA may rely on prior SIP approvals in approving a redesignation request, plus any additional measures it may approve in conjunction with a redesignation action. See the September 4, 1992 John Calcagni memorandum, page 3, *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–990 (6th Cir. 1998), *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) 68 FR 25426 (May 12, 2003). Since the passage of the CAA of 1970, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to Mahoning, Trumbull, and Columbiana Counties for purposes of redesignation. No Mahoning, Trumbull, or Columbiana County SIP provisions are currently disapproved, conditionally approved, or partially approved. As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of review of the State's redesignation request. EPA also believes that since the part D requirements did not become due prior to Ohio's submittal of the final, complete redesignation request, they also are not applicable requirements for purposes of redesignation.

3. The Air Quality Improvements in Mahoning, Trumbull, and Columbiana Counties Are Due To Permanent and Enforceable Reductions in Emissions

We believe that the State of Ohio has adequately demonstrated that the observed air quality improvements in Mahoning, Trumbull, and Columbiana Counties are due to permanent and enforceable emission reductions resulting from the implementation of the SIP, Federal measures, and other State-adopted measures. In making this demonstration, the State has documented the changes in VOC and NO_X emissions from all anthropogenic (man-made or man-based) sources in Mahoning, Trumbull, and Columbiana Counties between 2002, an ozone standard violation year, and 2004, one of the years in which Mahoning, Trumbull, and Columbiana Counties recorded attainment of the 8-hour ozone standard. The Ohio EPA has also

discussed permanent and enforceable emission reductions have occurred elsewhere in the State and in other upwind areas that have contributed to the air quality improvement in Mahoning, Trumbull, and Columbiana Counties. Table 2 summarizes the VOC and NO_X emissions totals from the anthropogenic sources in 2002 and 2004 for all counties (Mahoning, Trumbull, Columbiana, and Mercer) in the nonattainment area as summarized in the State's ozone redesignation submittal. The Youngstown 8-hour ozone nonattainment area, which is a bi-state area, must show emission reductions across the entire area. The table shows all the counties in the area including the Ohio and Pennsylvania counties.

TABLE 2.—TOTAL ANTHROPOGENIC VOC AND NO_X EMISSIONS FOR 2002 AND 2004 IN MAHONING, TRUMBULL, AND COLUMBIANA COUNTIES, OHIO AND MERCER COUNTY, PENNSYLVANIA

[Tons per summer day]

	2002	2004
Mahoning, Trumbull, and Columbiana Counties Volatile Organic Compounds Emissions		
Total All Source Categories	70.51	64.60
Mahoning, Trumbull, and Columbiana Counties Nitrogen Oxides Emissions		
Total All Source Categories	95.53	82.50
Mercer County Volatile Organic Compounds Emissions		
Total All Source Categories	20.80	19.05
Mercer County Nitrogen Oxides Emissions		
Total All Source Categories	25.44	22.43
Combined Total for Youngstown/Warren/Sharon OH-PA VOCs	91.31	83.65
Combined Total for Youngstown/Warren/Sharon OH-PA NO_X	120.97	104.93

From the above table, it can be seen that the Youngstown area experienced decreases in VOC and NO_X anthropogenic emissions between 2002 and 2004. The State of Ohio concludes that the differences in the 2002 and 2004 emissions are due primarily to the implementation of permanent and enforceable emission control requirements. The State asserts that these emission reductions along with those occurring elsewhere in the State and in upwind areas have led to observed improvements in ozone air quality in the Youngstown area.

Also, the State notes a significant decline in regional NO_X emissions between 2002 and 2004 as the result of the implementation of State NO_X emission control rules for combustion sources, primarily Electric Generating Units (EGUs), in compliance with EPA's NO_X SIP call and acid rain control requirements under title IV of the CAA. Besides the NO_X emission reductions occurring within the State itself, the implementation of statewide NO_X emission control rules occurred in many States east of the Mississippi River. These emission reductions are assumed to have contributed significantly to the air quality improvements in the Youngstown area through the reduction of transported ozone and ozone precursors. The Youngstown area has several EGUs which show reductions between 2002 and 2004. The EGU NO_X emissions are reduced from 23.36 tons per year in 2002 to 17.93 tons per day in 2004. These reductions are documented in Table 23 of the Ohio submittal. In addition, the area has benefited from the NO_X emission reductions occurring throughout the State of Ohio and in the surrounding areas. These regional NO_X emission reductions are considered to be permanent and enforceable.

Besides the implementation of the regional NO_X emission controls, the State of Ohio notes that, in the mid-1990's, the State of Ohio promulgated statewide rules requiring Reasonably Available Control Techniques (RACT) for significant new sources of VOC emissions. The RACT rules have been implemented for significant new VOC sources locating in Ohio subsequent to the State's adoption of the rules. The Ohio rules are found in OAC Chapter 3745–21. Additional implemented, or soon to be implemented, emission control rules include several Federal rules: (1) Tier II emission standards for vehicles and gasoline sulfur content standards (promulgated by EPA in February 2000 and currently being implemented); (2) heavy-duty diesel engine emission control rules (promulgated by the EPA in July 2000 and currently being implemented); and, (3) clean air non-road diesel rule (promulgated by the EPA in May 2004 and currently being phased in through 2009). All of these rules have contributed to reducing VOC and NO_X emissions throughout the State of Ohio (and in other States surrounding Ohio) and will contribute to further, future emission reductions in Ohio.

The State of Ohio commits to maintain the existing VOC and NO_X emission controls after Mahoning, Trumbull, and Columbiana Counties are redesignated to attainment of the 8-hour ozone NAAQS, and these reductions are required to be maintained under the Ohio SIP.

4. Mahoning, Trumbull, and Columbiana Counties Have a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate Mahoning, Trumbull, and Columbiana Counties to attainment of the 8-hour ozone NAAQS, Ohio submitted SIP revision requests to provide for maintenance of the 8-hour ozone NAAQS in the Youngstown area through 2018, exceeding the 10 year minimum maintenance period required by the CAA.

a. What Is Required in an Ozone Maintenance Plan?

Section 175A of the CAA sets forth the required elements of air quality maintenance plans for areas seeking redesignation from nonattainment to attainment of a NAAQS. Under section 175A, a maintenance plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves the redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that maintenance of the standard will continue for 10 years following the initial 10 year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation, as EPA deems necessary, to assure prompt correction of any future NAAQS violations. The September 4, 1992, John Calcagni memorandum provides additional guidance on the content of maintenance plans. An ozone maintenance plan should, at minimum, address the following items: (1) The attainment VOC and NO_X emissions inventories; (2) a maintenance demonstration showing maintenance for the first 10 years of the maintenance period; (3) a commitment to maintain the existing monitoring network; (4) factors and procedures to be used for verification of continued attainment; and, (5) a contingency plan to prevent and/or correct a future violation of the NAAQS. The Ohio maintenance plan is designed to work in conjunction with Pennsylvania's maintenance plan to keep the Youngstown area in attainment for the 8-hour ozone NAAQS.

b. What Are the Attainment Emission Inventories for Mahoning, Trumbull, and Columbiana Counties?

Ohio EPA prepared VOC and NO_X emission inventories for Mahoning, Trumbull, and Columbiana Counties, including point (significant stationary sources), other (area sources, smaller and widely-distributed stationary sources), Marine, Aircraft, and Railroad (MAR) mobile sources, non-road (off-road) mobile sources, and on-road mobile sources for 2002 (the base nonattainment year), 2004 (the attainment year), 2009, and 2018 (the projected maintenance year). To develop the 2004, 2009, and 2018 emission inventories, the Ohio EPA projected the 2002 emissions applying various source category-specific growth factors and emission control factors. The State has documented how the 2002 base year emissions were derived and how these emissions were projected to derive the 2004, 2009, and 2018 emissions. The following summarizes the procedures and sources of data used by the Ohio EPA to derive the 2002 emissions.

i. Point Sources

The primary source of point source information was facility-specific emissions and source activity data collected annually by the State for sources covered by Title V [4] source permits. This information includes emissions, process rates, source operating schedules, emissions control data, and other relevant source information. The State also used emissions data provided by EPA's EGU emission inventory, maintained to support the NO_X SIP call emissions trading program and the acid rain control/trading program. The sources included in the 2002 point source emissions inventory were identified using Ohio's Title V STARS database system. The emissions included in this database are facility-reported actual emissions.

Ohio EPA defines point source emissions as those which occur at an identifiable stationary stack or vent. Point source emissions not emitted from discrete stacks or vents are defined to be fugitive emissions. Facility-specific fugitive emissions are also reported by each Title V facility and stored in the Title V STARS database.

Point source emissions included in the 2002 base year emissions inventory were provided to the Lake Michigan Air Directors Consortium (LADCO). LADCO applied temporal and spatial profiles to calculate July weekday emissions rates. The Mahoning, Trumbull, and Columbiana Counties' emissions derived from this set of emissions data were split into EGU emissions and non-EGU emissions for inclusion in the base year emissions inventory used to support the Mahoning, Trumbull, and Columbiana Counties ozone redesignation request.

ii. Area (Other) Sources

Area sources are those sources which are generally small, numerous, and have not been inventoried as specific point, mobile, or biogenic sources. The emissions for these sources are generally calculated using various surrogates, such as population, estimates of employees in various occupational groups, etc., and grouped by general source types. The area source emissions are typically defined at the county level.

Ohio EPA has either used published Emission Inventory Improvement Program (EIIP) emissions estimation methodologies or other methodologies typically used by other states to estimate the area source emissions. Area source categories include: Various stationary combustion sources (not including the EGU sources included in the point source portion of the emissions inventory); agricultural pesticides; architectural surface coatings; auto body refinishing; consumer and commercial solvent usage; solvent cleaning; fuel marketing; graphic arts; hospital sterilizers; industrial surface coating (minus point source emissions for this source category); municipal solid waste disposal; portable fuel containers; privately owned treatment works; traffic markings; human cremation; industrial fuel combustion; residential fuel combustion; structural fires; and miscellaneous source categories. The State has documented the data sources used for each of these source categories.

iii. Non-Road Mobile Sources

The non-road mobile source emissions inventory was generated regionally by running EPA's National Mobile Inventory Model (NMIM). LADCO applied spatial and temporal allocations to derive emissions for a July weekday. The basic non-road algorithm for calculating emissions in NMIM uses base year equipment populations, average load factors, available engine powers, activity hours and emission factors to calculate the emissions.

iv. Marine, Aircraft, and Rail (MAR) Sources

Due to the significance of the emissions from these mobile source types, the Ohio EPA has decided to treat these source categories separately from other non-road mobile sources. The MAR emissions include emissions from commercial marine, aircraft, and locomotive sources.

Commercial marine vessels consist of several different categories of vessel types. For each vessel type, there are unique engine types, emission rates, and activity data sets. The emissions inventory documentation lists the vessel types and activity data sources by vessel type, along with special distribution of each vessel type.

Locomotive activity was divided into various rail categories: Class I operations; Class II/III operations; passenger trains; commuter lines; and yard operations. Since Class I operations

[4] Title V of the CAA requires source-specific emission permits detailing all applicable emission control requirements and emission limits, as specified in the SIP, for each source facility covered by the State's Title V source permit program and requirements.

are expected to be the most significant rail operations in the three Counties, operators of Class I operations were queried for activity and emissions-related information for each railroad line. This approach provided for more specific estimates of emissions by railroad line. Class II/III emissions were based on national fuel consumption and per employee fuel consumption estimates. The number of railroad employees in each county was used to allocate the fuel consumption to each county and, therefore, the emissions to each county.

EPA provided the aircraft emission estimates based on Federal Aviation Administration (FAA) published Landing and Take-Off (LTO) rates by engine type for each airline and major airport in the State of Ohio. The LTO-engine information was combined with engine type-specific emission factors developed by the International Civil Aviation Organization (ICAO), and, through use of a FAA Emissions and Dispersion Modeling System (EDMS), emissions were calculated and assigned to each county in the State, including Mahoning, Trumbull, and Columbiana Counties.

The MAR data were processed by LADCO to calculate July 2002 daily emissions of VOC and NO_X.

v. On-Road Mobile Sources

The inventories of on-road mobile source emissions for Mahoning, Trumbull, and Columbiana Counties were developed by the Ohio EPA in conjunction with the Ohio Department of Transportation (Ohio DOT), the Eastgate Regional Council of Governments (Eastgate), LADCO, and EPA. Eastgate utilized a regional travel demand forecast model to simulate traffic and to forecast traffic flow for given growth expectations in the metropolitan areas of Mahoning and Trumbull counties. In rural areas that are not covered by the network model, such as Columbiana County, the Highway Performance Monitoring System (HPMS) data was used to estimate vehicle mile of travel (VMT). The travel demand forecasting model was used to predict the total daily vehicle miles traveled and speeds on roadways. MOBILE6.2 is used to calculate emissions per mile based on the VMT and speed projections from the travel demand forecast model. The most current vehicle age distribution data, temperature data and fuel properties data provided by Ohio EPA was used in the analysis.

vi. Projected Emissions for the Attainment Year

Ambient ozone air quality data showed that Mahoning, Trumbull, and Columbiana Counties met the 8-hour ozone NAAQS in the 2004–2006 period. Ohio EPA used emission estimates for 2004 as the ''attainment year'' emissions for the area, to represent the base period emissions for the demonstrations of maintenance. See the discussion of the demonstrations of maintenance below. The 2004 emissions were estimated by growing the emissions from the 2002 base year emission levels.

Ohio EPA used point source growth data provided by individual point source facilities along with other source category-specific growth estimates and emission control estimates to estimate stationary source VOC and NO_X emissions for Mahoning, Trumbull, and Columbiana Counties. LADCO provided growth and source control projection data to project VOC and NO_X area source emissions. The Metropolitan Planning Organization for the area, Eastgate, provided projections of vehicle travel estimates (Vehicle Miles Traveled (VMT)) and emissions, with MOBILE 6.2 providing the expected changes in vehicle emission factors. The estimated 2004 emissions have been compared to the 2002 base year emissions to demonstrate the basis for the improved air quality in Mahoning, Trumbull and Columbiana Counties. See Table 2 above for a summary of the 2004 VOC and NO_X emissions and for a comparison of these emissions with the 2002 emissions.

c. Demonstration of Maintenance

As part of the December 4, 2006, redesignation request submittal, Ohio EPA included requested revisions to the Ohio SIP to incorporate the ozone maintenance plan for Mahoning, Trumbull, and Columbiana Counties as required under section 175A of the CAA. Included in the maintenance plan is the ozone attainment maintenance demonstration. This demonstration shows maintenance of the 8-hour ozone NAAQS through 2018 by documenting attainment year and future projected VOC and NO_X emissions and showing that future emissions of VOC and NO_X will remain at or below the attainment year emission levels. Note that an ozone maintenance demonstration need not to be based on ozone 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) and 68 FR 25430–25432 (May 12, 2003).

The Ohio EPA projected the VOC and NO_X emissions in Mahoning, Trumbull, and Columbiana Counties to the years of 2009 and 2018 to demonstrate maintenance of the 8-hour ozone NAAQS for at least 10 years after the expected redesignation dates for these areas. For all counties, Ohio EPA used source growth estimates provided by LADCO along with mobile source growth estimates provided by the Eastgate travel demand model and MOBILE 6.2 to project the Mahoning, Trumbull, and Columbiana Counties VOC and NO_X emissions.

Table 3 summarizes the VOC and NO_X emissions projected to occur in Mahoning, Trumbull, and Columbiana Counties Ohio during the demonstrated maintenance period. The State of Ohio chose 2018 as a maintenance year to meet the 10-year maintenance requirement of the CAA, allowing several years for EPA to complete the redesignation rulemaking process. The State also chose 2009 as an interim year to demonstrate that VOC and NO_X emissions will remain below the attainment year levels throughout the 10-year maintenance period. Table 4 summarizes the VOC and NO_X emissions projected to occur in Mercer County, Pennsylvania over the same maintenance period.

TABLE 3.—PROJECTED VOC AND NO_X EMISSIONS IN MAHONING, TRUMBULL, AND COLUMBIANA COUNTIES, OHIO

[Tons/day]

Source sector	2004 Attainment	2009 Interim	2018 Maintenance	Safety margin
VOC Emissions:				
Point (includes EGU)	6.02	6.39	7.75	
Area (Other)	24.10	22.86	23.03	
Non-Road Mobile	7.95	6.24	4.90	
On-Road Mobile	26.21	17.03	9.01	

TABLE 3.—PROJECTED VOC AND NO_X EMISSIONS IN MAHONING, TRUMBULL, AND COLUMBIANA COUNTIES, OHIO—Continued

[Tons/day]

Source sector	2004 Attainment	2009 Interim	2018 Maintenance	Safety margin
Marine-Air-Railroad	0.32	0.29	0.29	
Total VOC Emissions	64.60	52.81	44.98	*19.62
NO_X Emissions:				
Point	20.25	8.32	12.69	
Area (Other)	2.49	2.79	2.96	
Non-Road Mobile	10.26	8.23	4.21	
On-Road Mobile	43.50	29.32	11.56	
Marine-Air-Railroad	6.00	4.30	4.01	
Total NO_X Emissions	82.50	52.96	35.43	*47.07

* Difference between 2004 attainment year emissions and 2018 maintenance year emissions.

TABLE 4.—PROJECTED VOC AND NO_X EMISSIONS IN MERCER COUNTY, PENNSYLVANIA

[Tons/day]

Source sector	2004 Attainment	2009 Interim	2018 Maintenance	Safety margin
VOC Emissions:				
Point	1.73	2.73	3.66	
Area (Other)	7.61	7.36	7.83	
Non-Road (includes MAR)	3.78	3.41	2.59	
On-Road Mobile	5.93	4.23	2.63	
Total VOC Emissions	19.05	17.73	16.71	*2.34
NO_X Emissions:				
Point	2.93	4.30	5.52	
Area (Other)	0.85	0.88	0.89	
Non-Road (includes MAR)	2.82	2.35	1.44	
On-Road Mobile	15.83	11.22	4.89	
Total NO_X Emissions	22.43	18.75	12.74	*9.69

* Difference between 2004 attainment year emissions and 2018 maintenance year emissions.

The Ohio EPA also notes that the State's EGU NO_X emissions control rules stemming from EPA's NO_X SIP call and Clean Air Interstate Rule (CAIR), to be implemented after 2006, will further lower NO_X emissions throughout the State and upwind of Mahoning, Trumbull, and Columbiana Counties. This will result in decreased ozone and ozone precursor transport into Mahoning, Trumbull, and Columbiana Counties, and will support maintenance of the 8-hour ozone standard.

The emissions projections for Mahoning, Trumbull, and Columbiana Counties, Ohio and Mercer County, Pennsylvania along with the expected impacts of the State's EGU NO_X control rules lead to the conclusion that the Youngstown area should maintain the 8-hour ozone NAAQS throughout the required 10-year maintenance period and through 2018. The projected decreases in local VOC and local and regional NO_X emissions indicate that peak ozone levels in the Youngstown area may actually further decline during the maintenance period.

Based on the comparison of the projected emissions and the attainment year emissions, we conclude that Ohio EPA has successfully demonstrated that the 8-hour ozone standard should be maintained in Mahoning, Trumbull, and Columbiana Counties. We believe that this is especially likely given the expected impacts of the NO_X SIP call and CAIR. This conclusion is further supported by the fact that other states in the eastern portion of the United States are also expected to reduce regional NO_X emissions through implementation of their NO_X emission control rules for EGUs and other NO_X sources through the implementation of the NO_X SIP call and CAIR.

d. Contingency 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 might occur after redesignation. The maintenance plan must identify the contingency measures to be considered for possible adoption, a schedule and procedure for adoption and implementation of the selected contingency measures, and a time limit for action by the State. The State should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the State will continue to implement all measures with respect to control of the pollutant(s) that were included in the SIP before the redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Ohio has adopted contingency plans to help address possible future ozone air quality problems in the Youngstown area. The contingency plans have two levels of actions/responses depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level

Response), has actually occurred or appears to be very imminent (Action Level Response).

A Warning Level Response will be triggered whenever an annual (1-year) fourth-high monitored 8-hour ozone concentration of 88 ppb occurs in a single ozone season in the Youngstown area. A Warning Level Response will consist of a study to determine whether the high ozone value indicates a trend toward higher ozone concentrations or whether emissions appear to be increasing. The study will evaluate whether the trend, if any, is likely to continue and, if so, the control measures necessary to reverse the trend will be selected for evaluation and possible adoption. Implementation of necessary controls in response to a Warning Level Response triggering will take place as expeditiously as possible, but in no event later than 12 months from the conclusion of the most recent ozone season (September 30).

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

The State's redesignation request indicates that the contingency measures to be considered will be selected from a comprehensive list of measures deemed appropriate and effective at the time the selection is made (after the need for contingency measures is triggered). The selection of candidate contingency measures will be based on cost-effectiveness, emission reduction potential, economic and social considerations, and other factors that the Ohio EPA deems to be appropriate. Ohio will solicit input from interested and affected persons in the subject maintenance area prior to final selection of contingency measures.

Although it is not possible at this time to specify which contingency measures would actually be implemented, the Ohio EPA has listed possible contingency measures. These include:

- Low Reid vapor pressure gasoline;
- Tightening of RACT on existing sources covered by EPA Control Technique Guidelines issued in response to the 1990 Clean Air Act amendments;
- Application of RACT to smaller existing sources;
- One or more transportation control measures sufficient to achieve at least half of a percent reduction in actual area-wide VOC emissions. The transportation control measures to be considered include:
- Trip reduction programs, including: Employer-based transportation management plans; area-wide rideshare programs; work schedule changes; and telecommuting;
- Traffic flow and transit improvements; and
- Other new or innovative transportation measures not yet in widespread use that affected state and local governments deem appropriate;
- Alternative fuel and diesel retrofit programs for fleet vehicle operations;
- Controls on consumer products consistent with those adopted elsewhere in the United States;
- Requirements for VOC or NO_X emission offsets for new and modified major sources;
- Requirements for VOC or NO_X emission offsets for new and modified minor sources;
- Increase of the ratio of emission offsets required for new sources; and
- Requirements for VOC or NO_X emission controls on new minor sources (with emissions of less than 100 tons per year).

No contingency measures will be adopted and implemented without providing the opportunity for full public participation and comment in the contingency measure selection process.

A list of VOC and NO_X source types potentially subject to future emission controls include:

NO_X RACT:

- EGUs
- Asphalt batching plants
- Industrial/commercial and institutional boilers
- Process heaters
- Internal combustion engines
- Combustion turbines
- Other sources with NO_X emissions exceeding 100 tons per year

VOC RACT:

- Consumer products
- Architectural and industrial maintenance coatings
- Stage I gasoline dispensing facilities
- Automobile refinishing shops
- Cold cleaner degreasers
- Portable fuel containers
- Synthetic organic compound manufacturing
- Wood manufacturing
- Industrial wastewater
- Aerospace industry
- Ship building
- Bakeries
- Plastic parts coating
- Volatile organic liquid storage
- Industrial solvent cleaning
- Offset lithography
- Industrial surface coating
- Other VOC sources with emissions exceeding 50 tons per year.

e. Provisions for a Future Update of the Ozone Maintenance Plan

As required by section 175A(b) of the CAA, the State commits to review the maintenance plans 8 years after redesignation of Mahoning, Trumbull, and Columbiana Counties to attainment of the 8-hour ozone NAAQS as required by section 175A of the CAA.

We consider Ohio's ozone maintenance demonstration and contingency plan to be acceptable.

VI. Has Ohio Adopted Acceptable Motor Vehicle Emissions Budgets for the Ozone Maintenance Plan Which Can Be Used To Support Conformity Determinations?

A. How Are the Motor Vehicle Emission Budgets Developed and What Are the Motor Vehicle Emission Budgets for Mahoning, Trumbull, and Columbiana Counties?

Under the CAA, states are required to submit, at various times, SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard or revising existing ozone maintenance plans). These emission control SIP revisions (e.g. reasonable further progress and attainment demonstration SIP revisions), including ozone maintenance plans, must create MVEBs based on on-road mobile source 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 of the ozone NAAQS.

Under 40 CFR part 93, MVEBs for an area seeking a redesignation to attainment of the NAAQS are established for the last year of the maintenance plan (for the maintenance demonstration year). The State has the option to establish additional MVEBs for additional years as deemed appropriate by the interagency consultation process. The MVEBs serve as ceilings on mobile source emissions from an area's planned transportation system and are used to test planned transportation system changes or projects to assure compliance with the emission limits assumed in the SIP. 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 MVEBs in the SIP and how to revise the MVEBs if needed.

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

The Transportation Conformity Rule, in 40 CFR 93.118(f), provides for adequacy findings through two mechanisms. First, 40 CFR 93.118(f)(1) provides for posting a notice to the EPA conformity Web site at: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm* and providing a 30-day public comment period. Second, a mechanism is described in 40 CFR 93.118(f)(2) which provides that EPA can review the adequacy of an implementation plan submission simultaneously with its review of the implementation plan itself. For this area, EPA is using the first process and posted the notice on our adequacy Web site on December 11, 2006. The comment period closed January 11, 2007, without any comments from the public on the adequacy of the MVEBs.

Both Ohio and Pennsylvania are establishing separate State budgets in the Ohio and Pennsylvania maintenance plans. When conducting transportation conformity determinations, the Eastgate Regional Council of Governments will use the budgets established for Mahoning, Trumbull, and Columbiana Counties. Mobile source emissions will be constrained by both the Ohio maintenance plan budgets and the budgets established for Mercer County by Pennsylvania. These budgets will assure that mobile source emissions do not increase and that the air quality remains below the 8-hour ozone NAAQS.

The Mahoning, Trumbull, and Columbiana Counties ozone maintenance plan contains VOC and NO_X MVEBs for the years 2009 and 2018. EPA has reviewed the submittal and has found that the MVEBs for Mahoning, Trumbull, and Columbiana Counties meet the adequacy criteria in the Transportation Conformity Rule.

EPA, through this rulemaking, is proposing to approve the MVEBs for Mahoning, Trumbull, and Columbiana Counties because EPA has determined that the budgets are consistent with the control measures and future emissions projected in the SIP and that Mahoning, Trumbull, and Columbiana Counties can maintain attainment of the 8-hour ozone NAAQS for the relevant required 10-year period with mobile source emissions at the levels of the MVEBs. Ohio EPA has determined the 2018 MVEBs for Mahoning, Trumbull, and Columbiana Counties to be 10.36 tons per day for VOC and 13.29 tons per day for NO_X and the 2009 MVEBs for Mahoning, Trumbull, and Columbiana Counties to be 19.58 tons per day for VOC and 33.71 tons per day for NO_X. These MVEBs exceed the on-road mobile source VOC and NO_X emissions projected by the Ohio EPA for 2009 and 2018, but do not exceed the levels necessary for continued maintenance of the NAAQS. Through discussions with all organizations involved in transportation planning for Mahoning, Trumbull, and Columbiana Counties, Ohio EPA decided to include 15 percent safety margins in the MVEBs to provide for mobile source growth not anticipated in the projected 2009 and 2018 emissions. Ohio EPA has demonstrated that Mahoning, Trumbull, and Columbiana Counties can maintain the 8-hour ozone NAAQS with mobile source emissions at the levels of the MVEBs since total source emissions with the increased mobile source emissions will remain under the attainment year levels. These MVEBs will be separate state area budgets for Mahoning, Trumbull, and Columbiana Counties, Ohio. Pennsylvania established MVEBs for Mercer County through the 8-hour ozone maintenance plan that was submitted with Pennsylvania's request for redesignation. Action on the Pennsylvania MVEBs will be taken through separate rulemaking.

B. 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 for a future maintenance year. As noted in Tables 3 and 4 above, Mahoning, Trumbull, and Columbiana Counties are projected to have a VOC safety margin of 22.42 tons per day and a NO_X safety margin of 47.07 tons per day in 2018. The addition of a portion of the safety margin to the MVEBs continues to maintain the emissions levels below the attainment level.

C. Are the MVEBs Approvable?

The 2009 and 2018 VOC and NO_X MVEBs for Mahoning, Trumbull, and Columbiana Counties (see Table 5) are approvable because they maintain the total emissions for Mahoning, Trumbull, and Columbiana Counties at or below the attainment year emission inventory levels, as required by the transportation conformity regulations.

TABLE 5.—MOTOR VEHICLE EMISSION BUDGETS FOR COLUMBIANA, MAHONING AND TRUMBULL COUNTIES, OHIO

Mahoning, Trumbull, and Columbiana Counties Ohio budgets	Year 2009	Year 2018
VOC (tons/day)	19.58	10.36
NO_X (tons/day)	33.71	13.29

VII. What Action Is EPA Taking?

EPA is proposing to make a determination that the Youngstown area is attainment the 8-hour ozone NAAQS and EPA is proposing to approve Ohio's maintenance plan for assuring that the area will continue to attain this standard. The maintenance plan demonstrates maintenance to the year 2018 and includes contingency measures to remedy possible future violations of the 8-hour ozone NAAQS, and establishes 2009 and 2018 MVEBs for these Counties. EPA is proposing to approve the 2018 MVEBs submitted by Ohio in conjunction with the redesignation request.

VIII. Statutory and Executive Order Reviews

Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, September 30, 1993), this action is not a ''significant regulatory action'' and, therefore, is not subject to review by the Office of Management and Budget.

Paperwork Reduction Act

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

Regulatory Flexibility Act

This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

Unfunded Mandates Reform Act

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

Executive Order 13132: Federalism

This action also does not have Federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act.

Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

This proposed rule also does not have tribal implications because it will 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).

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

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

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

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

National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272, requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impractical. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Absent a prior existing requirement for the state to use voluntary consensus standards, EPA has no authority to disapprove a SIP submission for failure to use such standards, and it would thus be inconsistent with applicable law for EPA to use voluntary consensus standards in place of a program submission that otherwise satisfies the provisions of the Clean Air Act. Therefore, the requirements of section 12(d) of the NTTA do not apply.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: April 6, 2007.

Walter W. Kovalick,

Acting Regional Administrator, Region 5.

[FR Doc. E7–7352 Filed 4–17–07; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 07–1448, MB Docket No. 05–228; RM–11255]

Radio Broadcasting Services; Kiowa, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal.

SUMMARY: This document dismisses a pending petition for rulemaking filed by Charles Crawford to allot Channel 233A at Kiowa, Kansas for failure to state a continuing interest in the requested allotment. The document therefore terminates the proceeding.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Helen McLean, Media Bureau (202) 418–2738.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 05–228, adopted March 28, 2007, and released March 30, 2007. The full text of this Commission decision is available for inspection and copying during normal