

(i) Incorporation by reference.

(A) South Coast Air Quality Management District (SCAQMD).

(1) Amended Handbooks for Rules 403 (Chapters 5, 7, and 8) and 403.1 (Chapters 2, 3, 4, and 7), as adopted on April 2, 2004.

(B) Plan revisions for the Coachella Valley Planning Area.

(1) Fugitive dust control ordinances for: City of Cathedral City Ordinance No. 583 (1/14/04), City of Coachella Ordinance No. 896 (10/8/03), City of Desert Hot Springs Ordinance No. 2003-16 (10/7/03), City of Indian Wells Ordinance No. 545 (11/6/03), City of Indio Ordinance No. 1357 (12/3/03), City of La Quinta Ordinance No. 391 (12/2/03), City of Palm Desert Ordinance No. 1056 (11/13/03), City of Palm Springs Ordinance No. 1639 (11/5/03), City of Rancho Mirage Ordinances No. 855 (12/18/03) and No. 863 (4/29/04), and County of Riverside Ordinance No. 742.1 (1/13/04).

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[R05-OAR-2005-IN-0009; FRL-7995-9]

#### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Greene County and Jackson County 8-Hour Ozone Nonattainment Areas To Attainment for Ozone

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is making determinations that the Greene County and Jackson County ozone nonattainment areas have attained the 8-hour ozone National Ambient Air Quality Standard (NAAQS). These determinations are based on three years of complete, quality-assured ambient air quality monitoring data for the 2002-2004 seasons that demonstrate that the 8-hour ozone NAAQS has been attained in the areas.

EPA is approving requests from the State of Indiana to redesignate the Greene County and Jackson County areas to attainment of the 8-hour ozone NAAQS. These requests were submitted by the Indiana Department of Environmental Management (IDEM) on July 15, 2005 and supplemented on September 6, 2005, September 7, 2005, October 6, 2005, and October 20, 2005.

In approving these requests, EPA is also approving the State's plans for maintaining the 8-hour ozone NAAQS through 2015 in these areas as a revision to the Indiana State Implementation Plan (SIP). EPA is also finding adequate and approving the State's 2015 Motor Vehicle Emission Budgets (MVEBs) for these areas.

**DATES:** This rule is effective on December 29, 2005, unless EPA receives adverse written comments by December 14, 2005. If EPA receives adverse comments, EPA will publish a timely withdrawal of the rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit comments, identified by Regional Material in EDocket (RME) ID No. R05-OAR-2005-IN-0009, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comments system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [mooney.john@epa.gov](mailto:mooney.john@epa.gov).

4. Fax: (312) 886-5824.

5. Mail: You may send written comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

6. Hand delivery: Deliver your comments to: John M. Mooney, Chief, Criteria Pollutant Section, (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, 18th floor, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

**Instructions:** Direct your comments to RME ID No. R05-OAR-2005-IN-0009. EPA's policy is that all comments received will be included in the public docket without change, including any personal information provided and may be made available online at <http://docket.epa.gov/rmepub/>, 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 RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the Federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, 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 RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, *i.e.*, 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 electronically in RME or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. We recommend that you telephone Kathleen D'Agostino, Environmental Engineer, at (312) 886-1767 before visiting the Region 5 office. This Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

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

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### I. What Actions Is EPA Taking?

EPA is taking several related actions. EPA is making determinations that the Greene County and Jackson County, Indiana nonattainment areas have attained the 8-hour ozone standard and that Greene and Jackson Counties have met the requirements for redesignation under section 107(d)(3)(E). EPA is thus approving requests to change the legal designations of the Greene County and Jackson County areas from nonattainment to attainment for the 8-hour ozone NAAQS. EPA is also approving Indiana's maintenance plan SIP revisions for Greene and Jackson Counties (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plans are designed to keep Greene and Jackson Counties in attainment of the ozone NAAQS for the next 10 years. Additionally, EPA is announcing its action on the Adequacy Process for the newly-established 2015 MVEBs. The Adequacy comment periods for the 2015 MVEBs began on August 2, 2005, with EPA's posting of the availability of these submittals on EPA's Adequacy Web site (at <http://www.epa.gov/otaq/transp/conform/adequacy.htm>). The Adequacy comment periods for these MVEBs ended on September 1, 2005. No requests for these submittals or adverse comments on these submittals were received during the Adequacy comment periods. Please see the Adequacy Section of this rulemaking for further explanation on this process. Therefore, we are finding adequate and approving the State's 2015 MVEBs for transportation conformity purposes.

### II. What Is the Background for These Actions?

Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO<sub>x</sub> and VOCs are referred to as precursors of ozone.

The CAA establishes a process for air quality management through the NAAQS. Greene and Jackson Counties were designated unclassifiable/attainment under the 1-hour ozone

NAAQS, which was revoked on June 15, 2005. On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour standard.

On April 30, 2004 (69 FR 23857), EPA published a final rule designating and classifying areas under the 8-hour ozone NAAQS. These designations and classifications became effective June 15, 2004. The CAA required EPA to designate as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years (2001–2003) of air quality data. The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for nonattainment areas. (Both are found in title I, part D.) Subpart 1 (which EPA refers to as “basic” nonattainment) contains general, less prescriptive, requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which EPA refers to as “classified” nonattainment) provides more specific requirements for ozone nonattainment areas. Some ozone nonattainment areas are subject only to the provisions of subpart 1. Other ozone nonattainment areas are also subject to the provisions of subpart 2. Under EPA's 8-hour ozone implementation rule, signed on April 15, 2004, (69 FR 23951) an area was classified under subpart 2 based on its 8-hour ozone design value (*i.e.*, the 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2). All other areas are covered under subpart 1, based upon their 8-hour design values. Both Greene and Jackson Counties were designated as subpart 1, 8-hour ozone nonattainment areas by EPA on April 30, 2004, (69 FR 23857) based on air quality monitoring data from 2001–2003.

Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm (*i.e.*, 0.084 ppm) when rounding is considered. (See 69 FR 23857 (April 30, 2004) for further information). The data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90%, and no single year has less than 75% data completeness as determined in Appendix I of part 50.

On July 15, 2005, Indiana requested that EPA redesignate Greene and Jackson Counties to attainment for the 8-hour ozone standard. These requests were supplemented with submittals dated September 6, 2005, September 7, 2005, October 6, 2005, and October 20, 2005. The redesignation requests included three years of complete, quality-assured data for the period of 2002 through 2004, indicating the 8-hour NAAQS for ozone had been attained for Greene and Jackson Counties. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient complete, quality-assured data are available for the Administrator to determine that the area has attained the standard and the area meets the other four CAA redesignation requirements in section 107(d)(3)(E).

### 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) 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 under section 110 and part D.

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

“Ozone and Carbon Monoxide Design Value Calculations”, Memorandum from William G. Laxton, Director Technical Support Division, June 18, 1990;

“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;

“Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,” Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

“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 (ACT) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

“Technical Support Documents (TSD’s) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,” Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

“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;

“Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,” Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, to Air Division Directors, Regions 1–10, dated November 30, 1993.

“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

“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 Taking These Actions?**

On July 15, 2005, Indiana requested redesignation of Greene County and

Jackson County to attainment for the 8-hour ozone standard. Indiana supplemented these requests with submittals dated September 6, 2005, September 7, 2005, October 6, 2005, and October 20, 2005. EPA believes that the areas have attained the standard and have met the requirements for redesignation set forth in section 107(d)(3)(E) of the CAA.

**V. What Is the Effect of These Actions?**

Approval of the redesignation requests would change the official designation of the areas for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the Indiana SIP plans for maintaining the 8-hour ozone NAAQS through 2015. The maintenance plans include contingency measures to remedy future violations of the 8-hour NAAQS, and establish MVEBs for the year 2015 of 1.46 and 1.65 tons per day (tpd) VOC and 1.54 and 3.18 tpd NO<sub>x</sub> for Greene and Jackson Counties, respectively.

**VI. What Is EPA’s Analysis of the Request?**

*A. Attainment Determination and Redesignation*

EPA is making determinations that the Greene County and Jackson County nonattainment areas have attained the 8-hour ozone standard and that the areas have met all other applicable section 107(d)(3)(E) redesignation criteria. The basis for EPA’s determinations is as follows:

**1. The Areas Have Attained the 8-Hour Ozone NAAQS (Section 107(d)(3)(E)(i))**

EPA is making determinations that Greene and Jackson Counties have attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in

accordance with 40 CFR 50.10 and Appendix I, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, 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 0.08 ppm. Based on the rounding convention described in 40 CFR Part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in Aerometric Information Retrieval System (AIRS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

IDEM submitted ozone monitoring data for the 2002 to 2004 ozone seasons. The State quality assures monitoring data in accordance with 40 CFR 58.10 and the Indiana Quality Assurance Manual and records the data in the AIRS database, thus making the data publicly available. IDEM operates one ozone monitor in Greene County (18–055–0001) and one ozone monitor in Jackson County (18–071–0001). The data for 2002–2004 have been quality assured and are recorded in AIRS. For Greene County, data completeness was 100% for 2002–2004. For Jackson County, data completeness averaged 100%, 100% and 98% in 2002, 2003 and 2004, respectively. The four highest 8-hour average readings for the Greene County and Jackson County ozone monitoring sites for the years 2002 to 2004 are presented in Tables 1 and 2 below:

**TABLE 1.—MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AT THE GREENE COUNTY MONITOR FROM 2002–2004 (PPM)**

Year	1st max 8-hour (ppm)	2nd max 8-hour (ppm)	3rd max 8-hour (ppm)	4th max 8-hour (ppm)
2002 .....	0.097	0.095	0.095	0.093
2003 .....	0.097	0.092	0.092	0.088
2004 .....	0.076	0.075	0.075	0.073
2002–2004 average of 4th max 8-hour averages (ppm) .....				0.084

**TABLE 2.—MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AT THE JACKSON COUNTY MONITOR FROM 2002–2004 (PPM)**

Year	1st max 8-hour (ppm)	2nd max 8-hour (ppm)	3rd max 8-hour (ppm)	4th max 8-hour (ppm)
2002 .....	0.094	0.093	0.091	0.090
2003 .....	0.084	0.082	0.082	0.082

TABLE 2.—MAXIMUM 8-HOUR AVERAGE OZONE CONCENTRATIONS AT THE JACKSON COUNTY MONITOR FROM 2002–2004 (PPM)—Continued

Year	1st max 8-hour (ppm)	2nd max 8-hour (ppm)	3rd max 8-hour (ppm)	4th max 8-hour (ppm)
2004	0.076	0.070	0.069	0.067
2002–2004 average of 4th max 8-hour averages (ppm)				0.079

It should be noted that preliminary 2005 monitoring data for Greene and Jackson Counties show that the areas continue to attain the 8-hour ozone standard.

In addition, as discussed below with respect to the maintenance plan, IDEM has committed to continue monitoring in these areas in accordance with 40 CFR part 58. In summary, EPA believes that the data submitted by Indiana provide an adequate demonstration that Greene and Jackson Counties have attained the 8-hour ozone NAAQS.

2. The Areas Have Met All Applicable Requirements Under Section 110 and Part D; and the Areas Have Fully Approved SIPs Under Section 110(k). (Sections 107(d)(3)(E)(v) and 107(d)(3)(E)(ii))

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

a. Greene and Jackson 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. Under this interpretation, to qualify for redesignation of an area to attainment, 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 60 FR 12459, 12465–66 (Mar. 7, 1995) (redesignation of Detroit-Ann Arbor, Michigan to attainment of the 1-hour ozone NAAQS). Applicable requirements of the CAA that come due subsequent to the state’s submittal of a complete request remain applicable until a redesignation to attainment is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA. *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of the St. Louis/East St. Louis area to attainment of the 1-hour ozone NAAQS).

*General SIP requirements.* Section 110(a) of title I of the CAA contains the general requirements for a SIP. General SIP elements and requirements are delineated in section 110(a)(2). 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; enforceable emission limitations and other control measures, means or techniques; provisions for establishment and operation of appropriate devices, methods, systems and procedures necessary to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; criteria for stationary source emission control measures, monitoring, and reporting; provisions for air quality modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain 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 transport of air pollutants (NO<sub>x</sub> SIP Call,<sup>1</sup> Clean Air Interstate Rule (CAIR) (70 FR 25162)). However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area’s designation and classification. EPA believes that the requirements linked with a particular nonattainment area’s designation and 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 not linked with an area’s attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements which are linked with a particular area’s designation and classification are the relevant measures in evaluating a redesignation request. This approach is consistent with EPA’s existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176,

<sup>1</sup> On October 27, 1998 (63 FR 57356), EPA issued a NO<sub>x</sub> SIP call, requiring the District of Columbia and 22 states, including Indiana, to reduce their statewide emissions of NO<sub>x</sub> in order to reduce the transport of ozone and ozone. In compliance with EPA’s NO<sub>x</sub> SIP call, IDEM has developed rules governing the control of NO<sub>x</sub> emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. EPA approved Indiana’s rules as fulfilling Phase I of the NO<sub>x</sub> SIP Call on November 8, 2001 (66 FR 56465). On December 11, 2003 (68 FR 69025) EPA approved revisions to these rules.

October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh ozone redesignation (66 FR 50399, October 19, 2001).

We believe that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the part D requirements for 8-hour ozone nonattainment areas are not yet due, since, as explained below, no Part D requirements applicable for purposes of redesignation under the 8-hour standard became due prior to submission of the redesignation requests. Therefore, as discussed above, for purposes of redesignation, they are not considered applicable requirements.

*Part D Requirements.* EPA has determined that the Indiana SIP meets applicable SIP requirements under part D of the CAA since no requirements applicable for purposes of redesignation became due for the 8-hour ozone standard prior to submission of the Greene County or Jackson County redesignation request. Under part D, an area's classification determines the requirements to which it will be subject. Subpart 1 of part D, found in sections 172-176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's nonattainment classification. Greene and Jackson Counties were both classified as subpart 1 nonattainment areas, and therefore subpart 2 requirements do not apply.

*Part D, Subpart 1 applicable SIP requirements.* For purposes of evaluating these redesignation requests, the applicable part D, subpart 1 SIP requirements for Greene and Jackson Counties are contained in sections 172(c)(1)-(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992).

No requirements applicable for purposes of redesignation under part D became due prior to submission of the redesignation requests, and, therefore, none is applicable to the area for purposes of redesignation. Since the State of Indiana has submitted complete ozone redesignation requests for Greene and Jackson Counties prior to the

deadline for any submissions required for purposes of redesignation, we have determined that these requirements do not apply to the Greene County and Jackson County areas for purposes of redesignation.

Furthermore, 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 standard without part D NSR, since PSD requirements will apply after redesignation. 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 areas will be able to maintain the standard without part D NSR in effect, and 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 Greene and Jackson Counties upon redesignation to attainment. 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).

*Section 176 conformity requirements.* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally-supported or funded activities, including highway projects, conform to the air quality planning goals in the applicable SIPs. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 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 revisions must be consistent with Federal conformity regulations relating to consultation, enforcement and enforceability that the CAA required the EPA to promulgate.

EPA approved Indiana's general conformity SIP on January 14, 1998 (63 FR 2146). Indiana does not have a Federally approved transportation conformity SIP. However, conformity analyses are performed pursuant to EPA's Federal conformity rules. Indiana has submitted on-highway motor vehicle budgets for Greene and Jackson

Counties of 1.46 and 1.65 tpd of VOC and 1.54 and 3.18 tpd of NO<sub>x</sub>, respectively, based on the areas' 2015 level of emissions. Greene and Jackson Counties must use the motor vehicle emissions budgets from the maintenance plan in any conformity determination that is effective on or after the effective date of the maintenance plan approval.

EPA believes that it is reasonable to interpret the conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally-approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See also 60 FR 62748 (Dec. 7, 1995) (Tampa, Florida). Thus, the areas have satisfied all applicable requirements under section 110 and part D of the CAA.

*b. Greene and Jackson Counties Have a Fully Approved Applicable SIP Under Section 110(k) of the CAA*

EPA has fully approved the Indiana SIP for Greene and Jackson Counties 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 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)) plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003). Since the passage of the CAA of 1970, Indiana has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to Greene and Jackson Counties under the 1-hour ozone standard. No Greene or Jackson County area 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 redesignation. EPA also believes that since the part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, they also are, therefore, not applicable requirements for purposes of redesignation.

3. The Improvement in Air Quality 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. (Section 107(d)(3)(E)(iii))

EPA believes that Indiana has demonstrated that the observed air quality improvement in Greene and Jackson Counties is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other State-adopted measures.

In making this demonstration, the State has calculated the change in emissions between 1999 and 2002, one of the years Greene and Jackson Counties monitored attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that Indiana has implemented in recent years. Greene and Jackson Counties are both rural and their air quality is significantly impacted by the transport of ozone from upwind counties. Therefore, local controls as well as controls implemented in upwind counties are relevant to the improvement in air quality in both Greene and Jackson Counties.

a. Permanent and enforceable controls implemented.

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

*Reasonably Available Control Technology (RACT).* Greene and Jackson Counties were not previously required to be covered by RACT regulations for existing sources under the CAA. However, Indiana has implemented statewide RACT controls through the following regulations:

- 326 IAC 8-1-6 Best Available Control Technology (BACT) for some Sources;
- 326 IAC 8-2 Surface Coating Emission Limitations;
- 326 IAC 8-3 Organic Solvent Degreasing Operations;
- 326 IAC 8-4 Petroleum Sources; and
- 326 IAC 8-5 Miscellaneous Operations

*NO<sub>x</sub> rules.* In compliance with EPA's NO<sub>x</sub> SIP call, Indiana developed rules to control NO<sub>x</sub> emissions from Electric Generating Units (EGUs), major non-EGU industrial boilers, and major cement kilns. These rules required sources to begin reducing NO<sub>x</sub> emissions in 2004, with emission reductions increasing to 31 percent statewide by 2007. It should be noted that statewide NO<sub>x</sub> emissions actually began to decline in 2002 as sources phased in emission controls needed to comply with the State's NO<sub>x</sub> emission control regulations. From 2004 on, NO<sub>x</sub> emissions from EGUs are capped at a statewide total well below pre-2002 levels. It should be noted that NO<sub>x</sub> emissions are expected to further decline as the State meets the requirements of EPA's Phase II NO<sub>x</sub> SIP call (69 FR 21604).

*Federal Emission Control Measures.* Reductions in VOC and NO<sub>x</sub> emissions have occurred statewide as a result of Federal emission control measures, with additional emission reductions expected to occur in the future as additional emission controls are implemented. Federal emission control measures have included: the National Low Emission Vehicle (NLEV) program, Tier 2 emission standards for vehicles, gasoline sulfur limits, and heavy-duty diesel engine standards. In addition, in 2004, EPA issued the Clean Air Non-road Diesel Rule (69 FR 38958). This rule will reduce off-road diesel emissions through 2010, with emission reductions starting in 2008.

b. Emission Reductions

Indiana is using 1999 for the nonattainment inventory. Emissions estimates were taken directly from the National Emissions Inventory (NEI), with the following exceptions. Point source emissions information was compiled from IDEM's 1999 annual emissions statement database. Onroad emissions for Jackson county were calculated using MOBILE 6.2.

For comparison, IDEM developed an inventory for 2002, one of the years the area monitored attainment of the 8-hour NAAQS. The point source sector information was compiled from IDEM's 2002 annual emissions statement database and the 2002 EPA Air Markets acid rain database. The area source sector information was taken from the Indiana 2002 periodic inventory submitted to EPA. These projections were made from the U.S. Department of Commerce Bureau of Economic Analysis growth factors with some updated local information. The nonroad sector emission estimates were developed using NONROAD with the following modifications. Emissions were estimated for two nonroad categories not included in NONROAD, commercial marine vessels and railroads. Recreational motorboat population and spatial surrogates (used to assign emissions to each county) were updated. The populations for the construction equipment category were reviewed and updated based upon surveys completed in the Midwest and the temporal allocation for agricultural sources was also updated. The onroad sector emissions were calculated using MOBILE 6.2.

Based on the inventories described above, Indiana's submittal documents changes in VOC and NO<sub>x</sub> emissions from 1999 to 2002 for Greene and Jackson Counties. IDEM also documented this information for upwind areas in Southwest (Davies, Dubois, Gibson, Knox, Martin, Pike, Vanderburgh and Warrick Counties) and South central (Clark, Floyd, Harrison, Jefferson and Scott Counties) Indiana. (We will refer to these areas, collectively, as Southern Indiana.) Emissions data are shown in Tables 3 through 7 below.

TABLE 3.—TOTAL VOC AND NO<sub>x</sub> EMISSIONS FOR NONATTAINMENT YEAR 1999 IN TONS PER SUMMER DAY (TPSD)

	Greene		Jackson		Southern Indiana	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Point .....	1.42	0.25	1.64	0.48	30.87	449.88
Area .....	4.80	0.32	8.74	1.05	96.03	11.42
Nonroad .....	0.78	2.15	0.95	3.23	17.78	51.2

TABLE 3.—TOTAL VOC AND NO<sub>x</sub> EMISSIONS FOR NONATTAINMENT YEAR 1999 IN TONS PER SUMMER DAY (TPSD)—Continued

	Greene		Jackson		Southern Indiana	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Onroad .....	2.44	3.83	4.02	10.30	48.72	73.09
Total .....	9.44	6.55	15.35	15.06	193.40	585.59

TABLE 4.—TOTAL VOC AND NO<sub>x</sub> EMISSIONS FOR NONATTAINMENT YEAR 2002 IN TONS PER SUMMER DAY (TPSD)

	Greene		Jackson		Southern Indiana	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Point .....	0.51	0.68	1.72	0.62	28.07	385.62
Area .....	3.73	0.25	5.91	0.72	69.95	9.11
Nonroad .....	1.43	1.61	1.11	2.93	20.42	26.13
Onroad .....	2.74	3.41	3.33	8.30	43.23	72.58
Total .....	8.41	5.95	12.07	12.57	161.67	493.44

TABLE 5.—COMPARISON OF 1999 AND 2002 VOC AND NO<sub>x</sub> EMISSIONS FOR GREENE COUNTY (TPSD)

Sector	VOC			NO <sub>x</sub>		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point .....	1.42	0.51	–0.91	0.25	0.68	0.43
Area .....	4.80	3.73	–1.07	0.32	0.25	–0.07
Nonroad .....	0.78	1.43	0.65	2.15	1.61	–0.54
Onroad .....	2.44	2.74	0.30	3.83	3.41	–0.42
Total .....	9.44	8.41	–1.03	6.55	5.95	–0.60

TABLE 6.—COMPARISON OF 1999 AND 2002 VOC AND NO<sub>x</sub> EMISSIONS FOR JACKSON COUNTY (TPSD)

Sector	VOC			NO <sub>x</sub>		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point .....	1.64	1.72	0.08	0.48	0.62	0.14
Area .....	8.74	5.91	–2.83	1.05	0.72	–0.33
Nonroad .....	0.95	1.11	0.16	3.23	2.93	–0.30
Onroad .....	4.02	3.33	–0.69	10.30	8.30	–2.00
Total .....	15.35	12.07	–3.28	15.06	12.57	–2.49

TABLE 7.—COMPARISON OF 1999 AND 2002 VOC AND NO<sub>x</sub> EMISSIONS FOR SOUTHWEST INDIANA (TPSD)

Sector	VOC			NO <sub>x</sub>		
	1999	2002	Net change (1999–2002)	1999	2002	Net change (1999–2002)
Point .....	20.79	19.91	–0.88	324.31	274.99	–49.32
Area .....	56.92	41.70	–15.22	7.03	5.55	–1.48
Nonroad .....	12.18	13.45	1.27	33.16	17.28	–15.88
Onroad .....	28.93	23.97	–4.96	41.21	35.18	–6.03
Total .....	118.82	99.03	–19.79	405.71	333.00	–72.71

Table 5 shows that Greene County reduced VOC emissions by 1.03 tpd and NO<sub>x</sub> emissions by 0.60 tpd between 1999 and 2002. Table 6 shows that Jackson County reduced VOC emissions

by 3.28 tpd and NO<sub>x</sub> emissions by 2.49 tpd between 1999 and 2002. Table 7 shows that the upwind area in Southern Indiana reduced VOC emissions by

19.79 tpd and NO<sub>x</sub> emissions by 72.71 tpd between 1999 and 2002.

Based on the information summarized above, Indiana has adequately demonstrated that the improvement in

air quality is due to permanent and enforceable emissions reductions.

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

In conjunction with its requests to redesignate the Greene County and Jackson County nonattainment areas to attainment status, Indiana submitted SIP revisions to provide for the maintenance of the 8-hour ozone NAAQS in Greene and Jackson Counties for at least 10 years after redesignation.

a. What Is Required in a Maintenance Plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment.

Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations.

The September 4, 1992 John Calcagni memorandum provides additional guidance on the content of a maintenance plan. An ozone

maintenance plan should address the following items: the attainment VOC and NO<sub>x</sub> emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

The State developed an inventory for 2002, one of the years the area monitored attainment of the 8-hour NAAQS. Inventory methodology is described in section 3 above. The attainment level of emissions are summarized in Table 8 below.

TABLE 8.—VOC AND NO<sub>x</sub> EMISSIONS FOR ATTAINMENT YEAR 2002 (TPSD)

	Greene County		Jackson County		Southern Indiana	
	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>	VOC	NO <sub>x</sub>
Point Area	0.51	0.68	1.72	0.62	19.91	274.99
Nonroad	3.73	0.25	5.91	0.72	41.70	5.55
Onroad	1.43	1.61	1.11	2.93	13.45	17.28
Total	2.74	3.41	3.33	8.30	23.97	35.18
	8.41	5.95	12.07	12.57	99.03	333.00

c. Demonstration of Maintenance

As part of the redesignation requests, IDEM submitted revisions to the 8-hour ozone SIPs to include 10-year maintenance plans as required by section 175A of the Clean Air Act. For Greene County, this demonstration shows maintenance of the 8-hour ozone standard by assuring that current and future emissions of VOC and NO<sub>x</sub> remain at or below attainment year emission levels. For Jackson County this

demonstration consists of a combination of emissions projections and modeling. 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 25430–25432 (May 12, 2003).

Using the 2002 attainment inventory as the base year, IDEM developed projected emissions inventories for 2010 and 2015. Onroad mobile source

emissions were projected using Mobile 6.2 in accordance with “Procedures for Preparing Emissions Projections,” EPA-45/4-91-019. Emissions for the point, area and nonroad sectors were projected using growth and control files developed by the Midwest Regional Planning Organization. This method was used to ensure that the inventories used for redesignation are consistent with modeling performed in the future. These emission estimates are presented in Tables 9–11 below.

TABLE 9.—COMPARISON OF 2002–2015 VOC AND NO<sub>x</sub> EMISSIONS FOR GREENE COUNTY (TPSD)

Sector	VOC				NO <sub>x</sub>			
	2002	2010	2015	Net change 2002–2015	2002	2010	2015	Net change 2002–2015
Point Area	0.51	0.59	0.64	0.13	0.68	0.46	0.47	-0.21
Nonroad	3.73	4.33	4.74	1.01	0.25	0.27	0.27	0.02
Onroad	1.43	1.14	0.94	-0.49	1.61	1.37	1.22	-0.39
Total	2.74	1.81	1.33	-1.41	3.41	2.09	1.40	-2.01
	8.41	7.87	7.65	-0.76	5.95	4.19	3.36	-2.59

TABLE 10.—COMPARISON OF TOTAL 2002–2015 VOC AND NO<sub>x</sub> EMISSIONS FOR JACKSON COUNTY (TPSD)

Sector	VOC				NO <sub>x</sub>			
	2002	2010	2015	Net change 2002–2015	2002	2010	2015	Net change 2002–2015
Point .....	1.72	2.31	2.70	0.98	0.62	1.20	1.58	0.96
Area .....	5.91	6.91	7.64	1.73	0.72	0.77	0.80	0.08
Nonroad .....	1.11	0.71	0.62	–0.49	2.93	2.27	1.91	–1.02
Onroad .....	3.33	2.23	1.65	–1.68	8.30	5.10	3.03	–5.27
Total .....	12.07	12.16	12.61	0.54	12.57	9.34	7.32	–5.25

TABLE 11.—COMPARISON OF 2002–2015 VOC AND NO<sub>x</sub> EMISSIONS FOR SOUTHERN INDIANA (TPSD)

Sector	VOC				NO <sub>x</sub>			
	2002	2010	2015	Net change 2002–2015	2002	2010	2015	Net change 2002–2015
Point .....	19.91	24.21	29.08	9.17	274.99	108.22	109.60	–165.39
Area .....	41.70	48.73	53.72	12.02	5.55	5.96	6.12	0.57
Nonroad .....	13.45	9.54	8.16	–5.29	17.28	13.69	10.89	–6.39
Onroad .....	23.97	14.20	10.13	–13.84	35.18	20.15	11.91	–23.27
Total .....	99.03	96.68	101.09	2.06	333.00	148.02	138.52	–194.48

The emission projections show that in Greene County emissions are not expected to exceed the level of the 2002 attainment year inventory during the 10-year maintenance period. Greene County VOC and NO<sub>x</sub> emissions are projected to decrease by 0.76 tpd and 2.59 tpd, respectively. In Jackson County, NO<sub>x</sub> emissions are projected to decrease by 5.25 tpd. Although VOC emissions are projected to increase by 0.54 tpd, total ozone precursors should decrease by 4.71 tpd. In addition, emissions in the upwind area of Southern Indiana are projected to decrease by 194.48 tpd for NO<sub>x</sub> and increase by 2.06 tpd for VOC, a 192.42 tpd decrease in total ozone precursors.

Although VOC emissions are projected to increase slightly over the maintenance period in Jackson County and in Southern Indiana, the dramatic reduction in NO<sub>x</sub> emissions over the same time period has been demonstrated, through modeling, to be more than sufficient to maintain the standard. IDEM notes that available modeling data demonstrate that Jackson and Greene Counties are significantly impacted by ozone and ozone precursor transport and that NO<sub>x</sub> emission reductions are significantly beneficial for reducing 8-hour ozone concentrations in both counties. IDEM draws the following conclusions from the various ozone modeling analyses that have addressed the Midwest:

*EPA modeling analysis for the Heavy Duty Engine rule.* EPA conducted modeling for Tier II vehicle and low-

sulfur fuels to support the final rulemaking for the Heavy Duty Engine (HDE) and Vehicle Standards and Highway Diesel Fuel Rule. This modeling, in part, addressed ozone levels in Indiana, including Greene and Jackson Counties. A base year of 1996 was modeled, and the impacts of fuel changes and the NO<sub>x</sub> SIP call were addressed for high ozone episodes in 1995. The modeling supports the conclusion that the fuel improvements and the NO<sub>x</sub> SIP call result in significant ozone improvements (lower projected ozone concentrations) in Jackson and Greene Counties. Using the modeling results to determine Relative Reduction Factors (RRFs)<sup>2</sup> and considering the 2001–2003 ozone design values for Greene and Jackson Counties (89 ppb and 85 ppb, respectively), IDEM projected the 2007 ozone design values for Greene and Jackson Counties to be 81.4 ppb and 78.6 ppb, respectively. Therefore, the NO<sub>x</sub> SIP call and the fuel modifications considered in the ozone modeling were found to significantly improve the ozone levels in Greene and Jackson Counties.

*Lake Michigan Air Directors Consortium (LADCO) modeling analysis for the 8-hour ozone standard*

<sup>2</sup> Relative Reduction Factors are fractional changes in peak ozone concentrations projected to occur as the result of assumed changes in precursor emissions resulting from the implementation of emission control strategies. Relative Reduction Factors are derived through ozone modeling and are applied to monitored peak ozone concentrations to project post-control peak ozone levels.

*assessment.* LADCO has performed ozone modeling to evaluate the effect of the NO<sub>x</sub> SIP call and Tier II/Low Sulfur Fuel Rule on 2007 ozone levels in the Lake Michigan area, which includes Greene and Jackson Counties as well as Southern Indiana. Like the EPA modeling discussed above, this modeling indicates that the 2001–2003 ozone design values for the Greene and Jackson County monitoring sites would be reduced to below-standard levels in 2007 as the result of implementing the NO<sub>x</sub> SIP call and the Tier II/Low Sulfur Fuel Rule.

*EPA modeling analysis for the Clean Air Interstate Rules (CAIR).* EPA conducted modeling in support of the CAIR rulemaking. The modeling was based on 1999–2003 design values. Future year modeling was conducted for Greene and Jackson Counties and future year design values for 2010 and 2015 were evaluated for attainment of the 8-hour ozone NAAQS. Results of the CAIR modeling show that Greene and Jackson Counties will continue to attain the 8-hour ozone NAAQS in 2010. With additional CAIR reductions in 2015, design values continue to decrease.

As part of its maintenance plan, the State elected to include a “safety margin” for the areas. A “safety margin” is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan which continues to demonstrate attainment of the standard. The attainment level of emissions is the

level of emissions during one of the years in which the area met the NAAQS. For example, Greene and Jackson Counties attained the 8-hour ozone NAAQS during the 2002–2004 time period. Indiana uses 2002 as the attainment level of emissions for the areas. The emissions from point, area, nonroad, and mobile sources in 2002 equaled 8.41 tpd of VOC for Greene County. Projected VOC emissions out to the year 2015 equaled 7.65 tpd of VOC. The SIP demonstrates that Greene County will continue to maintain the standard with emissions at this level. The safety margin for VOC is calculated to be the difference between these amounts or, in this case, 0.76 tpd of VOC for 2015. By this same method, 2.59 tpd (*i.e.*, 5.95 tpd less 3.36 tpd) is the safety margin for NO<sub>x</sub> for 2015. For Jackson County, 5.25 tpd (*i.e.*, 12.57 tpd less 7.37 tpd) is the safety margin for NO<sub>x</sub> for 2015. States are not required to establish safety margins, and Indiana did not include one for 2015 VOC emissions for Jackson County. The emissions are projected to maintain the area's air quality consistent with the NAAQS. The safety margin, or a portion thereof, can be allocated to any of the source categories, as long as the total attainment level of emissions is maintained.

#### d. Monitoring Network

Indiana currently operates one ozone monitor in Greene County and one monitor in Jackson County. IDEM has committed to continue operating and maintaining an approved ozone monitor network in accordance with 40 CFR part 58.

#### e. Verification of Continued Attainment

Continued attainment of the ozone NAAQS in Greene and Jackson Counties depends, in part, on the State's efforts toward tracking indicators of continued attainment during the maintenance period. The State's plan for verifying continued attainment of the 8-hour standard in Greene and Jackson Counties consists of plans to continue ambient ozone monitoring in accordance with the requirements of 40 CFR part 58. In addition, IDEM will periodically revise and review the VOC and NO<sub>x</sub> emissions inventories for Greene and Jackson Counties to ensure that emissions growth is not threatening the continued attainment of the 8-hour ozone standard. Emissions inventories will be revised for 2005, 2008, and 2011, as necessary to comply with the emissions inventory reporting requirements of the CAA. The updated emissions inventories will be compared to the 2002 emissions inventories to

assess emission trends and assure continued attainment of the 8-hour ozone standard.

#### f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. 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 should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. See section 175A(d) of the CAA.

As required by section 175A of the CAA, Indiana has adopted contingency plans for Greene and Jackson Counties to address a possible future ozone air quality problem. The contingency plans adopted by Indiana have two levels of responses, depending on whether a violation of the 8-hour ozone standard is only threatened (Warning Level) or has occurred or is imminent (Action Level).

A Warning Level response will occur when an annual (1-year) fourth-high monitored daily peak 8-hour ozone concentration of 88 ppb or higher is monitored in a single ozone season at any monitor within the ozone maintenance area. A Warning Level response will consist of Indiana performing a study to determine whether the high ozone concentration indicates a trend toward high ozone levels or whether emissions are increasing. If a trend toward higher ozone concentrations exists and is likely to continue, the emissions control measures necessary to reverse the trend will be determined taking into consideration ease and timing of implementation, as well as economic and social considerations. The study, including applicable recommended next steps, will be completed within 12 months from the close of the ozone season with the recorded high ozone concentration. If emission controls are needed to reverse the adverse ozone

trend, the procedures for emission control selection under the Action Level response will be followed.

An Action Level response will occur when a two-year average annual fourth-high monitored daily peak 8-hour ozone concentration of 85 ppb occurs at any monitor in the ozone maintenance area. A violation of the standard (a 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration of 85 ppb or greater) also triggers an Action Level response. In this situation, IDEM will determine the additional emission control measures needed to assure future attainment of the 8-hour ozone NAAQS. IDEM will focus on emission control measures that can be implemented in a short time, and selected emission control measures will be adopted and implemented within 18 months from the close of the ozone season with ozone monitoring data that prompted the Action Level Response. Adoption of any additional emission control measures will be subject to the necessary administrative and legal procedures, including publication of notices and the opportunity for public comment and response. If a new emission control measure is adopted by the State (independent of the ozone contingency needs) or is adopted at a Federal level and is scheduled for implementation in a time frame that will mitigate an ozone air quality problem, IDEM will determine whether this emission control measure is sufficient to address the ozone air quality problem. If IDEM determines that existing or soon-to-be-implemented emissions control measures should be adequate to correct the ozone standard violation problem, IDEM may determine that additional emission control measures at the State level may be unnecessary. Regardless, IDEM will submit to the EPA an analysis to demonstrate that proposed emission control measures are adequate to provide for future attainment of the 8-hour ozone NAAQS in a timely manner. EPA notes that it is construing this provision to require that any non-Federal control measure relied upon in lieu of a contingency measure be included in the State SIP or be submitted to EPA for approval into the SIP.

Contingency measures contained in the maintenance plans are those emission controls or other measures that Indiana may choose to adopt and implement to correct possible air quality problems. These include, but are not limited to, the following:

- i. Lower Reid vapor pressure gasoline requirements;

ii. Broader geographic applicability of existing emission control measures;

iii. Tightened RACT requirements on existing sources covered by EPA Control Technique Guidelines (CTGs) issued in response to the 1990 CAA amendments;

iv. Application of RACT to smaller existing sources;

v. Vehicle Inspection and Maintenance (I/M);

vi. One or more Transportation Control Measure (TCM) sufficient to achieve at least a 0.5 percent reduction in actual area wide VOC emissions, to be selected from the following:

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

B. Transit improvements;

C. Traffic flow improvements; and

D. Other new or innovative transportation measures not yet in widespread use that affect State and local governments as deemed appropriate;

vii. Alternative fuel and diesel retrofit programs for fleet vehicle operations;

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

ix. VOC or NO<sub>x</sub> emission offsets for new or modified major sources;

x. VOC or NO<sub>x</sub> emission offsets for new or modified minor sources;

xi. Increased ratio of emission offset required for new sources; and,

xii. VOC or NO<sub>x</sub> emission controls on new minor sources (with VOC or NO<sub>x</sub> emissions less than 100 tons per year).

g. Provisions for Future Updates of the Ozone Maintenance Plan

As required by section 175A(b) of the CAA, Indiana commits to submit to the EPA updates of the ozone maintenance plans eight years after redesignation of Greene and Jackson Counties to cover an additional 10-year period beyond the initial 10-year maintenance period.

EPA has concluded that the maintenance plans adequately address the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The maintenance plan SIP revisions submitted by Indiana for Greene and Jackson Counties meet the requirements of section 175A of the CAA.

### *B. Adequacy of Indiana's Motor Vehicle Emissions Budgets (MVEBs)*

1. How Are MVEBs Developed and What Are the MVEBs for Greene and Jackson Counties?

Under the CAA, states are required to submit, at various times, control strategy SIP revisions and ozone maintenance plans for applicable areas (for ozone nonattainment areas and for areas seeking redesignations to attainment of the ozone standard). These emission control strategy SIP revisions (e.g., reasonable further progress SIP and attainment demonstration SIP revisions) and ozone maintenance plans create MVEBs based on onroad mobile source emissions for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portions of the total allowable emissions that are allocated to highway and transit vehicle use that, together with emissions from other sources in the area, will provide for attainment or maintenance.

Under 40 CFR part 93, a MVEB for an area seeking a redesignation to attainment is established for the last year of the maintenance plan. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB if needed.

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

When reviewing SIP revisions containing MVEBs, including attainment strategies, rate-of-progress plans, and maintenance plans, EPA must affirmatively find that the MVEBs are "adequate" for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEBs to be adequate for transportation conformity purposes, the MVEBs are

used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the Clean Air Act. EPA's substantive criteria for determining the adequacy of MVEBs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining adequacy of a MVEB consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEB during a public comment period; and (3) EPA's finding of adequacy. The process of determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." This guidance was finalized in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

Greene and Jackson Counties' 10-year maintenance plan submissions contain new VOC and NO<sub>x</sub> MVEBs for 2015. The availability of the SIP submissions with these 2015 MVEBs was announced for public comment on EPA's Adequacy Web page on August 2, 2005, at: <http://www.epa.gov/otaq/transp/conform/cursips.htm>. The EPA public comment period on adequacy of the 2015 MVEBs for Greene and Jackson Counties closed on September 1, 2005. No requests for this submittal or adverse comments on this submittal were received during the Adequacy comment period. On October 20, 2005 (70 FR 31128), EPA published notices of adequacy to notify the public that we had found the 2015 MVEBs to be adequate for use in transportation conformity analyses.

EPA, through this rulemaking, is approving the MVEBs for use to determine transportation conformity in Greene and Jackson Counties because EPA has determined that the areas can maintain attainment of the 8-hour ozone NAAQS for the relevant 10-year period with mobile source emissions at the levels of the MVEBs. IDEM has determined the 2015 MVEBs for Greene County to be 1.46 tpd for VOC and 1.54 tpd for NO<sub>x</sub>. It should be noted that these MVEBs exceed the onroad mobile source VOC and NO<sub>x</sub> emissions projected by IDEM for 2015, as

summarized in Table 9 above (“onroad” source sector). IDEM decided to include safety margins (described further below) of 0.13 tpd of VOC and 0.14 tpd for NO<sub>x</sub> in the MVEBs to provide for mobile source growth. Indiana has demonstrated that Greene County can maintain the 8-hour ozone NAAQS with mobile source emissions of 1.46 tpd of VOC and 1.54 tpd of NO<sub>x</sub> in 2015, including the allocated safety margins, since emissions will still remain under attainment year emission levels.

IDEM has determined the 2015 MVEBs for Jackson County to be 1.65 tpd for VOC and 3.18 tpd for NO<sub>x</sub>. It should be noted that the MVEB exceeds the onroad mobile source NO<sub>x</sub> emissions projected by IDEM for 2015, as summarized in Table 10 above (“onroad” source sector). IDEM decided to include a safety margin of 0.15 tpd for NO<sub>x</sub> in the MVEB to provide for mobile source growth. Indiana has demonstrated that Jackson County can maintain the 8-hour ozone NAAQS with mobile source emissions of 3.18 tpd of NO<sub>x</sub> in 2015, including the allocated safety margin, since NO<sub>x</sub> emissions will still remain under attainment year emission levels.

## 2. What Is a Safety Margin?

A “safety margin” is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. As noted in Table 9, Greene County VOC and NO<sub>x</sub> emissions are projected to have safety margins of 0.76 tpd for VOC and 2.59 tpd for NO<sub>x</sub> in 2015 (the difference between the attainment year, 2002, emissions and the 2015 emissions for all sources in Greene County). As noted in Table 10, Jackson County NO<sub>x</sub> emissions are projected to have a safety margin of 5.25 tpd. 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.

The MVEBs requested by IDEM contain safety margins for mobile sources significantly smaller than the allowable safety margins reflected in the total emissions for Greene and Jackson Counties. The State 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 onroad mobile source emissions for 2015 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.

## VII. Final Actions

EPA is making determinations that Greene and Jackson Counties have attained the 8-hour ozone NAAQS, and EPA is approving the redesignations of Greene and Jackson Counties from nonattainment to attainment for the 8-hour ozone NAAQS. After evaluating Indiana’s redesignation requests, EPA has determined that they meet the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. The final approvals of these redesignation requests would change the official designations for Greene and Jackson Counties from nonattainment to attainment for the 8-hour ozone standard.

EPA is also approving the maintenance plan SIP revisions for Greene and Jackson Counties. Approval of the maintenance plans is based on Indiana’s demonstration that the plans meet the requirements of section 175A of the CAA, as described more fully above. Additionally, EPA is finding adequate and approving the 2015 MVEBs submitted by Indiana in conjunction with the redesignation requests.

We are publishing these actions without prior proposal because we view these actions as noncontroversial and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the redesignations and maintenance plans if relevant adverse written comments are filed. These rules will be effective December 29, 2005 without further notice unless we receive relevant adverse written comments by December 14, 2005. If we receive such comments with respect to an area addressed by this rule, we will publish a timely withdrawal of the action affecting that area, informing the public that the rule will not take effect with respect to that area. EPA will respond to the public comments in a subsequent final rule based on the proposed action for that area. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. If we do not receive any comments, this action will be effective December 29, 2005.

## VIII. Statutory and Executive Order Reviews

### *Executive Order 12866; Regulatory Planning and Review*

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

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

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

### *Regulatory Flexibility Act*

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

### *Unfunded Mandates Reform Act*

Because this rule approves 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 13175 Consultation and Coordination With Indian Tribal Governments*

This 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 13132 Federalism*

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

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

This 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.

*National Technology Transfer Advancement Act*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission

that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area but does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

*Paperwork Reduction Act*

This 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.*).

**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: November 1, 2005.

**Bharat Mathur,**

*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—[AMENDED]**

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

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

**Subpart P—Indiana**

■ 2. Section 52.777 is amended by adding paragraph (bb) to read as follows:

**§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).**

\* \* \* \* \*

(bb) Approval—On July 15, 2005, Indiana submitted requests to redesignate Greene and Jackson Counties to attainment of the 8-hour ozone National Ambient Air Quality Standard. These requests were supplemented with submittals dated September 6, 2005, September 7, 2005, October 6, 2005, and October 20, 2005. As part of the redesignation requests, the State submitted maintenance plans 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. Also included were motor vehicle emission budgets for use to determine transportation conformity in Greene and Jackson Counties. The 2015 motor vehicle emission budgets for Greene County are 1.46 tpd for VOC and 1.54 tpd for NO<sub>x</sub>. The 2015 motor vehicle emission budgets for Jackson County are 1.65 tpd for VOC and 3.18 tpd for NO<sub>x</sub>.

**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 81.315 is amended by revising the entries for the Greene Co., IN and Jackson Co., IN areas in the table entitled "Indiana Ozone (8-Hour Standard)" to read as follows:

**§ 81.315 Indiana.**

\* \* \* \* \*

**INDIANA OZONE (8-HOUR STANDARD)**

Designated area	Designation <sup>a</sup>		Category/Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
* * *	* * *	* * *	* * *	* * *
Greene County .....	12/29/05	Attainment.		
* * *	* * *	* * *	* * *	* * *
Jackson County .....	12/29/05	Attainment.		
* * *	* * *	* * *	* * *	* * *

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

\* \* \* \* \*

[FR Doc. 05-22466 Filed 11-10-05; 8:45 am]

BILLING CODE 6560-50-P

**NATIONAL SCIENCE FOUNDATION****45 CFR Part 670****Conservation of Antarctic Animals and Plants****AGENCY:** National Science Foundation.**ACTION:** Direct final rule.

**SUMMARY:** Pursuant to the Antarctic Conservation Act of 1978, The National Science Foundation (NSF) is amending its regulations to designate additional Antarctic Specially Protected Areas (ASPAs). Also, NSF is adding to this rule in Antarctica designated by the Treaty Parties as Antarctic Specially Managed Areas (ASMA) and Historical Sites or Monuments (HSM). These additions only reflect measures already adopted by the Antarctic Treaty parties at Antarctic Treaty Consultative Meetings (ATCM). Finally, the regulation is being revised to correct some typographical and numbering errors.

**DATES:** November 14, 2005.

**FOR FURTHER INFORMATION CONTACT:** Bijan Gilanshah, Office of the General Counsel, at 703-292-8060, National Science Foundation, 4201 Wilson Boulevard, Room 1265, Arlington, Virginia 22230.

**SUPPLEMENTARY INFORMATION:** The Antarctic Conservation Act of 1978, as amended, ("ACA") (16 U.S.C. 2401 *et seq.*) implements the Protocol on Environmental Protection to the Antarctic Treaty ("the Protocol"). Annex II of the Protocol contains provisions for conservation of native Antarctic plants and animals. Annex V contains provisions for the protection of specially designated areas. Section 2405 of title 16 of the ACA directs the Director of the National Science Foundation to issue such regulations as are necessary and appropriate to implement Annexes II and V to the Protocol.

The Antarctic Treaty Parties periodically adopt measures to establish additional specially protected areas, specially managed areas and historical sites or monuments in Antarctica. This rule is being revised to add two additional Antarctic specially protected areas, all specially managed areas and a comprehensive list of designated historical sites and monuments in Antarctica. The revisions also reiterate the ACA's prohibition on entering or engaging in activities within an Antarctic Specially Protected Area

unless authorized by permit as well as the ACA's blanket prohibition on damaging, removing or destroying a Historic Site or Monument. No public comment is needed the addition of these areas or sites merely implements measures adopted by the Treaty Parties at various ATCM meetings.

Finally, these amendments correct typographical errors in the names and numerical listings of several specially protected areas previously published in § 670.29.

**Determinations**

NSF has determined, under the criteria set forth in Executive Order 12866, that this rule is not a significant regulatory action requiring review by the Office of Management and Budget. This rule involves a foreign affairs function of the United States and is, therefore, exempt from the notice requirements of section 553 of the Administrative Procedures Act and from regulatory flexibility analysis requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612. Although this rule is exempt from the Regulatory Flexibility Act, it has nonetheless been determined that this rule will not have a significant impact on a substantial number of small businesses. For purposes of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), these amendments to the existing regulations do not change the collection of information requirements contained in NSF's existing regulations, which have already been approved by the Office of Management and Budget.

**List of Subjects in 45 CFR Part 670**

Administrative practice and procedure, Antarctica, Exports, Imports, Plants, Reporting and recordkeeping requirements, Wildlife.

Dated: October 12, 2005.

**Lawrence Rudolph,**  
*General Counsel.*

■ Pursuant to the authority granted by 16 U.S.C. 2405(a)(1), NSF hereby amends 45 CFR Part 670 as set forth below:

**PART 670—[AMENDED]**

■ 1. The authority citation for Part 670 continues to read as follows:

**Authority:** 16 U.S.C. 2405, as amended.

■ 2. Section 670.29 is revised to read as follows:

**§ 670.29 Designation of Antarctic specially protected areas, specially managed areas and historic sites and monuments.**

The following areas have been designated by the Antarctic Treaty Parties for special protection and are

hereby designated as Antarctic Specially Protected Areas (ASPAs). The Antarctic Conservation Act of 1978, as amended, prohibits, unless authorized by a permit, any person from entering or engaging in activities within an ASPA. Detailed maps and descriptions of the sites and complete management plans can be obtained from the National Science Foundation, Office of Polar Programs, National Science Foundation, Room 755, 4201 Wilson Boulevard, Arlington, Virginia 22230.

ASPAs 101 Taylor Rookery, MacRobertson Land, East Antarctica  
 ASPAs 102 Rookery Islands, Holme Bay, MacRobertson Land, East Antarctica  
 ASPAs 103 Ardery Island and Odbert Island, Budd Coast, Wilkes Land, East Antarctica  
 ASPAs 104 Sabrina Island, Balleny Islands  
 ASPAs 105 Beaufort Island, Ross Sea (see ASPA 124)  
 ASPAs 106 Cape Hallett, Victoria Land  
 ASPAs 107 Emperor Island, Dion Islands, Marguerite Bay, Antarctic Peninsula (see Measure 1, 2002)  
 ASPAs 108 Green Island, Berthelot Islands, Antarctic Peninsula  
 ASPAs 109 Moe Island, South Orkney Islands  
 ASPAs 110 Lynch Island, South Orkney Islands  
 ASPAs 111 Southern Powell Island and adjacent Islands, South Orkney Islands  
 ASPAs 112 Coppermine Peninsula, Robert Island, South Shetland Islands  
 ASPAs 113 Litchfield Island, Arthur Harbour, Anvers Island, Palmer Archipelago  
 ASPAs 114 Northern Coronation Island, South Orkney Islands  
 ASPAs 115 Lagotellerie Island, Marguerite Bay, Antarctic Peninsula  
 ASPAs 116 'New College Valley', Caughley Beach, Cape Bird, Ross Island  
 ASPAs 117 Avian Island, off Adelaide Island, Antarctic Peninsula  
 ASPAs 118 'Cryptogam Ridge', Mount Melbourne, Victoria Land  
 ASPAs 119 Davis Valley and Forlidas Pond Pond, Dufek Massif  
 ASPAs 120 'Pointe-Géologie Archipelego', Terre Adélie  
 ASPAs 121 Cape Royds, Ross Island  
 ASPAs 122 Arrival Heights, Hut Point Peninsula, Ross Island  
 ASPAs 123 Barwick and Balham Valleys (see Measure 1, 2002), Victoria Land  
 ASPAs 124 Cape Crozier, Ross Island  
 ASPAs 125 Fildes Peninsula, King George Island, South Shetland Islands  
 ASPAs 126 Byers Peninsula, Livingston Island, South Shetland Islands