

unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

*Executive Order 13132: Federalism*

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

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

Executive Order 13175 (65 FR 67249, November 9, 2000) requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This proposed rule also does not have tribal implications, as specified in Executive Order 13175, because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands. Thus, Executive Order 13175 does not apply to this rule.

Although Executive Order 13175 does not apply to this rule, EPA met with interested tribes in Michigan to discuss the redesignation process and the impact of a change in designation status of these areas on the tribes.

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

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

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

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

*National Technology Transfer Advancement Act*

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

**List of Subjects in 40 CFR Part 52**

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

Dated: December 21, 2006.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*  
[FR Doc. E6-22616 Filed 1-5-07; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R05-OAR-2006-0891; FRL-8266-4]

**Redesignation of Jefferson County, Ohio To Attainment of the 8-Hour Ozone Standard**

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

**ACTION:** Proposed rule.

**SUMMARY:** On July 31, 2006, and supplemented on October 3, 2006, the Ohio Environmental Protection Agency (Ohio EPA) submitted: a request for EPA approval of redesignation of Jefferson County to attainment of the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and a request for EPA approval of a State Implementation Plan (SIP) revision for the ozone maintenance plan for Jefferson County. Jefferson County is the Ohio portion of the Steubenville-Weirton, WV-OH 8-hour ozone nonattainment area. EPA is proposing to determine that this area has attained the 8-hour ozone NAAQS, based on three years of complete, quality-assured ambient air quality monitoring data. Preliminary, non-quality assured data for the 2006 ozone season show that the area continues to attain the NAAQS. EPA is also proposing approval of Ohio's ozone maintenance plan for Jefferson County as a revision to the Ohio SIP and the State's request to redesignate Jefferson County to attainment of the 8-hour ozone NAAQS. Finally, EPA is proposing to approve the Volatile Organic Compounds (VOC) and Nitrogen Oxides (NO<sub>x</sub>) Motor Vehicle Emission Budgets (MVEBs) for Jefferson County, as supported by the ozone maintenance plan for this County, for purposes of conformity determinations.

**DATES:** Comments must be received on or before February 7, 2007. Submit your comments, identified by Docket ID No. EPA-R05-OAR-2006-0891, by one of the following methods:

- [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
- E-mail: [mooney.john@epa.gov](mailto: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-2006-0891. 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](http://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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://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](http://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.

**Docket:** All documents in the docket are listed in the [www.regulations.gov](http://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](http://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. It is recommended that you telephone Jennifer Dunn, Environmental Engineer,

at (312) 353-5899, before visiting the Region 5 office.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Dunn, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch, (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-5899, [dunn.jennifer@epa.gov](mailto:dunn.jennifer@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 Actions Are EPA Proposing To Take?
- II. What Is the Background for These Actions?
- III. What Are the Criteria for Redesignation to Attainment?
- IV. What Are EPA's Analyses of the State's Requests and What Are the Bases for EPA's Proposed Actions?
- V. Has Ohio Adopted Acceptable Motor Vehicle Emissions Budgets for the End Year of the Ozone Maintenance Plans Which Can Be Used To Support Conformity Determinations?
- VI. What Are the Effects of EPA's Proposed Actions?
- VII. Statutory and Executive Order Reviews

**I. What Actions Are EPA Proposing To Take?**

We are proposing to take several related actions for Jefferson County, Ohio. First, we are proposing to determine that Jefferson County has attained the 8-hour ozone NAAQS.

Second, we are proposing to approve Ohio's ozone maintenance plan for Jefferson County as a requested revision of the Ohio SIP. The maintenance plan is designed to keep Jefferson County and, in conjunction with a West Virginia ozone maintenance plan for Hancock and Brooke Counties, the entire Steubenville-Weirton, WV-OH area in attainment of the 8-hour ozone NAAQS for the next 12 years, through 2018.

Third, we are proposing to find that Jefferson County and the State of Ohio have 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). We are, therefore, proposing to approve the July 31, 2006, and October 3, 2006, requests from the State of Ohio to change the designation of Jefferson County from nonattainment to attainment of the 8-hour ozone NAAQS.<sup>1</sup>

<sup>1</sup> A separate proposed rule from EPA published on October 2, 2006 (71 FR 57905) addresses a request from the State of West Virginia to redesignate Hancock and Brooke Counties, West Virginia to attainment of the 8-hour ozone NAAQS.

Fourth, as supported by and consistent with the ozone maintenance plan, we are also proposing to approve the 2018 VOC and NO<sub>x</sub> MVEBs for Jefferson County for conformity determination purposes.

These proposed actions pertain to the designation of Jefferson County for the 8-hour ozone NAAQS, and to the VOC and NO<sub>x</sub> emission controls in this County related to attainment and maintenance of the 8-hour ozone NAAQS. If you own or operate a VOC or NO<sub>x</sub> emissions source in this County or live in this County, this proposed rule may impact or apply to you. It may impact you if you are involved in transportation planning or implementation of emission controls in this area. Finally, it may also impact you if you breathe the air in Jefferson County or the air which has passed through Jefferson County or the Steubenville-Weirton area as a whole.

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

EPA has determined that ground-level ozone is detrimental to human health. On July 18, 1997, EPA promulgated an 8-hour ozone NAAQS (62 FR 38856) of 0.08 parts per million parts of air (0.08 ppm) (80 parts per billion (ppb)).<sup>2</sup> This 8-hour ozone standard replaced a prior 1-hour ozone NAAQS, which was promulgated on February 8, 1979 (44 FR 8202) and revoked on June 15, 2005.

Ground-level ozone is not emitted directly by sources. Rather, emitted NO<sub>x</sub> and VOC react in the presence of sunlight to form ground-level ozone along with other secondary compounds. NO<sub>x</sub> and VOC are referred to as "ozone precursors."

The CAA required EPA to designate as nonattainment any area that violated the 8-hour ozone NAAQS. The three most recent years of ozone data at the time (2001-2003 when the 8-hour ozone designations were initially established) were considered to establish the ozone designations. The **Federal Register** notice making these designations was published on April 30, 2004 (69 FR 23857).

The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and emission control requirements for nonattainment areas. (Both are found in title I, part D of the CAA). Subpart 1 contains general, less prescriptive requirements for nonattainment areas for any pollutant

<sup>2</sup> This standard is violated in an area when any ozone monitor in the area (or in its impacted downwind environs) records 8-hour ozone concentrations with a three year average of the annual fourth-highest daily maximum 8-hour ozone concentrations equaling or exceeding 85 ppb.

governed by a NAAQS, and applies to all nonattainment areas. Subpart 2 contains more specific requirements for certain ozone nonattainment areas, and applies to ozone nonattainment areas classified under section 181 of the CAA.

In the April 30, 2004, designation rulemaking, EPA divided 8-hour ozone nonattainment areas into the categories of subpart 1 nonattainment ("basic" nonattainment) and subpart 2 nonattainment ("classified" nonattainment) based on their 8-hour ozone design values (i.e., on the three-year average of the annual fourth-highest daily maximum 8-hour ozone concentrations at the worst-case monitoring sites in the designated areas) and on their 1-hour ozone design values (i.e., on the fourth-highest daily maximum 1-hour ozone concentrations over the three-year period at the worst-case monitoring sites in the designated areas).<sup>3</sup> 8-hour ozone nonattainment areas with 1-hour ozone design values equaling or exceeding 121 ppb were designated as subpart 2, classified nonattainment areas. Classification of the subpart 2 nonattainment areas were based on the levels of the monitored 8-hour ozone design values for each nonattainment area. All other 8-hour nonattainment areas were designated as subpart 1, basic nonattainment areas, which have no area-specific classifications.

Emission control requirements for classified nonattainment areas are linked to area classifications. Areas with more serious ozone pollution problems are subject to more prescribed requirements. The requirements are designed to bring areas into attainment by their specified attainment dates, which also depend on the area classifications. For example, marginal nonattainment areas are subject to the fewest mandated control requirements and have the earliest attainment deadline. Severe nonattainment areas are required to meet more mandated emission controls than marginal areas, including tighter restrictions on the sizes of existing VOC and NO<sub>x</sub> sources required to install emission controls, tighter restrictions on mandated emission controls, and offsetting of new sources. Severe nonattainment areas also have a later attainment deadline. In contrast, the attainment deadline for basic nonattainment areas does not depend on the magnitude of the area 8-hour ozone design values.

<sup>3</sup> The 8-hour ozone design value and the 1-hour ozone design value for each area were not necessarily recorded at the same monitoring site. The worst-case monitoring site for each ozone concentration averaging time was considered for each area.

Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the three-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., less than or equal to 0.084 ppm or 84 ppb based on data rounding conventions specified in appendix I of 40 CFR part 50) over the most recent three-year period at all monitors in an area and in its impacted downwind environs (See 69 FR 23857 (April 30, 2004) for further information). Such supporting data must meet a minimum data completeness requirement. The completeness requirement (specified in appendix I of 40 CFR part 50) for ozone data supporting a determination of attainment and a redesignation to attainment is met when the annual average percent of days with valid ambient monitoring data is greater than 90 percent for the ozone seasons during the three-year period, with no single year with less than 75 percent data completeness during the ozone season.

In the April 30, 2004, designation/classification rulemaking, the Steubenville-Weirton, WV-OH area, including Jefferson County, was designated as subpart 1 nonattainment for the 8-hour ozone standard. The designation was based on ozone data collected during the 2001–2003 period.

On July 31, 2006, the State of Ohio submitted a draft request for redesignation of Jefferson County to attainment of the 8-hour ozone NAAQS based on ozone data collected in the Steubenville-Weirton WV-OH area during the 2003–2005 period. On October 3, 2006, the State of Ohio completed the ozone redesignation request by submitting documentation of the public hearing conducted by the State for the redesignation request and ozone maintenance plan. The information contained in the State's July 31, 2006, ozone redesignation request submittal was unchanged through the State's public review process (summarized in the October 3, 2006, submittal). The State of West Virginia has also submitted an ozone redesignation request for the West Virginia portion of the Steubenville-Weirton, WV-OH area (for Hancock and Brooke Counties). A separate proposed rule from EPA published on October 2, 2006 (71 FR 57905), addresses this request.

### III. What Are the Criteria for Redesignation to Attainment?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section

107(d)(3)(E) of the CAA allows for redesignation 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 the 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 the following documents:

"Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, 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 (TSDs) for Redesignation of Ozone and Carbon Monoxide 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, 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. What Are EPA’s Analyses of the State’s Requests and What Are the Bases for EPA’s Proposed Actions?**

EPA is proposing to: (1) Determine that Jefferson County has attained the 8-

hour ozone standard; (2) approve the ozone maintenance plan for this County and the VOC and NO<sub>x</sub> MVEBs supported by the ozone maintenance plan; and, (3) approve the redesignation of this County to attainment of the 8-hour ozone NAAQS. The bases for our proposed determination and approvals are as follows:

**1. Jefferson County and the Steubenville-Weirton, WV-OH Area Have Attained the 8-Hour Ozone NAAQS**

Analyses of the attainment of the 8-hour ozone NAAQS are conducted in accordance with 40 CFR 50.10 and 40 CFR part 50 appendix I. These analyses use the most recent three complete, consecutive calendar years of quality-assured air quality monitoring data at all monitoring sites in the area and in its impacted downwind environs. To attain this standard, the average of the annual fourth-high daily maximum 8-hour average ozone concentrations measured and recorded at each monitor (the monitoring site’s ozone design value) within the area and in its impacted downwind environs over the most recent 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 ozone standard is attained if the area’s ozone design value<sup>4</sup> is 0.084 ppm (84 ppb) or less. 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).

As part of the July 31, 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 Steubenville-Weirton, WV-OH area during the 2002–2005 period. These summarized worst-case ozone concentrations are part of the quality-assured ozone data collected in this area and recorded in the AQS. The annual fourth-high 8-hour daily maximum concentrations for each year during the 2003–2005 period, along with the three-year averages, are summarized in Table 1 for Jefferson County, Ohio and Hancock County, West Virginia. All monitoring sites achieved at least 99% data completeness.

**TABLE 1.—ANNUAL FOURTH-HIGH DAILY MAXIMUM 8-HOUR OZONE CONCENTRATIONS IN PARTS PER MILLION (PPM) FOR JEFFERSON COUNTY, OHIO AND HANCOCK COUNTY, WEST VIRGINIA \***

| County                        | Monitoring site | 2003  | 2004  | 2005  | Average |
|-------------------------------|-----------------|-------|-------|-------|---------|
| Jefferson County, Ohio        | 227 North 5h    | 0.079 | ..... | ..... | .....   |
|                               | 618 Logan       | ..... | 0.071 | 0.083 | 0.078   |
| Hancock County, West Virginia | Oak St. & Owin  | 0.077 | 0.073 | 0.075 | 0.075   |

\* Data for Hancock County was included in appendix A of the Ohio EPA’s submission and is used in Table 1. The data table in the main body of the State’s submission included data for Ohio County, West Virginia (part of the Wheeling area and not part of the Steubenville-Weirton area) rather than Hancock County, West Virginia.

The monitoring site in Jefferson County was relocated to a site 1/3 mile from the original site after 2003 because Ohio EPA lost access to the original site. The new site meets all citing criteria described in 40 CFR 58 Appendix E. The original and final sites are sufficiently close to each other, and removed from sources of ozone precursors such that the two sites represent the same air quality. Therefore, the data from the two sites can be combined when calculating the three-year average ozone concentration in Table 1.

The monitored ozone concentrations for 2003–2005 show that the entire Steubenville-Weirton, WV-OH area has

attained the 8-hour ozone standard. The current three-year average (2003–2005) for Jefferson County, Ohio is 0.078 ppm. The current three-year average (2003–2005) for Hancock County, West Virginia is 0.075 ppm. The data collected at the Jefferson County and Hancock County, West Virginia monitoring sites show that the area satisfies the CAA requirement that the ozone standard must be attained at all sites in and around the ozone nonattainment area. The three-year ozone design value for the nonattainment area is less than 0.085 ppm. Furthermore, available (non-quality assured) ozone monitoring data

from 2006 indicates that this area continues to attain the ozone NAAQs.

The Ohio Environmental Protection Agency and the West Virginia Department of Environmental Protection have committed to continue ozone monitoring in this area as part of the State’s ozone maintenance plan. This commitment meets a redesignation requirement, in accordance with 40 CFR part 58, that ozone monitoring will be continued to assure continued attainment of the 8-hour ozone standard. Furthermore, the Ohio Environmental Protection Agency and the West Virginia Department of Environmental Protection will consult with EPA prior to altering the existing

<sup>4</sup> The worst-case monitoring site-specific ozone design value in the area or in its impacted downwind environs.

monitoring network if changes become necessary in the future. The two states will continue to quality assure the data to meet the requirements of 40 CFR 58 and all other federal requirements. The data will be available in real time on the Ohio Environmental Protection Agency's Web site and will be entered into AQS on a timely basis and in accordance with federal guidelines.

We find that the ozone monitoring data submitted by the States of Ohio and West Virginia provide an adequate demonstration that the Steubenville-Weirton, WV-OH area has attained the 8-hour ozone NAAQS. Therefore, we propose to determine that Jefferson County, Ohio, as part of the Steubenville-Weirton, WV-OH area, has attained the 8-hour ozone NAAQS.

## 2. Jefferson County and the State of Ohio Have Met All Applicable Requirements Under Section 110 and Part D of the CAA and This Area Has a Fully Approved SIP Under Section 110(k) of the CAA

We have determined that Jefferson County and the State of Ohio have met all currently applicable SIP requirements for Jefferson County under section 110 of the CAA (general SIP requirements). We have determined that the Ohio SIP meets the 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 all applicable requirements are approved into the Ohio SIP. See section 107(d)(3)(E)(ii) of the CAA. In making these determinations, we determined the CAA requirements which are applicable to Jefferson County, 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, which in this case are those CAA requirements applicable to Jefferson County at the time the State submitted a complete ozone redesignation request for this area, on October 3, 2006.

a. *Jefferson County has met all applicable requirements under section 110 and part D of the CAA.* The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E) of the CAA. To qualify for redesignation to

attainment under this interpretation, the state and the area must meet the relevant CAA requirements that apply at the time of 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 SIP elements and requirements 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. See also other guidance documents listed above.

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<sub>x</sub> 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 when 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 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 SIP requirements under part D of the CAA. Under part D, 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 depending on the area's nonattainment classification.

*Part D, subpart 1 requirements:* For purposes of evaluating this redesignation request, the applicable subpart 1 part D requirements for all nonattainment areas are contained 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, a notice of proposed rulemaking for an ozone redesignation for the St. Louis area, for a discussion of section 172 requirements.

No requirements for 8-hour ozone under part D of the CAA came due for Jefferson County prior to the State's submittal (October 3, 2006) of a complete ozone redesignation request for this area. 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)). Therefore, none of the part D requirements are applicable to Jefferson County for purposes of redesignation.

*Section 176 conformity requirements:* Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that Federally supported or funded activities, including highway projects, conform to the air 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 relating to consultation, enforcement and enforceability, which EPA promulgated pursuant to CAA requirements.

In addition to the fact that part D requirements did not become due prior to Ohio's submission of a complete ozone redesignation request for Jefferson County, 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. Further, 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 has also determined that areas being redesignated need not comply with the requirement that a New Source Review (NSR) program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR, since Prevention of Significant Deterioration (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." Ohio is not relying on reductions from NSR to attain the ozone standard, and so 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 Jefferson County 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); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996).

EPA approved Ohio's general and transportation conformity SIPs on March 11, 1996 (61 FR 9646) and May 30, 2000 (65 FR 34395), respectively. In its July 31, 2006 submission Ohio included the on-highway motor vehicle emission budgets (MVEB) for 2009 and 2018 that Table 2 outlines. EPA reviewed the budgets for the West Virginia portion of the Steubenville-Weirton area on October 2, 2006 (71 FR 57905).

TABLE 2.—2009 AND 2018 FINAL MVEBS FOR JEFFERSON COUNTY, OHIO

| Inventory year                                       | VOC emissions (tpd) | NO <sub>x</sub> emissions (tpd) |
|--|---------------------|---------------------------------|
| 2009 projected on-road mobile source emissions ..... | 2.29                | 3.57                            |
| 2009 safety margin allocated to MVEBs .....          | 0.34                | 0.53                            |
| 2009 MVEBs .....                                     | 2.63                | 4.10                            |
| 2018 projected on-road mobile source emissions ..... | 1.19                | 1.45                            |

TABLE 2.—2009 AND 2018 FINAL MVEBS FOR JEFFERSON COUNTY, OHIO—Continued

| Inventory year                              | VOC emissions (tpd) | NO <sub>x</sub> emissions (tpd) |
|---|---------------------|---------------------------------|
| 2018 safety margin allocated to MVEBs ..... | 0.18                | 0.22                            |
| 2018 MVEBs .....                            | 1.37                | 1.67                            |

The area 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. We conclude that Jefferson County and the State of Ohio 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 for this area.

b. *Jefferson County has a fully approved applicable SIP under section 110(k) of the CAA.* EPA has fully approved the Ohio SIP for Jefferson County under section 110(k) of the CAA for all applicable requirements. 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, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing the various required SIP elements applicable to Jefferson County for

purposes of redesignation. No Jefferson 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 reviewing the State's redesignation request. EPA has also noted that it may conclude that the section 110 SIP submission approved under the 1-hour standard will be adequate for purposes of attaining and maintaining the 8-hour standard. EPA also believes that since the part D requirements for the eight-hour ozone standard did not become due prior to Ohio's submission of a final, complete redesignation request for Jefferson County, they also are not applicable requirements for purposes of redesignation.

3. The Air Quality Improvement in the Steubenville-Weirton, WV-OH Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP, Federal Air Pollution Control Regulations, and Other Permanent and Enforceable Emission Reductions

In making this demonstration, the States of West Virginia<sup>5</sup> and Ohio have

documented changes in VOC and NO<sub>x</sub> emissions from all anthropogenic (man-made or man-based) sources in the Steubenville-Weirton, WV-OH area occurring between 2002, an ozone standard violation year, and 2004, one of the years in which the Steubenville-Weirton, WV-OH area has recorded attainment of the 8-hour ozone standard. The States have also discussed permanent and enforceable emission reductions that have occurred elsewhere in these two States and in other upwind areas that have contributed to the air quality improvement in the Steubenville-Weirton, WV-OH area. Table 3 summarizes the VOC and NO<sub>x</sub> emissions totals from the anthropogenic sources in 2002 and 2004 for the Steubenville-Weirton, WV-OH area.<sup>6</sup> From the Table, it can be seen that VOC emissions have decreased slightly between 2002 and 2004, whereas NO<sub>x</sub> emissions have significantly declined between 2002 and 2004.

The States of Ohio and West Virginia conclude that the differences in the 2002 and 2004 emissions are due primarily to the implementation of permanent and enforceable emission control requirements.

TABLE 3.—TOTAL ANTHROPOGENIC VOC AND NO<sub>x</sub> EMISSIONS FOR 2002 AND 2004 IN THE STEUBENVILLE-WEIRTON, WV-OH AREA  
[Tons per day]

| County   | Point | Area | Non-road | On-road | Total |
|--|-------|------|----------|---------|-------|
| <b>2002 Volatile Organic Compounds</b>           |       |      |          |         |       |
| Jefferson County, Ohio .....                     | 1.1   | 3.1  | 1.0      | 4.2     | 9.4   |
| Hancock and Brooke Counties, West Virginia ..... | 6.7   | 4.5  | 1.5      | 3.2     | 15.9  |
| 2002 Total .....                                 | 7.8   | 7.6  | 2.5      | 7.4     | 25.3  |

<sup>5</sup> West Virginia submitted a separate ozone redesignation request for its portion of the Steubenville-Weirton, WV-OH area. The West Virginia redesignation request is being addressed in a separate EPA proposed rule (71 CFR 57905). West Virginia did supply emissions data for the Steubenville-Weirton area to the State of Ohio for inclusion in Ohio's ozone redesignation request. The West Virginia data summarized here are those data provided to the State of Ohio, and may differ

from those summarized in the West Virginia ozone redesignation request. We have noticed minor differences in the two sets of data, but emphasize that the differences are minor and primarily due to rounding differences induced by how the two States have handled the summarized data and by how various EPA reviewers have handled and rounded the data in the proposed rules.

<sup>6</sup> Minor differences exist between the emissions summarized in Table 3 and those summarized by

the State of Ohio in its July 31, 2006, ozone redesignation request. For purposes of maintaining significant figure consistency and for readability, we have rounded all emissions to one significant decimal place. The State of Ohio has not maintained this consistency, leading to some differences in individual category emissions and in emissions totals.

TABLE 3.—TOTAL ANTHROPOGENIC VOC AND NO<sub>x</sub> EMISSIONS FOR 2002 AND 2004 IN THE STEUBENVILLE-WEIRTON, WV-OH AREA—Continued  
[Tons per day]

| County   | Point | Area | Non-road | On-road | Total |
|--|-------|------|----------|---------|-------|
| <b>2004 Volatile Organic Compounds</b>           |       |      |          |         |       |
| Jefferson County, Ohio .....                     | 1.2   | 3.1  | 0.9      | 3.6     | 8.8   |
| Hancock and Brooke Counties, West Virginia ..... | 4.8   | 4.6  | 1.5      | 2.6     | 13.5  |
| 2004 Total .....                                 | 6.0   | 7.7  | 2.4      | 6.2     | 22.3  |
| Difference (2002–2004) <sup>7</sup> .....        | 1.8   | –0.1 | 0.1      | 1.2     | 3.0   |
| <b>2002 Nitrogen Oxides</b>                      |       |      |          |         |       |
| Jefferson County, Ohio .....                     | 190.0 | 0.2  | 2.4      | 6.3     | 198.9 |
| Hancock and Brooke Counties, West Virginia ..... | 5.9   | 4.6  | 4.3      | 4.3     | 19.1  |
| 2002 Total .....                                 | 195.9 | 4.8  | 6.7      | 10.6    | 218.0 |
| <b>2004 Nitrogen Oxides</b>                      |       |      |          |         |       |
| Jefferson County, Ohio .....                     | 154.7 | 0.2  | 2.3      | 5.4     | 162.6 |
| Hancock and Brooke Counties, West Virginia ..... | 4.5   | 4.8  | 5.3      | 3.6     | 18.2  |
| 2004 Total .....                                 | 159.2 | 5.0  | 7.6      | 9.0     | 180.8 |
| Difference (2002–2004) .....                     | 36.7  | –0.2 | –0.9     | 1.6     | 37.2  |

The significant decline in NO<sub>x</sub> emissions in this area between 2002 and 2004 occurred primarily at Electric Generating Units (EGU) as the result of the implementation of the States' NO<sub>x</sub> emission control rules (resulting from the implementation of EPA's NO<sub>x</sub> SIP call and acid rain emission controls under title IV of the CAA). NO<sub>x</sub> reductions also resulted from tighter federal standards on new vehicles.

We concur with the States that NO<sub>x</sub> emissions have been significantly lowered in the Steubenville-Weirton, WV-OH area. We also concur with the States that these emission reductions have contributed to attainment of the 8-hour ozone standard in the Steubenville-Weirton, WV-OH area. Therefore, the State of Ohio has met this criterion for redesignation of Jefferson County to attainment of the 8-hour ozone standard.

Besides implementation of the NO<sub>x</sub> emission control rules, additional implemented, or soon to be implemented, emission control rules include several Federal rules: (1) Tier II emission standards for vehicles and gasoline sulfur 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 NO<sub>x</sub> emissions throughout the States of Ohio and West Virginia and will contribute to future emission reductions in these States.

The State of Ohio commits to continuing the existing VOC and NO<sub>x</sub> emission controls after the Steubenville-Weirton, WV-OH area is redesignated to attainment of the 8-hour ozone standard.

#### 4. Jefferson County Has a Fully Approvable Ozone Maintenance Plan Pursuant to Section 175A of the CAA

In conjunction with its request to redesignate Jefferson County to attainment of the ozone NAAQS, Ohio submitted a SIP revision request to provide for maintenance of the 8-hour ozone NAAQS in Jefferson County and in the entire Steubenville-Weirton, WV-OH area through 2018, exceeding the minimum 10 year 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<sub>x</sub> 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.

b. *What Are the Attainment Emission Inventories for Jefferson County?* Ohio EPA prepared comprehensive VOC and NO<sub>x</sub> emission inventories for Jefferson County, including EGU and non-EGU point (significant stationary sources), other (smaller and widely-distributed stationary sources that are also called area sources), Marine, Aircraft, and Rail mobile (MAR), mobile on-road, and mobile non-road sources for 2002 (the base year). To develop the attainment year (2004) and projected maintenance

<sup>7</sup> Positive differences indicate a decrease in emissions over time from 2002 to 2004. Negative differences indicate emissions were increasing over time, primarily as the result of emission changes from source growth exceeding the impacts of implemented emission controls.

years (2009 and 2018) emissions, the Ohio EPA projected the 2002 emissions applying various source category-specific growth factors and emission control factors.

The State has thoroughly documented how the 2002 base year emissions were derived. The following summarizes the procedures and sources of data used by the Ohio EPA to derive the base year emissions.

i. *Point Sources.* The primary source of point source information was facility-specific information collected annually by the State for sources covered by Title V source permits. This information includes emissions, process rates, operating schedules, emissions control data, and other relevant information. The State also used emissions data provided by EPA's EGU emission inventory, maintained to support the NO<sub>x</sub> SIP call emissions trading program and the acid rain control program. The sources included in the 2002 point source inventory were identified using Ohio's Title V STARS database. The emissions included in this database are facility-reported actual emissions.

Ohio EPA defines point source process emissions as those that occur at a Title V facility with 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) in National Emissions Inventory Input Format (NIF) 3.0 format. LADCO imported and processed the NIF files in the Emissions Modeling System (EMS) and applied temporal and spatial profiles to calculate July weekday emissions rates. The Jefferson County 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 Jefferson County 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 calculated and grouped by source type and are estimated using various surrogates, such as population, energy usage, estimates of employees in various occupational groups and facility-types. The area source emissions are typically defined at the county level.

To estimate the area source emissions, Ohio EPA has either used published Emission Inventory Improvement Program (EIIP) emissions estimation methodologies or other methodologies typically used by other states. Area source categories include: Various stationary combustion sources (not including the EGU sources included in the point source portion of the emissions inventory); human cremation; agricultural pesticides; architectural surface coatings; auto body refinishing; consumer and commercial solvents; degreasing and solvent cleaning (not included in point source emissions); fuel marketing; graphic arts (the emissions from the smaller facilities not included in the Title V STARS database); hospital sterilizers; small industry surface coating; small industry rubber and plastics coating; landfills; portable fuel containers; traffic markings; and Privately Owned Treatment Works (POTWs). The State has documented the data sources and emission factors or calculation procedures used for each of these area 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). The NMIM output was converted to the NIF format and submitted to LADCO for processing in the EMS to obtain spatially and temporally allocated summer emission rates. 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 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 the spatial range of each vessel type.

Locomotive activity was divided into various rail categories: Class I operations; Class II/III operations; passenger trains; consumer lines; and yard operations. Since Class I operations are expected to be the most significant rail operations in most areas, including

Jefferson County, operators of Class I operations were queried for activity and emissions-related information for each railroad line. Class I activity levels were provided by county in terms of ton-miles of freight movement and estimated fuel consumption. This approach provided for more specific estimates of emissions by railroad line. Class I railroads, however, could not provide information about their switching rail activity. Class II/III emissions were based on national fuel consumption and per employee fuel consumption estimates.

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), which calculates aircraft-specific emissions.

LADCO processed all of the MAR emissions data through the EMS to calculate July 2002 summer day emissions for VOC and NO<sub>x</sub>.

v. *On-Road Mobile Sources.* A regional transportation model operated by the Brooke, Hancock, Jefferson Transportation Study (BHJTS), West Virginia Department of Transportation (WVDOT), and Ohio Department of Transportation (Ohio DOT) was used to estimate traffic levels, vehicle age and type distributions, vehicle speeds, and other emissions-related vehicle parameters for the roadways in Jefferson County and elsewhere in the Steubenville-Weirton, WV-OH area. This vehicle travel information, along with the MOBILE 6.2 vehicle emission factor model, was used to estimate mobile source VOC and NO<sub>x</sub> emissions for Jefferson County and the entire Steubenville-Weirton, WV-OH area.

vi. *Projected Emissions for the Attainment Year.* Ambient air quality data showed that the Steubenville-Weirton, WV-OH area met the 8-hour ozone NAAQS in 2004. Ohio EPA projected point source emissions from the 2002 baseline to 2004 with the statewide EGU NO<sub>x</sub> budgets from the Ohio NO<sub>x</sub> rule. Mobile source emission projections were based on the MOBILE6.2 model. Ohio EPA also used growth and control files for point, area, and non-road categories that LADCO developed in determining 2004 emissions of NO<sub>x</sub> and VOCs for Jefferson County. The State of West Virginia estimated 2004 VOC and NO<sub>x</sub>

emissions for its portion of the Steubenville-Weirton, WV-OH area. The estimated 2004 emissions have been compared to the 2002 emissions to demonstrate the basis for the improved air quality in the Steubenville-Weirton, WV-OH area. See Table 3 above for the 2004 attainment level emissions.

c. *Demonstration of Maintenance.* As part of the July 31, 2006, redesignation request submittal, Ohio EPA included a requested revision to the Ohio SIP to incorporate an ozone maintenance plan for Jefferson County. This plan demonstrates maintenance of the 8-hour ozone NAAQS through 2018 by documenting current and projected VOC and NO<sub>x</sub> emissions and showing that future emissions of VOC and NO<sub>x</sub> will remain at or below the attainment year emission levels. A maintenance demonstration need not be based on modeling. See *Wall v. EPA*, 265 F.3d

426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). See also 66 FR 53094, 53099–53100 (October 19, 2001) and 68 FR 25430–25432 (May 12, 2003).

The State of Ohio and the State of West Virginia projected the VOC and NO<sub>x</sub> emissions in the Steubenville-Weirton, WV-OH area for 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 this area. For Jefferson County, Ohio EPA used source growth estimates provided by LADCO along with mobile source growth estimates generated using the regional transportation model and MOBILE 6.2 to project the Jefferson County VOC and NO<sub>x</sub> emissions. The methods used by the State of West Virginia are described in West Virginia's ozone redesignation request (reviewed

by EPA on October 2, 2006 (71 FR 57905)).

Table 4 summarizes the VOC emissions projected to occur in Jefferson County, Ohio and in Hancock and Brooke Counties, West Virginia during the demonstrated ozone maintenance period. Similarly, Table 5 summarizes the NO<sub>x</sub> emissions projected to occur in the same area during the demonstrated ozone maintenance period. The State of Ohio and the State of West Virginia chose 2018 as a projection year to meet the 10-year maintenance demonstration requirement, allowing several years for EPA to complete the redesignation rulemaking process. The States also chose 2009 as an interim year to demonstrate that VOC and NO<sub>x</sub> emissions will remain below the attainment year levels throughout the 10-year maintenance period.

TABLE 4.—PROJECTED VOC EMISSIONS IN THE STEUBENVILLE-WEIRTON, WV-OH AREA [tons/day]

| Source sector   | 2004 Attainment | 2009 Interim | 2018 Maintenance | Safety margin |
|---|-----------------|--------------|------------------|---------------|
| <b>Jefferson County, Ohio VOC Emissions</b>                     |                 |              |                  |               |
| EGU Point .....   | 0.9             | 1.0          | 1.0              | .....         |
| Non-EGU Point .....   | 0.2             | 0.2          | 0.2              | .....         |
| Area (Other) .....  | 3.1             | 2.9          | 2.9              | .....         |
| Non-Road Mobile .....   | 0.9             | 0.8          | 0.6              | .....         |
| On-Road Mobile .....  | 3.6             | *2.6         | *1.4             | .....         |
| Marine-Air-Railroad .....                                       | 0.1             | 0.1          | 0.1              | .....         |
| <b>Total Jefferson County .....</b>                             | <b>8.8</b>      | <b>7.6</b>   | <b>6.2</b>       | <b>**2.6</b>  |
| <b>Hancock and Brooke Counties, West Virginia VOC Emissions</b> |                 |              |                  |               |
| EGU Point .....   | 0               | 0            | 0                | .....         |
| Non-EGU Point .....   | 4.8             | 4.3          | 5.3              | .....         |
| Area (Other) .....  | 4.6             | 4.5          | 5.2              | .....         |
| Non-Road Mobile (MAR included) .....                            | 1.5             | 1.2          | 1.0              | .....         |
| On-Road Mobile .....  | 2.6             | *2.0         | *1.0             | .....         |
| <b>Total Hancock and Brooke Counties .....</b>                  | <b>13.5</b>     | <b>12.0</b>  | <b>12.5</b>      | <b>**1.0</b>  |
| <b>Total Steubenville-Weirton, WV-OH .....</b>                  | <b>22.3</b>     | <b>19.6</b>  | <b>18.7</b>      | <b>**3.6</b>  |

\* Includes 15 percent mobile source budget increase as a safety margin. Actual projected 2018 on-road mobile source VOC emissions in Jefferson County are 1.19 tons per day. In Brooke and Hancock Counties, the actual projected 2018 on-road mobile source VOC are 0.88 tons per day.

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

TABLE 5.—PROJECTED NO<sub>x</sub> EMISSIONS IN THE STEUBENVILLE-WEIRTON, WV-OH AREA [tons/day]

| Source sector  | 2004 Attainment | 2009 Interim | 2018 Maintenance | Safety margin  |
|--|-----------------|--------------|------------------|----------------|
| <b>Jefferson County, Ohio NO<sub>x</sub> Emissions</b> |                 |              |                  |                |
| EGU Point .....  | 148.8           | 60.8         | 41.0             | .....          |
| Non-EGU Point .....                                    | 5.9             | 5.6          | 5.4              | .....          |
| Area (Other) .....                                     | 0.2             | 0.2          | 0.2              | .....          |
| Non-Road Mobile .....                                  | 0.7             | 0.6          | 0.3              | .....          |
| On-Road Mobile .....                                   | 5.4             | *4.1         | *1.7             | .....          |
| Marine-Air-Railroad .....                              | 1.5             | 1.4          | 1.3              | .....          |
| <b>Total Jefferson County .....</b>                    | <b>162.5</b>    | <b>72.7</b>  | <b>49.9</b>      | <b>**112.6</b> |

TABLE 5.—PROJECTED NO<sub>x</sub> EMISSIONS IN THE STEUBENVILLE-WEIRTON, WV-OH AREA—Continued  
[tons/day]

| Source sector  | 2004 Attainment | 2009 Interim | 2018 Maintenance | Safety margin |
|--|-----------------|--------------|------------------|---------------|
| <b>Hancock and Brooke Counties, West Virginia NO<sub>x</sub> Emissions</b> |                 |              |                  |               |
| EGU Point .....  | 0               | 0            | 0                | .....         |
| Non-EGU Point .....  | 4.5             | 5.1          | 5.6              | .....         |
| Area (Other) .....   | 4.8             | 4.9          | 5.2              | .....         |
| Non-Road Mobile (MAR included) .....                                       | 5.3             | 3.8          | 3.2              | .....         |
| On-Road Mobile .....   | 3.6             | *2.8         | *1.2             | .....         |
| Total Hancock and Brooke Counties .....                                    | 18.2            | 16.6         | 15.2             | **3.0         |
| Total Steubenville-Weirton, WV-OH .....                                    | 180.7           | 89.3         | 65.1             | **115.6       |

\* Includes 15 percent mobile source budget increase as a safety margin. Actual projected 2018 on-road mobile source NO<sub>x</sub> emissions in Jefferson County are 1.45 tons per day. Actual projected 2018 on-road mobile source NO<sub>x</sub> emissions in Hancock and Brooke Counties are 0.94 tons per day.

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

The Ohio EPA also notes that the State's EGU NO<sub>x</sub> emissions control rules stemming from EPA's NO<sub>x</sub> SIP call and Clean Air Interstate Rule (CAIR), to be implemented beyond 2006, will further lower NO<sub>x</sub> emissions in upwind areas, resulting in decreased ozone and ozone precursor transport into Jefferson County and the Steubenville-Weirton, WV-OH area. This will also support maintenance of the ozone standard in this area, which particularly benefits from the NO<sub>x</sub> SIP call and CAIR. These two regulations focus on utility emissions in the Eastern United States and impose a permanent cap on overall emissions from affected sources. This cap is likely to minimize growth of this very important component of emissions in the Steubenville-Weirton area.

The emission projections for Jefferson County and the Steubenville-Weirton, WV-OH area as a whole coupled with the expected impacts of the States' EGU NO<sub>x</sub> rules and CAIR lead to the conclusion that Jefferson County and the Steubenville-Weirton, WV-OH 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<sub>x</sub> emissions indicate that peak ozone levels in the Steubenville-Weirton, WV-OH 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 can be maintained in Jefferson County and in the Steubenville-Weirton, WV-OH area. We believe that this is especially likely given the expected impacts of the NO<sub>x</sub> SIP call and CAIR. As noted by Ohio EPA, this conclusion is further

supported by the fact that other states in the eastern portion of the United States are also expected to further reduce regional NO<sub>x</sub> emissions through implementation of their ozone NO<sub>x</sub> emission control rules for EGUs and other NO<sub>x</sub> sources through the implementation of the NO<sub>x</sub> SIP call and CAIR.

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

As required by section 175A of the CAA, Ohio has adopted a contingency plan to address a possible future ozone air quality problem in the Steubenville-Weirton, WV-OH area. The contingency plan has two levels of actions/responses depending on whether a violation of the 8-hour ozone standard is only

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

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

An Action Level Response will be triggered whenever a two-year averaged annual fourth-high monitored 8-hour ozone concentration of 85 ppb or greater occurs within the maintenance area. A violation of the 8-hour ozone standard (three-year average fourth-high value of 85 ppb or greater) will also prompt an Action Level Response. In the event that an Action Level Response is triggered and is not due to an exceptional event, malfunction, or noncompliance with a source permit condition or rule requirement, Ohio 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 that emission control measure is determined to be sufficient to address the upper trend in peak ozone concentrations, additional local measures may be unnecessary. Ohio EPA will submit to the EPA an analysis to demonstrate that the proposed emission control measures are adequate to reverse the upward trend in peak ozone concentrations and to maintain the 8-hour ozone standard in the Steubenville-Weirton, WV-OH 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 and West Virginia Department of Environmental Protection (WVDEP) deem to be appropriate. Selected emission control measures will be subjected to public review and the States will seek public input prior to selecting new emission control measures.

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

- Lower Reid vapor pressure gasoline program;
- Tighten RACT on existing sources covered by U.S. EPA Control Technique Guidelines issued in response to the 1990 CAA;
- Extension of Reasonably Available Control Techniques (RACT) requirements to include source categories previously excluded. New VOC RACT rules could be adopted for the following source categories:
  - Consumer products
  - Architectural and industrial maintenance coatings
  - Stage I gasoline dispensing facilities (including pressure valves)
  - Automobile refinishing
  - Cold cleaner degreasers
  - Portable fuel containers
  - Synthetic organic compound manufacturing
  - Organic compound batch processes
  - Wood manufacturing
  - Industrial wastewater
  - Aerospace industry
  - Ship building
  - Bakeries
  - Plastic parts coating

- Volatile organic liquid storage
- Industrial solvent cleaning
- Offset lithography
- Industrial surface coating; and,
- Other sources with VOC emissions greater than 50 tons per year;
  - Revision of new source permitting requirements to require more stringent emissions control technology and/or greater emissions offsets;
  - NO<sub>x</sub> RACT, with the following being potential source categories covered by such RACT requirements:
    - EGUs
    - Asphalt batching plants
    - Industrial/commercial and institutional boilers
    - Process heaters
    - Internal combustion engines
    - Combustion turbines
    - Other sources with NO<sub>x</sub> emissions exceeding 100 tons per year;
      - Transportation measures such as trip reduction programs, traffic flow and transit improvements. The selected transportation measure would need to achieve at least a half a percent reduction in actual area wide VOC emissions.
        - Alternative fuel and diesel retrofit programs for fleet vehicle operations.
        - Require VOC or NO<sub>x</sub> emissions offsets for new and modified major and/or minor sources.
        - Increase the ratio of emissions offsets required for new sources.
        - Require VOC or NO<sub>x</sub> controls on new minor sources (less than 100 tons).

No contingency measure will be implemented without the State providing the opportunity for full public participation and review.

*e. Provisions for a Future Update of the Ozone Maintenance Plan.* As required by section 175A(b) of the CAA, the State commits to submit to the EPA an update of the ozone maintenance plan eight years after redesignation of Jefferson County to attainment of the 8-hour ozone NAAQS. The updated maintenance plan will provide for maintenance of the 8-hour ozone standard in Jefferson County and the Steubenville-Weirton, WV-OH area for an additional 10 years beyond the period covered by the initial ozone maintenance plan.

We find Ohio's ozone maintenance demonstration and contingency plan acceptable.

#### **V. Has Ohio Adopted Acceptable Motor Vehicle Emissions Budgets for the End Year of the Ozone Maintenance Plans 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 Jefferson County?*

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 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.

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 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 SIPs as required by section 176(c) of the CAA. EPA’s substantive criteria for determining the adequacy of MVEBs are specified in 40 CFR 93.118(e)(4).

EPA’s process of determining adequacy of MVEBs consists of three basic steps: (1) Providing public notification of a SIP submission; (2) providing the public the opportunity to comment on the MVEBs during a public comment period; and, (3) making a 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 Rule Amendments—Response to Court Decision and Additional Rule Change” published on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

The 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. In this notice, EPA is reviewing the adequacy of the Jefferson County motor vehicle emission budgets as part of the review and proposal on the overall ozone maintenance plan. The State of Ohio had previously requested parallel processing and the expediency of this review process is best suited to following the 40 CFR 93.118(f)(2) mechanism.

Ohio and West Virginia are managing mobile source emissions in the Steubenville-Weirton area by establishing separate MVEBs for their respective portions of this area. EPA has

proposed approval of the NO<sub>x</sub> and VOC MVEBs for the West Virginia portion of the Steubenville-Weirton area in the **Federal Register** (71 FR 57905) on October 2, 2006. The Jefferson County ozone maintenance plan contains VOC and NO<sub>x</sub> MVEBs for 2009 and 2018. EPA has reviewed these MVEBs for Jefferson County and finds that they meet the adequacy criteria in the Transportation Conformity Rule. Furthermore, EPA, through this rulemaking, is proposing to approve the MVEBs for use to determine transportation conformity in Jefferson County. EPA has determined that the budgets are consistent with the control measures and future emissions projected in the SIP and that Jefferson County and the Steubenville-Weirton, WV-OH area 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. Table 2 contains the 2009 and 2018 VOC and NO<sub>x</sub> MVEBs for Jefferson County. Ohio EPA decided to include 15 percent safety margins in the MVEBs to provide for mobile source growth not anticipated in the projected 2018 emissions.

Ohio EPA has demonstrated that Jefferson County and the Steubenville-Weirton, WV-OH area can maintain the 8-hour ozone NAAQS with mobile source emissions at the levels of the MVEBs since total source emissions, even with the increased mobile source emissions, will remain under the attainment year levels in both Jefferson County and the West Virginia portion of the Steubenville-Weirton area.

#### *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 4 and 5 above, Jefferson County VOC and NO<sub>x</sub> emissions are projected to have safety margins of 2.6 tons per day for VOC and 112.6 tons per day for NO<sub>x</sub> in 2018 (the differences between the 2004, attainment year, and 2018 VOC and NO<sub>x</sub> emissions for all sources in Jefferson County).

The MVEBs requested by Ohio EPA contain safety margins (selected by the State) significantly smaller than the safety margins reflected in the total emissions for Jefferson County. The State is not requesting allocation of the entire available safety margins actually reflected in the demonstration of maintenance. Therefore, even though the State is requesting MVEBs that exceed the projected on-road mobile

source emissions for 2018 contained in the demonstration of maintenance, the increase in on-road mobile source emissions considered for transportation conformity purposes is well within the safety margins of the ozone maintenance demonstration.

#### *C. Are the MVEBs Approvable?*

The VOC and NO<sub>x</sub> MVEBs for Jefferson County including the additional safety margin are approvable because they maintain the total emissions for Jefferson County at or below the attainment year emission inventory levels, as required by the transportation conformity regulations.

### **VI. What Are the Effects of EPA’s Proposed Actions?**

Approval of the redesignation request would change the designation of Jefferson County for the 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment. It would also incorporate into the Ohio SIP a plan for maintaining the ozone NAAQS through 2018. The maintenance plan includes a list of potential contingency measures to remedy possible future violations of the 8-hour ozone NAAQS. It establishes NO<sub>x</sub> MVEBs of 4.10 tons per day and 1.67 tons per day for 2009 and 2018, respectively. The plan establishes VOC MVEBs of 2.63 tons per day and 1.37 tons per day for 2009 and 2018, respectively.

### **VII. 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: December 21, 2006.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. E6-22617 Filed 1-5-07; 8:45 am]

**BILLING CODE 6560-50-P**

### **ENVIRONMENTAL PROTECTION AGENCY**

#### **40 CFR Part 60**

**[EPA-HQ-OAR-2006-0699; FRL-8266-9]**

**RIN 2060-AN71**

### **Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries**

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

**ACTION:** Proposed rule; extension of public comment period.

**SUMMARY:** EPA is announcing that the comment period on the proposed rule

amendments for the Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry; Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries, published on November 7, 2006, is being extended until February 8, 2007.

**DATES:** *Comments.* Comments on the proposed amendments published on November 7, 2006 (71 FR 65302) must be received on or before February 8, 2007.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-HQ-OAR-2006-0699, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.

- *E-mail:* [a-and-r-docket@epa.gov](mailto:a-and-r-docket@epa.gov).

- *Fax:* (202) 566-1741.

- *Mail:* U.S. Postal Service, send comments to: Air and Radiation Docket (6102T), Docket No. EPA-HQ-OAR-2006-0699, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Please include a total of two copies. In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20460.

- *Hand Delivery:* In person or by courier, deliver comments to: Air and Radiation Docket (6102T), EPA West, Room B-102, 1301 Constitution Ave., NW., Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

*Instructions:* Direct your comments to Docket ID No. EPA-HQ-OAR-2006-0699. The 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](http://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](http://www.regulations.gov) or e-mail. The [www.regulations.gov](http://www.regulations.gov) website 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