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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R05-OAR-2011-0468; FRL-9610-4]

Approval, and Promulgation of Air Quality Implementation Plans; Ohio; Redesignation of the Ohio portion of the Huntington-Ashland Area to Attainment of the 1997 Annual Standard for Fine Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On May 4, 2011, the Ohio Environmental Protection Agency submitted a request for EPA to approve the redesignation of the Ohio portion of the Huntington-Ashland (OH-KY-WV) nonattainment area to attainment of the 1997 annual standard for fine particulate matter ($PM_{2.5}$). EPA is proposing to approve Ohio's request. EPA is proposing to approve several additional related actions. EPA is proposing to determine that the entire Huntington-Ashland (OH-KY-WV) area continues to attain the 1997 annual $PM_{2.5}$ standard. EPA is proposing to approve, as revisions to the Ohio State Implementation Plan (SIP), the state's plan for maintaining the 1997 annual $PM_{2.5}$ NAAQS through 2022 in the area. EPA is proposing to approve the 2005 emissions inventory for the Ohio portion of the Huntington-Ashland area as meeting

the comprehensive emissions inventory requirement of the Clean Air Act (CAA or Act). Ohio's maintenance plan submission includes an insignificance finding for the mobile source contribution of $PM_{2.5}$ and nitrogen oxides (NO_X) to Ohio's portion of the Huntington-Ashland $PM_{2.5}$ Area for transportation conformity purposes, EPA agrees with this finding. These proposed actions are being taken in accordance with the CAA and EPA's implementation regulation regarding the 1997 $PM_{2.5}$ NAAQS.

DATES: Comments must be received on or before **[insert date 30 days after publication in the Federal Register]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R05-OAR-2011-0468, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
2. E-mail: blakley.pamela@epa.gov.
3. Fax: (312)692-2450.
4. Mail: Pamela Blakley, Chief, Control Strategies Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.
5. Hand Delivery: Pamela Blakley, Chief, Control Strategies Section (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such

deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 AM to 4:30 PM excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R05-OAR-2011-0468. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov 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 e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment,

EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional instructions on submitting comments, go to Section I of the SUPPLEMENTARY INFORMATION section of this document.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 AM to 4:30 PM, Monday through Friday, excluding Federal holidays. We recommend that you telephone Carolyn

Persoon, Environmental Engineer, at (312) 353-8290 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Carolyn Persoon, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR-18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353-8290, persoon.carolyn@epa.gov.

SUPPLEMENTARY INFORMATION: This supplementary information section is arranged as follows:

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

When submitting comments, remember to:

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

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

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

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

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

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

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

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

II. What Actions is EPA Proposing to Take?

EPA is proposing to take several actions related to redesignation of the Ohio portion of the Huntington-Ashland area to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to find that Ohio meets the requirements for redesignation of the Huntington-Ashland area to attainment of the 1997 $PM_{2.5}$ NAAQS under section 107(d)(3)(E) of the CAA. EPA is thus proposing to approve Ohio's request to change the legal designation of its portion of the Huntington-Ashland area from nonattainment to

attainment for the 1997 annual $PM_{2.5}$ NAAQS. This action would not change the legal designation of the Kentucky or West Virginia portions of the area.

Second, EPA is proposing to approve Ohio's annual $PM_{2.5}$ maintenance plan for the Huntington-Ashland area as a revision to the Ohio SIP, including the insignificance determination for $PM_{2.5}$ and NO_X for the mobile source contribution of the Ohio portion of the Huntington-Ashland OH-KY-WV 1997 annual $PM_{2.5}$ area. EPA's analysis for this proposed action is discussed in Section V. of today's proposed rulemaking.

Finally, EPA is proposing to approve the 2005 primary $PM_{2.5}$, nitrogen oxide and sulfur dioxide (SO_2)emissions inventories as satisfying the requirement in section 172(c)(3) for a current, accurate and comprehensive emission inventory. Further discussion of the basis for these actions is provided below.

III. What is the Background for These Actions?

Fine particulate pollution can be emitted directly from a source (primary $PM_{2.5}$) or formed secondarily through chemical reactions in the atmosphere involving precursor pollutants emitted from a variety of sources. Sulfates are a type of secondary particulate formed from SO_2 emissions from power plants

and industrial facilities. Nitrates, another common type of secondary particulate, are formed from combustion emissions of NO_X from power plants, mobile sources, and other combustion sources.

The first air quality standards for $PM_{2.5}$ were promulgated on July 18, 1997, at 62 FR 38652. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter ($\mu g/m^3$) of ambient air, based on a three-year average of the annual mean $PM_{2.5}$ concentrations at each monitoring site. In the same rulemaking, EPA promulgated a 24-hour $PM_{2.5}$ standard at 65 $\mu g/m^3$, based on a three-year average of the annual 98th percentile of 24-hour $PM_{2.5}$ concentrations at each monitoring site.

On January 5, 2005, at 70 FR 944, EPA published air quality area designations for the 1997 annual $PM_{2.5}$ standard based on air quality data for calendar years 2001-2003. In that rulemaking, EPA designated the Huntington-Ashland (OH-KY-WV) area, as nonattainment for the 1997 annual $PM_{2.5}$ standard.

On October 17, 2006, at 71 FR 61144, EPA retained the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$ (2006 annual $PM_{2.5}$ standard), but revised the 24-hour standard to 35 $\mu g/m^3$, based again on the three-year average of the annual 98th percentile of the 24-hour $PM_{2.5}$ concentrations. In response to legal challenges of the

2006 annual $PM_{2.5}$ standard, the U.S. Court of Appeals for District of Columbia Circuit (D.C. Circuit) remanded this standard to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (D.C. Cir. 2009). However, given that the 1997 and 2006 annual $PM_{2.5}$ standards are essentially identical, attainment of the 1997 annual $PM_{2.5}$ standard would also indicate attainment of the remanded 2006 annual standard. Since the Huntington-Ashland area is designated as nonattainment for the 1997 annual $PM_{2.5}$ standard, today's proposed action addresses redesignation to attainment only for this standard.

On September 7, 2011, EPA issued a final determination that the entire Huntington-Ashland area has attained the 1997 $PM_{2.5}$ standard. 76 FR 55542.

IV. What are the Criteria for Redesignation to Attainment?

The CAA sets forth 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 an applicable state implementation plan for the area under section 110(k) of the

CAA; (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions resulting from implementation of the applicable SIP, Federal air pollution control regulations, and other permanent and enforceable emission reductions; (4) the Administrator has fully approved a maintenance plan for the area meeting the requirements of section 175A of the CAA; and (5) the state containing the area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

V. What is EPA's Analysis of the State's Request?

EPA is proposing to approve the redesignation of the Ohio portion of the Huntington-Ashland area to attainment of the 1997 annual $PM_{2.5}$ NAAQS and is proposing to approve Ohio's maintenance plan for the area and other related SIP revisions. The bases for these actions follow.

1. Attainment

As noted above, in a rulemaking published on September 7, 2011, EPA determined that the Huntington-Ashland area has attained the 1997 annual $PM_{2.5}$ NAAQS. The basis and effect of this determination were discussed in the notices of proposed and final rulemaking. The determination was based on quality-

assured air quality monitoring data for 2007-2009 and 2008-2010 showing the area has met the standard. The data have been certified by the respective states.

Preliminary data for 2011 are consistent with continued attainment, and thus EPA proposes to determine that the Huntington-Ashland area continues to attain the 1997 annual $PM_{2.5}$ standard.

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

We believe that Ohio has met all currently applicable SIP requirements for purposes of redesignation for the Ohio portion of the Huntington-Ashland area under section 110 of the CAA (general SIP requirements). We are also proposing to find that the Ohio SIP meets all SIP requirements currently applicable for purposes of redesignation under part D of title I of the CAA, in accordance with section 107(d)(3)(E)(v). In addition, with the exception of the emissions inventory under section 172(c)(3), we are proposing to find that all applicable requirements of the Ohio SIP for purposes of redesignation have been or will be approved, in accordance with section 107(d)(3)(E)(ii). As discussed below, in this action EPA is proposing to approve

Ohio's 2005 emissions inventories as meeting the section 172(c)(3) comprehensive emissions inventory requirement.

In making these proposed determinations, we have ascertained which SIP requirements are applicable for purposes of redesignation, and concluded that there are SIP measures meeting those requirements and that they are or by the time of final designation will be fully approved under section 110(k) of the CAA.

a. Ohio Has Met All Applicable Requirements for Purposes of Redesignation of The Ohio Portion of the Area under Section 110 and Part D of the CAA

i. Section 110 General SIP Requirements

Section 110(a) of title I of the CAA contains the general requirements for a SIP. Section 110(a)(2) provides that the implementation plan submitted by a state must have been adopted by the state after reasonable public notice and hearing, and, among other things, must: include enforceable emission limitations and other control measures, means or techniques necessary to meet the requirements of the CAA; provide for establishment and operation of appropriate devices, methods, systems, and procedures necessary to monitor ambient air quality; provide for implementation of a source permit program

to regulate the modification and construction of any stationary source within the areas covered by the plan; include provisions for the implementation of part C, Prevention of Significant Deterioration (PSD) and part D, New Source Review (NSR) permit programs; include criteria for stationary source emission control measures, monitoring, and reporting; include provisions for air quality modeling; and provide for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) of the CAA requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. EPA believes that the requirements linked with a particular nonattainment area's designation are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, we believe that these requirements should not be construed to be applicable requirements for purposes of redesignation.

Further, we believe that the other section 110 elements described above that are not connected with nonattainment plan

submissions and not linked with an area's attainment status are also not applicable requirements for purposes of redesignation. A state remains subject to these requirements after an area is redesignated to attainment. We conclude that only the section 110 and part D requirements that are linked with a particular area's designation are the relevant measures which we may consider in evaluating a redesignation request. This approach is consistent with EPA's existing policy on applicability of conformity and oxygenated fuels requirements for redesignation purposes, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996) 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 1-hour ozone redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania 1-hour ozone redesignation (66 FR 50399, October 19, 2001).

We have reviewed the Ohio SIP and have concluded that it meets the general SIP requirements under section 110 of the CAA to the extent they are applicable for purposes of redesignation.

EPA has previously approved provisions of Ohio's SIP addressing section 110 requirements (including provisions addressing particulate matter), at 40 CFR 52.1870, respectively).

On December 5, 2007, and September 4, 2009, Ohio made submittals addressing "infrastructure SIP" elements required under CAA section 110(a)(2). EPA proposed approval of the December 5, 2007 submittal on April 28, 2011, at 76 FR 23757 and published final approval on July 14, 2011, at 76 FR 41075. EPA disapproved the element of the September 4, 2009, submittal that addresses section 110(a)(2)(D)(i) on February 4, 2011 at 76 FR 92618, but has not taken rulemaking action on the remainder of the submittal.

The requirements of section 110(a)(2), however, are statewide requirements that are not linked to the $PM_{2.5}$ nonattainment status of the Huntington-Ashland area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of the state's $PM_{2.5}$ redesignation request.

ii. Part D Requirements

EPA is proposing to determine that, upon approval of the base year emissions inventories discussed in section V.6. of this rulemaking, the Ohio SIP will meet the SIP requirements for

the Ohio portion of the Huntington-Ashland area applicable for purposes of redesignation under part D of the CAA. Subpart 1 of part D, found in sections 172-176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas.

Subpart 1 Section 172 Requirements.

For purposes of evaluating this redesignation requests, the applicable section 172 SIP requirements for the Ohio portion of the Huntington-Ashland area are contained in sections 172(c)(1)-(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992).

Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all Reasonably Achievable Control Measures (RACM) as expeditiously as practicable and to provide for attainment of the primary NAAQS. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Because attainment has been reached, no additional measures are needed to provide for

attainment, and section 172(c)(1) requirements are no longer considered to be applicable as long as the area continues to attain the standard until redesignation. (40 CFR 51.1004(c).)

The Reasonable Further Progress (RFP) requirement under section 172(c)(2) is defined as progress that must be made toward attainment. This requirement is not relevant for purposes of redesignation because the Huntington-Ashland area has monitored attainment of the 1997 annual $PM_{2.5}$ NAAQS. (General Preamble, 57 FR 13564). *See also* 40 CFR 51.918. In addition, because the Huntington-Ashland area has attained the 1997 annual $PM_{2.5}$ NAAQS and is no longer subject to an RFP requirement, the requirement to submit the section 172(c)(9) contingency measures is not applicable for purposes of redesignation. *Id.*

Section 172(c)(3) requires submission and approval of a comprehensive, accurate and current inventory of actual emissions. Ohio submitted a 2005 base year emissions inventory along with their redesignation requests. As discussed below in section V.6., EPA is approving the 2005 base year inventories as meeting the section 172(c)(3) emissions inventory requirement for the Ohio portion of the Huntington-Ashland area.

Section 172(c)(4) requires the identification and

quantification of allowable emissions for major new and modified stationary sources in an area, and section 172(c)(5) requires source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA approved Ohio's current NSR program on January 10, 2003 (68 FR 1366). Nonetheless, since PSD requirements will apply after redesignation, the area need not have a fully-approved NSR program for purposes of redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A 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 has demonstrated that the Huntington-Ashland area will be able to maintain the standard without part D NSR in effect; therefore, the state need not have a fully approved part D NSR program prior to approval of the redesignation request. The state's PSD program will become effective in the Huntington-Ashland area upon redesignation to attainment. *See* rulemakings for Detroit, Michigan (60 FR 12467-12468, March 7, 1995); Cleveland-Akron-Lorain, Ohio (61 FR 20458, 20469-20470, May 7, 1996); Louisville, Kentucky (66 FR 53665, October 23, 2001); and

Grand Rapids, Michigan (61 FR 31834-31837, June 21, 1996).

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

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

Subpart 1 Section 176(c)(4)(D) Conformity SIP Requirements.

The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under title 23 of the U.S. Code and the Federal Transit Act (transportation conformity) as well as to all other Federally-supported or funded projects (general conformity).

Section 176(c) of the CAA was amended by provisions contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), which was signed into law on August 10, 2005 (Public Law 109-59). Among the changes Congress made to this section of the CAA were streamlined requirements for state transportation conformity SIPs. State transportation conformity regulations

must be consistent with Federal conformity regulations and address three specific requirements related to consultation, enforcement, and enforceability. EPA believes that it is reasonable to interpret the transportation conformity SIP requirements as not applying for purposes of evaluating the redesignation request under section 107(d) for two reasons.

First, the requirement to submit SIP revisions to comply with the transportation conformity provisions of the CAA continues to apply to areas after redesignation to attainment since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally-approved state rules. Therefore, because areas are subject to the transportation conformity requirements regardless of whether they are redesignated to attainment and, because they must implement conformity under Federal rules if state rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying for purposes of evaluating a redesignation request. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. *See* also 60 FR 62748, 62749-62750 (Dec. 7, 1995) (Tampa, Florida).

Ohio has an approved transportation conformity SIP (72 FR

20945). Ohio is in the process of updating its approved transportation conformity SIP, and EPA will review its provisions when they are submitted.

b. The Ohio portion of the Huntington-Ashland Area Has a Fully Approved Applicable SIP under Section 110(k) of the CAA

Upon final approval of Ohio's comprehensive 2005 emissions inventory, EPA will have fully approved the Ohio SIP for the Ohio portion of the Huntington-Ashland area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation to attainment for the 1997 annual $PM_{2.5}$ standard. EPA may rely on prior SIP approvals in approving a redesignation request (*See* page 3 of the September 4, 1992, John Calcagni memorandum entitled "Procedures for Processing Requests to Redesignate Areas to Attainment,"; *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 25413, 25426 (May 12, 2003). Since the passage of the CAA of 1970, Ohio has adopted and submitted, and EPA has fully approved, provisions addressing various required SIP elements under particulate matter

standards. In this action, EPA is proposing to approve Ohio's 2005 base year emissions inventory for the Huntington-Ashland area as meeting the requirement of section 172(c)(3) of the CAA for the 1997 annual $PM_{2.5}$ standard.

c. Nonattainment Requirements

Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. On July 16, 2008 Ohio submitted a state-wide attainment demonstration for $PM_{2.5}$, including the Huntington-Ashland area. However, pursuant to 40 CFR 51.1004(c) EPA's determination that the area has attained the 1997 $PM_{2.5}$ annual standard suspends the requirement to submit certain planning SIPs related to attainment, including attainment demonstration requirements, the Reasonably Achievable Control Technology (RACT)-RACM requirement of section 172(c)(1) of the CAA, the RFP and attainment demonstration requirements of sections 172(c)(2) and (6) and 182(b)(1) of the CAA, and the requirement for contingency measures of section 172(c)(9) of the CAA).

As a result, the only remaining requirement under section 172 to be considered is the emissions inventory required under section 172(c)(3). As discussed in a later section, EPA is

proposing to approve the inventory that Ohio submitted as part of its maintenance plan as satisfying this requirement.

No SIP provisions applicable for redesignation of the Ohio portion of the Huntington-Ashland area are currently disapproved, conditionally approved, or partially approved. If EPA approves Ohio's Huntington-Ashland area $PM_{2.5}$ emissions inventories as proposed, Ohio will have a fully approved SIP for all requirements applicable for purposes of redesignation.

3. The Improvement in Air Quality Is Due to Permanent and Enforceable Reductions in Emissions Resulting from Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions (Section 107(d)(3)(E)(iii))

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

In making this demonstration, Ohio has calculated the change in emissions between 2005, one of the years used to designate the Huntington-Ashland area as nonattainment, and 2008, one of the years the Huntington-Ashland area monitored

attainment. The reduction in emissions and the corresponding improvement in air quality over this time period can be attributed to a number of regulatory control measures that the Huntington-Ashland area and contributing areas have implemented in recent years.

a. Permanent and Enforceable Controls Implemented

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

i. Federal Emission Control Measures

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

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. These emission control requirements result in lower NO_X and SO_2 emissions from new cars and light duty trucks, including sport utility vehicles. The Federal rules were phased in between 2004 and 2009. The EPA has estimated that, by the end of the phase-in period, new vehicles will emit the following percentages less NO_X: passenger cars (light duty vehicles)- 77%; light duty trucks, minivans, and sports utility vehicles- 86%;

and, larger sports utility vehicles, vans, and heavier trucks- 69 to 95%. EPA expects fleet wide average emissions to come to decline by similar percentages as new vehicles replace older vehicles. The Tier 2 standards also reduced the sulfur content of gasoline to 30 parts per million (ppm) beginning in January 2006. Most gasoline sold in Ohio prior to January 2006 had a sulfur content of about 500 ppm.

Heavy-Duty Diesel Engine Rule. EPA issued this rule in July 2000. This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007 which reduced fine particle emissions from heavy-duty highway engines and further reduced the highway diesel fuel sulfur content to 15 ppm. The total program is estimated to achieve a 90% reduction in direct $PM_{2.5}$ emissions and a 95% reduction in NO_X emissions for these new engines using low sulfur diesel, compared to existing engines using higher sulfur content diesel. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Diesel Rule. In May 2004 EPA promulgated a new rule for large nonroad diesel engines, such as those used construction, agriculture, and mining equipment, to be phased in

between 2008 and 2014. The rule also reduces the sulfur content in nonroad diesel fuel by over 99%. Prior to 2006, nonroad diesel fuel averaged approximately 3,400 ppm sulfur. This rule limited nonroad diesel sulfur content to 500 ppm by 2006, with a further reduction to 15 ppm by 2010. The combined engine and fuel rules will reduce NO_X and PM emissions from large nonroad diesel engines by over 90%, compared to current nonroad engines using higher sulfur content diesel. It is estimated that compliance with this rule will cut NO_X emissions from nonroad diesel engines by up to 90%. This rule achieved some emission reductions by 2008 and was fully implemented by 2010. The reduction in fuel sulfur content also yielded an immediate reduction in sulfate particle emissions from all diesel vehicles.

Nonroad Large Spark-Ignition Engine and Recreational Engine Standards. In November 2002 EPA promulgated emission standards for groups of previously unregulated nonroad engines. These engines include large spark-ignition engines such as those used in forklifts and airport ground-service equipment; recreational vehicles using spark-ignition engines such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. Emission standards from

large spark-ignition engines were implemented in two tiers, with Tier 1 starting in 2004 and Tier 2 in 2007. Recreational vehicle emission standards are being phased in from 2006 through 2012. Marine Diesel engine standards were phased in from 2006 through 2009. With full implementation of the entire nonroad spark-ignition engine and recreational engine standards an 80% reduction in NO_X expected by 2020. Some of these emission reductions occurred by the 2008-2010 period used to demonstrate attainment, and additional emission reductions will occur during the maintenance period.

i. Control Measures in Contributing Areas

Given the significance of sulfates and nitrates in the Huntington-Ashland area, the area's air quality is strongly affected by regulation of SO_2 and NO_X emissions from power plants.

NO_X SIP Call. On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X. Affected states were required to comply with Phase I of the SIP Call beginning in 2004, and Phase II beginning in 2007. Emission reductions resulting from regulations developed in response to the NO_X SIP Call are permanent and enforceable.

Clean Air Interstate Rule (CAIR). EPA proposed CAIR on January 30, 2004, at 69 FR 4566, promulgated CAIR on May 12, 2005, at 70 FR 25162, and promulgated associated Federal Implementation Plans (FIPs) on April 28, 2006, at 71 FR 25328, in order to reduce SO_2 and NO_X emissions and improve air quality in many areas across Eastern United States. However, on July 11, 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit or Court) issued its decision to vacate and remand both CAIR and the associated CAIR FIPs in their entirety (*North Carolina v. EPA*, 531 F.3d 836 (D.C. Cir. 2008)). EPA petitioned for a rehearing, and the Court issued an order remanding CAIR and the CAIR FIPs to EPA without vacatur (*North Carolina v. EPA*, 550 F.3d 1176 (D.C. Cir. 2008)). The Court, thereby, left CAIR in place in order to "temporarily preserve the environmental values covered by CAIR" until EPA replaced it with a rule consistent with the Court's opinion (*id.* at 1178). The Court directed EPA to "remedy CAIR's flaws" consistent with the July 11, 2008, opinion, but declined to impose a schedule on EPA for completing this action (*id*).

On August 8, 2011, at 76 FR 48208, EPA promulgated the Cross-State Air Pollution Rule (also known as the Transport Rule) to address interstate transport of emissions and resulting

secondary air pollutants and to replace CAIR. The CAIR, among other things, required NO_X and SO_2 emission reductions that contributed to the air quality improvement in the Huntington-Ashland nonattainment area. The CAIR emission reduction requirements limit emissions through 2011; the Transport Rule requires similar or greater emission reductions in the relevant areas in 2012 and beyond. The Transport Rule requires substantial reductions of SO_2 and NO_X emissions from Electric Generating Units (EGUs or power plants) across most of Eastern United States, with implementation beginning on January 1, 2012. In particular, this rule requires reduction of these emissions to levels well below the levels that led to attainment of the 1997 annual $PM_{2.5}$ standard in the Huntington-Ashland nonattainment area. Because the emission reduction requirements of CAIR are enforceable through the 2011 control period, and because the Transport Rule has now been promulgated to address the requirements previously addressed by CAIR and gets similar or greater reductions in the relevant areas in 2012 and beyond, EPA has determined that the EGU emission reductions that helped lead to attainment in the Huntington-Ashland area can now be considered permanent and enforceable and that the requirement of CAA section 107(d)(3)(E)(iii) has now been met.

b. Emission Reductions

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$, and SO_2 for 2005, one of the years used to designate the area as nonattainment, and 2008, one of the years the Huntington-Ashland area monitored attainment of the standard.

EGU SO_2 and NO_X emissions were derived from EPA's Clean Air Market's acid rain database. These emissions reflect Ohio, Kentucky and West Virginia NO_X emission budgets resulting from EPA's NO_X SIP call. The 2008 emissions from EGUs reflect Ohio's emission caps under CAIR. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions the Huntington-Ashland area for 2005 were taken from periodic emissions inventories.[1] These 2005 area source emission estimates were extrapolated to 2008. Source growth factors were supplied by the Lake Michigan Air Directors Consortium (LADCO).

Nonroad mobile source emissions were extrapolated from nonroad mobile source emissions reported in EPA's 2005 National Emissions Inventory (NEI). Contractors were employed by LADCO to estimate emissions for commercial marine vessels and

1 Periodic emission inventories are derived by States every three years and reported to the EPA. These periodic emission inventories are required by the Federal Consolidated Emissions Reporting Rule, codified at 40 CFR Subpart A. EPA revised these and other emission reporting requirements in a final rule published on December 17, 2008, at 73 FR 76539.

railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with transportation model results developed by local Metropolitan Planning Organization (MPO), KYOVA.

All emissions estimates discussed below were documented in the submittal and appendices of Ohio's redesignation request submittal from May 4, 2011. For these data and additional emissions inventory data, the reader is referred to EPA's digital docket for this rule, http://www.regulations.gov, for docket numbers EPA-R05-OAR-2011-0468, which include digital copies of Ohio's submittal.

Emissions data in tons per year (tpy) for the entire Huntington-Ashland area (OH-KY-WV) are shown in Tables 1, and 2, below.

Table 1. Summary of 2005 emissions for the Huntington-Ashland (KY-OH-WV) area by source type (tpy)

	SO_2	NO_X	PM2.5
Point (EGU)	357,165.49	121,991.60	5,005.11
Non-EGU	11,039.74	11,854.66	1,686.15
On-road	192.92	12,813.39	500.72
Nonroad	127.85	1,566.88	158.65
Area	2,836.09	2,034.76	1,829.08
MAR	927.29	12,221.82	404.61
Total Huntington-Ashland	372,289.38	162,483.11	9,584.32

Table 2. Comparison of 2005 emissions from the non-attainment year and 2008 emissions for an attainment year for the Huntington-Ashland (KY-OH-WV) area (tpy)

	2005	2008	Net Change (2005-2008)
PM2.5	9,584.32	10,253.89	669.48
NO_X	162,483.11	146,972.25	-15,510.86
SO_2	372,289.38	234,901.09	-137,388.63

Table 2 shows that the entire Huntington-Ashland area reduced NO_X emissions by 15,510.86 tpy, and SO_2 emissions by 137,388.63 tpy between 2005, a nonattainment year and 2008, an attainment year.

Because $PM_{2.5}$ concentrations in the Huntington-Ashland area are significantly impacted by the transport of sulfates and nitrates, the area's air quality is strongly affected by regulation of SO_2 and NO_X emissions from power plants. Table 3, below, present's statewide EGU emissions data compiled by EPA's Clean Air Markets Division for the years 2002 and 2008 for the several states that were found to contribute to air quality in the Huntington-Ashland area. Emissions for 2008 reflect implementation of CAIR.

Table 3. Comparison of 2002 and 2008 statewide EGU NO_X and SO_2 emissions (tpy) for states impacting the Huntington-Ashland area

	NOx			SO_2		
State	2002	2008	Net Change 2002-2008	2002	2008	Net Change 2002-2008
Alabama	161,559	112,625	-48,934	448,248	357,546	-90,702
Illinois	174,247	119,930	-54,317	353,699	257,357	-96,342
Indiana	281,146	190,092	-91,054	778,868	565,459	-213,409
Kentucky	198,599	157,903	-40,696	482,653	344,356	-138,297
Michigan	132,623	107,624	-25,000	342,999	326,501	-16,498
Missouri	139,799	88,742	-51,057	235,532	258,269	22,737
Ohio	370,497	235,049	-135,448	1,132,069	709,444	-422,625
Pennsylvania	200,909	183,658	-17,251	889,766	831,915	-57,851
Tennessee	155,996	85,641	-70,356	336,995	208,069	-128,926
West Virginia	225,371	99,484	-125,887	507,110	301,574	-205,536
Wisconsin	88,970	47,794	-41,175	191,257	129,694	-61,563
Total	2,129,716	1,428,541	-701,175	5,699,195	4,290,184	-1,409,011

Table 3 shows that states impacting the Huntington-Ashland area reduced NO_X and SO_2 emissions from EGUs by 701,175 tpy and 1,409,011 tpy, respectively, between 2002 and 2008.

Based on the information summarized above, Ohio has adequately demonstrated that the improvement in air quality is due to permanent and enforceable emissions reductions. While these reductions were estimates of the impact of CAIR, these reductions are expected to continue and may be considered permanent and enforceable as a result of the Transport Rule being promulgated.

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

In conjunction with Ohio's request to redesignate the Ohio portion of the Huntington-Ashland nonattainment area to attainment status, Ohio has submitted a SIP revision to provide for maintenance of the 1997 annual $PM_{2.5}$ NAAQS in the area through 2022.

a. What Is Required in a Maintenance Plan?

Section 175A of the CAA sets forth the required elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after EPA approves a redesignation to attainment. Eight years after redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for ten years following the initial ten-year maintenance period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures with a schedule for implementation as EPA deems necessary to assure prompt correction of any future annual $PM_{2.5}$ violations.

The September 4, 1992, memorandum from John Calcagni,

entitled "Procedures for Processing Requests to Redesignate Areas to Attainment," provides additional guidance on the content of a maintenance plan. The memorandum states that a maintenance plan should address the following items: the attainment emissions inventories, a maintenance demonstration showing maintenance for the ten years of the maintenance period, a commitment to maintain the existing monitoring network, factors and procedures to be used for verification of continued attainment of the NAAQS, and a contingency plan to prevent or correct future violations of the NAAQS.

b. Attainment Inventory

Ohio developed emissions inventories for NO_X, direct $PM_{2.5}$, and SO_2 for 2008, one of the years in the period during which the Huntington-Ashland area monitored attainment of the 1997 annual $PM_{2.5}$ standard, as described previously. The attainment level of emissions is summarized in Tables 2 and 3, above.

c. Demonstration of Maintenance

Along with the redesignation request, Ohio submitted a revision to its $PM_{2.5}$ SIP to include a maintenance plan for the Huntington-Ashland area, as required by section 175A of the CAA. Ohio's plan demonstrates maintenance of the 1997 annual $PM_{2.5}$ standard through 2022 by showing that current and future

emissions of NO_X, directly emitted $PM_{2.5}$ and SO_2 for the area remain at or below attainment year emission levels. A maintenance demonstration need not be based on modeling. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), *Sierra Club v. EPA*, 375 F. 3d 537 (7th Cir. 2004). *See also* 66 FR 53094, 53099-53100 (October 19, 2001), 68 FR 25413, 25430-25432 (May 12, 2003).

Ohio uses emissions inventory projections for the years 2015 and 2022 to demonstrate maintenance for the entire Huntington-Ashland area. The projected emissions were estimated by Ohio, with assistance from LADCO and KYOVA using the MOVES2010a model. Projection modeling of inventory emissions was done for the 2015 interim year emissions using estimates based on the 2009 and 2018 LADCO modeling inventory, using LADCO's growth factors, for all sectors. The 2022 maintenance year is based on emissions estimates from the 2018 LADCO modeling. Table 4 shows the 2008 attainment base year emission estimates and the 2015 and 2022 emission projections for the entire tri-state Huntington-Ashland area that Ohio provided in its May 4, 2011, submission.

Table 4. Comparison of 2008, 2015 and 2022 NO_X, direct $PM_{2.5}$, and SO_2 emission totals (tpy) for the Huntington-Ashland area (OH-KY-WV)

	SO_2	NO_X	$PM_{2.5}$
2008(baseline)	234,901.09	146,972.25	10,253.89
2015	149,647.27	95,137.30	10,100.29
2022	113,654.75	71,097.29	9,928.94
Change 2008-2022	-121,246.34 52% decrease	-75,874.96 52% decrease	-324.95 3% decrease

Table 4 shows that the entire Huntington-Ashland area reduced NO_X emissions by 75,874.96 tpy between 2008 and the maintenance projection to 2022, direct $PM_{2.5}$ emissions by 324.95 tpy, and reduced SO_2 emissions by 121,246.34 tpy between 2008 and 2022. Thus the emissions inventories set forth in Table 4 show that the area will continue to maintain the annual PM2.5 standard during the maintenance period.

Maintenance of the 1997 annual $PM_{2.5}$ air quality standard in the Huntington-Ashland area is a function of regional as well as local emissions trends. The regional impacts are dominated by the impacts of SO_2 and NO_X emissions. The previous section showed that the Transport Rule could be expected to provide for substantial SO_2 and NO_X emission reductions through 2014 for Ohio, West Virginia, and Kentucky. Regionally, multiple upwind

states can contribute precursors to $PM_{2.5}$ to the Huntington-Ashland area; however, projected emissions under the Transport Rule for all the states contributing to particulate matter concentrations this area show emissions well below the attainment year of 2008(Table 5 and Table 6). Table 5 and Table 6 show that under the Transport Rule regional emissions will not affect the maintenance of the annual $PM_{2.5}$ standard.

Table 5. Comparison of 2008 and 2014 and beyond statewide EGU SO_2 emissions (tpy) for projected years from states that impact the Huntington-Ashland area

State	Attainment year 2008	Transport Rule 2014 and Beyond	Net Change 2008-2014
Alabama	357,546	173,231	-184,315
Illinois	257,357	128,143	-129,214
Indiana	565,458	128,143	-437,315
Kentucky	344,356	116,912	-227,444
Michigan	326,500	158,394	-168,106
Missouri	258,268	177,359	-80,909
Ohio	709,444	150,784	-558,660
Pennsylvania	831,914	123,224	-708,690
Tennessee	208,069	64,716	-143,353
West Virginia	301,574	83,235	-218,339
Wisconsin	129,693	44,139	-85,554

Total	4,290,179	1,348,280	-2,941,899

Table 6. Comparison of 2008 and 2014 and beyond NO_X emissions totals (tpy) from EGUs for 2008 (attainment) 2014 and Beyond from States Impacting the Huntington-Ashland area

State	Attainment year 2008	Transport Rule 2014 and Beyond	Net Change 2008-2014
Alabama	112,625	68,119	-44,506
Illinois	119,929	48,533	-71,396
Indiana	190,092	109,392	-80,700
Kentucky	157,902	76,026	-81,876
Michigan	107,623	57,311	-50,312
Missouri	88,745	48,888	-39,857
Ohio	235,048	84,126	-150,922
Pennsylvania	183,657	116,994	-66,663
Tennessee	85,640	20,490	-65,150
West Virginia	99,483	53,335	-46,148
Wisconsin	47,794	29,688	-18,106
Total	1,428,538	712,902	-715,636

Tables 5 and 6 show that NO_X emissions from EGUs are projected to decrease by 715,636 tpy from 2008 to 2014 and beyond and SO_2 emissions from EGUSs are projected to decrease by 2,941,899 tpy in states impacting the Huntington-Ashland area.

Based on the information summarized above, Ohio has adequately demonstrated maintenance of the $PM_{2.5}$ standard in this area for a period extending in excess of ten years from expected final action on Ohio's redesignation request.

d. Monitoring Network

Ohio's maintenance plan includes additional elements. Ohio's plan includes a commitment to continue to operate its EPA-approved monitoring network, as necessary to demonstrate ongoing compliance with the NAAQS. Ohio currently operates a $PM_{2.5}$ monitor in Lawrence County to monitor the Huntington-Ashland area. Kentucky and West Virginia are also currently operating one monitor in each state for the Huntington-Ashland area.

e. Verification of Continued Attainment

Ohio remains obligated to continue to quality-assure monitoring data and enter all data into the Air Quality System in accordance with Federal guidelines. Ohio will use these data, supplemented with additional information as necessary, to assure that the area continues to attain the standard. Ohio will also continue to develop and submit periodic emission inventories as required by the Federal Consolidated Emissions Reporting Rule (67 FR 39602, June 10, 2002) to track future

levels of emissions. Both of these actions will help to verify continued attainment in accordance with 40 CFR part 58.

f. Contingency Plan

The contingency plan provisions are designed to promptly correct or prevent a violation of the NAAQS that might occur after redesignation of an area to attainment. Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation of the contingency measures, and a time limit for action by the state. The state should also identify specific indicators to be used to determine when the contingency measures need to be adopted and implemented. The maintenance plan must include a requirement that the state will implement all measures with respect to control of the pollutant(s) that were contained in the SIP before redesignation of the area to attainment. *See* section 175A(d) of the CAA. Ohio's contingency measures include a Warning Level Response and an Action Level Response. An initial Warning Level Response is triggered when the average weighted annual mean for one year

exceeds 15.5 $\mu g/m^3$. In that case, a study will be conducted to determine if the emissions trends show increases; if action is necessary to reverse emissions increases, Ohio will follow the same procedures for control selection and implementation as for an Action Level Response.

The Action Level Response will be prompted by any one of the following: a Warning Level Response study that shows emissions increases, a weighted annual mean over a two-year average that exceeds the standard, or a violation of the standard. If an Action Level Response is triggered, Ohio will adopt and implement appropriate control measures within 18 months from the end of the year in which monitored air quality triggering a response occurs.

Ohio's candidate contingency measures include the following:

i. ICI Boilers – SO_2 and NO_X controls

ii. Process heaters;

iii. EGUS;

iv. Internal combustion engines;

v. Combustion turbines;

vi. Other sources > 100 TPY;

vii. Fleet vehicles;

viii. Concrete manufacturers and;

ix. Aggregate processing plants

Ohio further commits to conduct ongoing review of its data, and if monitored concentrations or emissions are trending upward, Ohio commits to take appropriate steps to avoid a violation if possible. Ohio commits to continue implementing SIP requirements upon and after redesignation.

EPA believes that Ohio's contingency measures, as well as the commitment to continue implementing any SIP requirements, satisfy the pertinent requirements of section 175A(d).

As required by section 175A(b) of the CAA, Ohio commits to submit to the EPA an updated $PM_{2.5}$ maintenance plan eight years after redesignation of the Huntington-Ashland area to cover an additional ten-year period beyond the initial ten-year maintenance period. As required by section 175A of the CAA, Ohio has also committed to retain the $PM_{2.5}$ control measures contained in the SIP prior to redesignation.

For all of the reasons set forth above, EPA is proposing to approve Ohio's 1997 annual $PM_{2.5}$ maintenance plan for the

Huntington-Ashland area as meeting the requirements of CAA section 175A.

5. Insignificance Determination for the Mobile Source Contribution to $PM_{2.5}$ and NO_X

Under section 176(c) of the CAA, transportation plans and transportation improvement programs (TIPs) must conform to applicable SIP goals. This means that such actions will not: (1) cause or contribute to violations of a NAAQS; (2) worsen the severity of an existing violation; or (3) delay timely attainment of a NAAQS or any interim milestone. Actions involving Federal Highway Administration (FHWA) or Federal Transit Administration (FTA) funding or approval are subject to the transportation conformity rule (40 CFR part 93 subpart A.) Under this rule, MPOs in nonattainment and maintenance areas coordinate with state air quality and transportation agencies, EPA, FHWA and FTA to demonstrate that their metropolitan transportation plans ("plans") and TIPs conform to applicable SIPs. This is typically determined by showing that estimated emissions from existing and planned highway and transit systems are less than or equal to the motor vehicle emissions budgets (MVEBs)contained in a SIP.

For budgets to be approvable, they must meet, at a minimum, EPA's adequacy criteria (40 CFR 93.118(e)(4)). However, the conformity rule at 40 CFR 93.109(m) allows areas to forgo establishment of a budget(s) where it is demonstrated that regional motor vehicle emissions for a particular pollutant or precursor pollutant are an insignificant contributor to the air quality problem in the area. The general criteria for insignificance determinations per 40 CFR 93.109(m) are based on a number of factors, including (1) the percentage of motor vehicle emissions in context of the total SIP inventory; (2) the current state of air quality as determined by monitoring data for that NAAQS; (3) the absence of SIP motor vehicle control measures; and (4) historical trends and future projections of the growth of motor vehicle emissions in the area.

EPA previously reviewed the attainment demonstration that Ohio submitted for its portion of the Huntington-Ashland area and made an insignificance finding through the transportation conformity adequacy process for NO_X and directly emitted $PM_{2.5}$ for the Ohio portion of the Huntington-Ashland $PM_{2.5}$ nonattainment area on December 7, 2009 (74 FR 64075). That insignificance finding was effective on December 22, 2009. As a result of EPA's insignificance finding, the Ohio portion of the

Huntington-Ashland $PM_{2.5}$ area was no longer required to perform regional emissions analyses for either directly emitted $PM_{2.5}$ or NO_X as part of future $PM_{2.5}$ conformity determinations for the 1997 $PM_{2.5}$ NAAQS until such time as EPA reviewed and took action on the Huntington-Ashland $PM_{2.5}$ area's attainment demonstration or acted on a submitted maintenance plan for the Ohio portion of the area (the subject of today's proposed action).

As part of the On May 4, 2011, redesignation request and maintenance plan Ohio EPA requested that EPA find that on-road emissions of direct $PM_{2.5}$ and NO_X emissions are insignificant for conformity purposes. On May 5, 2011, EPA initiated an adequacy review of the finding of insignificance that Ohio included in its redesignation submittal. As such, a notice of the submission of this finding was posted on its adequacy web page (http://www.epa.gov/otaq/stateresources/transconf/currsips.htm). The public comment period closed June 6, 2011. There were no public comments. EPA is acting on making these findings final.

Consistent with EPA's adequacy review of Ohio's redesignation request and maintenance plan and the Agency's thorough review of the entire SIP submission, EPA is proposing to approve Ohio's insignificance determination for the on-road

motor vehicle contribution of NO_X and $PM_{2.5}$ emissions to the overall $PM_{2.5}$ emissions in the Huntington-Ashland $PM_{2.5}$ area.

Because EPA finds that Ohio's submitted maintenance plan and redesignation request meets the criteria in the conformity rule for an insignificance finding for motor vehicle emissions of NO_X and $PM_{2.5}$ in the Ohio portion of the Huntington-Ashland $PM_{2.5}$ area, it is not necessary to establish $PM_{2.5}$ and NO_X budgets for the Ohio portion of the Huntington-Ashland $PM_{2.5}$ area. That is, EPA finds that the submittal demonstrates that, for NO_X and $PM_{2.5}$, regional motor vehicle emissions are an insignificant contributor to the annual $PM_{2.5}$ air quality problem in the Ohio portion of the area. This finding is based on the following: Ohio's inventory shows that on-road emissions in the Ohio portion of the area are currently contribute to 3.21% of the total NO_X, and 0.97% $PM_{2.5}$, as shown in Table 7.

Table 7. Huntington-Ashland area emission projections for on-road mobile sources (tpy).

On-road Mobile Source emissions for Ohio portion		
	NO_X	$PM_{2.5}$
2015	1,824.73	56.65
2022	924.15	32.23
Total Ohio portion emissions		
	NO_X	$PM_{2.5}$
2015	56,838.94	5,837.13
2022	37,858.02	5,758.93

Motor vehicle emissions in general, for the maintenance period of 2015 and 2022, are low and declining in the Ohio portion of the area, contributing only 2.44 and 0.56% of Ohio's emissions for NO_X, and $PM_{2.5}$, respectively, with the decrease due to Federal regulations on motor vehicle rules such as Heavy-duty Highway Vehicle standards and Tier 2 vehicle and fuel standards. Also, there have been no SIP requirements for motor vehicle control measures for the Ohio portion of the area and it is unlikely that motor vehicle control measures will be implemented for $PM_{2.5}$ in this area in the future.

Finally, as described above, the area has attained the 1997 annual $PM_{2.5}$ NAAQS and we are proposing to approve the maintenance plan and redesignation request for the Ohio portion of the area. Therefore motor vehicle emissions budgets for $PM_{2.5}$ and NO_X are not required for the Huntington-Ashland area to maintain the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve the inventory and the findings of insignificant contribution by motor vehicles, resulting in no proposed motor vehicle emissions budgets for the Ohio portion of the Huntington-Ashland area for 2015 and 2022 projected maintenance years. On-road emissions were calculated using the EPA required MOVES2010a model.

With regard to on-road emissions of SO_2, volatile organic compounds and ammonia, Ohio did not provide emission budgets (or an insignificance demonstration) because it concluded, consistent with EPA's presumptions regarding these $PM_{2.5}$ precursors, that emissions of these precursors from motor vehicles are not significant contributors to the area's $PM_{2.5}$ air quality problem.

6. 2005 Comprehensive Emissions Inventory

As discussed above, section 172(c)(3) of the CAA requires areas to submit a comprehensive emissions inventory. Ohio submitted a 2005 base year emissions inventories that meets this requirement. Emissions contained in the submittals cover the general source categories of point sources, area sources, on-road mobile sources, and nonroad mobile sources.

For the point source sector, EGU SO_2 and NO_X emissions were derived from EPA's Clean Air Market's database. All other point source emissions were obtained from Ohio's source facility emissions reporting.

Area source emissions were extrapolated from Ohio's 2005 periodic emissions inventories. Source growth factors were supplied by LADCO.

Nonroad mobile source emissions were extrapolated from

nonroad mobile source emissions reported in EPA's 2005 NEI. LADCO estimated emissions for commercial marine vessels and railroads.

On-road mobile source emissions were calculated using EPA's mobile source emission factor model, MOVES2010a, in conjunction with roadway network traffic information prepared by KYOVA.

All emissions discussed in Table 1 were documented in the submittal and the Appendices of Ohio's redesignation request submittal. EPA has reviewed Ohio's documentation of the emissions inventory techniques and data sources used for the derivation of the 2005 emissions estimates and has found that Ohio has thoroughly documented the derivation of these emissions inventories. The submittal from the state shows that the 2005 emissions inventory is currently the most complete emissions inventories for $PM_{2.5}$ and $PM_{2.5}$ precursors in the Huntington-Ashland area. Based upon EPA's review, we propose to find that the 2005 emissions inventories are as complete and accurate as possible given the input data available to the Ohio, and we are proposing to approve them under CAA section 172(c)(3).

7. Summary of Proposed Actions.

EPA has previously determined that the Huntington-Ashland area has attained the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing

to determine that the entire Huntington-Ashland area continues to attain the 1997 annual $PM_{2.5}$ standard and that the Ohio portion of the area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is proposing to approve the request from Ohio to change the legal designation of the Ohio portion of the Huntington-Ashland area from nonattainment to attainment for the 1997 annual $PM_{2.5}$ NAAQS. EPA is proposing to approve Ohio's $PM_{2.5}$ maintenance plan for the Huntington-Ashland area as a revision to the Ohio SIP because the plan meets the requirements of section 175A of the CAA. EPA is proposing to approve the 2005 emissions inventories for primary $PM_{2.5}$, NO_X, and SO_2, documented in Ohio's May 4, 2011, submittal as satisfying the requirement in section 172(c)(3) of the CAA for a comprehensive, current emission inventory. Finally, for transportation conformity purposes EPA is also proposing to approve Ohio's determination that on-road emissions of $PM_{2.5}$ and NO_X are insignificant contributors to $PM_{2.5}$ concentrations in the area.

VI. What are the Effects of EPA's Proposed Actions?

If finalized, approval of the redesignation request would change the official designation of the Ohio portion of the Huntington-Ashland area for the 1997 annual $PM_{2.5}$ NAAQS, found at

40 CFR part 81, from nonattainment to attainment. If finalized, EPA's proposal would approve as a revision to the Ohio SIP for the Huntington-Ashland area, the maintenance plan for the 1997 annual $PM_{2.5}$ standard as well as the 2005 emissions inventories included with the redesignation request.

VII. Statutory and Executive Order Reviews.

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

by state law. For that reason, these actions:

- are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995

(15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter.

40 CFR Part 81

Air pollution control, Environmental protection, National Parks, Wilderness

Dated: December 14, 2011.

Susan Hedman,
Regional Administrator, Region 5.

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