



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2015-0743; FRL-9942-01-Region 4]

**Air Plan Approval and Designation of Areas; MS; Redesignation of the DeSoto County,
2008 8-Hour Ozone Nonattainment Area to Attainment**

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On December 11, 2015, the State of Mississippi, through the Mississippi Department of Environment Quality (MDEQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Mississippi that is within the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area (hereafter referred to as the “Memphis, TN-MS-AR Area” or “Area”) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to determine that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone national ambient air quality standards (NAAQS); to approve the State’s plan for maintaining attainment of the 2008 8-hour ozone NAAQS in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the year 2027 for the Mississippi portion of the Area, into the SIP; and to redesignate the Mississippi portion of the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area.

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

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2015-0743 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

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I. What are the Actions EPA is Proposing to Take?

EPA is proposing to take the following three separate but related actions, one of which involves multiple elements: (1) to determine that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS;¹ (2) to approve Mississippi’s plan for maintaining the 2008 8-hour

¹ On August 27, 2015, EPA published a notice of proposed rulemaking entitled “Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Marginal for the 2008 Ozone National Ambient Air Quality Standards” proposing to determine that the Memphis, TN-MS-AR Area attained the 2008 8-hour ozone NAAQS by the applicable attainment date of July 20, 2015, based on 2012-2014 monitoring data. *See* 80 FR 51992. Any final action on the August 27, 2015 proposed rule will occur in a separate rulemaking from this proposed action.

ozone NAAQS (maintenance plan), including the associated MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area, into the SIP; and (3) to redesignate the Mississippi portion of the Memphis, TN-MS-AR Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area. The Memphis, TN-MS-AR Area consists of a portion of DeSoto County in Mississippi, all of Shelby County in Tennessee, and all of Crittenden County in Arkansas. This proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is making the preliminary determination that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS based on recent air quality data and proposing to approve Mississippi's maintenance plan for its portion of the Memphis, TN-MS-AR Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status). The maintenance plan is designed to keep the Memphis, TN-MS-AR Area in attainment of the 2008 8-hour ozone NAAQS through 2027. The maintenance plan includes 2027 MVEBs for NO_x and VOC for the Mississippi portion of the Memphis, TN-MS-AR Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the Mississippi SIP.

EPA also proposes to determine that the Mississippi portion of the Memphis, TN-MS-AR Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of DeSoto County within the Mississippi portion of the Memphis, TN-MS-AR Area,

as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the 2027 NO_x and VOC MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area. The Adequacy comment period began on November 2, 2015, with EPA's posting of the availability of Mississippi's submissions on EPA's Adequacy website (<http://www3.epa.gov/otaq/stateresources/transconf/cursips.htm#desoto-ms>).

The Adequacy comment period for these MVEBs closed on December 2, 2015. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, this notice of proposed rulemaking is in response to Mississippi's December 11, 2015, redesignation request and associated SIP submission that address the specific issues summarized previously and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Mississippi portion of the Memphis, TN-MS-AR Area to attainment for the 2008 8-hour ozone NAAQS.

II. What is the Background for EPA's Proposed Actions?

On March 12, 2008, EPA promulgated a revised 8-hour ozone NAAQS of 0.075 parts per million (ppm). *See* 73 FR 16436 (March 27, 2008). Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15. Ambient air quality monitoring data for the 3-year period must

meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of complete, quality assured, and certified ambient air quality data at the conclusion of the designation process. The Memphis, TN-MS-AR Area was designated nonattainment for the 2008 8-hour ozone NAAQS on May 21, 2012 (effective July 20, 2012) using 2008-2010 ambient air quality data. *See* 77 FR 30088 (May 21, 2012). At the time of designation, the Memphis, TN-MS-AR Area was classified as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. In the final implementation rule for the 2008 8-hour ozone NAAQS (SIP Implementation Rule),² EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date three years after the July 20, 2012, effective date for areas classified as marginal areas for the 2008 8-hour ozone nonattainment designations. Therefore, the Memphis, TN-MS-AR Area's attainment date is July 20, 2015.

III. What are the Criteria for Redesignation?

² This rule, entitled Implementation of the 2008 National Ambient Air Quality Standards for Ozone: State Implementation Plan Requirements and published at 80 FR 12264 (March 6, 2015), addresses a range of nonattainment area SIP requirements for the 2008 ozone NAAQS, including requirements pertaining to attainment demonstrations, reasonable further progress (RFP), reasonably available control technology (RACT), reasonably available control measures (RACM), major new source review (NSR), emission inventories, and the timing of SIP submissions and of compliance with emission control measures in the SIP. This rule also addresses the revocation of the 1997 ozone NAAQS and the anti-backsliding requirements that apply when the 1997 ozone NAAQS are revoked.

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

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

3. “Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the “Calcagni Memorandum”);
5. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. “Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. “State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,” Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;
8. “Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,” Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and
10. “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA Proposing These Actions?

On December 11, 2015, the State of Mississippi, through MDEQ, requested that EPA redesignate the Mississippi portion of the Memphis, TN-MS-AR Area to attainment for the 2008 8-hour ozone NAAQS. EPA’s evaluation indicates that the entire Memphis, TN-MS-AR Area has attained the 2008 8-hour ozone NAAQS, and that the Mississippi portion of the Memphis, TN-MS-AR Area meets the requirements for redesignation as set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the three related actions summarized in section I of this notice.

V. What is EPA’s Analysis of the Request?

As stated previously, in accordance with the CAA, EPA proposes in this action to: (1) determine that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS; (2) approve the Mississippi portion of the Memphis, TN-MS-AR Area’s 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, into the Mississippi SIP; and (3) redesignate the Mississippi portion of the Memphis, TN-MS-AR Area to attainment for the 2008 8-hour

ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1) - *The Memphis, TN-MS-AR Area has attained the 2008 8-hour ozone NAAQS.*

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

In this action, EPA is proposing to determine that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS. EPA reviewed ozone monitoring data from monitoring stations in the Memphis, TN-MS-AR Area for the 2008 8-hour ozone NAAQS for 2012-2014, and the design values for each monitor in the Area are less than 0.075 ppm. These data have been quality-assured, are recorded in Aerometric Information Retrieval System (AIRS-AQS), and indicate that the Area is attaining the 2008 8-hour ozone NAAQS. The fourth-highest

8-hour ozone values at each monitor for 2012, 2013, 2014, and the 3-year averages of these values (i.e., design values), are summarized in Table 1, below.

Table 1. 2012 – 2014 Design Value Concentrations for the Memphis, TN-MS-AR Area (ppm)

Location	Site	4th Highest 8-hour Ozone Value (ppm)			3-Year Design Values (ppm)
		2012	2013	2014	2012-2014
DeSoto, MS	Hernando	0.075	0.065	0.067	0.069
Shelby, TN	Frayser	0.083	0.069	0.067	0.073
Shelby, TN	Orgill Park	0.084	0.063	0.065	0.070
Shelby, TN	Shelby Farms	0.086	0.069	0.066	0.073
Crittenden, AR	Marion	0.079	0.067	0.067	0.071

The 3-year design value for 2012-2014 for the Memphis, TN-MS-AR Area is 0.073 ppm,³ which meets the NAAQS. EPA has reviewed 2015 preliminary monitoring data for the Area, and that data indicates that the Area continues to attain.⁴ In this action, EPA is proposing to determine that Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS. EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, the State of Mississippi has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

³ The highest 3-year design value at a monitoring station is considered the design value for the Area.

⁴ This preliminary data is available at EPA's air data website: http://aqsdrl.epa.gov/aqsweb/aqstmp/airdata/download_files.html#Daily.

Criteria (2) – Mississippi has a fully approved SIP under section 110(k) for the Mississippi Portion of the Memphis, TN-MS-AR Area; and Criteria (5) – Mississippi has met all applicable requirements under section 110 and part D of title I of the CAA.

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

a. *The Mississippi portion of the Memphis, TN-MS-AR Area has met all applicable requirements under section 110 and part D of the CAA.*

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public

notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes that other section 110(a)(2) elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110(a)(2) and part D requirements which are linked with a particular area's designation and classification are the relevant measures to

evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (i.e., for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174-53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Lorain, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

EPA has reviewed Mississippi's SIP and has concluded that it meets the general SIP requirements under section 110(a)(2) of the CAA to the extent they are applicable for purposes of redesignation. EPA has previously approved provisions of Mississippi's SIP addressing CAA section 110(a)(2) requirements including provisions addressing the 2008 ozone NAAQS. *See* 80 FR 11131 (March 2, 2015); 80 FR 14019 (March 18, 2015). These requirements are, however, statewide requirements that are not linked to the ozone nonattainment status of the Area. Therefore, EPA believes that these SIP elements are not applicable requirements for purposes of review of Mississippi's ozone redesignation request.

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area, such as the Memphis, TN-MS-AR Area, must submit an emissions inventory that complies with

section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). 42 U.S.C. 7511a(a). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_x emitted within the boundaries of the ozone nonattainment area. Mississippi provided an emissions inventory for the Memphis, TN-MS-AR Area to EPA in a January 14, 2015, SIP submission. On July 2, 2015, EPA published a direct final rule approving this emissions inventory into the SIP. *See* 80 FR 37985.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC RACT rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Mississippi portion of the Memphis, TN-MS-AR Area is not subject to the section 182(a)(2) RACT “fix up” because the Area was designated as nonattainment after the enactment of the 1990 CAA amendments.

Section 182(a)(2)(B) requires each state with a marginal ozone nonattainment area that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Mississippi portion of the Memphis, TN-MS-AR

Area is not subject to the section 182(a)(2)(B) requirement because it was designated as nonattainment after the enactment of the 1990 CAA amendments and did not have an I/M program in place prior to those amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Mississippi does not have an approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in 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." Mississippi's PSD program will become applicable in the Memphis, TN-MS-AR Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed later on in the section of this notice titled Criteria (4)(e), *Verification of Continued Attainment*, the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by sources within that nonattainment area. Mississippi provided a SIP revision to EPA on August 28, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on January 12, 2016, EPA published a final rule approving this SIP revision. *See* 81 FR 1320.

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

EPA interprets the conformity SIP requirements⁵ as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Mississippi has an approved conformity SIP for the Mississippi portion of the Memphis, TN-MS-AR Area. *See* 78 FR 67952 (November 13, 2013). Thus, EPA proposes that the Mississippi portion of the Memphis, TN-MS-AR Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Mississippi portion of the Memphis, TN-MS-AR Area has a fully approved applicable SIP under section 110(k) of the CAA.

⁵ CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

As discussed previously, EPA has fully approved the State's SIP for the Mississippi portion of the Memphis, TN-MS-AR Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. *See, e.g.*, 80 FR 11131 (March 2, 2015); 80 FR 14019 (March 18, 2015). EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989-90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation, and EPA has approved all part D requirements applicable for purposes of this redesignation. *See* 80 FR 37985 (July 2, 2015) and 80 FR 1320 (January 12, 2016).

Criteria (3) - The air quality improvement in the Memphis, TN-MS-AR Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Mississippi has demonstrated that the observed air quality improvement in the Memphis, TN-MS-AR Area is due to permanent and

enforceable reductions in emissions resulting from Federal measures. EPA proposes to agree with the State's conclusion that meteorology has not had a significant role in the steady decline in ozone concentrations in the Area.⁶

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

Tier 2 vehicle and fuel standards. Implementation began in 2004 and requires all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NOx per mile. Additionally, in January 2006 the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NOx emissions. Most gasoline sold in Mississippi prior to January 2006 had a sulfur content of about 300 ppm.⁷ EPA expects that these standards will reduce NOx emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.⁸

Large non-road diesel engines rule. This rule was promulgated in 2004, and is being phased in between 2008 through 2014. This rule will also reduce the sulfur content in the nonroad diesel fuel. When fully implemented, this rule will reduce NOx, VOC, particulate matter, and carbon monoxide. These emission reductions are federally enforceable. EPA issued this rule in June 2004, which applies to diesel engines used in industries, such as construction,

⁶ The State compared temperature and wind data for each of the design value attainment years (2012-2014) with the 30-year averages for the Area. See pp.10-15 of Mississippi's December 11, 2015, submission for the State's meteorological analysis.

⁷ Mississippi also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

⁸ EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at: <http://www.epa.gov/tier2/documents/f99051.pdf>.

agriculture, and mining. It is estimated that compliance with this rule will cut NOx emissions from non-road diesel engines by up to 90 percent nationwide.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NOx and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NOx emissions from diesel trucks and buses and will reduce NOx emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.⁹

Nonroad spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NOx, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NOx, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

⁹ 66 FR 5002, 5012 (January 18, 2001). Mississippi also identified Federal rules requiring manufacturers to install on-board diagnostic (OBD) systems for heavy-duty vehicles and for engines certified for use in heavy-duty vehicles. EPA promulgated these rules to help ensure that the projected benefits from the relevant federal vehicle emissions standards are realized.

National Program for greenhouse gas (GHG) emissions and Fuel Economy Standards.

The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012-2016 (phase 1) and 2017-2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO_x emissions released.

EPA proposes to find that the improvements in air quality in the Memphis, TN-MS-AR Area are due to real, permanent and enforceable reductions in NO_x and VOC emissions resulting from Federal measures.

Criteria (4) - The Mississippi portion of the Memphis, TN-MS-AR Area has a fully approved maintenance plan pursuant to section 175A of the CAA.

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

a. *What is required in a maintenance plan?*

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

b. Attainment Emissions Inventory

EPA is proposing to determine that the Memphis, TN-MS-AR Area has attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2012-2014, and is continuing to attain the standard based on preliminary 2015 data. Mississippi selected 2012 as the base year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_x and VOC, for which projected emissions could be developed for 2017, 2020, and 2027. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Mississippi began

development of the attainment inventory by first generating a baseline emissions inventory for the State's portion of the Memphis, TN-MS-AR Area. The projected summer day emission inventories have been estimated using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2027) to the base year (2012), Mississippi compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: point, area, on-road mobile, and non-road mobile. Complete descriptions of how the inventories were developed are located in Appendix A through Appendix D of the December 11, 2015 submittal, which can be found in the docket for this action. Point source emissions are tabulated from data collected by direct on-site measurements of emissions or from mass balance calculations utilizing approved emission factors. For each projected year's inventory, point sources are adjusted by growth factors based on Standard Industrial Classification codes generated using growth patterns obtained from County Business Patterns. For Title V sources, the actual 2012 emissions were used. Rail yard and airport emissions reported were obtained from the EPA's 2011 National Emission Inventory.

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

The non-road mobile sources emissions are calculated using NONROAD2008 within EPA's Motor Vehicle Emission Simulator (MOVES2014) model, with the exception of the

railroad locomotives which were estimated by taking activity and multiplying by an emission factor. For each projected year's inventory, the emissions are estimated using EPA's MOVES2014 model with activity input such as projected landing and takeoff data for aircraft.

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

The 2012 NO_x and VOC emissions for the Mississippi portion of the Memphis, TN-MS-AR Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 3 of the following subsection discussing the maintenance demonstration. See Appendix B through Appendix D of the December 11, 2015, submission for more detailed information on the emissions inventory.

c. Maintenance Demonstration

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

- (i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_x and VOC remain at or below 2012 emissions levels.
- (ii) Uses 2012 as the attainment year and includes future emissions inventory projections for 2017, 2020, and 2027.

- (iii) Identifies an “out year” at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_x and VOC MVEBs were established for the last year (2027) of the maintenance plan (see section VII below).
- (iv) Provides actual (2012) and projected emissions inventories, in tons per summer day (tpsd), for the Mississippi portion of the Memphis, TN-MS-AR Area, as shown in Tables 2 and 3, below.

Table 2. Actual and Projected Average Summer Day NO_x Emissions (tpsd) for the Mississippi Portion of the Memphis, TN-MS-AR Area

Sector	2012	2017	2020	2027
Point	1.78	1.81	1.83	1.89
Area	1.24	1.25	1.25	1.24
Non-road	2.89	2.29	2.06	1.78
On-road	8.66	5.34	3.53	2.74
Total	14.57	10.68	8.68	7.65

Table 3. Actual and Projected Average Summer Day VOC Emissions (tpsd) for the Mississippi Portion of the Memphis, TN-MS-AR Area

Sector	2012	2017	2020	2027
Point	0.84	0.77	0.77	0.79
Area	6.49	6.57	6.59	6.54
Non-road	1.86	1.41	1.33	1.28
On-road	5.75	3.92	2.51	2.54
Total	14.94	12.67	11.19	11.15

Tables 2 and 3 summarize the 2012 and future projected emissions of NO_x and VOC from the Mississippi portion of the Memphis, TN-MS-AR Area. In situations where local emissions are the primary contributor to nonattainment, such as the Memphis, TN-MS-AR Area, if the future projected emissions in the nonattainment area remain at or below the baseline

emissions in the nonattainment area, then the ambient air quality standard should not be exceeded in the future. Mississippi has projected emissions as described previously and determined that emissions in the Mississippi portion of the Memphis, TN-MS-AR Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Mississippi selected 2012 as the attainment emissions inventory year for the Mississippi portion of the Memphis, TN-MS-AR Area. Mississippi calculated safety margins in its submittal for years 2017, 2020, and 2027. The State has allocated a portion of the 2027 safety margin to the 2027 MVEBs for the Memphis, TN-MS-AR Area.

Table 4. Safety Margins for the Mississippi Portion of the Memphis, TN-MS-AR Area

Year	VOC (tpd)	NOx (tpd)
2017	2.27	3.89
2020	3.75	5.90
2027	3.79	6.92

The State has decided to allocate a portion of the available safety margin to the 2027 MVEBs to allow for unanticipated growth in VMT, changes and uncertainty in vehicle mix assumptions, etc., that will influence the emission estimations. MDEQ has allocated 5.26 tpd of the NOx safety margin to the 2027 NOx MVEB and 2.46 tpd of the VOC safety margin to the 2027 VOC MVEB. After allocation of the available safety margin, the remaining safety margin is 1.66 tpd for NOx and 1.33 tpd for VOC. This allocation and the resulting available safety margin for the Mississippi portion of the Memphis, TN-MS-AR Area are discussed further in

section VI of this proposed rulemaking along with the MVEBs to be used for transportation conformity proposes.

d. Monitoring Network

There are five monitors measuring ozone in the Memphis, TN-MS-AR Area, of which one is located in the Mississippi portion of the Memphis, TN-MS-AR Area. In its maintenance plan, Mississippi has committed to continue operation of the monitor in the Mississippi portion of the Memphis, TN-MS-AR Area in compliance with 40 CFR part 58 and has thus addressed the requirement for monitoring. EPA approved Mississippi's monitoring plan on November 7, 2014.

e. Verification of Continued Attainment

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

Additionally, under the Consolidated Emissions Reporting Rule (CERR) and Air Emissions Reporting Requirements (AERR), MDEQ is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. The AERR inventory years match the base year and final year of the inventory for the maintenance plan, and are within one or two years of the interim inventory years of the maintenance plan. Therefore, MDEQ commits to compare the CERR and

AERR inventories as they are developed with the maintenance plan to determine if additional steps are necessary for continued maintenance of the 2008 8-hour ozone NAAQS in this Area.

f. Contingency Measures in the Maintenance Plan.

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

The contingency plan included in the submittal includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The primary trigger is a violation of the 2008 8-hour ozone NAAQS (i.e., when the three-year average of the 4th highest values is equal to or greater than 0.076 ppm at a monitor in the Area). If the quality assured/quality controlled (QA/QC) data indicates a violating design value, the trigger date will be the date of the design value violation and not the final QA/QC date. If the initial monitoring data indicates a possible violation but later QA/QC indicates that a violation did not occur, then a triggering event will not have occurred and contingency measures will not be implemented. The secondary trigger is activated

when MDEQ forecasts ozone levels above the 2008 8-hour ozone NAAQS although no actual violation of the 2008 8-hour ozone NAAQS has occurred.

Once the primary or secondary trigger is activated, the MDEQ, shall commence analyses including an emissions inventory assessment to determine those emission control measures that will be required for attaining or maintaining the 2008 8-hour ozone NAAQS. At least one of the following contingency measures will be adopted and implemented within 18 to 24 months upon a primary triggering event:

- Implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations;
- Voluntary engine idling reduction programs;
- MDEQ will work with Mississippi Department of Transportation to have air quality alerts posted on the Intelligent Transportation System boards located in DeSoto County encouraging motorists to take actions to reduce emissions when forecasted ozone levels will exceed; and
- Other measures deemed appropriate at the time as a result of advances in control technologies.¹⁰

If the secondary trigger is activated, MDEQ will suspend all open burning permits within the County until the forecast shows improvement.

¹⁰ If the State adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.*, Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP) (September 2004).

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

VI. What is EPA's Analysis of Mississippi's Proposed NO_x and VOC MVEBs for the Mississippi Portion of the Area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (i.e., be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs (or in this case sub-area MVEBs) for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area’s planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

As part of the interagency consultation process on setting MVEBs, MDEQ held discussions to determine what years to set MVEBs for the Memphis, TN-MS-AR maintenance plan. According to the transportation conformity rule, a maintenance plan must establish MVEBs for the last year of the maintenance plan (in this case, 2027). *See* 40 CFR 93.118. Table 5, below, provides the NOx and VOC MVEBs for 2027.

Table 5. MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area (tpd)

	2027	
	NOx	VOC
Base Year On-Road Emissions	2.74	2.54
Safety Margin Allocated to MVEB	5.26	2.46
Conformity MVEB	8.00	5.00

As mentioned previously, Mississippi has chosen to allocate a portion of the available safety margin to the NO_x and VOC MVEBs for 2027. As discussed in section V of this proposed rulemaking notice, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. As discussed previously, Mississippi has selected 2012 as the base year.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_x and VOC for 2027 for the Mississippi portion of the Memphis, TN-MS-AR Area because EPA believes that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminary determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 2008 8-hour ozone NAAQS through 2027.

VII. What is the Status of EPA’s Adequacy Determination for the Proposed NO_x and VOC MVEBs for the Mississippi Portion of the Area?

When reviewing submitted “control strategy” SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is

adequate for transportation conformity purposes, that MVEB must be used by state and Federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

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

As discussed earlier, Mississippi's maintenance plan includes NO_x and VOC MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area for 2027, the last year of the maintenance plan. EPA is reviewing the NO_x and VOC MVEBs through the adequacy process. The NO_x and VOC MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area, opened for public comment on EPA's adequacy website on November 2, 2015, found at: <http://www.epa.gov/otaq/stateresources/transconf/currsips.htm>. The EPA public comment

period on adequacy for the 2027 MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area closed on December 2, 2015. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEBs associated with Mississippi's maintenance plan.

EPA intends to make its determination on the adequacy of the 2027 MVEBs for the Mississippi portion of the Memphis, TN-MS-AR Area for transportation conformity purposes in the near future by completing the adequacy process that was started on November 2, 2015. After EPA finds the 2027 MVEBs adequate or approves them, the new MVEBs for NO_x and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years for 2027 and beyond, the applicable budgets will be the new 2027 MVEBs established in the maintenance plan, as defined in section V of this proposed rulemaking.

VIII. What is the Effect of EPA's Proposed Actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Mississippi's redesignation request would change the legal designation of the portion of DeSoto County that is within the Memphis, TN-MS-AR Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Mississippi's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Memphis, TN-MS-AR Area through 2027 into the SIP. This maintenance plan includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO_x and VOC MVEBs for 2027 for the Mississippi portion of the Memphis, TN-MS-AR Area. The MVEBs are listed in Table 5 of this

document. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-established NO_x and VOC MVEBs for 2027 for the Mississippi portion of the Memphis, TN-MS-AR Area.

IX. Proposed Actions.

EPA is taking three separate but related actions regarding the redesignation and maintenance of the 2008 8-hour ozone NAAQS for the Mississippi portion of the Memphis, TN-MS-AR Area. First, EPA is proposing to determine that the entire Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone NAAQS. Second, EPA is proposing to approve the maintenance plan for the Mississippi portion of the Area, including the NO_x and VOC MVEBs for 2027, into the Mississippi SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS and that the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Third, EPA is proposing to determine that the Mississippi portion of the Memphis, TN-MS-AR Area has met the criteria under CAA section 107(d)(3)(E) for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Further, as part of this action, EPA is describing the status of its adequacy determination for the NO_x and VOC MVEBs for 2027 in accordance with 40 CFR 93.118(f)(2). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the publication date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e).

If finalized, approval of the redesignation request would change the official designation of the portion of DeSoto County that is within the Memphis, TN-MS-AR Area, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

X. Statutory and Executive Order Reviews

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

- are not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- 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
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: January 28, 2016.

Heather McTeer Toney

Regional Administrator,

Region 4.