Transportation Conformity Determination Report for the 1997 Ozone NAAQS

Bel-O-Mar Transportation Study

Belomar 2050 Metropolitan Transportation Plan



RESOLUTION

RESOLUTION OF THE BEL-O-MAR REGIONAL COUNCIL AND INTERSTATE PLANNING COMMISSION (BELOMAR) EXECUTIVE COMMITTEE ADOPTING THE AIR QUALITY CONFORMITY DETERMINATION FOR THE 2050 METROPOLITAN TRANSPORTATION PLAN

WHEREAS, the Bel-O-Mar Regional Council and Interstate Planning Commission (Belomar) is the designated Metropolitan Planning Organization (MPO) for the Wheeling Metropolitan Planning Area, including Belmont County, Ohio, and Ohio and Marshall counties, West Virginia and is a 1997 Ozone Standard "Orphan" area; and

WHEREAS, Belomar is responsible for preparing and maintaining a Metropolitan Transportation Plan (MTP) and ensuring compliance with the Clean Air Act and applicable federal transportation conformity regulations (40 CFR Part 93); and

WHEREAS, Belomar has completed interagency consultation and a qualitative transportation air quality conformity analysis for the 2050 Metropolitan Transportation Plan, U.S. Environmental Protection Agency transportation conformity guidance for 1997 ozone orphan maintenance areas; and

WHEREAS, the Belomar region is designated attainment for the 1997 PM2.5 National Ambient Air Quality Standards and the 2010 sulfur dioxide National Ambient Air Quality Standards, and emissions from on road mobile sources are considered insignificant for purposes of regional air quality conformity analysis; and

WHEREAS, public notice and opportunity for review and comment on the air quality conformity determination for the 2050 MTP were provided in accordance with the Belomar Public Participation Plan;

NOW, THEREFORE, BE IT RESOLVED, that Belomar hereby adopts the determination that the 2050 MTP will not significantly adversely impact air quality in the region, finding the plan to be in conformity with the Clean Air Act and applicable federal transportation conformity regulations.

Adopted on this 17th day of June 2026.
ATTEST:

Scott Hicks, Executive Director
Bel-O-Mar Regional Council

Lisa Heasley, Chairwoman
Bel-O-Mar Regional Council and Interstate Planning Commission Executive Committee

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Acknowledgements

This ***Transportation Conformity Report*** for the 2050 Metropolitan Transportation Plan (MTP) was prepared by Bel-O-Mar Transportation Study (Belomar).

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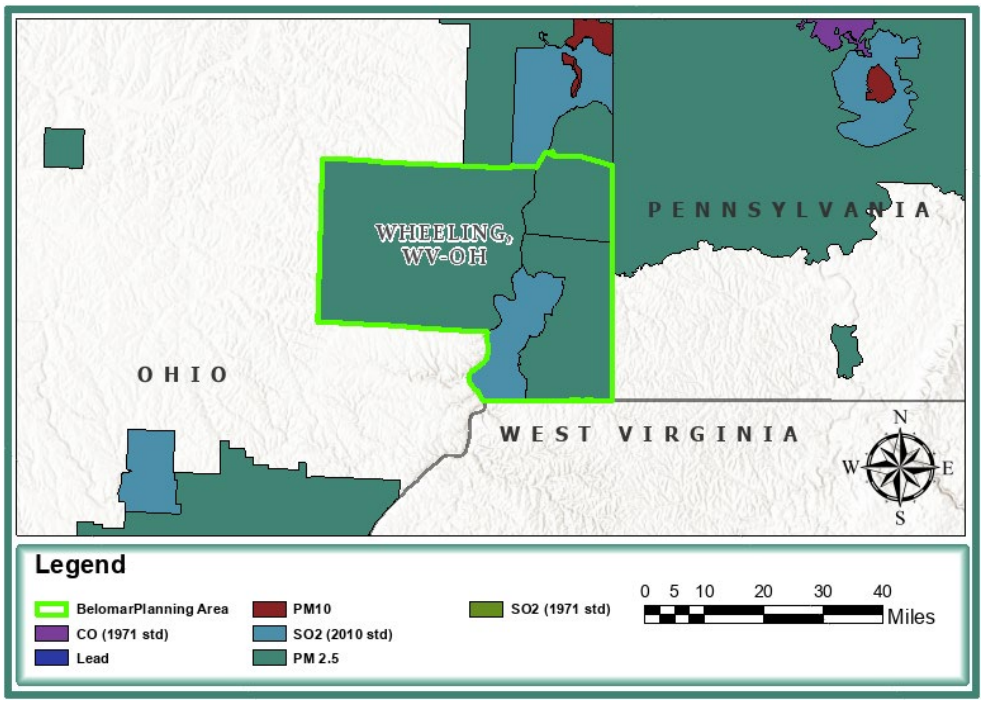
Executive Summary

Belomar, a US EPA designated 1997 Ozone Standard “Orphan” area, completed the transportation conformity process for the 2050 MTP. In accordance to US DOT guidance 1997 Ozone Standard “Orphan” area, the conformity determination is based on a qualitative conformity demonstration.

This report documents that the 2050 MTP conformity determination was completed consistent with CAA Section 176(c) requirements, existing associated regulations at 40 CFR Parts 51.390 and 93, and the *South Coast II* decision, according to EPA’s *Transportation Conformity Guidance for the South Coast II Court Decision* issued on November 29, 2018.

Transportation Conformity Process

Transportation conformity is required under CAA Section 176(c) to ensure that Federally-supported transportation activities are consistent with the purpose of a State implementation plan (SIP) and improve air quality. Conformity is used by Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) for funding and approvals that are given to highway and transit activities that will not ca use new air quality violations, worsen existing air quality, or delay timely attainment of the air quality standard or any interim milestone. The source of the map below is the EPA Green Book.



The table on the below is derived from the EPA Green Book NAYRO table. This county-level export contains nonattainment and maintenance counties for each criteria pollutant standard, including counties for revoked NAAQS. If more than one nonattainment area for a NAAQS standard is in a county, the county will be listed with a row for each nonattainment area. There are no split designations in the Belomar planning area.

Belomar Air Quality Historical Timeline

State	County	pollutant	revoked_naaqs	area_name	1992	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2024	effec_rede	nonattain*
OH	Belmont	Ozone (1997)	Revoked	Wheeling, WV-OH			04	05	06																6/15/2007	
OH	Belmont	PM-2.5 (1997)		Wheeling, WV-OH				05	06	07	08	09	10	11	12										8/29/2013	
WV	Marshall	Ozone (1997)	Revoked	Wheeling, WV-OH			04	05	06																6/14/2007	
WV	Marshall	PM-2.5 (1997)		Wheeling, WV-OH				05	06	07	08	09	10	11	12										9/30/2013	
WV	Marshall	Dioxide (2010)		Marshall, WV												13	14	15	16	17	18	19			11/25/2020	
WV	Ohio	Ozone (1997)	Revoked	Wheeling, WV-OH			04	05	06																6/14/2007	
WV	Ohio	PM-2.5 (1997)		Wheeling, WV-OH				05	06	07	08	09	10	11	12										9/30/2013	

Source: EPA Green Book Data, accessed December 2024

*non-attainment areas are listed as "Yes", if not a non-attainment area, than the field is blank, and visualized with a green cell fill

Belomar 2050 Metropolitan Transportation Plan

The Belomar 2050 Metropolitan Transportation Plan (MTP) is the long-range transportation planning document for the MPO and establishes a multimodal investment strategy for the region through the year 2050. The MTP includes a fiscally constrained list of transportation projects and programs, as well as illustrative projects that are not financially constrained as aspirational projects to be implemented past the horizon year of 2050.

The Transportation Improvement Program (TIP) implements the MTP by programming a subset of these projects over a four-year period. Projects included in the TIP must be consistent with the MTP. Both the MTP and TIP are developed through a cooperative, continuing, and comprehensive planning process and are subject to public review in accordance with the Belomar Public Participation Plan.

Transportation Conformity Determination: General Process

Per the court's decision in *South Coast II*, beginning February 16, 2019, a transportation conformity determination for the 1997 ozone NAAQS will be needed in 1997 ozone NAAQS nonattainment and maintenance areas identified by EPA[1] for certain transportation activities, including updated or amended metropolitan MTPs and TIPs. Once USDOT determines conformity for the 2050 MTP, conformity will be required no less frequently than every four years.

Summary of Pollutants and Conformity Determination for Belomar Region

1997 Ozone NAAQS

Belomar (Wheeling, WV-OH) is classified as a revoked area under the 1997 ozone NAAQS, having been redesignated to attainment in 2007. Although the standard has been revoked, a transportation conformity determination for the 1997 ozone NAAQS is still required, per EPA guidance and the *South Coast II* ruling. This determination is performed through a qualitative analysis, as the area is considered an orphan maintenance area under current regulations.

[1] The areas identified can be found in EPA's "Transportation Conformity Guidance for the South Coast II Court Decision, EPA-420-B-18-050, available on the web at: www.epa.gov/state-and-local-transportation/policy-and-technical-guidance-state-and-local-transportation

1997 PM2.5 NAAQS

Belomar was designated nonattainment for the 1997 PM2.5 NAAQS but was redesignated to attainment in 2013 with an approved maintenance plan. While transportation conformity applies to this pollutant, Belomar is subject to conformity requirements under the 1997 PM2.5 standard only. EPA's revocation of the 1997 PM2.5 standard limits conformity analysis to the maintenance plan, and a qualitative analysis has historically been deemed sufficient. Quantitative analysis using the MOVES model is not required to make a conformity determination given there are no projects that are expected to contribute to a large increase in PM 2.5 from mobile sources. Historically, the Transportation Plan for 2040, for example, included all plan projects in its emissions analysis and demonstrated conformity through a qualitative analysis. The plan also met hot-spot analysis requirements, noting no significant increase in diesel traffic.

2010 Sulfur Dioxide (SO_2) NAAQS

Marshall County, WV, within the Belomar region, was designated nonattainment for the 2010 SO_2 NAAQS but was redesignated to attainment with an approved maintenance plan in 2020. The primary contributor to SO_2 emissions is the Mitchell Power Plant, a point source. Mobile sources contribute minimally to overall SO_2 emissions in the region. Consistent with EPA guidance, transportation conformity determinations for SO_2 rely on qualitative analysis, reflecting the negligible impact of mobile source emissions in the maintenance area.

Summary of Approach

For the Belomar region, transportation conformity determinations for the metropolitan transportation plan (MTP) and transportation improvement program (TIP) involve qualitative analyses for:

- The 1997 ozone NAAQS,
- The 1997 PM2.5 NAAQS, and
- The 2010 SO_2 NAAQS.

This approach aligns with EPA guidance and the specific characteristics of each pollutant's contributions within the Belomar area, ensuring compliance while recognizing the limited role of mobile source emissions in these maintenance plans

Transportation Conformity Requirements

Overview

On November 29, 2018, EPA issued Transportation Conformity Guidance for the South Coast II Court Decision[2] (EPA-420-B-18-050, November 2018) that addresses how transportation conformity determinations can be made in areas that were nonattainment or maintenance for the 1997 ozone NAAQS when the 1997 ozone NAAQS was revoked, but were designated attainment for the 2008 ozone NAAQS in EPA's original designations for this NAAQS (May 21, 2012).

For the 1997 ozone NAAQS areas, transportation conformity for MTPs and TIPs for the 1997 ozone NAAQS can be demonstrated without a regional emissions analysis, per 40 CFR 93.109(c). As no regional emission analysis is required for this conformity determination, there is no requirement to use the latest emissions model, or budget or interim emissions tests.

Therefore, transportation conformity for the 1997 ozone NAAQS for can be demonstrated by showing the remaining requirements:

- Latest planning assumptions (93.110)
- Consultation (93.112)
- Transportation Control Measures (93.113)
- Fiscal constraint (93.108)

Latest Planning Assumptions

In the 1997 ozone NAAQS areas, the use of latest planning assumptions requirement applies to assumptions about transportation control measures (TCMs) in an approved SIP. The Ohio SIP does not include any TCMs (see Section 5.4). The WV SIP does not include any TCMs.

Planning Context for Qualitative Analysis in the 2050 MTP

The Belomar 2050 Metropolitan Transportation plan project list includes a total of twenty-one capital improvement projects and transportation planning and design studies. These projects were identified and prioritized through public and stakeholder feedback, analysis of existing conditions, and recommendations from previous plans and studies, including the Belomar 2045 Long-Range Transportation Plan. Overall, this list places a strong emphasis on advancing the Belomar region toward achieving statewide performance targets for traffic performance, system maintenance, roadway safety, and alternative transportation options.

The project list includes three capacity-increasing projects or studies, one of which is a long-term aspirational project and is not subject to fiscal constraint requirements. These projects were included in the 2045 MTP's project list and previous analysis results concluded that they would have limited impacts on regional air quality. Illustrative and aspirational projects included in the MTP are not financially constrained and are not necessarily assumed to be implemented for conformity purposes.

- Capital Improvement Project: I-70 Capacity Improvements near the Ohio Valley Mall
- Transportation Study: OH SR-7 Capacity Improvement Engineering Study between Powhatan Point and Dilles Bottom
- Capital Improvement Project: I-70 Capacity Improvements between Elm Grove and The Highlands (Aspirational)

Several projects and studies address roadway safety and traffic operations at major intersections and interstates. The reduction in idling vehicles and freight traffic through congestion mitigation set the groundwork, if implemented, for the potential to outweigh any potential emissions changes due to capacity increases.

- Capital Improvement Project: U.S. 40/Blaine-Barton Road Intersection Improvements
- Capital Improvement Project: I-70/OH SR-7/Zane Street Intersection Improvements
- Capital Improvement Project: I-70/OH SR-9/Thompson Drive Interchange Improvements
- Transportation Study: I-470/OH SR-7 Interchange Engineering Study
- Transportation Study: I-70/Marion Street/Main Street Interchange Engineering Study
- Transportation Study: I-70/Washington Avenue/Mt. de Chantal Road Interchange Engineering Study
- Capital Improvement Project: I-70 New Interchange near the Highlands

The project list also includes three mobility projects or studies designed to make communities more walkable, bikeable, and transit friendly. These projects will improve

alternative transportation options for Belomar residents and install charging facilities for those using electric vehicles.

- Capital Improvement Project: Bike and Pedestrian Bridge connecting Wheeling Island to Belmont County
- Capital Improvement Project: EV Charging Stations in the Village of Barnesville
- Transportation Study: Barnesville Senior Transportation Service Transit Study

Consultation Requirements

The consultation requirements in 40 CFR 93.112 were addressed both for interagency consultation and public consultation. Interagency consultation was conducted, consistent with the Ohio Conformity SIP, with WV SIP, FHWA, FTA, and EPA. Public consultation was conducted consistent with planning rule requirements in 23 CFR 450 and the Belomar Public Participation Plan.

Timely Implementation of TCMs

The Ohio SIP and WV SIP do not include any TCMs.

Fiscal Constraint

Transportation conformity requirements in state that transportation plans must be fiscally constrained consistent with DOT's metropolitan planning regulations. The Belomar 2050 MTP is fiscally constrained, with project costs and revenues reasonably expected to be available over the plan horizon. The plan further included aspirational projects expected to be implemented past the horizon.

Conclusion

The transportation conformity determination process completed for the Belomar 2050 Metropolitan Transportation Plan demonstrates that the Plan meets the applicable requirements of the Clean Air Act and the Transportation Conformity Rule for the 1997 ozone NAAQS. Based on the latest planning assumptions and planning context, the 2050 MTP, when implemented, is not expected to cause or contribute to new air quality violations, worsen existing violations, or delay timely attainment or maintenance of the applicable air quality standards.

Appendices

Ohio Ozone Rules and Regulations

the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 21, 2020. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2) of the CAA.)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Volatile organic compounds.

Dated: November 6, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

For the reasons stated in the preamble, EPA amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart O—Illinois

§ 52.720 [Amended]

■ 2. In § 52.720, the table in paragraph (c) is amended by removing the undesignated headings "Subchapter b: Alternative Reduction Program" and "Part 205: Emissions Reduction Market System" and all the undesignated subheadings and entries up to and including the entry "205.760".

[FR Doc. 2019–24938 Filed 11–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2019–0216; FRL–10002–25–Region 5]

Air Plan Approval; Ohio; Second Limited Maintenance Plans for 1997 Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Pursuant to the Clean Air Act (CAA), the Environmental Protection Agency (EPA) is approving as a revision to the Ohio State Implementation Plan (SIP), the State's plan for maintaining the 1997 ozone National Ambient Air Quality Standard (NAAQS or standard) through 2028. On April 12, 2019, the Ohio Environmental Protection Agency submitted the 1997 ozone NAAQS Limited Maintenance Plan (LMP) for the Canton-Massillon (Stark County), Lima (Allen County), and Toledo (Lucas and Wood Counties) areas and the Ohio portion of the Parkersburg-Marietta [OH–WV] (Washington County), Steubenville-Weirton [OH–WV] (Jefferson County), Wheeling [OH–WV] (Belmont County), and Youngstown-Warren-Sharon [OH–PA] (Columbiana, Mahoning, and Trumbull Counties) multi-state areas. The effect of this action makes certain commitments related to maintenance of the 1997 ozone NAAQS in these areas federally enforceable as part of the Ohio SIP.

DATES: This final rule is effective on December 19, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2019–0216. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through *www.regulations.gov* or at the Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. This facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Charles Hatten, Environmental Engineer, at (312) 886–6031 before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Charles Hatten, Environmental Engineer, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–6031, *hatten.charles@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms "we", "us", and "our" refer to EPA.

I. What is being addressed in this document?

This rule approves Ohio's April 12, 2019 submission to provide for the maintenance of the 1997 ozone NAAQS LMPs for the Canton-Massillon (Stark County), Lima (Allen County), and Toledo (Lucas and Wood Counties) areas and the Ohio portion of the Parkersburg-Marietta [OH–WV] (Washington County), Steubenville-Weirton [OH–WV] (Jefferson County), Wheeling [OH–WV] (Belmont County), and Youngstown-Warren-Sharon [OH–PA](Columbiana, Mahoning, and Trumbull Counties) multi-state areas through 2028. The background for this action is discussed in detail in EPA's notice of proposed rulemaking (NPRM), dated August 19, 2019 (84 FR 42881).

II. What comments did we receive on the proposed rule?

In the NPRM, EPA provided a 30-day review and comment period for the proposed rule. The comment period ended on September 18, 2019. We received no adverse comments on the proposed rule.

III. What action is EPA taking?

EPA is approving, as a revision to the Ohio SIP, the State's LMPs for maintaining the 1997 ozone NAAQS for Canton-Massillon (Stark County), Lima (Allen County), Toledo (Lucas and Wood Counties) areas, and the Ohio portion of the Parkersburg-Marietta (Washington County), Steubenville-Weirton (Jefferson County), Wheeling (Belmont County), Youngstown-Warren-Sharon (Columbiana, Mahoning, and Trumbull Counties) multi-state areas through 2028.

VI. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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, this action:

- Is 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);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory

action because it is not a significant regulatory action under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is 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.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is 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
- Does not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen oxides, Ozone, Volatile organic compounds.

Dated: November 6, 2019.

Cathy Stepp,

Regional Administrator, Region 5.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. In § 52.1870, the table in paragraph (e) is amended under the sub-heading "Summary of Criteria Pollutant Maintenance Plan" by revising all the entries for Ozone to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(e) * * *

EPA—APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
*	*	*	*	*
Summary of Criteria Pollutant Maintenance Plan				
Ozone 1-Hour.	Cincinnati (Butler, Clermont, Hamilton, and Warren Counties).	6/28/1999	7/5/2000, 65 FR 37879.	
Ozone 1-Hour.	Columbiana County	3/25/1994	3/10/1995, 59 FR 48395.	
Ozone 1-Hour.	Columbus (Franklin, Delaware and Licking Counties).	1/1/1994	4/1/1996, 61 FR 3591.	
Ozone 1-Hour.	Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties).	11/8/1993	7/5/1995, 60 FR 22289.	
Ozone 1-Hour.	Jefferson County	3/25/1994	3/10/1995, 58 FR 66334.	
Ozone 1-Hour.	Youngstown (Mahoning and Trumbull Counties) and Canton (Stark County).	3/25/1994	4/1/1996, 61 FR 3319.	
Ozone (8-Hour, 1997).	Canton (Stark County)	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 1997).	Cincinnati (Butler, Clermont, Clinton, Hamilton, and Warren Counties).	12/14/2009	5/11/2010, 75 FR 26118.	
Ozone (8-Hour, 1997).	Cleveland (Ashtabula, Cuyahoga, Geauga, Lake, Lorain, Medina, Portage, and Summit Counties).	3/17/2009	9/15/2009, 74 FR 47414.	
Ozone (8-Hour, 1997).	Columbus (Delaware, Fairfield, Franklin, Knox, Licking, and Madison Counties).	3/17/2009	9/15/2009, 74 FR 47404.	
Ozone (8-Hour, 1997).	Dayton-Springfield (Miami, Montgomery, Clark, and Greene Counties).	4/12/2019	10/1/2019, 84 FR 52001.	
Ozone (8-Hour, 1997).	Lima (Allen County)	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 1997).	Parkersburg-Marietta (Washington County).	4/12/2019	11/19/2019, [insert **Federal Register** citation].	

EPA—APPROVED OHIO NONREGULATORY AND QUASI-REGULATORY PROVISIONS—Continued

Title	Applicable geographical or non-attainment area	State date	EPA approval	Comments
Ozone (8-Hour, 1997).	Steubenville-Weirton (Jefferson County)	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 1997).	Toledo (Lucas and Wood Counties)	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 1997).	Wheeling (Belmont County)	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 1997).	Youngstown (Columbiana, Mahoning and Trumbull Counties).	4/12/2019	11/19/2019, [insert **Federal Register** citation].	
Ozone (8-Hour, 2015).	Columbus (Delaware, Fairfield, Franklin, and Licking Counties.	4/23/2019	8/21/2019, 84 FR 43508.	
*	*	*	*	*	*	*

[FR Doc. 2019–24937 Filed 11–18–19; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2017–0464; FRL–10001–43]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances (17–3); Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of September 18, 2019 for 19 chemical substances that were the subject of premanufacture notices (PMNs). For the chemical substance that was the subject of PMN P–17–170, EPA made several errors when including hazard communication requirements. Certain references are inconsistent with the hazards identified for this chemical substance by EPA. This document is being issued to correct these errors.

DATES: This technical correction is effective on November 19, 2019.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0464, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What does this technical correction do?

EPA issued a final rule in the **Federal Register** of September 18, 2019 (84 FR 49025) (FRL–9998–12) for significant new uses for 19 chemical substances that were the subject of PMN notices. EPA made several errors when specifying hazard communication requirements for the chemical substance listed in the significant new use rule (SNUR) codified in 40 CFR 721.11107 (PMN P–17–170). This action corrects these errors as follows:

- In 40 CFR 721.11107—Alkanediol, 2,2-bis (substituted alkyl)-polymer with substituted alkane, heteromonocycles, alkenoate (generic); the hazard communication requirements in paragraph (a)(2)(ii) of the SNUR will be corrected to remove the reference to 40 CFR 721.72(g)(1)(v) and instead reference 40 CFR 721.72(g)(1)(iv). It will also be corrected to remove the reference to 40 CFR 721.72(g)(4).

II. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. Correcting the hazard communication requirements specified in the September 18, 2019 SNUR is necessary for the proper identification of the human health and environmental hazards associated with PMN substance P–17–170 consistent with the associated TSCA section 5(e) Order for the substance. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

III. Do any of the statutory and Executive Order reviews apply to this action?

No. For a detailed discussion concerning the statutory and Executive Order review, refer to Unit XII. of the September 18, 2019 final rule.

IV. Congressional Review Act (CRA)

Pursuant to the CRA (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United

Ohio SIP

Federal Register / Vol. 78, No. 168 / Thursday, August 29, 2013 / Rules and Regulations 53275

MICHIGAN—$PM_{2.5}$ (24-HOUR NAAQS)—Continued

Designated area	Designation for the 1997 NAAQS[a]		Designation for the 2006 NAAQS[a]	
	Date[1]	Type	Date[2]	Type
* * *	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is 30 days after November 13, 2009, unless otherwise noted.

* * * * *

[FR Doc. 2013–21020 Filed 8–28–13; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R05–OAR–2012–0212, EPA–R05–OAR–2012–0338; FRL–9900–28–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Redesignation of the Ohio Portions of the Parkersburg-Marietta and Wheeling Areas to Attainment of the 1997 Annual Fine Particulate Matter Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking several related actions under the Clean Air Act (CAA) affecting the state of Ohio and the Ohio portions of the Parkersburg-Marietta and Wheeling, West Virginia-Ohio areas for the 1997 annual fine particulate matter ($PM_{2.5}$) national ambient air quality standard (NAAQS or standard). EPA is approving requests from the state of Ohio to redesignate the Ohio portions of the Parkersburg-Marietta and Wheeling areas to attainment of the 1997 annual $PM_{2.5}$ standard. EPA is approving, as a revision to the Ohio state implementation plan (SIP), the state's plans for maintaining the 1997 annual $PM_{2.5}$ standard in those areas through 2023. EPA is determining the insignificance of the motor vehicle emission budgets (MVEBs) for purposes of transportation conformity in those areas. EPA is approving the comprehensive inventories submitted by Ohio for the oxides of nitrogen (NO_X), primary $PM_{2.5}$, and sulfur dioxide (SO_2), ammonia and volatile organic compounds (VOC) in the Parkersburg-Marietta area (Washington County), and in the Wheeling area (Belmont County) as meeting the requirements of the CAA. Finally, EPA is determining that the areas continue to maintain the 1997 annual $PM_{2.5}$ standard based on certified 2009–2011 air quality data.

DATES: This final rule is effective August 29, 2013.

ADDRESSES: EPA has established dockets for this action: Docket ID Nos. EPA–R05–OAR–2012–0212 (Parkersburg-Marietta) and EPA–R05–OAR–2012–0338 (Wheeling). All documents in the dockets are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *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 a.m. to 4:30 p.m., Monday through Friday, excluding Federal holidays. We recommend that you telephone Anthony Maietta, Environmental Protection Specialist, at (312) 353–8777, before visiting the Region 5 office.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov*.

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

Table of Contents

I. What is the background for the actions?
II. What actions is EPA taking?
III. Statutory and Executive Order Reviews

I. What is the background for the actions?

On December 2, 2011 (76 FR 75464), EPA issued a final determination that the Parkersburg-Marietta and Wheeling nonattainment areas were attaining the 1997 annual $PM_{2.5}$ standard.

On February 29, 2012, Ohio submitted its request to redesignate the Ohio portion of Parkersburg-Marietta (Washington County) to attainment of the 1997 annual $PM_{2.5}$ standard. On April 16, 2012, Ohio submitted its request to redesignate the Ohio portion of Wheeling (Belmont County) to attainment of the 1997 annual $PM_{2.5}$ standard. These redesignation requests are based on 2008–2010 monitoring data showing attainment of the 1997 annual $PM_{2.5}$ standard.

On November 30, 2012 (77 FR 71383, 77 FR 71371), EPA published notices proposing to approve Ohio's requests to redesignate the Ohio portions of the Parkersburg-Marietta and Wheeling areas to attainment of the 1997 annual $PM_{2.5}$ standard. These rulemaking notices also proposed to approve Ohio's $PM_{2.5}$ maintenance plan, 2005 NO_X, SO_2, and primary $PM_{2.5}$ emission inventories for Washington and Belmont Counties, and proposed to determine the insignificance of the 2022 NO_X and $PM_{2.5}$ MVEBs for Washington and Belmont Counties. These rulemaking notices also proposed to determine that the Ohio portions of the Parkersburg-Marietta and Wheeling areas continue to attain the 1997 $PM_{2.5}$ annual standard based on certified 2009–2011 air quality data. For each proposed action, one supportive comment was received from the Ohio Utility Group, and no adverse comments were received.

On April 30, 2013, Ohio provided ammonia and VOC emissions inventories to EPA to supplement the February 29, 2012, and April 16, 2012, requests for redesignation.

On June 26, 2013 (78 FR 38256, 78 FR 38247), EPA published supplemental notices proposing to determine that the Ohio portions of Parkersburg-Marietta and Wheeling continue to attain the 1997 annual standard and have met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA received one supportive comment from the Ohio Utility Group on the supplemental notice for the Ohio

portion of the Wheeling area, and received no adverse comments.

II. What actions is EPA taking?

After reviewing Ohio's redesignation requests, EPA has determined that the requests meet the criteria set forth in section 107(d)(3)(E) of the CAA. Therefore, EPA is approving the redesignation of the Ohio portion of the Parkersburg-Marietta area (Washington County) and the Ohio portion of the Wheeling area (Belmont County) to attainment for the 1997 annual $PM_{2.5}$ standard. EPA is also approving Ohio's $PM_{2.5}$ maintenance plans for these areas as a revision to the Ohio SIP based on Ohio's demonstration that the plan meets the requirements of section 175A of the CAA. In addition, EPA is approving the 2005 NO_X, SO_2, and $PM_{2.5}$ emission inventories and 2007/2008 ammonia and VOC emission inventories for Washington and Belmont Counties as meeting the requirement for emission inventories contained in section 172(c)(3) of the CAA. EPA also finds the state's 2022 NO_X and $PM_{2.5}$ MVEBs for Washington and Belmont Counties to be insignificant for purposes of transportation conformity. Finally, EPA is determining that the entire Parkersburg-Marietta and Wheeling areas continue to attain the 1997 annual $PM_{2.5}$ standard based on certified 2009–2011 air quality data.

In accordance with 5 U.S.C. 553(d), EPA finds there is good cause for these actions to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction," and section 553(d)(3) which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of planning requirements for this 8-hour ozone nonattainment area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for these actions to become effective on the date of publication of these actions.

III. Statutory and 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 CAA 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, these actions merely do not impose additional requirements beyond those imposed by State law and the CAA. For that reason, these actions:

- Are not "significant regulatory actions" 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 (Pub. L. 104–4);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not a significant regulatory action 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.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 28, 2013. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen oxides, Particulate matter, Sulfur dioxide, Ammonia, Volatile organic compounds.

40 CFR Part 81

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

Dated: August 12, 2013.
Susan Hedman,
Regional Administrator, Region 5.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

■ 2. Section 52.1880 is amended by adding paragraphs (p)(3), (p)(4), (q)(3) and (q)(4) to read as follows:

§ 52.1880 Control strategy: Particulate matter.

* * * * *

(p) * * *

(3) The Ohio portion of the Parkersburg-Marietta, WV-OH nonattainment area (Washington County), as submitted on February 29, 2012, and supplemented on April 30, 2013. The maintenance plan determines the insignificance of motor vehicle emissions budgets for Washington County.

(4) The Ohio portion of the Wheeling, WV-OH nonattainment area (Belmont County), as submitted on April 16, 2012, and supplemented on April 30, 2013. The maintenance plan determines the insignificance of motor vehicle emissions budgets for Belmont County.

(q) * * *

(3) Ohio's 2005 NO_X, primary $PM_{2.5}$, and SO_2 and 2007/2008 ammonia and VOC emissions inventories satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for Washington County.

(4) Ohio's 2005 NO_X, primary $PM_{2.5}$, and SO_2 and 2007/2008 ammonia and VOC emissions inventories satisfy the emission inventory requirements of section 172(c)(3) of the Clean Air Act for Belmont County.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. Section 81.336 is amended by revising the entries for Parkersburg-Marietta, WV-OH and Wheeling, WV-OH in the table entitled "Ohio—$PM_{2.5}$ (Annual NAAQS)" to read as follows:

§ 81.336 Ohio.

* * * * *

OHIO—$PM_{2.5}$
[Annual NAAQS]

Designated area	Designation [a]	
	Date [1]	Type
* * * * * *		*
Parkersburg-Marietta, WV-OH:		
Washington County	8/29/2013	Attainment.
* * * * * *		*
Wheeling, WV-OH:		
Belmont County	8/29/2013	Attainment.
* * * * * *		*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.

* * * * *

[FR Doc. 2013–20660 Filed 8–28–13; 8:45 am]
BILLING CODE 6560–50–P

NATIONAL SCIENCE FOUNDATION

45 CFR Part 612

RIN 3145–AA56

Availability of Records and Information

AGENCY: National Science Foundation.
ACTION: Final rule.

SUMMARY: This document sets forth revisions of the Foundation's regulations under the Freedom of Information Act (FOIA). The revisions implement the provision of the Open FOIA Act of 2009 which amended Exemption 3, update procedural provisions, and allow for multi-track processing of requests.

DATES: The final rule will be effective September 30, 2013.

FOR FURTHER INFORMATION CONTACT: D. Matthew Powell, Assistant General Counsel, Office of the General Counsel, National Science Foundation, telephone 703–292–8060 or email *mpowell@nsf.gov*.

SUPPLEMENTARY INFORMATION: On May 14, 2013 the National Science Foundation (NSF) published a proposed rule at 78 FR 28173 requesting public comment on proposed revisions to its existing FOIA regulations at 45 CFR part 612. No comments were received. Accordingly, NSF is revising its FOIA regulations by adopting the revisions as proposed. This revision of Part 612 implements the provision of the Open FOIA Act of 2009 which amends Exemption 3. It also updates and clarifies several procedural provisions concerning FOIA administration, reflects changes in case law, and includes revised current cost figures for calculating and charging fees. The duplication fee will be reduced. In addition, the Foundation will implement multi-track processing. Clarifications and procedural changes are found at § 612.1(b) (General Provisions); § 612.3(b) and (f) (Requirements for making requests); § 612.5(a), (b), (c) and (d)(3) (Timing of responses to requests); § 612.6(a) (Responses to requests); § 612.7(a)(2), (3) and (5)(iii) (Exemptions); and § 612.10(b)(3), and (c)(1) and (2) (Fees).

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601), the revised rule will not have a significant economic effect on a substantial number of small entities; the rule addresses the procedures to be followed when submitting or responding to requests for records under the Freedom of Information Act. For purposes of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) the revised rule would not significantly or uniquely affect small

West Virginia Ozone Rules and Regulations

applicants for employment could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is also exempt from the regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12866

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The Executive Order classifies a "significant regulatory action," requiring review by the Office of Management and Budget (OMB) unless OMB waives such review, as any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The economic, interagency, budgetary, legal, and policy implications of this final rule have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995, codified at 2 U.S.C. 1532, requires agencies to prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any year. This final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects in 38 CFR Part 2

Authority delegations (Government agencies).

Approved: April 19, 2007.

Gordon H. Mansfield,

Deputy Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 2 as follows:

PART 2—DELEGATIONS OF AUTHORITY

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 5 U.S.C. 302, 552a; 38 U.S.C. 501, 512, 515, 1729, 1729A, 5711; 44 U.S.C. 3702, and as noted in specific sections.

■ 2. Amend § 2.6, by revising paragraph (j) to read as follows:

§ 2.6 Secretary's delegations of authority to certain officials (38 U.S.C. 512).

* * * * *

(j) *Delegation to the Chairman, Board of Veterans' Appeals.* In cases where OEDCA has recused itself from a case due to an actual, apparent, or potential conflict of interest, the Chairman, Board of Veterans' Appeals, is delegated authority to make procedural agency decisions to dismiss, in whole or in part, EEO discrimination complaints filed by agency employees, former employees, and applicants for employment; to make substantive final agency decisions where complainants do not request an EEOC hearing; to take final agency action following a decision by an EEOC Administrative Judge; and to make final agency decisions ordering appropriate remedies and relief where there is a finding of discrimination.

* * * * *

[FR Doc. E7–9286 Filed 5–14–07; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R03–OAR–2006–0682; FRL–8314–6]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Redesignation of the West Virginia Portion of the Wheeling, WV-OH 8-Hour Ozone Nonattainment Area to Attainment and Approval of the Area's Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving a redesignation request and a State Implementation Plan (SIP) revision submitted by the State of West Virginia. The West Virginia Department of Environmental Protection (WVDEP) is requesting that the Marshall and Ohio County, West Virginia (Wheeling) portion of the Wheeling, WV-OH area (herein referred to as the "Area") be redesignated as attainment for the 8-hour ozone national ambient air quality standard (NAAQS). In conjunction with its redesignation request, the State submitted a SIP revision consisting of a maintenance plan for Wheeling that provides for continued attainment of the 8-hour ozone NAAQS for the next 12 years, until 2018. EPA is also approving the adequacy determination for the motor vehicle emission budgets (MVEBs) that are identified in the Wheeling 8-hour ozone maintenance plan for purposes of transportation conformity, and is approving those MVEBs. EPA is approving the redesignation request and the maintenance plan revision to the West Virginia SIP in accordance with the requirements of the CAA.

EFFECTIVE DATE: This final rule is effective on June 14, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0682. All documents in the docket are listed in the www.regulations.gov Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the West Virginia Department of Environmental Protection, Division of Air Quality, 601 57th Street, SE., Charleston, WV 25304.

FOR FURTHER INFORMATION CONTACT: Amy Caprio, (215) 814–2156, or by e-mail at *caprio.amy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On October 2, 2006 (71 FR 57894), EPA published a notice of proposed rulemaking (NPR) for the State of West Virginia. The NPR proposed approval of West Virginia's redesignation request

and a SIP revision that establishes a maintenance plan for Wheeling that sets forth how Wheeling will maintain attainment of the 8-hour ozone NAAQS for the next 12 years. The formal SIP revision was submitted by the WVDEP on July 24, 2006. Other specific requirements of West Virginia's redesignation request SIP revision for the maintenance plan and the rationales for EPA's proposed actions are explained in the NPR and will not be restated here.

On October 20, 2006, EPA received a comment, from the West Virginia Division of Highways, in support of its October 2, 2006 NPR. Also, on October 28, 2006, EPA received adverse comments on the said October 2, 2006 NPR. A summary of the comments submitted and EPA's responses are provided in Section II of this document.

II. Summary of Public Comments and EPA Responses

Comment: The commenter stated that on behalf of the West Virginia Division of Highways, they would like to go on record as supporting the redesignation of the Wheeling, West Virginia portion of the Wheeling, WV-OH interstate area from nonattainment to attainment.

Response: EPA acknowledges the comment of support for our final action.

Comment: The commenter states that the Wheeling Area redesignation is based on 2002–2004 air quality data, and should instead be based on the most recent three years of air quality data, 2004–2006.

Response: EPA disagrees that the 2006 data was available as a basis for redesignating Wheeling to attainment, and also disagrees with the comment that the redesignation cannot be based on the quality assured 2002–2004 air quality data. EPA may redesignate an area to attainment of the 8-hour ozone NAAQS if three years of quality assured data indicate that the area has attained the standard and the most recent quality assured air quality data indicate that the area is still attaining the standard at the time of the redesignation. EPA has determined that the Wheeling, WV portion of the Wheeling, WV-OH nonattainment area has attained compliance with the 8-hour ozone NAAQS subsequent to the calendar year 2004 ozone season (April–October) based on three years (2002–2004) of quality assured data. It is also worth noting that while our determination that the Area has attained the standard is based on the 2002–2004 data, the 2005 calendar year quality assured data and the newly available quality assured data from 2006, indicate that the Area continues to attain the standard. The 2005 and 2006 data support our conclusion in the notice of proposed rulemaking (NPR) on October 2, 2006 (71 FR 57894) that emissions reductions in the Area can be attributed to permanent and enforceable measures throughout the Area and that air quality monitoring date indicates that the Area continues to attain the 8-hour ozone NAAQS.[1]

Comment: The commenter asserts that EPA should not approve the redesignation of Wheeling because the Wheeling monitor was twice relocated during calendar years 2004 and 2005. The commenter states that (at its current location) the Wheeling ozone monitor should operate for one additional year in order to confirm attainment of the NAAQS and that EPA should not act on WVDEP's redesignation request until the air quality data for the additional monitoring period have been evaluated.

Response: Since 1982, WVDEP has operated and maintained an ozone monitoring station for the West Virginia portion of the Wheeling Area. The commenter refers to the Wheeling monitor as having been relocated from "Site 7" to "Site 9," and finally to "Site 10." The monitoring station was originally located at WVDEP's Northern Panhandle Regional Office. The station continued to operate at this location (Site 7) until WVDEP had to discontinue the operations at the site due to the relocation of its Northern Panhandle Regional Office prior to the calendar year 2004 ozone season (April through October). As a result, WVDEP installed an interim ozone station in the Wheeling Area which was located approximately four miles south of the station's original location and collected data for the 2004 ozone season (Site 9). In anticipation of the 2005 season, WVDEP established a new site for the Wheeling ozone monitor which was approximately three-tenths of a mile south of the monitor's original location (Site 10). The new monitoring site is similar in characteristics to the original monitoring site. The sites are located in the same river valley with no obstructions between the sites and have a similar distribution of surrounding ozone sources. Both monitoring locations are located within the City of Wheeling, West Virginia and the surrounding areas have comparable population density, with no large industrial sources, and no adjacent highways. The current location of the Wheeling ozone monitor is in an area which has the infrastructure and arranged access to operate for many years.

The data from monitoring sites 7, 9, and 10 were pooled for two three-year periods: (1) 2002, 2003, and 2004 (Sites 7 and 9) and (2) 2003, 2004 and 2005 (Sites 7, 9, 10). In addition, the data from monitoring sites 9 and 10 were pooled for 2004–2006. *See also,* footnote 1. The commenter asserted that data obtained from Site 9 was a "poor site" and that the data obtained from this site in 2004 was of low value for purpose of the 8-hour ozone NAAQS. EPA evaluated ozone statistics for the Wheeling Area for 2004 (i.e., number of days with eight-hour averages greater than 0.0084 ppm and 4th highest eight-hour average for the year), and found them to be reasonable and consistent when compared to ozone measurements collected in Wheeling and at other nearby monitoring stations in the Ohio River Valley during the period examined (1998 thru 2005).

Based on a review of ozone air quality data from the Wheeling Area for this period, the proximity and characteristics of the monitoring sites, and giving consideration to WVDEP's reasons for relocating the ozone monitoring station during period of 2003–2005, EPA has concluded that the integrity of ozone data submitted for this Area was not affected by the fact that the data was collected from three different, and relatively close together, monitoring locations. This data is acceptable for purposes of redesignating the Wheeling Area to attainment of the 8-hour ozone NAAQS.

Comment: The commenter asserts that cold and wet summers, rather than enforceable emissions reductions are a significant cause of improvement of air quality in Wheeling, although the commenter also asserts based on the number of days exceeding 84 ppb in 2005 that the air quality is actually not improving.

Response: In accordance with Appendix I to 40 CFR Part 50, compliance with the 8-hour ozone NAAQS is met at an ambient air monitoring site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentration is less than or equal to 0.08 ppm; it is not based on the number of days which exceed the 8-hour ozone standard. Additionally, EPA uses the three-year averaging period to minimize year to year variations in the summer (i.e., ozone season) weather. *See* Redesignation of Pittsburgh, Pennsylvania, 66 FR 53094, 53100

[1] The fourth highest 8-hour ozone monitoring values at the Ohio County, West Virginia monitor for 2006 were 0.085 ppm, 0.083 ppm, 0.079 ppm, and 0.079 ppm. Thus the design value at the Area monitor for monitoring years 2004–2006 are still showing attainment of the 8-hour NAAQS with a value of 0.077 ppm at the Wheeling monitor.

(October 19, 2001). Therefore, the number of days exceeding 84 ppb are not relevant to a determination of whether an area (or portion thereof), has attained the 8-hour ozone NAAQS. Information relative to long term trends of West Virginia summer temperatures and rainfall-based data was obtained from the National Oceanic and Atmospheric Administration's (NOAA) National Climate Data Center (please see attached). Based on EPA's review, this information shows that the summers 2000 through 2006 experienced year to year variations in average summer temperature and rainfall typical of the summer seasons in the State of West Virginia. Thus the improvement in air quality is not due to unusually cold and wet summers. Rather, the improvement in air quality is due to the implementation of permanent and enforceable measures as explained in the NPR. The permanent and enforceable measures listed in the Wheeling NPR include the National Low Emissions Vehicle (NLEV), motor vehicle fleet turnover with new vehicles meeting the Tier 2 standards, and the Clean Diesel Program. These federal vehicle programs along with the NO_X SIP Call resulted in a 0.9 tons per year (tpy) decrease in VOC emissions and a 69.8 tpy decrease in NO_X emissions throughout the Wheeling Area between 2002 and 2004. Therefore, EPA believes that the improvement in 8-hour ozone air quality is a result of identifiable, permanent and enforceable reductions in ozone precursor emissions, not unusually cold and wet summers.

Comment: The commenter requests air quality data for time periods outside the time period be used for redesignation, and for areas outside the West Virginia portion of the Wheeling Area which is the subject of this rulemaking, and other air quality data such as data provided by the Clean Air Status and Trends Network (CASTNET) and the National Atmospheric Deposition Program (NADP) monitoring networks, which has not been used to support this rulemaking. The commenter also insists that monitoring data from a rural ozone monitoring site, a CASTNET monitor, located in adjacent Noble County, Ohio should have been considered in this rulemaking.

Response: As discussed previously, the redesignation is demonstrated by the quality assured 2002–2004 ozone monitoring data, and continued attainment of the 8-hour ozone NAAQS is demonstrated by the quality assured 2005 and 2006 ozone monitoring data for the Wheeling Area. Other air quality data, from other monitoring networks or for time periods outside the years being used to support the redesignation request, or which are located outside the Wheeling Area (i.e., Noble County, OH CASTNET monitor), are not relevant to the redesignation request. Furthermore; CASTNET and NADP monitors are not operated for purposes of the regional ozone monitoring network nor do they satisfy the quality assurance requirements necessary to support requests for redesignation.

Additionally, the United States Court of Appeals for the District of Columbia Circuit recently vacated EPA's April 30, 2004 "Final Rule To Implement the 8-Hour Ozone National Ambient Standard" (the Phase 1 implementation rule). *South Coast Air Quality Management District* v. *EPA*, 472 F.3d 882 (D.C. Cir. 2007). EPA issued a supplemental proposed rulemaking that set forth its views on the potential effect of the Court's ruling on this and other proposed redesignation actions. 72 FR 13452 (March 22, 2007). EPA proposed to find that the Court's ruling does not alter any requirements relevant to the proposed redesignations that would prevent EPA from finalizing these redesignations, for the reasons fully explained in the supplemental notice. EPA provided a 15-day review and comment period on this supplemental proposed rulemaking. The public comment period closed on April 6, 2007. EPA received six comments, all supporting EPA's supplemental proposed rulemaking, and supporting redesignation of the affected areas. EPA recognizes the support provided in these comments as well, but again, we do not believe any specific response to comments is necessary with respect to these comments. In addition, several of these comments included additional rationale for proceeding with these proposed redesignations. EPA had not requested comment on any additional rationale, does not believe any additional rationale is necessary, and similarly does not believe any specific response to these comments is necessary, and thus has not provided any.

III. Final Action

EPA is approving the State of West Virginia's July 24, 2006 redesignation request and maintenance plan because the requirements for approval have been satisfied. EPA has evaluated West Virginia's redesignation request, submitted on July 24, 2006, and determined that it meets the redesignation criteria set forth in section 107(d)(3)(E) of the CAA. EPA believes that the redesignation request and monitoring data demonstrate that Wheeling has attained the 8-hour ozone standard. The final approval of this redesignation request will change the designation of Wheeling from nonattainment to attainment for the 8-hour ozone standard. EPA is approving the associated maintenance plan for Wheeling, submitted on July 24, 2006, as a revision to the West Virginia SIP. EPA is approving the maintenance plan for Wheeling because it meets the requirements of section 175A.

EPA is also approving the MVEBs submitted by West Virginia in conjunction with its redesignation request. In this final rulemaking, EPA is notifying the public that we have found that the MVEBs for NO_X and VOCs in the Wheeling 8-hour ozone maintenance plan are adequate and approved for conformity purposes. As a result of our finding, Marshall and Ohio Counties must use the MVEBs from the submitted 8-hour ozone maintenance plan for future conformity determinations. The adequate and approved MVEBs are provided in the following table:

ADEQUATE AND APPROVED MOTOR VEHICLE EMISSIONS BUDGETS (MVEBS) IN TONS PER DAY (TPD)

Budget year	NO_X	VOC
2009	4.3	2.5
2018	1.7	1.4

Wheeling is subject to the CAA's requirements for basic ozone nonattainment areas until and unless it is redesignated to attainment.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this final action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 Fed. Reg. 28355 (May 22, 2001)). This action approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(e) of the Clean Air Act does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this final

rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This final rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it affects the status of a geographical area, does not impose any new requirements on sources, or allow the state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This final rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission; to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Redesignation is an action that affects the status of a geographical area and does not impose any new requirements on sources. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this final rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 16, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action, to approve the redesignation request, maintenance plan and adequacy determination for MVEBs for Wheeling, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

Dated: May 8, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR parts 52 and 81 are amended as follows:

PART 52—[AMENDED]

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for the 8-Hour Ozone Maintenance Plan, Wheeling, WV-OH Area at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8-Hour Ozone Maintenance Plan for the Wheeling, WV-OH Area.	Marshall and Ohio County	07/24/06	05/15/07 [Insert page number where the document begins].	

PART 81—[AMENDED]

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.349 the table entitled "West Virginia—Ozone (8-Hour Standard)" is amended by revising the entry for the Wheeling, WV-OH Area to read as follows:

§ 81.349 West Virginia.

* * * * *

WEST VIRGINIA—OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Wheeling, WV-OH Area				
Marshall County	5/15/07	Attainment.		
Ohio County	5/15/07	Attainment.		
* * * * * * *				

[a] Includes Indian country located in each county or area except otherwise noted.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E7–9287 Filed 5–14–07; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 060525140–6221–02]

RIN 0648–XA21

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper/Grouper Resources of the South Atlantic; Trip Limit Reduction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS reduces the commercial trip limit for golden tilefish in the South Atlantic to 300 lb (136 kg) per trip in or from the exclusive economic zone (EEZ). This trip limit reduction is necessary to protect the South Atlantic golden tilefish resource.

DATES: This rule is effective 12:01 a.m., local time, May 17, 2007, through January 1, 2008, unless changed by further notification in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Jason Rueter, telephone 727–824–5305, fax 727–824–5308, e-mail *jason.rueter@noaa.gov*.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic is managed under the Fishery Management Plan for the Snapper-Grouper Resources of the South Atlantic (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Under 50 CFR 622.44(c)(2), NMFS is required to reduce the trip limit in the commercial fishery for golden tilefish when 75 percent of the fishing year quota is met to 300 lb (136 kg) per trip, by filing a notification to that effect in the **Federal Register**. Based on current statistics, NMFS has determined that 75 percent of the available commercial quota of 295,000 lb (133,810 kg), gutted weight, for golden tilefish will be reached on or before May 17, 2007. Accordingly, NMFS is reducing the commercial golden tilefish trip limit to 300 lb (136 kg) in the South Atlantic EEZ from 12:01 a.m., local time, on May 17, 2007, until the fishery closes or 12:01 a.m., local time, on January 1, 2008, whichever occurs first.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(3)(B) as such prior notice and opportunity for public comment is unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself already has been subject to notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action in order to protect the fishery since the capacity of the fishing fleet allows for rapid over harvest of the quota. Prior notice and opportunity for public comment would require additional time and would likely result in a harvest well in excess of the established quota. For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

This action is taken under 50 CFR 622.43(a) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 10, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–2392 Filed 5–10–07; 4:08 pm]
BILLING CODE 3510–22–S

West Virginia Ozone Rules and Regulations (Updates)

604 Postage Payment Methods and Refunds

* * * * *

9.0 Exchanges and Refunds

* * * * *

9.2 Postage and Fee Refunds

* * * * *

9.2.1 General Standards

A refund for postage and fees may be made:

* * * * *

[Revise the text of item e to read as follows:]

e. Under 9.5 for Priority Mail Express postage and Sunday/holiday premium fee refunds.

* * * * *

9.2.5 Applying for Refund

A customer may apply for refunds under 9.2, as follows:

[Revise the first sentence of item a to read as follows:]

a. *Online (preferred) at www.USPS.com/help:* For domestic, Priority Mail Express (postage, Sunday/holiday premium fee), and for Certified Mail, Return Receipt (hardcopy and electronic), Signature Confirmation, and USPS Tracking (USPS Marketing Mail only), extra services only. * * *

* * * * *

9.5 Priority Mail Express Postage and Fees Refunds

9.5.1 Priority Mail Express 1-Day and 2-Day Delivery

[Revise the text of 9.5.1 to read as follows:]

For Priority Mail Express 1-Day and 2-Day Delivery, the USPS refunds the postage and Sunday or holiday premium fee for an item not delivered, for an item for which delivery was not attempted, or if the item was not made available for claim by the delivery date and time specified at the time of mailing, subject to the standards for this service, unless the delay was caused by one of the situations in 9.5.5.

* * * * *

700 Special Standards

703 Nonprofit USPS Marketing Mail and Other Unique Eligibility

* * * * *

2.0 Overseas Military and Diplomatic Post Office Mail

* * * * *

2.6 Priority Mail Express Military Service (PMEMS)

* * * * *

2.6.5 To APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed to APO/FPO and DPO destinations (from the United States) are available for delivery at the destination APO/FPO or DPO Post Office by 6:00 p.m. on the designated delivery day.

2.6.6 From APO/FPO and DPO Destinations

[Revise the text of 2.6.5 to read as follows:]

Under PMEMS, items mailed from APO/FPO and DPO locations (going to the United States) are delivered to an addressee within the delivery area of the destination Post Office by 6:00 p.m. on the designated delivery day.

* * * * *

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2021–06648 Filed 3–29–21; 4:15 pm]

BILLING CODE P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2020–0198; FRL–10022–11–Region 3]

Air Plan Approval; West Virginia; 1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV-OH Area Comprising Marshall and Ohio Counties

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the West Virginia Department of Environmental Protection (WVDEP) on behalf of the State of West Virginia (WV). This revision pertains to West Virginia's plan for maintaining the 1997 8-hour ozone national ambient air quality standard (NAAQS) for the West Virginia portion of the Wheeling, WV-OH area (Wheeling Area) comprising Marshall and Ohio Counties. EPA is approving these revisions to the West Virginia SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on April 30, 2021.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2020–0198. All documents in the docket are listed on the *https://www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through *https://www.regulations.gov*, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Keila M. Pagán-Incle, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814–2926. Ms. Pagán-Incle can also be reached via electronic mail at *pagan-incle.keila@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On June 29, 2020 (85 FR 38831), EPA published a notice of proposed rulemaking (NPRM) for the State of West Virginia. In the NPRM, EPA proposed approval of West Virginia's plan for maintaining the 1997 ozone NAAQS through June 14, 2027, in accordance with CAA section 175A. The formal SIP revision was submitted by WVDEP on December 10, 2019.

II. Summary of SIP Revision and EPA Analysis

On May 15, 2007 (72 FR 27247, effective June 14, 2007), EPA approved a redesignation request (and maintenance plan) from WVDEP for the Wheeling Area. Per CAA section 175A(b), at the end of the eighth year after the effective date of the redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the standard for an additional 10 years, and in *South Coast Air Quality Management District* v. *EPA* (South Coast II),[1] the D.C. Circuit held that this requirement cannot be waived for areas, like the Wheeling Area, that had been redesignated to attainment for the 1997 ozone NAAQS prior to revocation and that were designated attainment for the 2008 ozone NAAQS. CAA section 175A sets forth the criteria for adequate maintenance plans. In addition, EPA has published longstanding guidance

[1] 882 F.3d 1138 (D.C. Cir. 2018).

that provides further insight on the content of an approvable maintenance plan, explaining that a maintenance plan should address five elements: (1) An attainment emissions inventory; (2) a maintenance demonstration; (3) a commitment for continued air quality monitoring; (4) a process for verification of continued attainment; and (5) a contingency plan.[2] WVDEP's December 10, 2019 SIP submittal fulfills West Virginia's obligation to submit a second maintenance plan and addresses each of the five necessary elements.

As discussed in the June 29, 2020 NPRM, consistent with longstanding EPA's guidance,[3] areas that meet certain criteria may be eligible to submit a limited maintenance plan (LMP) to satisfy one of the requirements of CAA section 175A. Specifically, states may meet CAA section 175A's requirements to "provide for maintenance" by demonstrating that the area's design values[4] are well below the NAAQS and that it has had historical stability attaining the NAAQS. EPA evaluated WVDEP's December 10, 2019 submittal for consistency with all applicable EPA guidance and CAA requirements. EPA found that the submittal met CAA section 175A and all CAA requirements, and proposed approval of the LMP for the Wheeling, WV-OH Area comprising Marshall and Ohio Counties as a revision to the West Virginia SIP. The effect of this action makes certain commitments related to the maintenance of the 1997 ozone NAAQS federally enforceable as part of the West Virginia SIP. Other specific requirements of WVDEP's December 10, 2019 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here.

III. EPA's Response to Comments Received

EPA received four comments on the June 29, 2020 NPRM. All comments received are in the docket for this rulemaking action. A summary of the comments and EPA's responses are provided herein.

Comment 1: The commenter alleges that the plan should not be approved due to the allowance of future expansion of Interstate 70 (I-70) within Ohio County in West Virginia and Belmont County in Ohio from a West Virginia "transportation conformity plan." The commenter takes issue that the "transportation conformity plan" will allow more vehicles to use the highway, hence increasing the vehicle miles traveled (VMT) and the mobile source emissions. The commenter claims that "EPA should require WV to compensate" for the increase in VMT arising from the future expansion project and suggests that this could be evaluated by utilizing "actual VMT data collected on I-70" in the motor vehicle emission simulator (MOVES) modeling and the modeling "will show an increase in mobile source emissions in the area beyond that shown in WV's plan."

Response 1: EPA does not agree with the commenter that the plan should not be approved for the reasons given in the comment. The commenter did not identify a specific project that would expand the I-70 as it exists today. In an effort to identify the project that the commenter referred to, we reviewed West Virginia's current statewide transportation improvement program (STIP) and the current long-range transportation plan for the West Virginia portion of the Wheeling metropolitan area which includes Marshall and Ohio Counties. We could not identify any I-70 expansion projects in the STIP.[5] We did identify several bridge rehabilitation projects on I-70, but these would not constitute highway expansion projects and would not result in increased vehicle miles traveled. We did identify one highway expansion project in the area's long-range transportation plan.[6] That project would upgrade I-70 to six lanes from Elm Grove/Triadelphia interchange to Cabela Drive in Ohio County. Construction is not slated to begin until 2036. The opening date for the project is not stated in the long-range plan. Belomar, the metropolitan planning organization for the area, will have to consider the potential impacts of this project on air quality in the area when it makes transportation conformity determinations for the 1997 ozone NAAQS. However, with respect to the commenter's request that compensating emissions reductions be obtained for any emissions increases that this project may eventually cause, there is no mechanism under the CAA that requires such compensating emissions reductions as part of a maintenance plan. In order to approve the second maintenance plan for the area, the plan must demonstrate that the area will be able to remain in attainment of the 1997 ozone NAAQS through 2027. We have reviewed the second maintenance plan and for the reasons stated in this final rule and in the proposal, we have concluded that the second maintenance plan is approvable. 85 FR 38831 (June 29, 2020).

Comment 2: The commenter claims that the second maintenance plan should be rejected because "EPA has not evaluated the loss in emission reductions" due to certain policy positions taken by the Trump administration related to ". . . the CAFE[7] standards, biofuel blending requirements and removing States' and California's ability to set standards." The commenter asserts that West Virginia failed to use "reduced emission standards" in the mobile source evaluation. The commenter contends that West Virginia "uses assumptions that are against EPA's stated policy under the New Source Performance Standards (NSPS) and the National Emission Standards for Hazardous Pollutants (NESHAP)" and therefore, the plan should be rejected. Further, the commenter takes issue that "Recently EPA has announced protections under the mercury and air toxic standards (MATS) rule and the Boiler maximum achievable control technology (MACT) rule," and due to the removal of these programs, "EPA should require states to use those planning assumptions and account for any lost emissions reductions achieved by those programs."

Response 2: It is unclear from the comment how or why the commenter believes the particular policies cited are relevant to this action. For example, biofuel blending requirements are not relevant to ozone reductions, and neither West Virginia nor Ohio has adopted California's light duty vehicle emission standards, and therefore, neither state is impacted by the withdrawal of California's waiver for its zero emission vehicle sales mandate and its greenhouse gas emissions standards.[8] The change to the National Highway

[2] "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memo).

[3] See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, Office of Air Quality Planning and Standards (OAQPS), dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001.

[4] The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone nonattainment area is the highest design value of any monitoring site in the area.

[5] *https://transportation.wv.gov/highways/programming/STIP/Pages/default.aspx.*

[6] *https://www.belomar.org/wordpress/wp-content/uploads/2016/07/bomts-lrp-2040-final-document.pdf.*

[7] Corporate Average Fuel Economy (CAFE).

[8] *See* 84 FR 51310, September 27, 2019. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule Part One: One National Program.

Traffic Safety Administration's (NHTSA) corporate average fuel economy rules and EPA's greenhouse gas emissions standards did not affect EPA's Tier 3 vehicle and fuel regulation.[9] Therefore, new vehicles continue to be required to be certified to the Tier 3 emissions standards for nitrogen oxides (NO_X) and volatile organic compounds (VOCs). Neither of the Safer Affordable Fuel-Efficient (SAFE) rulemakings affected emissions from the existing vehicle fleet. For the reasons stated in the NPRM, we disagree with alleged deficiencies in evaluating mobile sources.

We also do not agree with the commenter's contentions about West Virginia using "assumptions that are against EPA's stated policy under NSPS and NESHAP," or that EPA should require West Virginia to address the removal of protections the commenter alleges EPA has made under the MATS and Boiler MACT rules. The commenter does not identify how any NSPS or NESHAP "policies" impact this action, or which policies, NESHAPs or NSPS the commenter believes are relevant to this action. With respect to MATS and the Boiler MACT, the commenter incorrectly assumes that protections under those rules have been "removed." In a 2020 rulemaking, EPA found that it was not "appropriate and necessary" to regulate hazardous air pollutants (HAP) emissions from coal- and oil-fired Electrical Generating Units (EGUs), thereby reversing the Agency's previous conclusion under CAA section 112(n)(1)(A). 85 FR 31286 (May 22, 2020). This action did not, however, remove the EGUs covered by MATS from regulation. EPA explicitly stated that coal- and oil-fired EGUs would remain on the CAA section 112(c)(1) source category list, and that the CAA section 112(d) standards for those EGUs, as promulgated in the MATS rule, would be unaffected by its reversal of the "appropriate and necessary" finding because EPA had not met the statutorily required CAA section 112(c)(9) delisting criteria to remove these units from regulation. 85 FR at 31286 (May 22, 2020).[10] The commenter is therefore incorrect that there has been any "removal of protections" with respect to the emission limits required under the MATS rule. Similarly, although EPA has proposed certain changes to the Boiler MACT in response to a court decision,[11] those proposed changes have not been finalized to date. Therefore, the environmental protections of neither the MATS rule nor the Boiler MACT rule have been removed or decreased. EPA therefore disagrees with the commenter that this plan should be disapproved because of WVDEP's failure to address, in a plan designed to maintain an ozone standard, the CAA programs and policies referenced by the commenter.

Comment 3: The commenter asserts that the LMP should not be approved because of EPA's reliance on the Air Quality Modeling Technical Support Document (TSD) that was developed for EPA's regional transport rulemaking. The commenter contends that: (1) The TSD shows maintenance of the area for three years and not 10 years; (2) the modeling was performed for transport purposes across state lines and not to show maintenance of the NAAQS; (3) the modeling was performed for the 2008 and 2015 ozone NAAQS and not the 1997 ozone NAAQS; (4) the TSD has been "highly contested" by environmental groups and that "other states contend EPA's modeling as flawed;" and (5) the TSD does not address a recent court decision that threw out EPA's modeling "because it modeled to the wrong attainment year. . . ." The commenter asserts that the four specific issues it raises with respect to the modeling means that the TSD is "flawed, illegal, [and] is being used improperly for the wrong purpose. . . ." The commenter states that "EPA must retract its reliance on the modeling for the purposes of this maintenance plan and must find some other way of showing continued maintenance of the 1997 ozone NAAQS."

Response 3: EPA does not agree with the commenter that the approval of West Virginia's second maintenance plan is not appropriate. The commenter raises concerns about West Virginia and EPA's citation of air quality modeling, but the commenter ignores that EPA's primary basis for finding that West Virginia has provided for maintenance of the 1997 ozone NAAQS in the Wheeling Area is the State's demonstration that the criteria for a limited maintenance plan has been met. See 85 FR 38831, June 29, 2020. Specifically, as stated in the NPRM, for decades EPA has interpreted the provision in CAA section 175A that requires states to "provide for maintenance" of the NAAQS to be satisfied where areas demonstrate that design values are and have been stable and well below the NAAQS—*e.g.*, at 85% of the standard, or in this case at or below 0.071 ppm. EPA calls such demonstration a "limited maintenance plan."

The modeling cited by the commenter was referenced in West Virginia's submission and as part of EPA's proposed approval as supplementary supporting information, and we do not agree that the commenter's concerns about relying on that modeling are warranted. The commenter contends that the modeling only goes out three years (to 2023) and it needs to go out to 10 years, and therefore may not be relied upon. However, the air quality modeling TSD was only relied upon by EPA to provide additional support to indicate that the area is expected to continue to attain the NAAQS during the relevant period. As noted above, West Virginia primarily met the requirement to demonstrate maintenance of the NAAQS by showing that they met the criteria for a limited maintenance plan, rather than by modeling or projecting emissions inventories out to a future year. We also do not agree that the State is required to demonstrate maintenance for 10 years; CAA section 175A requires the State to demonstrate maintenance through the 20th year after the area is redesignated, which in this case is 2027.

We also disagree with the commenter's contention that because the air quality modeling TSD was performed to analyze the transport of pollution across state lines with respect to other ozone NAAQS, it cannot be relied upon in this action. We acknowledge that the air quality modeling TSD at issue was performed as part of EPA's efforts to address interstate transport pollution under CAA section 110(a)(2)(D)(i)(I). However, the purpose of the air quality modeling TSD is fully in keeping with the question of whether West Virginia is expected to maintain the NAAQS. The air quality modeling TSD identifies which air quality monitors in the United States are projected to have problems attaining or maintaining the 2008 and 2015 NAAQS for ozone in 2023. Because the air quality modeling TSD results simply provide projected ozone concentration design values, which are expressed as three-year averages of the annual fourth high 8-hour daily maximum ozone concentrations, the modeling results are useful for analyzing attainment and maintenance of any of the ozone NAAQS that are measured using this averaging time; in this case, the 1997, 2008 and 2015 ozone NAAQS. The only difference between the three standards

[9] See 85 FR 24174, April 30, 2020. The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks.

[10] We note also that the 2020 rulemaking has been challenged in the Court of Appeals for the District of Columbia and has also been identified by President Biden's January 20, 2021 Executive Order as an action that EPA should propose to review, revise, or rescind by August 2021.

[11] 85 FR 52198 (August 24, 2020).

is stringency. Taking the Wheeling Area's most recent certified design value as of the proposal (*i.e.*, for the years 2016–2018), the area's design value was 0.066 parts per million (ppm). What we can discern from this is that the area is meeting the 1997 ozone NAAQS of 0.080 ppm, the 2008 ozone NAAQS of 0.075 ppm, and the 2015 ozone NAAQS of 0.070 ppm. The same principle applies to projected design values from the air quality modeling TSD. In this case, the interstate transport modeling indicated that in 2023, the Wheeling Area's design value is projected to be 0.067 ppm,[12] which is again, well below all three standards. The fact that the air quality modeling TSD was performed to indicate whether the area will have problems attaining or maintaining the 2015 ozone NAAQS (*i.e.*, 0.070 ppm) does not make the modeling less useful for determining whether the area will also meet the less stringent revoked 1997 standard (*i.e.*, 0.080 ppm).

The commenter asserts that many groups have criticized EPA's transport modeling, alleging that the agency used improper emissions inventories, incorrect contribution thresholds, wrong modeling years, or that EPA has not accounted for local situations or reductions that occurred after the inventories were established. The commenter also alleges that EPA should not rely on its modeling because it "fails to stand up to the recent court decisions," citing the *Wisconsin* v. *EPA* D.C. Circuit decision.[13] EPA disagrees that the existence of criticisms of the agency's air quality modeling TSD render it unreliable, and we also do not agree that anything in recent court decisions, including *Wisconsin* v. *EPA*, suggests that EPA's air quality modeling TSD is technically flawed. We acknowledge that the source apportionment air quality modeling TSD runs cited by the commenter have been at issue in various legal challenges to EPA actions, including the *Wisconsin* v. *EPA* case. However, in that case, the *only* flaw in EPA's air quality modeling TSD identified by the D.C. Circuit was the fact that its analytic year did not align with the attainment date found in CAA section 181.[14] Contrary to the commenter's suggestion, the D.C. Circuit *upheld* EPA's air quality modeling TSD with respect to the many technical challenges raised by petitioners in the *Wisconsin* case.[15] We therefore think reliance on the interstate transport air quality modeling TSD as supplemental support for showing that the Wheeling Area will maintain the 1997 ozone NAAQS through the end of its 20th-year maintenance period is appropriate.

Comment 4: The commenter asserts that EPA should disapprove this maintenance plan because EPA should not allow states to rely on emission programs such as the Cross-State Air Pollution rule (CSAPR) to demonstrate maintenance for the 1997 ozone NAAQS. The commenter alleges that "the CSAP and CSAP Update and CSAP Close-out rules were vacated entirely" by multiple courts and "are now illegal programs providing no legally enforceable emission reductions to any states formerly covered by the rules." The commenter also asserts that nothing restricts "big coal and gas power plants from emitting way beyond there (sic) restricted amounts." The commenter does allow that "If EPA can show that continued maintenance without these rules is possible for the next 10 years then that would be OK but as the plan stands it relies on these reductions and must be disapproved."

Response 4: The commenter has misapprehended the factual circumstances regarding these interstate transport rules. Every rule cited by the commenter that achieves emission reductions from electric generating units (EGUs or power plants)—*i.e.*, the Cross-State Air Pollution Rule and the CSAPR Update—remains in place and continues to ensure emission reductions of NO_X and sulfur dioxide (SO_2). CSAPR began implementation in 2015 (after it was largely upheld by the Supreme Court) and the CSAPR Update began implementation in 2017. The latter rule was remanded to EPA to address the analytic year issues discussed in the prior comment and response, but the rule remains fully in effect. The commenter is correct that the D.C. Circuit vacated the CSAPR close-out, but we note that that rule was only a determination that no further emission reductions were required to address interstate transport obligations for the 2008 ozone NAAQS; the rule did not itself establish any emission reductions. We therefore disagree that the legal status of these rules presents any obstacle to EPA's approval of West Virginia's submission.

IV. Final Action

EPA is approving the 1997 ozone NAAQS limited maintenance plan for the Wheeling, WV-OH area comprising Marshall and Ohio Counties as a revision to the West Virginia SIP.

V. Statutory and Executive Order Reviews

A. General Requirements

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA 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, this action:

- Is 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);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is 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.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is 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
- Does 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).

[12] The June 29, 2020 NPRM for this action recited 0.060 ppm as the Projected 2023 design value in Table 2—Wheeling Area 8-hour Ozone Design Value in Part Per Million. Through this final action we clarify that the correct Projected 2023 design value that was included in the State's submission, is 0.067 ppm. The inclusion of the slightly higher but incorrect figure in the NPRM is a harmless error that does not alter EPA's approval of this LMP.

[13] Wisconsin, 938 F.3d 303 (D.C. Cir. 2019).

[14] Wisconsin, 938 F.3d at 313.

[15] Wisconsin, 938 F.3d at 323–331.

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.

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 1, 2021. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action pertaining to West Virginia's limited maintenance plan for the Wheeling, WV-OH area comprising Marshall and Ohio Counties may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: March 25, 2021.

Diana Esher,

Acting Regional Administrator, Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart XX—West Virginia

■ 2. In § 52.2520, the table in paragraph (e) is amended by adding an entry for "1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV–OH Area Comprising Marshall and Ohio Counties" at the end of the table to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(e) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	*	*	*
1997 8-Hour Ozone National Ambient Air Quality Standard Second Maintenance Plan for the West Virginia Portion of the Wheeling, WV-OH Area Comprising Marshall and Ohio Counties.	Wheeling WV-OH, West Virginia Area Comprising Marshall and Ohio Counties.	12/10/19	3/31/21, [insert **Federal Register** citation].	

[FR Doc. 2021–06523 Filed 3–30–21; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210325–0069]

RIN 0648–BK45

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; delay of effective date.

SUMMARY: We, the NMFS, are delaying the effective date of a final rule that published on December 20, 2019.

DATES: As of March 31, 2021, the effective date of the rule amending 50 CFR part 223 that published at 84 FR 70048 on December 20, 2019, is delayed until August 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Lee, NMFS Southeast Regional Office, telephone: 727–824–5312, or email: *jennifer.lee@noaa.gov.*

SUPPLEMENTARY INFORMATION: On December 20, 2019, we published a final rule to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea turtles in their nets, and that rule had an effective date of April 1, 2021 (84 FR 70048). The final rule amends regulations at 50 CFR part 223 under the authority of the Endangered Species Act. The purpose of the final rule is to reduce incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. The rule also amends the definition of tow time to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and it refines additional portions of the TED requirements to avoid potential confusion. We delayed the effectiveness of the final rule until April 1, 2021, to allow for the manufacture of the necessary number of TEDs and for fishers, particularly lower income fishers, to prepare financially for the regulation.

We typically conduct outreach on changes to TED regulations through in-person industry workshops and trade shows, dockside and net shop visits, and enforcement trainings. In our final rule we stated that we would be scheduling and announcing future TED training workshops. We also distributed a Fishery Bulletin to industry

West Virginia SIP Sulfur Dioxide

west virginia department of environmental protection

Division of Air Quality
601 57th Street, SE
Charleston, WV 25304

Austin Caperton, Cabinet Secretary
dep.wv.gov

COMPLIANCE ORDER BY CONSENT
ISSUED UNDER THE
AIR POLLUTION CONTROL ACT
WEST VIRGINIA CODE, CHAPTER 22, ARTICLE 5, SECTION 4

TO: Kentucky Power Company
Mitchell Power Station
c/o Debra L. Osborne
Vice President – Generation Assets
Suite 800, Laidley Tower
500 Lee Street East
Charleston, WV 25301

DATE: December 2, 2019
ORDER NO.: CO-SIP-C-2019-13
FACILITY ID NO.: 051-00005

INTRODUCTION

This Compliance Order is issued by consent between the Director of the Division of Air Quality (hereinafter, "Director"), under the authority of West Virginia Code, Chapter 22, Article 5, Section 1 et seq. and Kentucky Power Company ("Company").

FINDINGS OF FACT

In support of this Order, the Director hereby finds the following:

1. Kentucky Power Company ("Kentucky Power") operates the Mitchell Power Station ("Mitchell"), an electric generating station located near Moundsville, West Virginia in Marshall County. Mitchell includes two (2) coal-fired boilers, Unit 1 nominally rated at 8,590 MMBtu/hour at full load and Unit 2 nominally rated at 8,481 MMBtu/hr at full load, each venting through a separate flue, both contained within a common shell.

2. Kentucky Power has installed and certified and is required to operate and maintain an SO_2 continuous emissions monitoring system (CEMS) according to the requirements of 40 CFR Part 75 (Part 75) and meet the ongoing quality assurance requirements of Part 75.

3. On June 22, 2010, the U.S. Environmental Protection Agency (USEPA) published a revised primary sulfur dioxide (SO_2) national ambient air quality standard (NAAQS), establishing a new 1-hour standard at a level of 75 parts per billion (ppb), based on a 3-year average of the annual 99th percentile of 1-hour daily maximum concentrations. The effective date of the 2010 SO_2 NAAQS was August 23, 2010. [75 FR 35520]

4. On August 5, 2013, USEPA published designations for nonattainment areas in locations where existing air quality monitoring data from 2009-2011 indicated violations of the 2010 SO_2 NAAQS. The Clay, Franklin and Washington Tax Districts in Marshall County ("Marshall Area") were designated as nonattainment. Designations were effective October 4, 2013. [78 FR 47191]

5. On April 15, 2015, the WV Department of Environmental Protection, Division of Air Quality (DAQ) submitted a clean data request for the Marshall Area based on air monitoring data certified in EPA's Air Quality System ("AQS") for the 2011-2013 period, with a design value of 59 ppb at the monitor on which the nonattainment designations were based.

6. On May 6, 2015, the DAQ submitted the 2011 Base Year SO_2 inventory for the Marshall Area, which included a total of 34,157 tons of SO_2, to USEPA as a Revision to the State Implementation Plan (SIP). Point source emissions accounted for 34,022 tons (99.6%) of the 2011 SO_2 emissions in the Marshall Area.

7. On July 31, 2015, the USEPA approved the 2011 Base Year Emissions Inventory for the Marshall Area for the 2010 1-hour SO_2 NAAQS by direct final rule [80 FR 45613].

8. In the 2011 base year SO_2 point source emissions inventory Mitchell accounted for 4,519 tons (13.28%), the Ohio Power Company's Kammer plant (Kammer) accounted for 16,712 tons (49.12%), the PPG Industries, Inc. Natrium Plant (PPG) accounted for 6,759 tons (19.78%) and the Rain CII Carbon, LLC, Moundsville Calcining Plant (Rain Carbon) accounted for 6,031 tons (17.69%) of the total point source SO_2 emissions. Subsequent to 2011 Kammer and Rain Carbon permanently ceased operations, and PPG ceased burning coal and switched to burning natural gas, limiting their annual SO_2 emissions to 2.73 tons [R14-0027D]. Accordingly, by 2016, over 29,499 tons of SO_2 in the 2011 base inventory associated with point sources have been permanently removed from the inventory, reducing total SO_2 emissions in the inventory by over 75%.

9. On September 23, 2015, in a letter to Mr. William F. Durham, Director of the DAQ, the USEPA "determined that while the Marshall Area has three years of clean SO_2 data, the demonstration provided by the West Virginia Department of Environmental Protection is not sufficient to show that the monitor is located at the area of maximum concentration. Because of this, EPA believes it is not appropriate to make a determination of attainment

in accordance with the SO_2 clean data policy at this time."

10. As of August 6, 2016, Mitchell is the only significant point source of SO_2 emissions that is currently operating in the Marshall Area.

11. On October 7, 2016, Kentucky Power submitted a protocol for the AERMOD air dispersion modeling to be used to demonstrate attainment with the 2010 SO_2 NAAQS.

12. On October 10, 2016, DAQ approved the protocol as submitted by Kentucky Power on October 7, 2016. Based on subsequent discussions with DAQ, the protocol was revised on November 30, 2016.

13. On December 12, 2016 Kentucky Power submitted AERMOD modeling results which demonstrate compliance with the 2010 1-hour SO_2 NAAQS with an hourly SO_2 emission rate of 0.60 lb SO_2/MMBtu, which equates to a total of 10,242.6 lb SO_2/hr from Mitchell Units 1 and 2.

14. On December 7, 2016, Kentucky Power submitted a statistical analysis demonstrating the comparable stringency of the 0.60 lb SO_2/MMBtu emission rate to a 30-operating day rolling average emission rate of 6,177.85 lb/hr from Mitchell Units 1 and 2.

15. On December 21, 2016, Kentucky Power and WVDEP entered into Consent Order CO-SIP-C-2016-31 which established a total maximum SO_2 emission limitation 6,175 lb/hr on a 30-operating day rolling average basis for Mitchell Units 1 and 2.

16. On March 14, 2017, Kentucky Power and WVDEP entered into Consent Order CO-SIP-C-2017-04A(2016), which superseded CO-SIP-C-2016-31.

17. On July 5, 2019, without conceding that its prior modeling demonstration was deficient in any way, Kentucky Power submitted an additional AERMOD dispersion modeling analysis to be used to demonstrate attainment with the 2010 SO_2 NAAQS.

18. On July 23, 2019, WVDEP submitted the additional modeling analysis to the United States Environmental Protection Agency (U.S. EPA) for review.

19. On August 23, 2019, U.S. EPA provided comments on the additional modeling analysis. WV DEP has addressed these comments and provided a response to the U.S. EPA via teleconference on September 24, 2019.

20. The July 5, 2019, additional AERMOD modeling analysis submitted by Kentucky Power demonstrates compliance with the 2010 1-hour SO_2 NAAQS at an hourly SO_2 emission rate of 0.31 lb SO_2/MMBtu, which equates to 5,222.08 lb SO_2/hr from Mitchell Units 1 and 2.

21. Applying the same statistical analysis as submitted December 7, 2016, the comparable stringency of the 0.31 lb SO_2/MMBtu emissions rate is a total of 3,149 lb SO_2/hr on a 30-operating day rolling average basis from Units 1 and 2

ORDER FOR COMPLIANCE

Now therefore, in accordance with Chapter 22, Article 5, Section 1 et seq. of the West Virginia Code, it is hereby agreed between the parties and ORDERED by the Director:

1. Beginning January 1, 2020, and thereafter, the SO_2 emissions from Mitchell Units 1 and 2 shall be limited to a total maximum of 3,149 lb/hr on a 30-operating day rolling average basis.

2. Kentucky Power shall use the CEMS installed, certified, operated and maintained in accordance with Part 75 to demonstrate compliance with the SO_2 emission limitations of this Consent Order. The compliance demonstration shall use only unadjusted, quality-assured SO_2 concentration values in the emissions calculations. Kentucky Power shall not apply bias adjustment factors to the Part 75 SO_2 data and shall not use Part 75 substitute data values.

3. Kentucky Power shall calculate and record a 30-operating day rolling average SO_2 emission rate in the units of the standard (lbs/hr), updated after each new boiler operating day. Each 30-operating day rolling average emission rate is the average of all of the valid hourly SO_2 emission rates in the 30-operating day period. The first 30-operating day rolling average shall be calculated for the period starting with the first operating day after the compliance date of the order and ending 30-operating days later.

4. Kentucky Power must operate the monitoring system and collect data at required intervals at all times that the affected EGU is operating, except for periods of monitoring system malfunctions or out-of-control periods and required monitoring system quality assurance or quality control activities, including, as applicable, calibration checks and required zero and span adjustments. Kentucky Power is required to implement monitoring system repairs in response to monitoring system malfunctions and to return the monitoring system to operation as expeditiously as practicable.

5. Kentucky Power shall report to the Director any exceedance of the 30-operating day rolling average SO_2 emission rate limit within five (5) business days after the exceedance occurs.

6. Kentucky Power shall submit semiannual compliance reports to the Director concerning emissions from Mitchell Units 1 and 2. The reporting periods shall be from January 1st to June 30th for the 1st half of the calendar year and July 1st to December 31st for the 2nd half of the year. The first semiannual report under this compliance agreement shall be submitted by August 14, 2020, covering the operating period January 1, 2020 through June

30, 2020. Subsequent semiannual compliance reports shall be submitted no later than the 45th day after the end of the reporting period. All reports shall be submitted electronically to the Director via email to DEPAirQualityReports@wv.gov. Such reports shall contain the following information:

a. If a deviation from the 30-boiler operating day emission limit occurs, submit a brief description of the deviation, the duration of the deviation, and the cause of the deviation.
b. If there are no deviations from the 30-boiler operating day emission limitation, the semiannual compliance report shall include a statement that there were no deviations from the emission limitation during the reporting period.
c. A monitoring system performance report containing a summary of the monitoring system availability, expressed as a percentage of operating time for the reporting period.
d. Certification by a Responsible Official that the reported information is true, accurate, and complete, as required by 45 CSR 30-4.4.

7. Recordkeeping and Reporting specified under this compliance agreement shall be considered sufficient to meet 45 CSR 10 recordkeeping and reporting requirements, as they pertain to 45 CSR 10 SO_2 emission limitations.

OTHER PROVISIONS

1. This Consent Order supersedes and replaces Consent Order CO-SIP-C-2017-04A(2016), which is hereby terminated and revoked as of January 1, 2020.

2. Kentucky Power hereby waives its right to appeal this Order under the provisions of Chapter 22, Article 5, Section 1 of the Code of West Virginia. Under this Order Kentucky Power agrees to take all actions required by the terms and conditions of this Order and consents to and will not contest the Director's jurisdiction regarding this Order. However, Kentucky Power does not admit to any factual and legal determinations made by the Director and reserves all rights and defenses available regarding liability or responsibility in any proceedings regarding matters other than proceedings, administrative or civil, to enforce this Order.

3. Compliance with the terms and conditions of this Order shall not in any way be construed as relieving Kentucky Power of the obligation to comply with any applicable law, permit, other order, or any other requirement otherwise applicable. Violations of the terms and conditions of this Order may subject Kentucky Power to penalties and injunctive relief in accordance with the applicable law.

4. The provisions of this Order are severable and should a court or board of competent jurisdiction declare any provisions to be invalid or unenforceable, all other provisions shall

Kentucky Power Company
Mitchell Power Station
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remain in full force and effect.

5. This Order is binding on Kentucky Power, its successors and assigns.

Debra L. Osborne, Vice President – Generation Assets
Kentucky Power Company

12/2/19
Date

Laura M. Crowder, Director
Division of Air Quality

12/3/19
Date

West Virginia Portion of Wheeling, WV-OH 1997 Annual PM2.5

Region III Plan Summary
West Virginia Portion of the Wheeling, WV-OH 1997 Annual $PM_{2.5}$ Nonattainment Area

Title: Maintenance Plan for the West Virginia Portion of the Wheeling, West Virginia 1997 Annual Fine Particulate Matter ($PM_{2.5}$) Nonattainment Area

Federal Register Dates: December 11, 2012, 77 FR 73575 (Proposed Rule); July 24, 2013 (Supplemental Proposed Rule); September 30, 2013, 78 FR 59841 (Final Rule)

EPA Effective date: September 30, 2013

State Submittal Dates: March 8, 2012 and June 24, 2013

Affected Areas: Marshall and Ohio Counties

Key Features: 2008 attainment year; projections to 2015 and 2022

The Wheeling plan shows maintenance of the 1997 annual $PM_{2.5}$ national ambient air quality standard (NAAQS) by demonstrating that current and future emissions of $PM_{2.5}$, nitrogen oxides (NOx), sulfur dioxide (SO_2) remain at or below the attainment year 2008 emissions throughout the Wheeling Area through the year 2022.

Monitoring Network: West Virginia will continue to operate its current air quality monitors (one located in Marshall County and the other in Ohio County) in accordance with 40 CFR part 58.

Contingency Plan Triggers:

1. If $PM_{2.5}$, NOx, and SO_2 emissions exceed specified predetermined level.
2. In the event future violations of the standard occur at both the two monitors.

Contingency Measures:

Contingency measures for trigger 1 (if $PM_{2.5}$, NOx, and SO_2 emissions exceed specified predetermined level): The West Virginia Department of Environmental Protection (WVDEP) will evaluate existing control measures to ascertain if additional regulatory revisions are necessary to maintain the $PM_{2.5}$ NAAQS.

Contingency measures for trigger 2 (in the event future violations of the standard occur at both the monitors):

1. Diesel reduction emission strategies.
2. Alternative fuel and diesel retrofit programs for fleet vehicle operations.
3. Tighter $PM_{2.5}$, NOx and SO_2 emissions offsets for new and modified major sources.
4. Concrete manufacturing – upgrade wet suppression.
5. Additional NOx reasonably available control technology (RACT) statewide.

6. List of sources that could potentially be controlled: Industrial, commercial and institutional (ICI) boilers for SO_2 and NOx controls, electric generating units (EGUs), process heaters, internal combustion engines, combustion turbines, other sources greater than 100 tons per year (tpy), fleet vehicles, and aggregate processing plants.

Schedule: Expeditious contingency measures can be implemented at the beginning of a calendar year through issuance of an emergency rule. The regular legislative rule process can produce enforceable contingency measures within a 12 to 18 month time frame.

Additional Provision: The State's maintenance plan submission expressly documents that the Area's emissions inventories will remain below the attainment year inventories through 2022. Table 1 shows the emissions inventories for the 2008 attainment base year, the 2015 interim year, and the 2022 maintenance plan end year for the Wheeling Area. The emissions inventories show that between 2008 and 2022, the Area is projected to reduce SO_2 emissions by 35,616 tpy, NOx emissions by 20,581 tpy, and $PM_{2.5}$ by 2,529 tpy. Thus the projected emissions inventories show that the Area will continue to maintain the 1997 annual $PM_{2.5}$ NAAQS during the 10-year maintenance period.

In addition, for the reasons set forth below, the State's maintenance plan submission further demonstrates that the Area will continue to maintain the 1997 annual $PM_{2.5}$ NAAQS at least through 2023:

- Significant emissions controls remain in place, and will continue to provide reductions that keep the Area in attainment. As part of a Federally enforceable consent decree with the American Electric Power (AEP), the Ohio Power Mitchell Plant in Marshall County was required, staring in January 2009, to operate its selective catalytic reduction (SCR) continuously to control emissions of NOx and to operate continuously its flue gas desulfurization (FDG) to reduce SO_2 starting in December 2007. In addition, AEP is required by the Federally enforceable consent decree to retire, retrofit, or repower additional units such as Kammer Units 1-3 by the end of December 2018.

- West Virginia has committed to maintaining all of the control measures upon which it relies in its March 8, 2012 submittal, and will submit any changes to EPA for approval as a SIP revision.

- Emissions inventory levels for SO_2 and NOx in 2022 are well below the attainment year inventory levels (see Table 1), and it is highly improbable that sudden increases would occur that could exceed the attainment year inventory levels in 2023.

- The mobile source contribution has been determined to be insignificant, and is expected to remain insignificant in 2023 with fleet turnover in upcoming years that will result in cleaner vehicles and cleaner fuels.

- Air quality concentrations, which are well below the standard, coupled with the emission inventory projections through 2022, demonstrate that it would be very unlikely for a violation to occur in 2023. The 2009-2011 design value of 12.3 $\mu g/m^3$ provides a sufficient margin in the event emissions increase. In addition, the 2009-2011 design value shows the continued downward trend of monitored data in this Area for the last several years.

Table 1. Comparison of 2008, 2015, 2022 SO_2, NOx, and Direct $PM_{2.5}$ Emission Totals, in tons per year for the Wheeling Area WV-OH

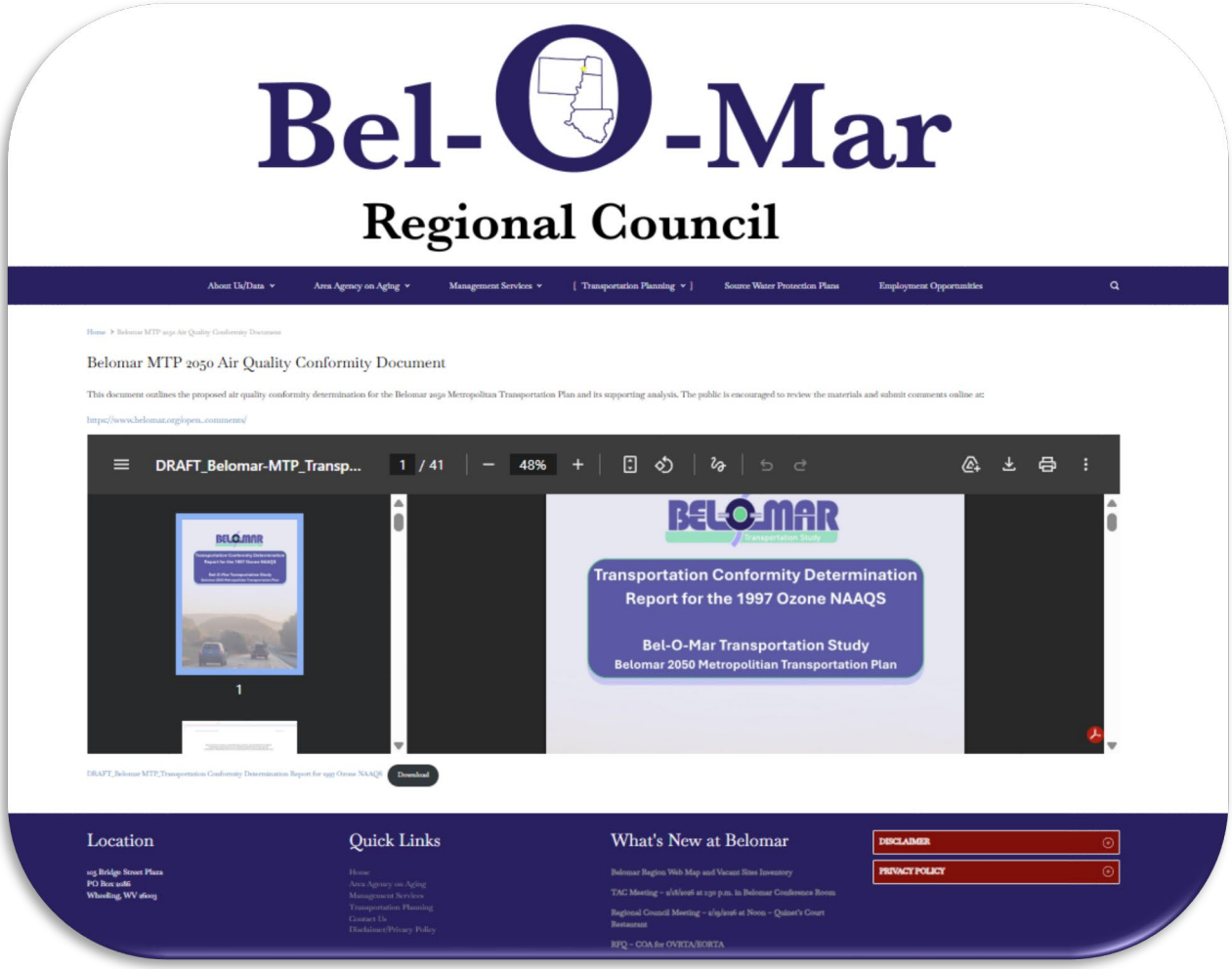
	2008	2015	2022	Decrease from 2008 to 2022
SO2 (tpy)	67,103	36,843	31,487	35,616
NOx (tpy)	35,971	16,204	15,390	20,581
$PM_{2.5}$ (tpy)	6,001	3,436	3,472	2,529

EPA Region III Contact: Rose Quinto (3AP30), U.S. EPA Region III
1650 Arch Street, Philadelphia, PA 19103-2029
(215) 814-2182; quinto.rose@epa.gov

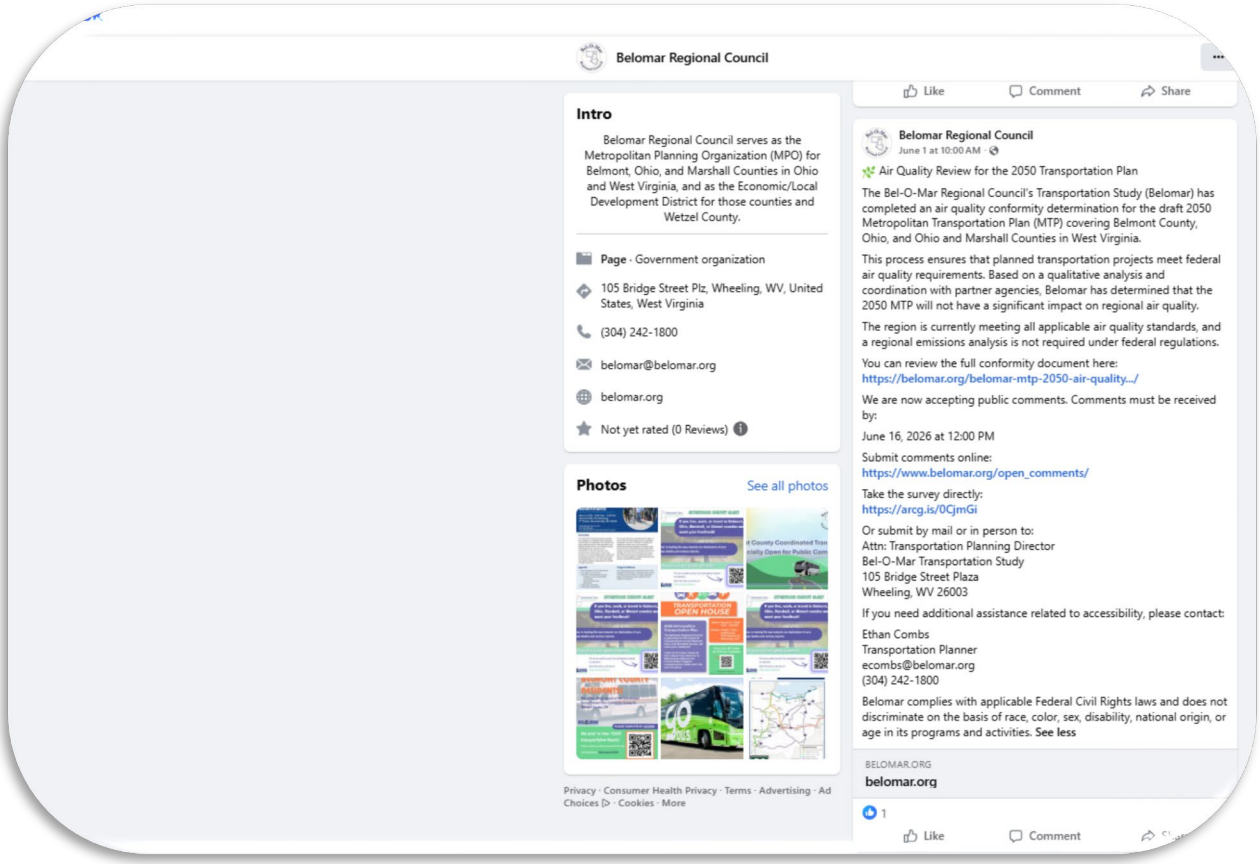
Evidence of Public Involvement

Screengrab of https://belomar.org/belomar-mtp-2050-air-quality-conformity-document/

showing plan displayed on website for view and download during public involvement period.



Screengrab of https://www.facebook.com/belomarrc/ showing plan displayed on Facebook social media for view and download during public involvement period.



Newspaper Affidavits

The Times Leader

AFFIDAVIT OF PUBLICATION

State of New Jersey, County of Camden, ss:

Anjana Bhadoriya, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of Times Leader, a newspaper printed and published in the City of Martins Ferry, County of Belmont, State of Ohio, each clay of the requirements of sections 7.12 and 5721.01 Ohio Revised Code as ammended effective September 24, 1957; that affiant has custody of the records and files of said newspaper; and that the advertisement of which the annexed is a true copy, was published in said newspaper in each of these days in the month and year stated, as follows:

PUBLICATION DATES:
Jun. 1, 2026

NOTICE ID: 7nkWmX4mCcq90E1kxSZU
PUBLISHER ID: LC0021
NOTICE NAME: TL - Belomar Air Conformity Public Notice
Publication Fee: 226.36

Anjana Bhadoriya

(Signed)_____

VERIFICATION

State of New Jersey
County of Camden

SHARONN E THOMAS-POPE
NOTARY PUBLIC
STATE OF NEW JERSEY
My Commission Expires January 23, 2027

Subscribed in my presence and sworn to before me on this: 06/02/2026

Notary Public
Notarized remotely online using communication technology via Proof.

Public Notice

The Bel-O-Mar Regional Council's Transportation Study (Belomar) has prepared an air quality conformity determination for the 2050 Metropolitan Transportation Plan (MTP) for Belmont County, Ohio, and Ohio and Marshall counties, West Virginia, in accordance with federal transportation conformity requirements (40 CFR Part 93). The 2050 MTP outlines federally supported highway and transit projects through the year 2050 and serves as the region's long-range transportation guide.

Belomar has determined that implementation of the 2050 MTP will not have a significant impact on regional air quality. This determination is based on a qualitative analysis methodology approved through the interagency consultation process. The analysis considers the scope and scale of planned projects and supports the finding that the plan will not adversely affect regional air quality.

The Belomar region is currently in attainment for all applicable air quality standards, and a regional emissions analysis is not required under transportation conformity regulations. Belomar is proposing adoption of the air quality conformity determination for the 2050 MTP.

The plan and supporting documentation are available for public review and comment at:

https://belomar.org/belomar-mtp-2050-air-quality-conformity-document/

Submit comments by mail or at the office:
Attn: Transportation Planning Director
Bel-O-Mar Transportation Study
105 Bridge Street Plaza
Wheeling, WV 26003

Comments must be received by **June 16, 2026, at 12:00 PM (Noon)** . Comments may also be submitted online at: https://www.belomar.org/open_comments/

Direct survey link:

https://arcg.is/0CjmGi

If you need additional assistance related to accessibility, please contact:

Ethan Combs
Transportation Planner
ecombs@belomar.org
(304) 242-1800

Belomar complies with applicable Federal Civil Rights laws and does not

TL - Belomar Air Conformity Public Notice - Page 1 of 2

The Intelligencer.

AFFIDAVIT OF PUBLICATION

State of New Jersey, County of Camden, ss:

Anjana Bhadoriya, being first duly sworn, deposes and says: That (s)he is a duly authorized signatory of Column Software, PBC, duly authorized agent of The Intelligencer, a newspaper printed and published in the City of Wheeling, County of Ohio County, Marshall County, Brooke County, State of West Virginia, and that this affidavit is Page 1 of 1 with the full text of the sworn-to notice set forth on the pages that follow, and the hereto attached:

PUBLICATION DATES:
Jun. 1, 2026

NOTICE ID: RLwxkzcwSzZUyQAqhYUW
PUBLISHER ID: LC3028
NOTICE NAME: Belomar Air Quality Conformity Public Notice
Publication Fee: 55.64

Anjana Bhadoriya

(Signed)_____

VERIFICATION

State of New Jersey
County of Camden

SHARONN E THOMAS-POPE
NOTARY PUBLIC
STATE OF NEW JERSEY
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Subscribed in my presence and sworn to before me on this: 06/02/2026

Notary Public
Notarized remotely online using communication technology via Proof.

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Bel-O-Mar Transportation Study
105 Bridge Street Plaza
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Direct survey link:
https://arcg.is/0CjmGi

If you need additional assistance related to accessibility, please contact:
Ethan Combs
Transportation Planner
ecombs@belomar.org
(304) 242-1800

Belomar complies with applicable Federal Civil Rights laws and does not discriminate on the basis of race, color, sex, disability, national origin, or age in its programs and activities.
Int. Jun 1, 2026

Interagency Consultation Documents

From: Sam Richardson <srichardson@belomar.org>
Sent: Wednesday, May 13, 2026 7:00 AM
To: Becoat, Gregory <becoat.gregory@epa.gov>; Nate Brugler <nathaniel.brugler@dot.ohio.gov>; Brian Carr <Brian.E.Carr@wv.gov>; Olivia.DiGiovine@epa.ohio.gov; Sam.Granato@dot.ohio.gov; Kara Greathouse <kara.greathouse@dot.gov>; Hill, Anthony <anthony.hill@dot.ohio.gov>; mark.kane@dot.gov; Keeley, Laura (FTA) <laura.keeley@dot.gov>; Matt Kemper <matt.a.kemper@wv.gov>; Kenny, William <william.kenny@epa.ohio.gov>; Angel.Lee@dot.ohio.gov; Maietta, Anthony <maietta.anthony@epa.gov>; Nallaballi, Neena <nallaballi.neena@epa.gov>; Swart, Charles S <charles.s.swart@wv.gov>; Thomas, Susan <susan.thomas@dot.ohio.gov>; Natasha.Turner <natasha.turner@dot.ohio.gov>; Sam Wallace <samuel.wallace@dot.gov>; Scott Warner <scott.warner@dot.ohio.gov>; Lisa Weishar <weishar@ovrta.org>
Cc: Scott Hicks <hicks@belomar.org>; Ethan Combs <ecombs@belomar.org>; Mark Sullivan <mark.sullivan@burgessniple.com>; Erin Grushon <erin.grushon@burgessniple.com>
Subject: IAC Concurrence Request – Use of Qualitative Analysis for 2050 Belomar MTP Air Quality Conformity

Dear Belomar Interagency Consultation Committee on Air Quality Members,

Belomar is requesting interagency consultation concurrence on the use of a qualitative air quality conformity analysis for the 2050 Belomar Metropolitan Transportation Plan (MTP).

The draft project listing for the 2050 MTP, which has received informal preliminary conceptual approval from both the Technical Advisory Committee and Policy Committee, is linked here for your review:

☐ Draft_Belomar 2050 MTP Project List_AQ_Review 1.pdf

Additional information describing the planning assumptions and context supporting the qualitative conformity determination may be found at the link below:

☐ DRAFT_Belomar2050MTP_Transportation Conformity Determination Report for 1997 Ozone NAAQS.pdf

If you require any of the materials in an alternate format, please let us know.

The Belomar IAC on Air Quality consultation period opens today, **Wednesday, May 13, 2026**, and will remain open for a 15 calendar day review period, closing at **4:00 PM on May 27, 2026**. Please indicate your concurrence or lack thereof by the closing date. If no comment is made by that date, concurrence will be assumed.

If no comments are received in opposition to the use of a qualitative analysis, Belomar will proceed with public notification of the proposed air quality conformity determination for a 15 day public participation period in accordance with the Belomar 3 C Plan (Consolidated Public Participation and Civil Rights Compliance Plan).

Following public participation, the proposed conformity determination will be presented for recommendation by the Belomar Transportation Study Technical Advisory Committee at a special meeting on June 16, 2026, and for approval by the Executive Committee on June 17, 2026.

Please do not hesitate to reach out if you have any questions or require additional information.

Sincerely,

Samuel Richardson
Transportation Planning Director

Bel-O-Mar Transportation Study
Bridging data and development through planning

105 Bridge Street Plaza • Wheeling, WV • 26003
srichardson@belomar.org
(304) 238-9562
www.belomar.org

From: Wallace, Samuel <samuel.wallace@dot.gov>
Sent: Friday, May 15, 2026 12:03 PM
To: Sam Richardson
Cc: Becoat, Gregory; Nate Brugler; Brian Carr; olivia.digiovine@epa.ohio.gov; sam.granato@dot.ohio.gov; Kara Greathouse; Hill, Anthony; mark.kane@dot.gov; Keeley, Laura (FTA); Matt Kemper; Kenny, William; angel.lee@dot.ohio.gov; Maietta, Anthony; Nallaballi, Neena; Swart, Charles S; Thomas, Susan; Natasha.Turner; Scott Warner; Lisa Weishar; Scott Hicks; Ethan Combs; Mark Sullivan; Erin Grushon
Subject: Re: IAC Concurrence Request – Use of Qualitative Analysis for 2050 Belomar MTP Air Quality Conformity

Hi Sam,

I hope this finds you well, and thank you for the IAC contact. FHWA-OH concurs and does not have any comment regarding the MTP conformity determination action.

Thank you for your time, and have a good weekend.

Best Regards,
Sam

Sam Wallace
Community Transportation Planner
FHWA Ohio Division
U.S. Department of Transportation
(614) 280-6839
samuel.wallace@dot.gov

From: Nallaballi, Neena <nallaballi.neena@epa.gov>
Sent: Monday, May 18, 2026 9:44 AM
To: Sam Richardson; Becoat, Gregory; Nate Brugler; Brian Carr; olivia.digiovine@epa.ohio.gov; sam.granato@dot.ohio.gov; Kara Greathouse; Hill, Anthony; mark.kane@dot.gov; Keeley, Laura (FTA); Matt Kemper; Kenny, William; angel.lee@dot.ohio.gov; Maietta, Anthony; Swart, Charles S; Thomas, Susan; Natasha.Turner; Sam Wallace; Scott Warner; Lisa Weishar
Cc: Scott Hicks; Ethan Combs; Mark Sullivan; Erin Grushon
Subject: RE: IAC Concurrence Request – Use of Qualitative Analysis for 2050 Belomar MTP Air Quality Conformity

Good morning,

EPA R5 concurs on the use of qualitative air quality conformity determination for the 2050 Belomar MTP.

Thank you

Neena Nallaballi
Control Strategies Section
EPA Region-5
Nallaballi.Neena@epa.gov
312-353-1770