

EPA-APPROVED MISSOURI REGULATIONS

| Missouri citation  | Title                                    | State effective date | EPA approval date | Explanation  |
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| <b>Missouri Department of Natural Resources</b>  |  |                      |                   |  |
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| <b>Chapter 5—Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area</b> |  |                      |                   |  |
| * * * * *  |  |                      |                   |  |
| 10-5.510 .....   | Control of Emissions of Nitrogen Oxides. | 05/30/06             | 11/06/06          | [insert FR page number where the document begins]. |
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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-R04-OAR-2006-0676-200622(a); FRL-8239-5]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; North Carolina; Redesignation of the Rocky Mount 8-Hour Ozone Nonattainment Area to Attainment**

**AGENCY:** Environmental Protection Agency (EPA).  
**ACTION:** Direct final rule.

**SUMMARY:** On June 19, 2006, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NCDENR), Division of Air Quality, submitted a final request: to redesignate the Rocky Mount 8-hour ozone nonattainment area to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS), and to approve a North Carolina State Implementation Plan (SIP) revision containing a maintenance plan for Rocky Mount, North Carolina. The Rocky Mount 8-hour ozone nonattainment area is comprised of two counties, Edgecombe and Nash. EPA is approving the 8-hour ozone redesignation request for the Rocky Mount 8-hour ozone nonattainment area. Additionally, EPA is approving the 8-hour ozone maintenance plan for Rocky Mount, North Carolina. This approval is based on EPA's determination that the State of North Carolina has demonstrated that the Rocky Mount area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA), including

the determination that the entire Rocky Mount 8-hour ozone nonattainment area has attained the 8-hour ozone standard. In this action, EPA is also finding adequate and approving the 2008 and 2017 motor vehicle emissions budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) (for both Edgecombe and Nash counties) that are contained in the 8-hour ozone maintenance plan for the Rocky Mount nonattainment area. North Carolina has established subarea MVEBs at the county level so each county must consider its individual subarea MVEBs for the purposes of implementing transportation conformity. Further, in this action, EPA is finding adequate and approving the insignificance determination for volatile organic compounds' (VOCs) contribution from motor vehicle emissions to the 8-hour ozone pollution in the Rocky Mount, North Carolina area.

**DATES:** This rule is effective on January 5, 2007, without further notice, unless EPA receives adverse written comments by December 6, 2006. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No EPA-R04-OAR-2006-0676, by one of the following methods:

1. <http://www.regulations.gov> : Follow the online instructions for submitting comments.
2. E-mail: [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov) or [wood.amanetta@epa.gov](mailto:wood.amanetta@epa.gov).
3. Fax: 404-562-9019.
4. Mail: "EPA-R04-OAR-2006-0676", Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier. Deliver your comments to: Nacosta C. Ward or Amanetta Wood, Regulatory

Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No.: "EPA-R04-OAR-2006-0676". EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of

encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in <http://www.regulations.gov> or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Nacosta C. Ward of the Regulatory Development Section or Amanetta Wood of the Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9140 or (404) 562-9025. Ms. Nacosta Ward can be reached via electronic mail at [ward.nacosta@epa.gov](mailto:ward.nacosta@epa.gov). Ms. Amanetta Wood can also be reached via electronic mail at [wood.amanetta@epa.gov](mailto:wood.amanetta@epa.gov).

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**I. What Are the Actions EPA Is Taking?**

Through this rulemaking, EPA is taking several related actions. EPA is making the determination that the Rocky Mount 8-hour ozone nonattainment area has attained the 8-hour ozone standard, and has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. The Rocky Mount area is a basic 8-hour ozone nonattainment area. The Rocky Mount 8-hour ozone nonattainment area is comprised of Edgecombe and Nash counties. EPA is approving a request to change the legal designation of the Rocky Mount area from nonattainment to attainment for the 8-hour ozone NAAQS.

EPA is also approving North Carolina's 8-hour ozone maintenance plan for the Rocky Mount area (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Rocky Mount area in attainment for the 8-hour ozone NAAQS for the next 12 years, and includes an insignificance finding for VOCs for the entire Rocky Mount, North Carolina area, and new NO<sub>x</sub> subarea MVEBs for the years 2008 and 2017 for Edgecombe and Nash counties.

Additionally, through this rulemaking, EPA is announcing its action on the Adequacy Process for the newly-established 2008 and 2017 NO<sub>x</sub> MVEBs for the Rocky Mount 8-hour ozone area. Further, EPA is announcing its action on the Adequacy Process for the insignificance finding related to VOCs from motor vehicles for the Rocky Mount 8-hour ozone area. The Adequacy comment period for the new NO<sub>x</sub> MVEBs and the VOCs insignificance finding began on August 8, 2006, with EPA's posting of the availability of this submittal on EPA's Adequacy Web site (at <http://www.epa.gov/otaq/stateresources/transconf/currstips.htm>). The Adequacy comment period for these MVEBs and VOCs insignificance finding closed on September 7, 2006. No requests or adverse comments on this submittal were received during EPA's Adequacy comment period. Please see section VII of this rulemaking for further explanation of this process.

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

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO<sub>x</sub> and VOCs react in the presence of sunlight to form ground-level ozone. NO<sub>x</sub> and VOCs are referred to as precursors of ozone. The CAA

establishes a process for air quality management through the NAAQS.

On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 parts per million (ppm). This new standard is more stringent than the previous 1-hour ozone standard. Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (*i.e.* 0.084 ppm when rounding is considered). (See 69 FR 23857 (April 30, 2004) for further information). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50. Specifically, section 2.3 of 40 CFR part 50, Appendix I, "Comparisons with the Primary and Secondary Ozone Standards" states: "The primary and secondary ozone ambient air quality standards are met at an ambient air quality 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. The number of significant figures in the level of the standard dictates the rounding convention for comparing the computed 3-year average annual fourth-highest daily maximum 8-hour average ozone concentration with the level of the standard. The third decimal place of the computed value is rounded, with values equal to or greater than 5 rounding up. Thus, a computed 3-year average ozone concentration of 0.085 ppm is the smallest value that is greater than 0.08 ppm."

The CAA required EPA to designate as nonattainment any area that was violating the 8-hour ozone NAAQS based on the three most recent years of ambient air quality data. The Rocky Mount 8-hour ozone nonattainment area was designated using 2001 to 2003 ambient air quality data. The **Federal Register** notice making these designations was signed on April 15, 2004, and published on April 30, 2004, (69 FR 23857). The CAA contains two sets of provisions—subpart 1 and subpart 2—that address planning and control requirements for ozone nonattainment areas. (Both are found in title I, part D.) Subpart 1 (which covers areas that EPA refers to as "basic" nonattainment) contains general, less

prescriptive, requirements for nonattainment areas for any pollutant—including ozone—governed by a NAAQS. Subpart 2 (which covers areas that EPA refers to as “classified” nonattainment) provides more specific requirements for certain ozone nonattainment areas. Some 8-hour ozone nonattainment areas are subject only to the provisions of subpart 1. Other 8-hour ozone nonattainment areas are also subject to the provisions of subpart 2. Under EPA’s Phase 1 8-hour Ozone Implementation Rule, signed on

April 15, 2004, an area was to be classified under subpart 2 based on its 8-hour ozone design value (i.e., the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations), if it had a 1-hour design value at or above 0.121 ppm (the lowest 1-hour design value in Table 1 of subpart 2). All other areas are covered under subpart 1, based upon their 8-hour ambient air quality design values. The Rocky Mount area was originally designated as a “basic” 8-hour ozone nonattainment area by EPA on April 30,

2004, (69 FR 23857) and is subject to subpart 1 of part D. In 2005, the ambient ozone data for the Rocky Mount nonattainment area indicated no further violation of the 8-hour ozone standard, using data from the 3-year period of 2003–2005 (with the 2003–2005 design value of 0.079 ppm), to demonstrate attainment. Available monitoring data through July 2006 indicates continued attainment of the 8-hour ozone standard. These data are depicted in Table 1 below:

**TABLE 1.—CURRENT AIR QUALITY DATA IN THE ROCKY MOUNT, NC AREA**  
Air Quality System Monitoring Data for Edgecombe County (Leggett monitor AIRS ID #37–065–0099)

|   | April 2006 | May 2006 | June 2006 | July 2006 |
|---|------------|----------|-----------|-----------|
| Monthly Maximum 8-hour ozone Values (ppm) ..... | .074       | .077     | .074      | .068      |

On June 19, 2006, the State of North Carolina requested redesignation to attainment for the 8-hour ozone standard for the Rocky Mount, North Carolina 8-hour ozone nonattainment area. The redesignation request includes three years of complete, quality-assured ambient air quality data for the ozone seasons of 2003 through 2005, indicating the 8-hour ozone NAAQS had been achieved for the Rocky Mount area. The ozone season for this area is from April 1 until October 31 of a calendar year. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the standard and the area meets the other CAA redesignation requirements in section 107(d)(3)(E).

**III. What Are the Criteria for Redesignation?**

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

meeting the requirements of section 175A; and, (5) the State containing such area has met all requirements applicable to the area under section 110 and part D.

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

1. “Ozone and Carbon Monoxide Design Value Calculations,” Memorandum from Bill Laxton, June 18, 1990;
2. “Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. “Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. “Procedures for Processing Requests to Redesignate Areas to Attainment,” Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;
5. “State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,” Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;
6. “Technical Support Documents (TSD’s) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,” Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;
7. “State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,” Memorandum

from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

8. “Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,” Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. “Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,” Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

10. “Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,” Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

**IV. Why Is EPA Taking These Actions?**

On June 19, 2006, the State of North Carolina requested redesignation of the Rocky Mount 8-hour ozone nonattainment area to attainment for the 8-hour ozone standard. EPA believes that the State of North Carolina has demonstrated that the Rocky Mount area has attained the standard and has met the requirements for redesignation set forth in section 107(d)(3)(E) of CAA.

**V. What Is the Effect of EPA’s Actions?**

Approval of this redesignation request would change the official designation of Edgecombe and Nash counties in North Carolina for the 8-hour ozone NAAQS found at 40 CFR part 81. It would also incorporate into the North Carolina SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2017. The maintenance plan includes contingency measures to remedy future violations of the 8-hour ozone NAAQS, and establishes MVEBs of 2,756 kilograms

per day (kg/d) (3.03 tons per day (tpd)), and 9,757 kg/d (10.77 tpd) for NO<sub>x</sub> for the year 2008 for Edgecombe and Nash counties, respectively. For the year 2017, the NO<sub>x</sub> MVEBs for Edgecombe and Nash counties are 1,383 kg/d (1.53 tpd) and 4,558 kg/d (5.03 tpd), respectively. Additionally, the maintenance plan includes an insignificance finding for VOCs' contribution from motor vehicles to the 8-hour ozone pollution in the Rocky Mount, North Carolina area. EPA's affirmative adequacy finding and approval for this insignificance determination waives the regional emissions analysis requirement (not the transportation conformity requirement) for VOCs for this area. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity.

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

EPA is making the determination that the Rocky Mount 8-hour ozone nonattainment area has attained the 8-hour ozone standard, and that all other redesignation criteria have been met. The basis for EPA's determination is as follows:

(1) *The Rocky Mount area has attained the 8-hour ozone NAAQS.*

EPA is making the determination that the area has attained the 8-hour ozone NAAQS. For ozone, an area may be considered to be attaining the 8-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain this standard, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over

each year must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the standard is attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

NCDENR submitted ozone monitoring data to EPA for the ozone season from 2003 to 2005. There is currently one monitor measuring ozone, located in the town of Leggett in Edgecombe County, which provides air quality data for the entire Rocky Mount 8-hour ozone nonattainment area. This data has been quality assured and is recorded in AQS. The fourth-highest averages for 2003, 2004 and 2005, and the 3-year average of these values (*i.e.* design value), are summarized in Table 2:

TABLE 2.—QUALITY ASSURED MONITORING DATA IN THE ROCKY MOUNT, NC AREA FOR 2003–2005

| County                            | 4th Highest 8-hour ozone values (ppm) |       |       | Design Value (ppm) |
|-----------------------------------|---------------------------------------|-------|-------|--------------------|
|                                   | 2003                                  | 2004  | 2005  | 2003–2005          |
| Edgecombe (Leggett Monitor) ..... | 0.088                                 | 0.072 | 0.079 | 0.079              |

In addition, as discussed below with respect to the maintenance plan, NCDENR has indicated a commitment to continue monitoring in the Rocky Mount area in accordance with 40 CFR part 58 by requiring the use of the data from the monitor in Edgecombe County to verify continued maintenance of the 8-hour ozone NAAQS. On September 11, 2006, NCDENR submitted a letter to EPA clarifying this commitment. NCDENR will operate and continue monitoring at the Leggett ozone monitor throughout the maintenance period and until there is a change approved by EPA to discontinue operation, relocate or otherwise affect the ambient monitoring network in place. In summary, EPA believes that the data submitted by North Carolina provides an adequate demonstration that the Rocky Mount 8-hour ozone nonattainment area has attained the 8-hour ozone NAAQS.

(2) *North Carolina has a fully approved SIP under section 110(k) for Edgecombe and Nash Counties and (5) has met all applicable requirements under section 110 and part D of the CAA.*

Below is a summary of how these two criteria were met.

EPA has determined that North Carolina has met all applicable SIP

requirements for the Rocky Mount area under section 110 of the CAA (general SIP requirements). EPA has also determined that the North Carolina SIP satisfies the criterion that it meets applicable SIP requirements under part D of title I of the CAA (requirements specific to subpart 1 basic 8-hour ozone nonattainment areas) in accordance with section 107(d)(3)(E)(v). In addition, EPA has determined that the SIP is fully approved with respect to all applicable requirements in accordance with section 107(d)(3)(E)(ii). In making these determinations, EPA ascertained which requirements are applicable to the area and that if applicable they are fully approved under section 110(k). SIPs must be fully approved only with respect to applicable requirements.

a. *Rocky Mount, North Carolina has met all applicable requirements under section 110 and part D of the CAA.*

The September 4, 1992, Calcagni memorandum (see "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992) describes EPA's interpretation of section 107(d)(3)(E). Under this interpretation, to qualify for redesignation, states requesting

redesignation to attainment must meet only the relevant CAA requirements that come due prior to the submittal of a complete redesignation request. See also Michael Shapiro memorandum, September 17, 1993, and 60 FR 12459, 12465–66 (March 7, 1995) (redesignation of Detroit-Ann Arbor, MI). Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a redesignation is approved, but are not required as a prerequisite to redesignation. See section 175A(c) of the CAA; *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004). See also 68 FR 25424, 25427 (May 12, 2003) (redesignation of St. Louis, MO).

*General SIP requirements:* Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not

limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD) and provisions for the implementation of part D requirements (New Source Review (NSR) permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development. These requirements are discussed in the following EPA documents: "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992; "State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines," memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992; and "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993. See also guidance documents listed in section III above.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the transport of air pollutants (NO<sub>x</sub> SIP Call, Clean Air Interstate Rule (CAIR)). North Carolina's final CAIR submittal was received by EPA on August 15, 2006. However, the section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state.

Thus, we do not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of

redesignation. In addition, EPA believes that the other section 110 elements not connected with nonattainment plan submissions and not linked with an area's attainment status are not applicable requirements for purposes of redesignation. The State will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements, which are linked with a particular area's designation and classification, are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. See Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 1997); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). See also the discussion on this issue in the Cincinnati redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh redesignation (66 FR 50399, October 19, 2001).

EPA believes that section 110 elements not linked to the area's nonattainment status are not applicable for purposes of redesignation. Any section 110 requirements that are linked to the part D requirements for 8-hour ozone nonattainment areas are not yet due, since, as explained below, no part D requirements applicable for purposes of redesignation under the 8-hour ozone standard became due prior to the submission of the redesignation request. Therefore, as discussed above, for purposes of redesignation, they are not considered applicable requirements. Nonetheless, EPA notes that it has previously approved provisions in the North Carolina SIP addressing section 110 elements under the 1-hour ozone standard (51 FR 19834, June 3, 1986). EPA believes that the section 110 SIP approved for the 1-hour ozone standard is sufficient to meet requirements under the 8-hour ozone standard as well.

*Part D requirements:* EPA has also determined that the North Carolina SIP meets applicable SIP requirements under part D of the CAA since no requirements became due prior to the submission of the area's redesignation request. Sections 172–176 of the CAA, found in subpart 1 of part D, set forth the basic nonattainment requirements applicable to all nonattainment areas. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements

depending on the area's nonattainment classification. Subpart 2 is not applicable to the Rocky Mount area.

*Part D, subpart 1 applicable SIP requirements:* For purposes of evaluating this redesignation request, the applicable part D, subpart 1 SIP requirements for all nonattainment areas are contained in sections 172(c)(1)–(9). A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of Title I (57 FR 13498). No requirements applicable for purposes of redesignation under part D became due prior to the submission of the redesignation request, and therefore none are applicable to the area for purposes of redesignation. For example, the requirements for an attainment demonstration that meets the requirements of section 172(c)(1) are not yet applicable, nor are the requirements for Reasonably Achievable Control Technology (RACT) and Reasonably Available Control Measures (RACM) (section 172(c)(1)), reasonable further progress (RFP) (section 172(c)(2)), and contingency measures (section 172(c)(9)).

In addition to the fact that no part D requirements applicable for purposes of redesignation became due prior to submission of the redesignation request and therefore are not applicable, EPA believes it is reasonable to interpret the conformity and NSR requirements as not requiring approval prior to redesignation.

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

EPA believes it is reasonable to interpret the conformity requirements as not applying for purposes of evaluating the redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), upholding this interpretation. See

also 60 FR 62748 (Dec. 7, 1995, Tampa, FL).

EPA has also determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the standard without part D NSR in effect since PSD requirements will apply after redesignation. The rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment." North Carolina has demonstrated that the area will be able to maintain the standard without part D NSR in effect, and therefore, the State need not have a fully approved part D NSR program prior to approval of the redesignation request. The State's PSD program will become effective in the area upon redesignation to attainment. See rulemakings for Detroit, MI (60 FR 12467–12468, March 7, 1995); Cleveland-Akron-Lorraine, OH (61 FR 20458, 20469–20470, May 7, 1996); Louisville, KY (66 FR 53665, October 23, 2001); Grand Rapids, Michigan (61 FR 31834–31837, June 21, 1996). Thus, the area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of the CAA.

b. *The area has a fully approved applicable SIP under section 110(k) of the CAA.*

EPA has fully approved the applicable North Carolina SIP for the Rocky Mount area under section 110(k) of the Clean Air Act for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request, see Calcagni Memo at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. See 68 FR 25426 (May 12, 2003) and citations therein. Following passage of the CAA of 1970, North Carolina has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various 1-hour ozone standard SIP elements applicable in the Rocky Mount area (51 FR 19834, June 3, 1986).

As indicated above, EPA believes that the section 110 elements not connected with nonattainment plan submissions and not linked to the area's nonattainment status are not applicable requirements for purposes of redesignation. EPA also believes that

since the part D requirements applicable for purposes of redesignation did not become due prior to submission of the redesignation request, they also are therefore not applicable requirements for purposes of redesignation.

(3) *The air quality improvement in the Rocky Mount 8-hour ozone area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions.*

EPA believes that the State has demonstrated that the observed air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, Federal measures, and other state-adopted measures. EPA has determined that the implementation of the following permanent and enforceable emissions controls, that occurred from 2002–2005, have reduced local VOC and NO<sub>x</sub> emissions and brought the area into attainment:

- EPA's Tier 2 Vehicle Standards;
- EPA's Heavy-Duty Gasoline and Diesel Highway and Vehicle Standards;
- Federal controls on non-road spark ignition engines and recreational engine standard engines in 2003;
- State Clean Air Bill;
- State NO<sub>x</sub> SIP Call rule;
- State Clean Smokestacks Act;
- State Open Burning Ban;
- State Air Toxics Control Program;
- Prevention of Significant Deterioration;
- State Heavy Duty Diesel Gap Filling Rule.

In addition to the reductions mentioned above, the State of North Carolina has implemented an Air Awareness Program which is a public outreach program to reduce air pollution through voluntary action by individuals and organizations.

The State has demonstrated that the implementation of permanent and enforceable emissions controls have reduced local VOC and NO<sub>x</sub> emissions. Most of the reductions are attributable to Federal programs such as EPA's Tier 2/Low Sulfur Gasoline program and other national clean fuel programs that began implementation in 2004. Additionally, the State has indicated in its submittal that the Rocky Mount area has benefited from emissions reductions that have been achieved and will continue to be achieved through implementation of the NO<sub>x</sub> SIP Call, beginning in 2002. The State has also demonstrated that year-to-year meteorological changes and trends are not the likely source of the overall, long-

term improvement in ozone levels. Also, the following non-highway mobile source reduction programs were implemented during the 2002–2005 period: small spark-ignition engines, large-spark ignition engines, locomotives and land-based diesel engines. EPA believes that permanent and enforceable emissions reductions in and surrounding the nonattainment area are the cause of the long-term improvement in ozone levels, and are the cause of the area achieving attainment of the ozone standard.

(4) *The area has a fully approved maintenance plan pursuant to section 175A of the CAA.*

In its request to redesignate the Rocky Mount 8-hour ozone nonattainment area to attainment status, NCDENR submitted a SIP revision to provide for the maintenance of the 8-hour ozone NAAQS in the Rocky Mount area for at least 10 years after the effective date of redesignation to attainment.

a. *What Is Required in a Maintenance Plan?*

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the 10 years following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain such contingency measures, with a schedule for implementation as EPA deems necessary to assure prompt correction of any future 8-hour ozone violations. Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The Calcagni memorandum, dated September 4, 1992, provides additional guidance on the content of a maintenance plan. An ozone maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan.

b. *Attainment Emissions Inventory*

The Rocky Mount area has selected 2005 as "the attainment year" for purposes of demonstrating attainment of the 8-hour ozone NAAQS. The 2005 VOC and NO<sub>x</sub> emissions for the Rocky

Mount area were developed consistent with EPA guidance and are summarized in the table in the following subsection.

*c. Maintenance Demonstration*

The June 19, 2006, submittal includes a 12-year maintenance plan for the Rocky Mount area. This demonstration:

(i) shows compliance and maintenance of the 8-hour ozone standard by assuring that current and future emissions of VOC and NO<sub>x</sub>

remain at or below attainment year 2005 emissions levels. The year 2005 was chosen as the attainment year because it is one of the most recent three years (i.e., 2003, 2004, and 2005) for which the Rocky Mount area has clean air quality data for the 8-hour ozone standard.

(ii) uses 2005 as the attainment year and includes future inventory projected years for 2008, 2011, 2014, and 2017.

(iii) identifies an “out year,” at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, a MVEB was established for the last year of the maintenance plan. See sections VIII and IX below.

(iv) provides the following actual and projected emissions inventories for the Rocky Mount area depicted in Tables 3 through 8:

TABLE 3.—NO<sub>x</sub> EMISSIONS (TPD) FOR EDGEcombe COUNTY\*

| Source category              | 2005        | 2008        | 2011        | 2014        | 2017        |
|------------------------------|-------------|-------------|-------------|-------------|-------------|
| Point .....                  | 2.95        | 2.68        | 2.70        | 2.73        | 2.76        |
| Area .....                   | 0.53        | 0.54        | 0.55        | 0.56        | 0.57        |
| On-Road Mobile .....         | 3.36        | 2.73        | 2.14        | 1.62        | 1.27        |
| Nonroad .....                | 2.35        | 2.10        | 1.82        | 1.60        | 1.40        |
| <b>Total Emissions .....</b> | <b>9.19</b> | <b>8.05</b> | <b>7.21</b> | <b>6.51</b> | <b>6.00</b> |

\*The total emissions in the tables above only include man-made emissions and not biogenic emissions.

TABLE 4.—NO<sub>x</sub> EMISSIONS (TPD) FOR NASH COUNTY\*

| Source category              | 2005         | 2008         | 2011         | 2014        | 2017        |
|------------------------------|--------------|--------------|--------------|-------------|-------------|
| Point .....                  | 0.60         | 0.60         | 0.63         | 0.69        | 0.72        |
| Area .....                   | 1.08         | 1.12         | 1.16         | 1.20        | 1.24        |
| On-Road Mobile .....         | 12.07        | 9.70         | 7.42         | 5.39        | 4.16        |
| Nonroad .....                | 2.10         | 1.90         | 1.69         | 1.48        | 1.29        |
| <b>Total Emissions .....</b> | <b>15.85</b> | <b>13.32</b> | <b>10.90</b> | <b>8.76</b> | <b>7.41</b> |

\*The total emissions in the tables above only include man-made emissions and not biogenic emissions.

TABLE 5.—TOTAL NO<sub>x</sub> EMISSIONS (TPD) FOR EDGEcombe AND NASH COUNTIES\*

| Source category              | 2005         | 2008         | 2011         | 2014         | 2017         |
|------------------------------|--------------|--------------|--------------|--------------|--------------|
| Point .....                  | 3.55         | 3.28         | 3.33         | 3.42         | 3.48         |
| Area .....                   | 1.61         | 1.66         | 1.71         | 1.76         | 1.81         |
| On-Road Mobile .....         | 15.43        | 12.43        | 9.56         | 7.01         | 5.43         |
| Nonroad .....                | 4.45         | 4.00         | 3.51         | 3.08         | 2.69         |
| <b>Total Emissions .....</b> | <b>25.04</b> | <b>21.37</b> | <b>18.11</b> | <b>15.27</b> | <b>13.41</b> |
| Safety Margin** .....        | n/a          | 3.67         | 6.93         | 9.77         | 11.63        |

\* The total emissions in the tables above only include man-made emissions and not biogenic emissions.

\*\*A safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. North Carolina has calculated the NO<sub>x</sub> safety margin for the Rocky Mount area in its submittal which is summarized in Table 5.

TABLE 6.—VOC EMISSIONS (TPD) FOR EDGEcombe COUNTY\*

| Source category              | 2005         | 2008         | 2011         | 2014         | 2017         |
|------------------------------|--------------|--------------|--------------|--------------|--------------|
| Point .....                  | 3.86         | 4.35         | 4.74         | 5.20         | 5.65         |
| Area .....                   | 5.62         | 5.88         | 6.12         | 6.35         | 6.58         |
| On-Road Mobile .....         | 2.50         | 2.08         | 1.83         | 1.50         | 1.27         |
| Nonroad .....                | 0.95         | 0.78         | 0.70         | 0.68         | 0.65         |
| <b>Total Emissions .....</b> | <b>12.93</b> | <b>13.09</b> | <b>13.39</b> | <b>13.73</b> | <b>14.15</b> |

\* The total emissions in the tables above only include man-made emissions and not biogenic emissions.

TABLE 7.—VOC EMISSIONS (TPD) FOR NASH COUNTY\*

| Source category | 2005 | 2008 | 2011 | 2014 | 2017 |
|-----------------|------|------|------|------|------|
| Point .....     | 1.35 | 1.45 | 1.56 | 1.65 | 1.78 |
| Area .....      | 7.04 | 7.43 | 7.79 | 8.14 | 8.52 |

TABLE 7.—VOC EMISSIONS (TPD) FOR NASH COUNTY\*—Continued

| Source category       | 2005  | 2008  | 2011  | 2014  | 2017  |
|-----------------------|-------|-------|-------|-------|-------|
| On-Road Mobile .....  | 5.98  | 4.96  | 4.37  | 4.05  | 3.09  |
| Nonroad .....         | 1.39  | 1.17  | 1.07  | 1.05  | 1.08  |
| Total Emissions ..... | 15.76 | 15.01 | 14.79 | 14.89 | 14.47 |

\* The total emissions in the tables above only include man-made emissions and not biogenic emissions.

TABLE 8.—TOTAL VOC EMISSIONS (TPD) FOR EDGECOMBE AND NASH COUNTIES\*

| Source category        | 2005  | 2008  | 2011  | 2014  | 2017  |
|------------------------|-------|-------|-------|-------|-------|
| Point .....            | 5.21  | 5.80  | 6.30  | 6.85  | 7.43  |
| Area .....             | 12.66 | 13.31 | 13.91 | 14.49 | 15.10 |
| On-Road Mobile .....   | 8.48  | 7.04  | 6.20  | 5.55  | 4.36  |
| Nonroad .....          | 2.34  | 1.95  | 1.77  | 1.73  | 1.73  |
| Total Emissions .....  | 28.69 | 28.10 | 28.18 | 28.62 | 28.62 |
| Safety Margin*** ..... | n/a   | 0.59  | 0.51  | 0.07  | 0.07  |

\* The total emissions in the tables above only include man-made emissions and not biogenic emissions.

\*\*\* A safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. North Carolina has calculated the VOC safety margin for the Rocky Mount area in its submittal which is summarized in Table 8.

North Carolina has decided to allocate a portion of the available safety margin to the NO<sub>x</sub> subarea MVEBs for 2008 and 2017. This allocation and the resulting available safety margin is discussed further in section VIII of this rulemaking.

d. Monitoring Network

There is currently one monitor measuring ozone, the Leggett monitor, located within Edgecombe County, North Carolina, which provides air quality data for the entire Rocky Mount 8-hour nonattainment area. North Carolina has committed to continue operation of the Leggett ozone monitor in compliance with 40 CFR part 58, and has addressed the requirement for monitoring.

e. Verification of Continued Attainment

The State has the legal authority to enforce and implement the requirements of the ozone maintenance plan for the Rocky Mount area. This includes the authority to adopt, implement and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

North Carolina will track the progress of the maintenance plan by performing future reviews of actual emissions for the area using the latest emissions factors, models and methodologies. For these periodic inventories the State will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. If any of these assumptions appear to have changed

substantially, the State will re-project emissions.

f. Contingency Plan

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

In the June 19, 2006, submittal, North Carolina affirms that a combination of all programs instituted by the State and EPA have resulted in cleaner air in the Rocky Mount area and the anticipated future benefits from these programs are expected to result in continued maintenance of the 8-hour ozone NAAQS in this area. This submittal also includes a contingency plan which provides tracking and triggering

mechanisms to determine when contingency measures are needed and a process of developing and adopting appropriate control measures. The primary trigger of the contingency plan will be a violation of the 8-hour ozone NAAQS at the Leggett monitor, or when the three-year average of the fourth-highest values is equal to or greater than 0.085 ppm. The trigger date will be 60 days from the date that the State observes a fourth-highest value that, when averaged with the two previous ozone season's fourth highest values, would result in a three-year average equal to or greater than 0.085 ppm. The second trigger will apply where no actual violation of the 8-hour ozone standard has occurred, but where the State finds monitored ozone levels indicating that an actual ozone NAAQS violation may be imminent. A pattern will be deemed to exist when there are two consecutive ozone seasons in which the fourth-highest values are 0.085 ppm or greater. The trigger date will be 60 days from the date that the State observes a fourth-highest value of 0.085 ppm or greater, following a season in which the fourth-highest value was 0.085 ppm or greater.

Once the primary or secondary trigger is activated, North Carolina will commence analyses including trajectory analyses of high ozone days, and emissions inventory assessment to determine those emission control measures that will be required for attainment and maintaining the 8-hour ozone standard. North Carolina commits that by May 1 of the year following the ozone season in which the primary (a



violation of the 8-hour ozone NAAQS occurs) or secondary trigger has been activated, that they will complete sufficient analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 8-hour ozone NAAQS. North Carolina also commits that such rules would become State-effective by the following January 1, unless legislative review is required. Specifically, the State will consider one or more of the following contingency measures to re-attain the standard:

- RACT for NO<sub>x</sub> on stationary sources in Nash and Edgecombe counties;
- Diesel inspection and maintenance program<sup>1</sup>;
- Implementation of diesel retrofit programs, including incentives for performing retrofits;
- Implementation of additional controls in upwind areas.

In addition to the measures listed above, the future Consolidated Emissions Reporting Rule inventories that coincide with the attainment, interim, and final year inventories will be compared to determine if additional steps are necessary for continued maintenance of the 8-hour ozone standard in this area.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, maintenance demonstration, monitoring network, verification of continued attainment, and a contingency plan. The maintenance plan SIP revision submitted by North Carolina for the Rocky Mount area meets the requirements of section 175A of the CAA.

## VII. What Is an Adequacy Determination?

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (e.g., reasonable further progress SIPs and attainment demonstration SIPs) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from

cars and trucks. Per 40 CFR part 93, a MVEB is established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and revise the MVEB.

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

When reviewing submitted "control strategy" SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein "adequate" for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by state and federal agencies in determining whether proposed transportation projects "conform" to the SIP as required by section 176(c) of the Clean Air Act. EPA's substantive criteria for determining "adequacy" of an MVEB are set out in 40 CFR 93.118(e)(4).

EPA's process for determining "adequacy" consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs was initially outlined in EPA's May 14, 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." This guidance was finalized in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous

Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change" on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

In addition, in certain instances, the transportation conformity rule allows areas not to establish a MVEB where it is demonstrated that the regional motor vehicle emissions for a particular pollutant/precursor is an insignificant contributor to the air quality problem in an area. The general criteria for insignificance findings can be found in 40 CFR 93.109(k). Insignificance findings are based on a number of factors, including the percentage of motor vehicle emissions in context of the total SIP inventory, the current state of air quality as determined by monitoring data for that NAAQS, the absence of SIP motor vehicle control measures, and historical trends and future projections of the growth of motor vehicle emissions. EPA's rationale for the allowance of insignificance findings can be found in the July 1, 2004, revision to the transportation conformity rule at 69 FR 40004. Specifically, the rationale is explained on page 40061 under the subsection entitled "B. Areas With Insignificant Motor Vehicle Emissions." Any insignificance finding that EPA makes is subject to the adequacy and approval process for EPA's action on the SIP.

In summary, upon the effective date of EPA's adequacy finding or approval of such a SIP, an insignificance finding waives the regional emissions analysis requirements (for the purpose of transportation conformity implementation) for an insignificant pollutant or precursor in areas where EPA finds that the SIP's motor vehicle emissions for a pollutant or precursor for a given standard are an insignificant contributor to an area's regional air quality problem. Areas with insignificant regional motor vehicle emissions for a pollutant or precursor are still required to make a conformity determination that satisfies other relevant requirements. Additionally, areas are required to satisfy the regional emissions analysis requirements for pollutants or precursors for which EPA has not made a finding of insignificance. For the Rocky Mount area, EPA is making an insignificance finding with regard to VOCs. This insignificance finding is discussed in more detail in Section IX below.

<sup>1</sup> At this time, there is not an approved method for determining emission reductions from a Diesel Inspection and Maintenance program. Therefore, there is no technical basis to award emission credits for a heavy duty diesel inspection and maintenance program in the SIP. However, we do not want to preclude future technical changes that may make awarding such emission credits possible. If it is necessary to implement contingency measures for this area, North Carolina, in coordination with EPA, will evaluate the feasibility of this program as a contingency measure at that time. If a technical basis for emission credits is not available, other contingency measures will need to be implemented.

**VIII. What Is the Status of EPA's Adequacy Determination for the Rocky Mount Area's Proposed New NO<sub>x</sub> Subarea MVEBs for the Years 2008 and 2017?**

The Rocky Mount area's maintenance plan submission contains new NO<sub>x</sub> subarea MVEBs for the years 2008 and 2017 for Edgecombe and Nash counties. The availability of the SIP submission with the 2008 and 2017 NO<sub>x</sub> subarea

MVEBs was announced for public comment on EPA's adequacy Web page on August 7, 2006, at: <http://www.epa.gov/otaq/stateresources/transconf/currships.htm>. The EPA public comment period on the adequacy of the 2008 and 2017 NO<sub>x</sub> subarea MVEBs for the Edgecombe and Nash counties closed on September 7, 2006. EPA did not receive any adverse comments or requests for the submittal.

Through this rulemaking, EPA is finding adequate and approving those MVEBs for use to determine transportation conformity because EPA has determined that the area maintains the standard with emissions at the levels of the budgets. Tables 9 and 10 below define the 2008 and 2017 NO<sub>x</sub> subarea MVEBs for both Edgecombe and Nash counties in the Rocky Mount, North Carolina area.

TABLE 9.—EDGECOMBE COUNTY 8-HOUR OZONE MAINTENANCE AREA MVEBs FOR NO<sub>x</sub>

|                                       | 2008   |      | 2017   |      |
|---------------------------------------|--------|------|--------|------|
|                                       | kg/day | tpd  | kg/day | tpd  |
| On-Road Mobile Emissions .....        | 2,483  | 2.73 | 1,143  | 1.27 |
| Safety Margin Allocated to MVEB ..... | 273    | 0.30 | 240    | 0.26 |
| NO <sub>x</sub> MVEB .....            | 2,756  | 3.03 | 1,383  | 1.53 |

TABLE 10.—NASH COUNTY 8-HOUR OZONE MAINTENANCE AREA MVEBs FOR NO<sub>x</sub>

|                                       | 2008   |       | 2017   |      |
|---------------------------------------|--------|-------|--------|------|
|                                       | kg/day | tpd   | kg/day | tpd  |
| On-Road Mobile Emissions .....        | 8,790  | 9.70  | 3,767  | 4.16 |
| Safety Margin Allocated to MVEB ..... | 967    | 1.07  | 791    | 0.87 |
| NO <sub>x</sub> MVEB .....            | 9,757  | 10.77 | 4,558  | 5.03 |

A total of 1,240 kg (1.37 tpd) and 1,031kg (1.14 tpd) of the 2008 and 2017 safety margin, respectively, were added to the MVEB for the Rocky Mount area. As the tables above indicate, for Edgecombe County, this equates to an allocation of 273 kg/day (0.30 tpd) and 204 kg/day (0.26 tpd) for NO<sub>x</sub> in the years 2008 and 2017, respectively; for Nash County, this equates to 967 kg/day (1.07 tpd) and 791 kg/day (0.87 tpd) for NO<sub>x</sub> in the years 2008 and 2017, respectively. Thus, after this allocation, the available NO<sub>x</sub> safety margin for the Rocky Mount area in 2008 is 2.30 tpd and in 2017 is 10.49 tpd.

**IX. What Is the Status of EPA's Adequacy Determination for the Rocky Mount Area's Proposed Insignificance Finding for VOCs From Motor Vehicles?**

In addition to NO<sub>x</sub> subarea MVEBs, the Rocky Mount area's maintenance plan submission contains a finding of insignificance for VOCs' contribution from motor vehicles to the 8-hour ozone pollution in the Rocky Mount area. The availability of the SIP submission with the VOC insignificance finding was announced for public comment on EPA's adequacy Web page on August 7, 2006, at: <http://www.epa.gov/otaq/stateresources/transconf/currships.htm>. The EPA public comment period on the adequacy of the VOC insignificance finding for the Rocky Mount, North

Carolina, area closed on September 7, 2006. EPA did not receive any adverse comments or requests for the submittal.

For the purposes of transportation conformity, EPA agrees with the State of North Carolina's insignificance finding for VOCs' contribution from motor vehicles in the Rocky Mount, North Carolina area. EPA finds that North Carolina's SIP submittal meets the criteria in the transportation conformity rule for an insignificance finding for VOCs considering the high level of biogenic emissions in the area. That is, EPA finds that the SIP submittal demonstrates that, as to VOCs, regional motor vehicle emissions are an insignificant contributor to 8-hour ozone pollution in the Rocky Mount area. This finding is based on the following: (1) The on-road VOC emissions are less than 10 percent in the future in both Edgecombe and Nash counties, and the biogenic emissions account for about 90 percent of the VOC emissions in future years; (2) figures 4.1.6–5 and 4.1.6–6, located in Appendix C.3—Mobile Source Inventory Documentation on pages 4–24 and 4–25 show on-road VOC emissions declining by about 50 percent by 2017 and vehicle miles traveled (VMT) going up by about 25 to 30 percent by 2017; and (3) the sensitivity analysis that was done, where the State ran a photochemical model for a 39-day

scenario with a modeled 30 percent reduction in man-made VOC emissions, showed that 8-hour ozone levels were not affected by this reduction in VOC emissions. In the year 2009, even with anticipated growth in VMT, the mobile source inventory is less than 8 percent of the total inventory for VOC emissions, whereas biogenic emissions account for at least 84 percent of the total inventory for VOC emissions. As noted in North Carolina's submittal, the biogenic sector is the most abundant source of VOCs in North Carolina and accounts for approximately 90 percent of the total VOCs statewide. EPA agrees with North Carolina that VOC emissions are due to the overwhelming abundance of biogenic VOCs in the area and throughout North Carolina. EPA also considered the implementation of an inspection and maintenance program (I/M) in Edgecombe and Nash counties as of January 1, 2005. The total amount of VOC emission reductions achieved by this I/M program in Edgecombe and Nash counties, as a whole, is 0.51 tpd in 2008 and 0.89 tpd in 2017.

Weighing all the factors for an insignificance finding, particularly the biogenic contribution to the overall VOC inventory, EPA has determined that VOCs' contribution from motor vehicle emissions to the 8-hour ozone pollution for this area are insignificant. Based on the information described above, EPA is

finding adequate and approving the insignificance finding for VOCs' contribution from motor vehicle emissions to the 8-hour ozone pollution for the Rocky Mount, North Carolina area. EPA's insignificance finding should be considered and specifically noted in the transportation conformity documentation that is prepared for this area.

#### **X. Final Action on the Redesignation Request, the Maintenance Plan SIP Revision Including Approval of the 2008 and 2017 NO<sub>x</sub> MVEBs, and the VOCs Insignificance Finding**

EPA is making the determination that the Rocky Mount area has attained the 8-hour ozone NAAQS. EPA is approving the redesignation of the Rocky Mount area from nonattainment to attainment for the 8-hour ozone NAAQS. After evaluating the State of North Carolina's redesignation request, EPA has 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 the Rocky Mount area has attained the 8-hour ozone standard. The final approval of this redesignation request changes the official designation for the Rocky Mount, North Carolina area from nonattainment to attainment for the 8-hour ozone standard.

EPA is also approving the maintenance plan SIP revision. Approval of the maintenance plan for the Rocky Mount area is appropriate, because the State of North Carolina has demonstrated that the plan meets the requirements of section 175A as described more fully in this rulemaking. Additionally, EPA is finding adequate and approving the new 2008 and 2017 NO<sub>x</sub> MVEBs. Within 24 months from the effective date of this action, the transportation partners will need to demonstrate conformity to these new MVEBs pursuant to 40 CFR 93.104(e), as amended by new section 172(c)(2)(E) of the CAA (added by the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA—LU), which was signed into law on August 10, 2005). Further, EPA is approving the State of North Carolina's insignificance finding for VOCs' contribution from motor vehicles to Rocky Mount, North Carolina's 8-hour ozone pollution. EPA is publishing this rule without prior approval because the Agency views this as noncontroversial and anticipates no adverse comment. However, in the Proposed Rules section of today's **Federal Register** EPA is publishing a proposal to approve the redesignation

and maintenance plan that will serve as the proposal if adverse comments are filed. This rule will be effective on January 5, 2007 unless EPA receives adverse comments by December 6, 2006. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address the public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. If no such comments are received, the public is advised that this rule will be effective on January 5, 2007 and no further action will be taken on the proposed rule.

#### **XI. Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. 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 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Redesignation of an area to attainment under section 107(d)(3)(E) of the CAA does not impose any new requirements on small entities. Redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on sources. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). 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 rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism

implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely affects the status of a geographical area, does not impose any new requirements on sources, or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

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. 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. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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**. 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 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 January 5, 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 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 dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 81*

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

Dated: October 24, 2006.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR parts 52 and 81 is 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 II—North Carolina**

■ 2. Section 52.1770(e), is amended by adding a new entry at the end of the table for “8-Hour Ozone Maintenance plan for the Rocky Mount, North Carolina area” to read as follows:

**§ 52.1770 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

**EPA-APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS**

| Provision   | State effective date | EPA approval date                              | Federal Register citation |
|---|----------------------|--|---------------------------|
| * * * * *   |                      |  |                           |
| 8-Hour Ozone Maintenance plan for the Rocky Mount, North Carolina area (Edgecombe and Nash Counties). | 06/19/2006 .....     | 11/06/2006 [Insert first page of publication]. |                           |

**PART 81—[AMENDED]**

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

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

■ 2. In section 81.334, the table entitled “North Carolina-Ozone (8-Hour Standard)” is amended under “Rocky Mount, NC” by revising the entries for

“Edgecombe County” and “Nash County” to read as follows:

**§ 81.334 North Carolina.**

\* \* \* \* \*

**NORTH CAROLINA-OZONE (8-HOUR STANDARD)**

| Designated area        | Designation <sup>a</sup> |             | Category/ classification |
|------------------------|--------------------------|-------------|--------------------------|
|                        | Date <sup>1</sup>        | Type        |                          |
| * * * * *              |                          |             |                          |
| Rocky Mount, NC:       |                          |             |                          |
| Edgecombe County ..... | January 5, 2007 .....    | Attainment. |                          |
| Nash County .....      | January 5, 2007 .....    | Attainment. |                          |
| * * * * *              |                          |             |                          |

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

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

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