maintenance plan for the West Virginia portion of the Area, submitted on June 30, 2011, as a revision to the West Virginia SIP because it meets the requirements of CAA section 175A as described previously in this notice. EPA is also proposing to approve the insignificance determination for on-road motor vehicle contribution of $PM_{2.5}$, NO_X, and SO_2, submitted by West Virginia for the West Virginia portion of the Area in conjunction with its redesignation request. As noted previously, the 30 day public comment period for the proposed insignificance determination started on November 5, 2012 and will end on December 4, 2012. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IX. 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 proposes to approve state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this rule proposing approval of West Virginia's redesignation request, maintenance plan, and transportation conformity insignificance determination for the Huntington-Ashland Area for the 1997 annual $PM_{2.5}$ NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen oxides, $PM_{2.5}$, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

40 CFR Part 81

Air pollution control, National parks, Wilderness Areas.

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

Dated: November 7, 2012.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2012–27785 Filed 11–14–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0327; FRL–9751–9]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; South Carolina; Redesignation of the Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 1997 8-Hour Ozone Moderate Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 1, 2011, the State of South Carolina, through the South Carolina Department of Health and Environmental Control (SC DHEC), submitted a request for EPA to redesignate the portion of York County, South Carolina that is within the bi-state Charlotte-Gastonia-Rock Hill, North Carolina-South Carolina 8-hour ozone nonattainment area (hereafter referred to as the ''bi-state Charlotte Area,'' or ''Area'') to attainment for the 1997 8-hour ozone national ambient air quality standards (NAAQS); and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the South Carolina portion of the bi-state Charlotte Area (hereafter referred to as ''the York County Area''). The bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell County (Davidson and Coddle Creek Townships) in North Carolina; and a portion of York County in South Carolina (including the Catawba Indian Nation reservation lands). EPA is proposing to approve the redesignation request for the York County Area, along with the related SIP revision, including South Carolina's plan for maintaining attainment of the ozone standard in the York County Area. EPA is also proposing to approve the motor vehicle emission budgets (MVEB) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2013 and 2022 for the York County Area. Additionally, EPA is proposing that the 2022 MVEB are consistent with maintenance in 2023. These actions are being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations. EPA will take action on the North Carolina submission for the 1997 8-hour ozone redesignation request and maintenance plan for its portion of the bi-state Charlotte Area in a separate action.

DATES: Comments must be received on or before December 6, 2012.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0327, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2012–0327, 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:* Ms. Lynorae Benjamin, Chief, 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–2012–0327. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *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 email comment directly to EPA without going through *www.regulations.gov,* your email 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* 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 *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 federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann may be reached by phone at (404) 562–9029, or via electronic mail at *spann.jane@epa.gov*. Ms. Waterson may be reached by phone at (404) 562–9061, or via electronic mail at *waterson.sara@epa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What are the actions EPA is proposing to take?

EPA is proposing to take the following two separate but related actions, one of which involves multiple elements: (1) To redesignate the York County Area (including the Catawba Indian Nation reservation lands) to attainment for the 1997 8-hour ozone NAAQS and (2) to approve into the South Carolina SIP, under section 175A of the CAA, South Carolina's 1997 8-hour ozone NAAQS maintenance plan, including the associated MVEB. EPA is also notifying the public of the status of EPA's adequacy determination for the York County Area MVEB. These actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

First, EPA proposes to determine that the York County Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In this action, EPA is proposing to approve a request to change the legal designation of the portion of York County (including the Catawba Indian Nation reservation lands) in the bi-state Charlotte Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS.

Second, EPA is proposing to approve South Carolina's 1997 8-hour ozone NAAQS maintenance plan for the York County Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the York County Area in attainment of the 1997 8-hour ozone NAAQS through 2022. As explained in Section V, EPA is also proposing to approve that attainment can be maintained through 2023. Consistent with the CAA, the maintenance plan that EPA is proposing to approve today also includes NO_X and VOC MVEB for the years 2013 and 2022 for the York County Area. EPA is proposing to approve (into the South Carolina SIP) the 2013 and 2022 MVEB that are included as part of South Carolina's maintenance plan for the 1997 8-hour ozone NAAQS. As explained in Sections V and VI, EPA is also proposing that the MVEB are consistent with maintenance through 2023.

EPA is also notifying the public of the status of EPA's adequacy process for the newly-established NO_X and VOC MVEB for 2013 and 2022 for the York County Area. The Adequacy comment period for the York County Area 2013 and 2022 MVEB began on October 28, 2011, with EPA's posting of the availability of this submittal on EPA's Adequacy Web site (*http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*). The Adequacy comment period for these MVEB closed on November 28, 2011. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEB associated with South Carolina's 1997 8-hour ozone maintenance plan. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEB.

Today's notice of proposed rulemaking is in response to South Carolina's June 1, 2011, SIP revision. That document addresses the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the York County Area to attainment of the 1997 8-hour ozone NAAQS.

II. What is the background for EPA's proposed actions?

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm) (62 FR 38856, July 18, 1997). Under EPA's regulations at 40 CFR part 50, the 1997 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). 69 FR 23857 (April 30, 2004). Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The bi-state Charlotte Area was designated nonattainment for the 1997 8-hour ozone NAAQS on April 30, 2004 (effective June 15, 2004) using 2001–2003 ambient air quality data (69 FR 23857, April 30, 2004). At the time of designation the bi-state Charlotte Area was classified as a moderate nonattainment area for the 1997 8-hour ozone NAAQS. In the April 30, 2004, Phase I Ozone Implementation Rule, EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date six years after the June 15, 2004, effective date for areas classified as moderate areas for the 1997 8-hour ozone nonattainment designations. Section 181 of the CAA explains that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but no later than six years after designation, or June 15, 2010. Therefore, the bi-state Charlotte Area's original attainment date was June 15, 2010. *See* 69 FR 23951, April 30, 2004.

On April 29, 2010,[1] South Carolina submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, emissions statement, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS in the York County Area.

The bi-state Charlotte Area did not attain the 1997 8-hour ozone NAAQS by June 15, 2010 (the applicable attainment date for moderate nonattainment areas); however, the Area qualified for an extension of the attainment date. Under certain circumstances, the CAA allows for extensions of the attainment dates prescribed at the time of the original nonattainment designation. In accordance with CAA section 181(a)(5), EPA may grant up to 2 one-year extensions of the attainment date under specified conditions. On May 31, 2011, EPA determined that the Area met the CAA requirements to obtain a one-year extension of the attainment date for the 1997 8-hour ozone NAAQS. *See* 76 FR 31245. As a result, EPA extended the bi-state Charlotte Area's attainment date from June 15, 2010, to June 15, 2011, for the 1997 8-hour ozone NAAQS.

On June 1, 2011, South Carolina requested redesignation of the York County Area to attainment for the 1997 8-hour ozone NAAQS. The redesignation request included three years of complete, quality-assured ambient air quality data for the 1997 8-hour ozone NAAQS for 2008–2010, indicating that the 1997 8-hour ozone NAAQS had been achieved for the bi-state Charlotte Area. 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).

Subsequently, on March 7, 2012 (77 FR 13493), EPA determined that the bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS by its applicable attainment date. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period, showing that the Area had monitored attainment of the 1997 8-hour ozone NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 40 CFR 52.2125(a). The Area continues to attain the standard with 2009–2011 data.

On January 12, 2012, South Carolina withdrew the York County portion of the Area's attainment demonstration (except RFP, emissions statements, and the emissions inventory) as allowed by 40 CFR 51.918. EPA approved the baseline emissions inventory portion of the attainment demonstration SIP revision on May 18, 2012 (77 FR 29540). Additionally, EPA approved the emissions statements portion of the attainment demonstration SIP revision on June 25, 2012 (77 FR 37812). No comments were received on either action. EPA is considering action on South Carolina's RFP plan in a separate action; however, as mentioned previously, the determination of attainment suspended South Carolina's obligation to meet this requirement for the 1997 8-hour ozone NAAQS.

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

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the

[1] South Carolina withdrew an August 31, 2007, attainment demonstration SIP for its portion of the Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area on December 22, 2008. EPA issued a finding of failure to submit for the attainment demonstration for the Charlotte NC–SC Area on May 8, 2009. *See* 74 FR 21550. On April 29, 2010, South Carolina resubmitted the attainment demonstration SIP with an updated supplement for the South Carolina portion of the Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area.

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

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;

2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereafter referred to as the ''Calcagni Memorandum'');

5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

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

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

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

IV. Why is EPA proposing these actions?

On June 1, 2011, the State of South Carolina, through SC DHEC, requested the redesignation of the York County Area to attainment for the 1997 8-hour ozone NAAQS. EPA's evaluation indicates that the entire bi-state Charlotte Area (including the York County Area as part of the bi-State Charlotte Area) has attained the 1997 8-hour ozone NAAQS, and that the York County Area meets the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the two related actions summarized in section I of this notice.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes in today's action to: (1) Redesignate the York County Area (including the Catawba Indian Nation reservation lands) to attainment for the 1997 8-hour ozone NAAQS; and (2) approve the York County Area's 1997 8-hour ozone NAAQS maintenance plan, including the associated MVEB, into the South Carolina SIP. These actions are based upon EPA's preliminary determinations that the bi-state Charlotte Area (including the York County Area as part of the bi-State Charlotte Area) continues to attain the 1997 8-hour ozone NAAQS, and EPA's preliminary determination that South Carolina has met all other redesignation criteria for the York County Area. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the York County Area in the following paragraphs of this section.

Criteria (1)—The Bi-State Charlotte Area (Including the York County Area as Part of the Bi-State Charlotte Area) Has Attained the 1997 8-Hour Ozone NAAQS

For ozone, an area may be considered to be attaining the 1997 8-hour ozone NAAQS if it meets the 1997 8-hour ozone NAAQS, 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 these NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.08 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.084 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.

On November 15, 2011, at 76 FR 70656, EPA determined that the bi-state Charlotte Area was attaining the 1997 8-hour ozone NAAQS. For that action EPA reviewed ozone monitoring data from monitoring stations in the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS for 2008–2010. These data have been quality-assured and are recorded in AQS. EPA has reviewed the 2009–2011 data, which indicate that the Area continues to attain the 1997 8-hour ozone NAAQS beyond the submitted 3-year attainment period of 2008–2010. The fourth-highest 8-hour ozone average for 2008, 2009 and 2010, and the 3-year average of these values (i.e., design values), are summarized in the following Table 1 of this proposed rulemaking.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE BI-STATE CHARLOTTE 1997 8-HOUR OZONE AREA

Location	County	Monitor ID	Annual arithmetic mean concentrations (ppm)				3-Year design values (ppm)	
			2008	2009	2010	2011	2008–2010	2009–2011
Lincoln County Replacing Iron Station.	Lincoln	37–109–0004	0.079	0.065	0.072	0.077	0.072	0.071

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE BI-STATE CHARLOTTE 1997 8-HOUR OZONE AREA—Continued

Location	County	Monitor ID	Annual arithmetic mean concentrations (ppm)				3-Year design values (ppm)	
			2008	2009	2010	2011	2008–2010	2009–2011
Garinger High School.	Mecklenburg	37–119–0041	0.085	0.069	0.082	0.088	0.078	0.079
Westinghouse Blvd.	Mecklenburg	37–119–1005	0.073	0.068	0.078	0.082	0.073	0.076
29 N at Mecklenburg Cab Co.	Mecklenburg	37–119–1009	0.093	0.071	0.082	0.083	0.082	0.078
Rockwell	Rowan	37–159–0021	0.084	0.071	0.077	0.077	0.077	0.075
Enochville School	Rowan	37–159–0022	0.082	0.073	0.078	0.078	0.077	0.076
Monroe Middle School.	Union	37–179–0003	0.08	0.067	0.071	0.073	0.072	0.070

*An ozone monitor is located in York County, South Carolina; however, it is outside of the nonattainment area. This monitor is monitoring attainment of the 1997 8-hour ozone NAAQS.

The 3-year design value for 2008–2010 submitted by South Carolina for redesignation of the bi-state Charlotte Area is 0.082 ppm, which meets the NAAQS as described above. As mentioned above, on November 15, 2011 (76 FR 70656), EPA published a clean data determination for the bi-state Charlotte Area for the 1997 8-hour ozone NAAQS. The 2009–2011 certified data show that the bi-state Charlotte Area continues to attain the 1997 8-hour ozone NAAQS with a design value of 0.079 ppm at the Garinger High School monitor. In today's action, EPA is proposing to determine that the Area is attaining the 1997 8-hour ozone NAAQS. EPA will not go forward with the redesignation if the Area does not continue to attain until the time that EPA finalizes the redesignation. As discussed in more detail below, the State of South Carolina has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

Criteria (2)—South Carolina Has a Fully Approved SIP Under Section 110(k) for the York County Area; and Criteria (5)—South Carolina Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that South Carolina has met all applicable SIP requirements for the York County Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that the South Carolina SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA (requirements specific to 1997 8-hour ozone nonattainment areas) in accordance with section 107(d)(3)(E)(v). Further, EPA proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were applicable prior to submittal of the complete redesignation request.

a. The York County Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

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.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants (e.g., NO_X SIP Call [2] and the Clean Air Interstate Rule (CAIR) [3]). 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

[2] On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. In compliance with EPA's NO_X SIP Call, South Carolina developed rules governing the control of NO_X emissions from electric generating units (EGU), major non-EGU industrial boilers, major cement kilns, and internal combustion engines. On June 28, 2002, EPA approved South Carolina's rules as fulfilling Phase I of the NO_X SIP Call (67 FR 43546).

[3] On May 12, 2005 (70 FR 25162), EPA promulgated CAIR, which required 28 upwind States and the District of Columbia to revise their SIPs to include control measures that would reduce emissions of SO_2 and NO_X. Various aspects of CAIR rule were petitioned in court and on December 23, 2008, the U.S. Court of Appeals for the District of Columbia Circuit remanded CAIR to EPA (*see North Carolina* v. *EPA,* 550 F.3d 1176 (DC Circuit, December 23, 2008)), which left CAIR in place to ''temporarily preserve the environmental values covered by CAIR'' until EPA replaces it with a rule consistent with the Court's ruling. In response to the court's decision, EPA issued a new rule to address interstate transport of NO_X and SO_2 in the eastern United States (i.e., the Transport Rule, also known as the Cross-State Air Pollution Rule). *See* 76 FR 48208, August 8, 2011. In a ruling on August 21, 2012, the court vacated the Transport Rule and reiterated its expectation for EPA to continue to administer CAIR until a replacement rule is in place. Therefore, CAIR is currently in effect in South Carolina.

particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation. However, as discussed later in this notice, addressing pollutant transport from other states is an important part of an area's maintenance demonstration.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are applicable requirements for purposes of redesignation. The area 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, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

EPA completed rulemaking on a submittal from South Carolina dated December 13, 2007, addressing ''infrastructure SIP'' elements required for the 1997 8-hour ozone NAAQS under CAA section 110(a)(2) on July 13, 2011. *See* 76 FR 41111. However, these are statewide requirements that are not a consequence of the nonattainment status of the York County Area. As stated above, EPA believes that section 110 elements not linked to an area's nonattainment status are not applicable for purposes of redesignation. Therefore, EPA believes it has approved all SIP elements under section 110 that must be approved as a prerequisite for redesignating the York County Area to attainment.

Title I, Part D, subpart 1 applicable SIP requirements. Subpart 1 of part D, found in sections 172(c)(1) through (9) and in section 176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992). Subpart 2 of part D, which includes section 182 of the CAA, establishes additional specific requirements depending on the area's ozone nonattainment classification. A thorough discussion of the requirements contained in section 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Part D Subpart 1 Section 172 Requirements and Part D, Subpart 2 Section 182 Requirements. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the national primary ambient air quality standards. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's ozone nonattainment classification. For purposes of evaluating this redesignation request, the applicable part D, subpart 2 SIP requirements for all moderate nonattainment areas are contained in sections 182(b)(1)–(5). However, pursuant to 40 CFR 51.918, EPA's November 15, 2011, determination that the Area was attaining the 8-hour ozone NAAQS suspended South Carolina's obligation to submit most of the attainment planning requirements that would otherwise apply. Specifically, the determination of attainment suspended South Carolina's obligation to submit an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under sections 172(c)(9) and 182(b)(1) of the CAA.

The General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) also discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard (General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992)).

Because attainment has been reached in the bi-state Charlotte Area, no additional measures are needed to provide for attainment for the 1997 8-hour ozone NAAQS,[4] and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer considered to be applicable for purposes of redesignation as long as the Area continues to attain the 1997 8-hour ozone NAAQS until redesignation. See also 40 CFR 51.918.

The RFP plan requirements under sections 172(c)(2) and 182(b)(1) are defined as progress that must be made toward attainment for the 1997 8-hour ozone NAAQS. These requirements are not relevant for purposes of redesignation because EPA has determined that the entire bi-state Charlotte Area has monitored attainment of the 1997 8-hour ozone NAAQS. *See* General Preamble, 57 FR 13564. *See* also 40 CFR 51.1004 (c). While it is not a requirement for redesignation, EPA is considering taking action on South Carolina's RFP plan for the 1997 8-hour ozone NAAQS separate from today's proposed action.

Section 172(c)(3) and section 182(b) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Section 182(b) references section 182(a) of the CAA which requires, in part, for states to submit a current inventory of actual emissions (182(a)(1)). As part of South Carolina's attainment demonstration for the York County Area, South Carolina submitted a 2002 base year emissions inventory. EPA approved the 2002 base year inventory on May 18, 2012, as meeting the section 172(c)(3) and section 182(a)(1) emissions inventory requirement. *See* 77 FR 29540.

Section 172(c)(4) requires the identification and quantification of emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) and section 182(b) require source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area.

[4] Effective July 20, 2012, EPA designated a portion of York County (excluding the Catawba Indian Nation reservation lands) as nonattainment for the 2008 8-hour ozone NAAQS. This rulemaking does not address requirements for the portion of York County that was designated nonattainment for the 2008 8-hour ozone NAAQS. Requirements for the portion of York County that was designated nonattainment for the 2008 8-hour ozone NAAQS will be addressed in the future.

EPA has determined that, since PSD requirements will apply after redesignation, areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' South Carolina has demonstrated that the York County Area will be able to maintain the NAAQS without part D NSR in effect, and therefore South Carolina need not have fully approved part D NSR programs prior to approval of the redesignation request. Nonetheless, South Carolina currently has a fully-approved part D NSR program in place. South Carolina's PSD program will become applicable in the York County Area upon redesignation to attainment. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes the South Carolina SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 182(b) references, in part, section 182(a)(3), which requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) of the CAA requires states to submit a periodic inventory every 3 years. The periodic emissions inventory is discussed in more detail in Criteria (4)(e), *Verification of Continued Attainment.*

Section 182(a)(3)(B) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision to require emissions statements to be submitted to the state by sources within that nonattainment area. EPA approved South Carolina's emissions statements requirement, which is part of the attainment plan submittal, on June 25, 2012. *See* 77 FR 37812. EPA believes the South Carolina SIP meets the requirements of section 182(a)(3)(B) applicable for purposes of redesignation.

Section 182(b)(2) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision to require reasonably available control technology (RACT) for all major VOC and NO_X sources and for each category of VOC sources in the Area covered by a Control Techniques Guidelines (CTG) document.

The CTGs established by EPA are guidance to the states and provide recommendations only. A state can develop its own strategy for what constitutes RACT for the various CTG categories, and EPA will review that strategy in the context of the SIP process and determine whether it meets the RACT requirements of the CAA and its implementing regulations. If no major sources of VOC or NO_X emissions (which should be considered separately) or no sources in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category.

South Carolina did a RACT analysis for major VOC and NO_X sources in the York County Area and determined that these sources met RACT. EPA approved South Carolina's RACT submittal on November 28, 2011. *See* 76 FR 72844. SC DHEC provided certifications to this effect to EPA within the original August 31, 2007, attainment demonstration and on February 23, 2009, for Group III, and on July, 9, 2009, for Group IV. On November 28, 2011, EPA approved South Carolina's SIP revisions in support of the negative declarations for Groups I, II, III and IV CTG, and concluded that the York County Area has met all the statutory and regulatory requirements for making a negative declaration regarding Groups I, II, III and IV CTG. *See* 76 FR 72844. EPA believes the South Carolina SIP meets the requirements of section 182(b)(2) applicable for purposes of redesignation.

Originally, the section 182(b)(3) Stage II requirement also applied in all moderate ozone nonattainment areas. However, under section 202(a)(6) of the CAA, 42 U.S.C. 7521(a)(6), the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas after EPA promulgated the onboard refueling vapor recovery standards on April 6, 1994, 59 FR 16262, codified at 40 CFR parts 86 (including 86.098–8), 88 and 600. Under implementation rules issued in 2002 for the 1997 8-hour ozone NAAQS, EPA retained the Stage II-related requirements under section 182(b)(3) as they applied for the now-revoked 1-hour ozone NAAQS. *See* 40 CFR 51.900(f)(5) and 40 CFR 51.916(a). Therefore, the York County Area is not subject to the Stage 2 vapor recovery program requirements.

Section 182(b)(4) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). Even though a portion of York County was designated as part of the moderate bi-state Charlotte Area for the 1997 8-hour ozone NAAQS, applicability of the I/M regulations to areas outside the Ozone Transport Region is based on the population of the urbanized area as defined by the 1990 census. As defined by the 1990 census, York County and Charlotte urbanized areas were distinct and were not contiguous. Although the Charlotte urbanized portion of the metropolitan statistical area is contiguous to the North Carolina/South Carolina border, it did not extend into South Carolina. In 1990, the York County urbanized area was totally contained within South Carolina and did not touch the State line. Therefore, the applicability level of a 1990 census population of 200,000 or more in an urbanized area (40 CFR 51.350(a)(1)) applies to each of the two urbanized areas separately. Since the York County urbanized area had a population less than 200,000, the I/M requirement in section 182(b)(4) of the CAA is not applicable to the York County Area. EPA believes the South Carolina SIP meets the requirements of section 182(b)(3) and 182(b)(4) applicable for purposes of redesignation.

Section 182(b)(5) of the CAA requires that for purposes of satisfying the general emission offset requirement, the ratio of total emission reductions to total increase emissions shall be at least 1.15 to 1. South Carolina currently requires these offsets. EPA believes the South Carolina SIP meets the requirements of section 182(b)(5) applicable for purposes of redesignation.

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

EPA interprets the conformity SIP requirements [5] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, South Carolina has an approved conformity SIP for the York County Area. *See* 74 FR 37168, July 28, 2009. Thus, the York County Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The York County Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable South Carolina SIP for the York County Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Following passage of the CAA of 1970, South Carolina has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various 1997 8-hour ozone NAAQS SIP elements applicable in the York County Area (May 31, 1972, 37 FR 10842; 110(a)(1) and (2) for 1997 8-hour ozone NAAQS, July 13, 2011, 76 FR 41111; RACT, November 16, 2011, 76 FR 72884; emissions inventory, May 18, 2012, 77 FR 29540; emissions statement, June 25, 2012, 77 FR 37812).

As indicated above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation. EPA has approved all part D subpart 1 requirements applicable for purposes of this redesignation.

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

Criteria (3)—The Air Quality Improvement in the Bi-State Charlotte 1997 8-Hour Ozone NAAQS Nonattainment Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that South Carolina has demonstrated that the observed air quality improvement in its portion of the bi-state Charlotte Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state adopted measures. EPA does not have any information to suggest that the decrease in ozone concentrations in the York County Area is due to unusually favorable meteorological conditions.

State, local and federal measures enacted in recent years have resulted in permanent emission reductions. Most of these emission reductions are enforceable through regulations. A few non-regulatory measures also result in emission reductions.

The state and local measures, some of which implement federal requirements, that have been implemented to date and relied upon by South Carolina to demonstrate attainment and/or maintenance include: NSR regulations, NO_X regulations, VOC regulations, emissions inventory, emissions statements, and RACT.

The Celanese Acetate Celriver Plant closed in 2006. This plant, which included six coal-fired boilers, the largest of which was rated at 320 million metric British thermal units per hour, was the largest stationary source of NO_X in the York County Area. As a result, South Carolina retired 2,493 tons of NO_X and 1,686 tons of VOC.

Additionally, South Carolina identified other areas of potential reductions. North Carolina has implemented measures in the North Carolina portion of the bi-state Charlotte Area, such as North Carolina's Clean Smokestacks Act (CSA), which helps to improve air quality in the Area. EPA approved the CSA into the North Carolina SIP on September 26, 2011. *See* 76 FR 59250. Closures of certain facilities have resulted in continued reductions of local NO_X and VOC emissions in the bi-state Charlotte Area.

The federal measures that have been implemented include the following:

Tier 2 vehicle standards. Implementation began in 2004 and will require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO_X per mile. The Tier 2 rule also reduced the sulfur content of gasoline to 30 ppm starting in January of 2006.

Large Non-road Diesel Engines rule. EPA issued this rule in June 2004 (69 FR 38958), which applies to diesel engines used in industries, such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide. The non-road diesel rule was fully implemented by 2010.

Control Technique Guidelines. South Carolina listed CTGs under federal measures implemented in the York County Area. See criteria 2(a) of section V of this action for more information.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO_X and VOC emissions. This rule is expected to achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses.

Nonroad spark-ignition engines and recreational engines standards. This rule was effective in 2003 and will reduce NO_X and hydrocarbon emissions.

NO_X SIP Call. The NO_X SIP Call created the NO_X Budget Trading Program designed to reduce the amount of ozone that crosses state lines. By the end of 2008, ozone season emissions dropped by 62 percent from 2000 at all sources subject to the NO_X SIP Call (EPA, NO_X Budget Trading Program: 2008 Highlights, October 2009, page 3, available at *http://www.epa.gov/airmarkets/progress/NBP_4/NBP_2008_Highlights.pdf).* It follows that the bi-state Charlotte nonattainment area (including the York County Area) benefited from these overall reductions, since it is part of the larger NO_X SIP Call area. The NO_X Budget Trading Program also reduced local emissions. The one source subject to the NO_X SIP Call in the York County Area, AbitibiBowater Inc.—Catawba Operations, reduced

ozone season NO_X emissions from 36 tons in 2003, the first year of the NO_X Budget Trading Program, to 14 tons in 2008, the final year of the NO_X Budget Trading Program.

EPA has considered the relationship of the York County Area's maintenance plan to the reductions currently required pursuant to CAIR. Although CAIR was remanded to EPA, the remand of CAIR does not alter the requirements of the NO_X SIP Call and the State has now demonstrated that the bi-state Charlotte Area can maintain without any additional requirements (beyond those required by the NO_X SIP Call). Therefore, EPA has made the preliminary determination that the State's demonstration of maintenance under sections 175A and 107(d)(3)(E) remains valid based on reductions from the NO_X SIP Call.

The NO_X SIP Call required states to make emissions reductions. It also provided a mechanism, the NO_X Budget Trading Program, that states could use to achieve those reductions. When EPA promulgated CAIR, it discontinued (starting in 2009) the NO_X Budget Trading Program, 40 CFR 51.121(r), but established another mechanism—the CAIR ozone season trading program—which states could use to meet their NO_X SIP Call obligations, 70 FR 25289–90. EPA notes that a number of states, when submitting SIP revisions to require sources to participate in the CAIR ozone season trading program, removed the SIP provisions that required sources to participate in the NO_X Budget Trading Program. In addition, because the provisions of CAIR including the ozone season NO_X trading program have remained in place during the remand, EPA is not currently administering the NO_X Budget Trading Program. Nonetheless, all states regardless of the current status of their regulations that previously required participation in the NO_X Budget Trading Program, will remain subject to all of the requirements in the NO_X SIP Call even if the existing CAIR ozone season trading program is withdrawn or altered. In addition, the anti-backsliding provisions of 40 CFR 51.905(f) specifically provide that the provisions of the NO_X SIP Call, including the statewide NO_X emission budgets, continue to apply after revocation of the 1-hour NAAQS. Thus, for purposes of today's action, emissions reductions associated with the NO_X SIP Call are ''permanent and enforceable.''

All NO_X SIP Call states have SIPs that currently satisfy their obligations under the NO_X SIP Call; the NO_X SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NO_X SIP Call even after any response to the CAIR remand. For these reasons, EPA believes that regardless of the status of the CAIR program, the NO_X SIP Call requirements can be relied upon in demonstrating maintenance. Here, the State has demonstrated maintenance based in part on those requirements.

Additionally, EPA has preliminarily determined that South Carolina has demonstrated that attainment of the 1997 8-hour ozone NAAQS will be maintained in the York County Area with or without the implementation of CAIR or the Transport Rule. In addition, modeling conducted by EPA during the Transport Rule rulemaking process also demonstrates that the portion of York County, South Carolina that is in the Charlotte NC–SC ozone nonattainment area will have ozone levels below the 1997 8-hour standard in both 2012 and 2014 without taking into account emissions reductions from CAIR or the Transport Rule. See ''Air Quality Modeling Final Rule Technical Support Document'', App. B, B–28, B–29. This modeling is available in the docket for this rulemaking. Moreover, in its August 2012 decision, the Court also ordered EPA to continue implementing CAIR. See *EME Homer Generation LP* v. *EPA,* slip op. at 60. In sum, neither the current status of CAIR nor the current status of the Transport Rule affects any of the criteria for proposed approval of this redesignation request for the South Carolina portion of the bi-state Charlotte Area.

Criteria (4)—The York County Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the York County Area to attainment for the 1997 8-hour ozone NAAQS, SC DHEC submitted a SIP revision to provide for the maintenance of the 1997 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has interpreted this as a showing of maintenance ''for a period of ten years following redesignation.'' (September 4, 1992 Memorandum from John Calcagni, Director, AQMD, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' p. 9) where the emissions inventory method of showing maintenance is used, its purpose is to show that emissions during the maintenance period will not increase over the attainment year inventory. Calcagni Memorandum, pp. 9–10.

As discussed in detail in the section below, the State's maintenance plan submission expressly documents that the Area's emissions inventories will remain below the attainment year inventories through 2022. In addition, for the reasons set forth below, EPA believes that the State's submission, in conjunction with additional supporting information, further demonstrates that the Area will continue to maintain the 8-hour ozone NAAQS at least through 2023. In summary, as discussed in under ''Criteria 3,'' the reductions that have been realized are due to federal, state and local control measures that are anticipated to remain in place. For example, there have been local reductions attributable to North Carolina' CSA, the NO_X SIP Call, and from local plant closures. A review of the reductions achieved and the projected emissions inventories as seen in Tables 2 and 3 below, it is not anticipated that emissions in the York County Area will significantly increase between 2022 and 2023, such that these emissions would be above the 2010 attainment level emissions. For example, mobile NO_X emissions between 2010 and 2022, are estimated to be reduced by 63 percent, and it is not expected that mobile NO emissions between 2022 and 2023 will increase by 63 percent. Likewise, mobile VOC emissions between 2010 and 2022, are estimated to be reduced by 45 percent, and it is not expected that mobile VOC emissions between 2022 and 2023 will increase by 45 percent. Thus, if EPA finalizes its proposed approval of the redesignation request and maintenance plan in 2013, it is based on a showing, in accordance with section 175A, that the State's maintenance plan provides for maintenance for at least ten years after redesignation. Therefore, EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the

remainder of the 20-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 1997 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: the attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA proposes to find that South Carolina's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the South Carolina SIP.

b. Attainment Emissions Inventory

The bi-state Charlotte Area attained the 1997 8-hour ozone NAAQS based on monitoring data for the 3-year period from 2008–2010. South Carolina selected 2010 as the attainment emissions inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 1997 8-hour ozone NAAQS. South Carolina began development of the attainment inventory by first generating a baseline emissions inventory for the York County Area. As noted above, the year 2010 was chosen as the base year for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2013, 2016, 2019, and 2022. All large permitted sources defined as Inventory Type A sources under EPA's Air Emissions Reporting Rule are required to report emissions annually and other title V sources are required to report every three years to SC DHEC. Additionally, EPA requires SC DHEC to submit this data to the EPA Emissions Inventory System (EIS) on the same schedule. The latest year available for the Inventory Type A point source inventory submitted to EPA is 2010. For the smaller sources that report emissions every three years, the most recent emissions inventory available (2008) was used as representative of 2010 emissions. The emissions data upon which SC DHEC's maintenance plan is based were from files maintained by the SC DHEC. In addition to comparing the final year of the plan, 2022, to the base year, 2010, South Carolina compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 8-hour ozone NAAQS. As mentioned above, emissions inventory levels in 2022 are well below the attainment year inventory levels, and it is highly improbable that they will suddenly increase and exceed attainment year inventory levels in 2023.

The emissions inventory is composed of four major types of sources: point, area, on-road mobile and non-road mobile. The emissions inventory was projected to future years by utilizing EPA's Economic Growth Analysis System (E–GAS) version 5 software. There are two major data sources that are used as growth indicators in EGAS 5.0: the Department of Energy's (DOE) Annual Energy Outlook and version 6.0 of state-level economic models from Regional Economic Models, Inc. (REMI). In general, DOE data are expected to be used as growth indicators for fuel combustion/production categories, while REMI data will be used for all other source categories. The complete descriptions of how the inventories were developed are discussed in the appendices of the June 2, 2011, SIP revision, which can be found in the docket for this action. Non-road mobile emissions estimates were based on the EPA's NONROAD2008a non-road mobile model, with the exception of the railroad locomotives, commercial marine, and aircraft engine. These emissions are estimated by taking activity data, such as landings and takeoffs, and multiplying by an EGAS 5.0 emissions factor. On-road mobile source emissions were calculated using EPA's MOVES2010a mobile emission factors model. The 2010 NO_X and VOC emissions for the bi-state Charlotte Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 4 of the following subsection discussing the maintenance demonstration.

c. Maintenance Demonstration

The June 2, 2011, final SIP revision includes a maintenance plan for the York County Area. The maintenance plan:

(i) Shows compliance with and maintenance of the 8-hour ozone standard by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2010 emissions levels.

(ii) Uses 2010 as the attainment year and includes future emissions inventory projections for 2013, 2016, 2019, 2022.

(iii) Identifies an ''out year'' at least 10 years (and beyond) after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEB were established for an interim year (2013) and the last year (2022) of the maintenance plan (see section VI below).

(iv) Provides actual and projected emissions inventories, in tons per day (tpd), for the York County Area, as shown in Tables 2 through 4 below.

TABLE 2—ACTUAL AND PROJECTED ANNUAL NO_X EMISSIONS (TPD) FOR THE YORK COUNTY AREA*

Sector	2010	2013	2016	2019	2022
Point	4.54	4.64	4.91	5.19	5.48
Area	1.1733	1.2219	1.2665	1.3183	1.3641
Nonroad	3.209	2.686	2.174	1.817	1.595
Mobile	12.05	8.73	6.52	5.16	4.42
Total	20.97	17.28	14.87	13.49	12.86

* Portion of York County within the nonattainment area.

TABLE 3—ACTUAL AND PROJECTED ANNUAL VOC EMISSIONS (TPD) FOR THE YORK COUNTY AREA*

Sector	2010	2013	2016	2019	2022
Point	2.07	2.06	2.2	2.34	2.49
Area	7.1645	7.3870	7.5672	7.7027	7.8311
Nonroad	2.149	1.776	1.541	1.438	1.407

TABLE 3—ACTUAL AND PROJECTED ANNUAL VOC EMISSIONS (TPD) FOR THE YORK COUNTY AREA*—Continued

Sector	2010	2013	2016	2019	2022
Mobile	3.92	3.14	2.61	2.29	2.14
.					
Total	15.30	14.36	13.92	13.77	13.87

* Portion of York County within the nonattainment area.

TABLE 4—EMISSION ESTIMATES FOR THE YORK COUNTY AREA

Year	VOC (tpd)	NO_X (tpd)
2010	15.30	20.97
2013	14.36	17.28
2016	13.92	14.87
2019	13.77	13.49
2022	13.87	12.86
Difference from 2010 to 2022	−1.43	−8.11

Tables 2 through 4 summarize the 2010 and future projected emissions of NO_X and VOC from York County. In situations where local emissions are the primary contributor to nonattainment, the ambient air quality standard should not be violated in the future as long as emissions from within the nonattainment area remain at or below the baseline with which attainment was achieved. South Carolina has projected emissions as described previously and determined that emissions in the York County Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. South Carolina selected 2010 as the attainment emissions inventory year for the York County Area. South Carolina calculated safety margins for years 2013 and 2022 in its submittal for years 2013, 2016, 2019, and 2022. The State has decided to allocate a safety margin to the 2013 and 2022 MVEB for the bi-state Charlotte Area. For the year 2013, the NO_X safety margin was calculated as 3,348 kilograms per day (kg/day)[6] and for VOC as 853 kg/day. For the year 2022, the safety margin was calculated as 7,357 for kg/day for NO_X and 1,297 kg/day for VOC. The State has decided to allocate the full safety margin amounts to the MVEB for these years. Therefore, no remaining safety margin will be available for VOC and NO_X for the years 2013 and 2022. The MVEB to be used for transportation conformity proposes is discussed in section VI. This allocation and the resulting available safety margin for the York County Area are discussed further in section VI of this proposed rulemaking.

d. Monitoring Network

There is currently one monitor measuring ozone in York County. However, this monitor is not located within the nonattainment area boundary. The State of South Carolina, through SC DHEC, has committed to continue operation of the monitor in York County in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved South Carolina's 2011 monitoring plan on October 12, 2011.

e. Verification of Continued Attainment

The State of South Carolina, through SC DHEC, has the legal authority to enforce and implement the requirements of the 1997 8-hour ozone maintenance plan for the York County 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.

South Carolina will continue to update its emissions inventory at least once every three years. In addition to the emissions inventory for 2010, the emissions inventory base year, and the last year of the maintenance plan, 2022, interim years of 2013, 2016 and 2019 were selected to show a trend analysis for maintenance of the 1997 8-hour ozone NAAQS. Tracking the progress of the maintenance plan also includes performing reviews of the updated emissions inventories for the area using the latest emissions factors, models, and methodologies. For these periodic inventories, SC DHEC will review the assumptions made for the purpose of the maintenance demonstration concerning projected growth of activity levels. In addition, SC DHEC will continue to work with local stakeholders to maintain the NAAQS as required.

f. Contingency Measures in the Maintenance Plan

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

In the June 1, 2011, SIP revision, South Carolina affirms that all programs instituted by the State and EPA will remain enforceable and that sources are prohibited from reducing emissions controls following the redesignation of the Area. The contingency plan portion of the maintenance determination was further clarified with a July 8, 2011, letter. This letter can be found in the docket for today's action using Docket ID No. EPA–R04–OAR–2012–0327.

The contingency plan included in South Carolina's June 1, 2011, SIP revision includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The State of South Carolina will use actual ambient monitoring data as the triggering event to determine when contingency measures should be implemented.

South Carolina has identified a primary trigger as occurring when a quality assured/quality controlled (QA/QC) design value exceeds the 1997 8-hour ozone NAAQS at any monitor in the Area. In the event that the trigger is activated, SC DHEC will verify the data through QA/QC and certification;

[6] Conversion factor from kilograms to tons is 0.0011023.

analyze the data to verify monitored ozone data, meteorology, transport, and related activities to determine the possible cause of the violation; consult with North Carolina Department of Air Quality [7] to determine which state will implement a contingency measure(s) within a time frame specified in the respective maintenance plan to bring the Area back into attainment; if necessary, select a contingency measure within three months after verification of an exceedance of the 1997 8-hour ozone NAAQS; and develop and implement necessary regulations as soon as practicable and within the in guidelines established in the South Carolina Administrative Procedures Act or no more than two years after selection of the appropriate measure. South Carolina further clarified this statement in the July 8, 2011, letter to EPA by defining the triggering event as the date of the design value violation, and not the final QA/QC date, such that appropriate measures would be implemented within 24 months of activating the primary trigger. Further, the guidelines set forth in the South Carolina Administrative Procedures Act state the selection of a measure and the development and implementation of necessary regulations would be expected to be completed within 24 months of activating the primary trigger. However, if it is determined that a longer schedule is required to implement specific contingency measures, then, upon selection of appropriate measures, SC DHEC will notify EPA, for approval, of the proposed schedule and provide sufficient information to demonstrate that the proposed measures are a prompt correction of the triggering event.

At least one of the following contingency measures will be adopted and implemented upon a primary triggering event:

- RACT for NO_X on existing stationary sources not subject to existing requirements;
- Implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations;
- Alternative fuel programs for fleet vehicle operations;
- Gas can and lawnmower replacement programs;
- Voluntary engine idling reduction programs;
- SC DHEC's *Take a Break from the Exhaust* program; and
- Other measures deemed appropriate at the time as a result of advances in control technologies.

In addition to the trigger indicated above, as a secondary trigger South Carolina will monitor periodic emissions inventory updates and compare to actual emissions. As stated in the June 1, 2011, SIP revision, and further explained in the July 8, 2011, clarification letter, if actual emissions are greater than 10 percent of the projected emissions in the maintenance plan, SC DHEC will investigate the differences and develop an appropriate strategy for addressing the differences.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, monitoring network, verification of continued attainment, and a contingency plan. Therefore, the maintenance plan SIP revision submitted by the State of South Carolina for the York County Area meets the requirements of section 175A of the CAA, and thus EPA is proposing approval of the plan.

VI. What is EPA's analysis of South Carolina's proposed NO_X and VOC MVEB for the York County area?

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

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

After interagency consultation with the transportation partners for the York County Area, South Carolina has developed MVEB for NO_X and VOC for the York County Area. South Carolina is developing these MVEB, as required, for the last year of its maintenance plan, 2022. Through the interagency consultation process, MVEB were also set for the interim year 2013. The MVEB reflect the total on-road emissions for 2013 and 2022, plus an allocation from the available NO_X and VOC safety margin. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and VOC MVEB and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled and new emission factor models. The NO_X and VOC MVEB for the York County Area are defined in Table 5 below.

[7] As stated earlier, there is currently one monitor measuring ozone in York County. This monitor is not located in the bi-state Charlotte Area.

TABLE 5—YORK COUNTY PORTION OF THE BI-STATE CHARLOTTE AREA$_X$ AND VOC MVEB (KG/DAY)

	2013	2022
NO_X Emissions		
Base Emissions	7,924	4,011
Safety Margin Allocated to MVEB	3,348	7,357
NO_X Conformity MVEB	11,272	11,368
VOC Emissions		
Base Emissions	2,846	1,939
Safety Margin Allocated to MVEB	853	1,297
VOC Conformity MVEB	3,699	3,236

As mentioned above, South Carolina has chosen to allocate a portion of the available safety margin to the NO_X and VOC MVEB for 2013 and 2022 for the York County Area. This allocation is 3,348 kg/day and 853 kg/day for NO_X and VOC, respectively for 2013 and 7,357 kg/day and 1,297 kg/day for NO_X and VOC, respectively for 2022. Thus, the remaining safety margins for 2013 and 2022 are 0 kg/day for NO_X and VOC.

Through this rulemaking, EPA is proposing to approve the MVEB for NO_X and VOC for 2013 and 2022 for the York County Area because EPA has preliminarily determined that the Area maintains the 1997 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the MVEB for the York County Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminarily determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 1997 8-hour ozone NAAQS through 2022. As discussed in section V, EPA is proposing that if this approval is finalized in 2013, the Area will continue to maintain the 1997 8-hour ozone NAAQS through at least 2023. Consistent with this proposal, EPA is proposing to approve the MVEB submitted by the State in its June 1, 2011, maintenance plan for the York County Area. EPA is proposing that the submitted MVEB are consistent with maintenance of the 1997 8-hour ozone NAAQS through 2023.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEB for 2013 and 2022 for the York County area?

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEB, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

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

As discussed earlier, South Carolina's maintenance plan submission includes NO_x and VOC MVEB for the York County Area for 2013, an interim year of the maintenance plan, and 2022, the last year of the maintenance plan. EPA reviewed the NO_x and VOC MVEB through the adequacy process. The South Carolina SIP submission, including the bi-state Charlotte Area NO_x and VOC MVEB, was open for public comment on EPA's adequacy Web site on October 28, 2011, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm.* The EPA public comment period on adequacy for the MVEB for 2013 and 2022 for the York County Area closed on November 28, 2011. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEB associated with South Carolina's 1997 8-hour ozone maintenance plan.

The 2013 and 2022 NO_x and VOC MVEB must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2013 through 2021, the applicable 2013 MVEB will be used and for 2022 and beyond, the applicable budgets will be the 2022 MVEB established in the maintenance plan, as defined in section VI of this proposed rulemaking.

VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval today. Approval of South Carolina's redesignation request would change the legal designation of the designated portion of York County in South Carolina (including the Catawba Indian Nation reservation lands) for the 1997 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment.[8] Approval of South Carolina's request would also incorporate a plan for maintaining the 1997 8-hour ozone NAAQS in the York County Area through 2022 into the South Carolina SIP. This maintenance plan includes contingency measures to remedy any future violations of the 1997 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes

[8] This proposed action does not proposed to change the Area's designation for the 2008 8-hour ozone NAAQS.

NO_x and VOC MVEB for the York County Area. The NO_x MVEB for 2013 and 2022 for the York County Area are 11,272 kg/day and 11,368 kg/day, respectively. The VOC MVEB for 2013 and 2022 for the York County Area are 3,699 kg/day and 3,236 kg/day, respectively. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-established NO_x and VOC MVEB for 2013 and 2022 for the York County Area, and is notifying the public that the 2022 MVEB are consistent with maintenance in the Area through 2023 as well.

IX. Proposed Actions on the Redesignation Request and Maintenance Plan SIP Revisions Including Approval of the NO_x and VOC MVEB for 2013 and 2022 for the York County Area

EPA previously determined that the entire bi-state Charlotte Area (including the portion of York County that is a part of this Area) was attaining the 1997 8-hour ozone NAAQS on November 15, 2011, at 76 FR 70656. EPA is now proposing to take two separate but related actions regarding the York County Area's redesignation and maintenance of the 1997 8-hour ozone NAAQS.

First, EPA is proposing to determine, based on complete, quality-assured and certified monitoring data for the 2009–2011 monitoring period that the entire bi-state Charlotte Area (including the portion of York County that is a part of this Area) is attaining the 1997 8-hour ozone NAAQS. EPA is proposing to determine that South Carolina has met the criteria under CAA section 107(d)(3)(E) for the York County Area for redesignation from nonattainment to attainment for the 1997 8-hour ozone NAAQS. On this basis, EPA is proposing to approve South Carolina's redesignation request for the 1997 8-hour ozone NAAQS for the York County Area.

Second, EPA is proposing to approve the maintenance plan for the York County Area, including the NO_x and VOC MVEB for 2013 and 2022, into the South Carolina SIP (under CAA section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 1997 8-hour ozone NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of today's action, EPA is describing the status of its adequacy determination for the NO_x and VOC MVEB for 2013 and 2022 in accordance with 40 CFR 93.118(f)(1). On September 24, 2012, at 77 FR 58829, EPA announced the adequacy of the MVEB would take effect on October 9, 2012. Within 24 months from this effective date, the transportation partners will need to demonstrate conformity to the new NO_x and VOC MVEB pursuant to 40 CFR 93.104(e).

As discussed in section V, EPA is proposing that if this approval is finalized in 2013 the area will continue to maintain the 1997 8-hour ozone NAAQS through at least 2023. Consistent with this proposal, EPA is proposing to approve the MVEB submitted by the State in its June 1, 2011, maintenance plan for the York County Area. EPA is proposing that the submitted MVEB are consistent with maintenance of the 1997 8-hour ozone NAAQS through 2023.

If finalized, approval of the redesignation request would change the official designation of the nonattainment portion of York County (including the Catawba Indian Nation reservation lands) in the Area for the 1997 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment.

X. Statutory and Executive Order Reviews

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

- Are not ''significant regulatory action[s]'' 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 economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Do not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the redesignation for the York County Area does have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it may have substantial direct effects on the Catawba Indian Nation as the Tribe's reservation lands are within the York County Area for the 1997 8-hour ozone NAAQS. As such, today's proposal to redesignate the York County Area to attainment for the 1997 8-hour ozone NAAQS includes the Catawba Indian Nation reservation lands. Accordingly, EPA and the Catawba Indian Nation consulted on this redesignation prior to today's proposed action. EPA's consultation on this and other ozone SIP matters for the York County Area with the Catawba Indian Nation commenced on October 14, 2011, and concluded on October 31, 2012. EPA further notes that today's action is not anticipated to impose substantial direct costs on Tribal governments or preempt Tribal law.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: November 6, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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