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6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2022-0789; FRL- 10888-01-R4]

Air Plan Approval and Air Quality Designation; KY; Redesignation of the Kentucky Portion of the Louisville, KY-IN 2015 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On September 6, 2022, the Commonwealth of Kentucky, through the Kentucky Energy and Environment Cabinet (Cabinet), Division of Air Quality (DAQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Kentucky portion (hereinafter referred to as the "Louisville, KY Area" or "Area") of the Louisville, Kentucky-Indiana, 2015 8-hour ozone nonattainment area (hereinafter referred to as the "Louisville, KY-IN Area") to attainment for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to approve the Commonwealth's plan for maintaining attainment of the 2015 8-hour ozone standard in the Louisville, KY-IN Area, including the regional motor vehicle emission budgets (MVEBs) for nitrogen oxides (NOx) and volatile organic compounds (VOC) for the years of 2019 and 2035 for the Louisville, KY-IN Area, to incorporate the maintenance plan into the SIP, and to redesignate the Area to attainment for the 2015 8-hour ozone NAAQS. EPA previously approved the redesignation request and maintenance plan for the Indiana portion of the Louisville, KY-IN Area. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Area.

DATES: Comments must be received on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0789 at http://www.regulations.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit https://www.epa.gov/dockets/commenting-epa-dockets.

FOR FURTHER INFORMATION CONTACT: Sarah LaRocca, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-8994. Ms. Sarah LaRocca can also be reached via electronic mail at larocca.sarah@epa.gov.

SUPPLEMENTARY INFORMATION:

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I. Summary of EPA's Proposed Action

EPA is proposing to take the following separate but related actions addressing the

September 6, 2022, submittal: (1) to approve Kentucky's plan for maintaining the 2015 ozone NAAQS (maintenance plan), including the associated MVEBs for the Louisville, KY Area and incorporate the plan into the SIP, and (2) to redesignate the Louisville, KY Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Louisville, KY Area. The Louisville, KY-IN Area is composed of Bullitt, Jefferson, and Oldham Counties in Kentucky, and Clark and Floyd Counties in Indiana. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is proposing to approve Kentucky's maintenance plan for its portion of the Louisville, KY-IN Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to keep the Louisville, KY-IN Area in attainment of the 2015 8-hour ozone NAAQS through 2035. The maintenance plan includes 2019 and 2035 MVEBs for NOx and VOC for the Louisville, KY-IN Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the SIP.

EPA also proposes to determine that the Louisville, KY Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, EPA is proposing to approve a request to change the legal designation of Bullitt, Jefferson, and Oldham Counties in Kentucky, as found at 40 CFR Part 81, from nonattainment to attainment for the 2015 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process for the MVEBs for the Louisville, KY-IN Area. The Adequacy comment period began on September 14, 2022, with EPA's posting of the availability of Kentucky's submission on EPA's Adequacy Web site (*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*). The Adequacy comment period for these MVEBs closed on

October 14, 2022. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see Section VII of this notice of proposed rulemaking for further explanation of this process and for more details on MVEBs.

In summary, this notice of proposed rulemaking is in response to Kentucky's September 6, 2022, redesignation request and associated SIP submission that addresses the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Kentucky portion of the Louisville, KY-IN Area to attainment for the 2015 8-hour ozone NAAQS and the associated MVEBs.

II. Background

On October 1, 2015, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.070 parts per million (ppm) to provide increased protection of public health and the environment. *See* 80 FR 65292 (October 26, 2015). The 2015 ozone NAAQS retains the same general form and averaging time as the 0.075 ppm NAAQS set in 2008 but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2015 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 0.070 ppm. *See* Appendix U of 40 CFR part 50. This 3-year average is referred to as the design value.

Upon promulgation of a new or revised ozone NAAQS, section 107(d) of the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS (or that contributes to ambient air quality in a nearby area that is violating the NAAQS). As part of the designations process for the 2015 8-hour ozone NAAQS, the Louisville, KY-IN Area was designated as a "Marginal" ozone nonattainment area, effective August 3, 2018. *See* 83 FR 25776 (June 4, 2018). Areas that were designated as Marginal ozone nonattainment areas were required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021, based on 2018, 2019, and 2020 monitoring data. *See* 40 CFR 51.1303. EPA reclassified the Louisville, KY

Area to Moderate on October 7, 2022, after failing to attain by the attainment date.[1] *See* 87 FR 60897 (October 7, 2022) and 40 CFR 81.318. The October 7, 2022, action requires Moderate areas to attain the 2015 8-hour ozone NAAQS as expeditiously as practicable, but no later than August 3, 2024, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1303.

III. 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 EPA 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.

EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 on April 16, 1992 (57 FR 13498) and supplemented that 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;

[1] EPA proposed to reclassify the Louisville, KY-IN Area as a moderate nonattainment area on April 13, 2022. However, prior to finalizing the reclassification, EPA redesignated the Indiana portion of the Louisville, KY-IN Area to attainment for the 2015 8-hour ozone NAAQS. *See* 87 FR 30129 (July 5, 2022). EPA finalized the reclassification of the Kentucky portion of the Louisville, KY-IN Area on October 7, 2022 (87 FR 60897).

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 (hereinafter 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 (hereinafter referred to as the “Shapiro Memorandum”);

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 (hereinafter referred to as the "Nichols Memorandum"); 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. Kentucky's SIP Submittal

On September 6, 2022, Kentucky requested that EPA redesignate the Louisville, KY Area to attainment for the 2015 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing a maintenance plan for the Area. EPA's evaluation indicates that the Louisville, KY Area meets the requirements for redesignation as set forth in CAA section 107(d)(3)(E), including the maintenance plan requirements under CAA section 175A and associated MVEBs. As a result of these proposed findings, EPA is proposing to take the actions summarized in Section I of this notice. EPA's analysis and rationale for this proposal is provided below.

V. EPA's Analysis of Kentucky's SIP Submittal

As stated above, in accordance with the CAA, EPA proposes to approve the 2015 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Kentucky SIP, and to redesignate the Louisville, KY Area to attainment for the 2015 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criterion (1) – The Louisville, KY-IN Area has Attained the 2015 8-hour Ozone NAAQS.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For ozone, an area may be considered attaining the 2015 8-hour ozone NAAQS if it meets the 2015 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.19 and Appendix U of

part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the 2015 8-hour ozone NAAQS, the 3-year average of the annual fourth highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area must not exceed 0.070 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix U, the 2015 8-hour ozone NAAQS are attained if the design value is 0.070 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's 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.

EPA reviewed complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Louisville, KY-IN Area for the 2015 8-hour ozone NAAQS for 2019 through 2021 and has determined that the design values for each monitor in the Louisville, KY-IN Area are equal to or less than the standard of 0.070 ppm for that time period. Based on this air quality monitoring data, EPA is proposing to determine that the Louisville, KY-IN Area has attained the 2015 8-hour ozone NAAQS. The fourth-highest 8-hour ozone values at each monitor for 2019 through 2021 and the 3-year averages of these values (i.e., design values), are summarized in Table 1, below.

Table 1 – 2019 - 2021 Ozone Concentrations for the Louisville, KY-IN Area (ppm)[2]

AQS Site Code	County and State	Annual 4th-Highest Daily Maximum 8-hr Ozone Concentration			Design Value
		2019	2020	2021	2019-2021
21-029-0006	Bullitt, KY	0.063	0.065	0.065	0.064
21-185-0004	Oldham, KY	0.065	0.061	0.065	0.063
21-111-0067	Jefferson, KY	0.068	0.071	0.069	0.069
21-111-0051	Jefferson, KY	0.065	0.063	0.067	0.065

[2] Final air quality design values for all criteria pollutants, including ozone, are available at https://www.epa.gov/aqs.

21-111-0080	Jefferson, KY	0.064	0.068	0.073	0.068
18-019-0008	Clark, IN	0.064	0.062	0.063	0.063
18-043-1004	Floyd, IN	0.063	0.066	0.064	0.064

The highest 3-year design value for 2019 – 2021 for the Louisville, KY-IN Area is 0.069 ppm at the Jefferson County, Kentucky site (21-111-0067),[3] which is below the NAAQS. EPA will not take final action to approve the redesignation of the Kentucky portion of the Louisville KY-IN Area if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. Preliminary 2022 ozone monitoring data currently indicates attaining 2022 design values for the Louisville, KY-IN Area. As discussed in more detail below, Kentucky has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

Criterion (2) – Kentucky Has a Fully Approved SIP under Section 110(k) for the Louisville, KY Area; and Criterion (5) – Kentucky 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, *see* CAA section 107(d)(3)(E)(v), and that the state has a fully approved SIP under section 110(k) for the area, *see* CAA section 107(d)(3)(E)(ii). EPA proposes to find that Kentucky has met all applicable SIP requirements for the Louisville, KY Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Kentucky has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and 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

[3] The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

with respect to requirements that were due prior to submittal of the complete redesignation request.

a. The Louisville, KY Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

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

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 not applicable requirements for purpose 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* 61 FR 53174 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (Reading, Pennsylvania, proposed and final rulemakings); 61 FR 20458 (May 7, 1996) (Cleveland-Akron-Loraine, Ohio, final rulemaking); and 60 FR 62748, (December 7, 1995) (Tampa, Florida, final rulemaking)). *See also* 65 FR 37890 (June 19, 2000) (discussion on this issue in Cincinnati, Ohio, redesignation) and 66 FR 50399 (October 19, 2001) (Pittsburgh, Pennsylvania, redesignation).

Title I, part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in subpart 2, a Marginal ozone nonattainment area must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C 7511a(a). A Moderate area must meet the Marginal area requirements of section 182(a) and additional requirements specific to Moderate (and higher) areas under section 182(b), as well as the general requirements of 172(c). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I. *See* 57 FR 13498 (April 16, 1992).

Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are "applicable" and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* Calcagni Memorandum. *See also* Shapiro Memorandum; 60 FR 12459, 12465–66 (March 7, 1995) (Final Redesignation of Detroit-Ann Arbor, Michigan); 68 FR 25418, 25424–27 (May 12, 2003) (Final Redesignation of St. Louis, Missouri); and *Sierra Club v. EPA*, 375 F. 3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of "applicable" under the statute is "whatever should have been in the plan at the time of attainment" rather than "whatever actually was in the plan and already implemented or due at the time of attainment").[4] For the Louisville, KY Area, no section 182(b) Part D Moderate nonattainment area requirements for the 2015 8-hour ozone standard were due at the time that Kentucky submitted its redesignation request on September 6, 2022; therefore, these requirements are not applicable for the purposes of redesignation. *See* Section II, above (discussing the reclassification of the Louisville KY Area to moderate on October 7, 2022). In addition, as discussed below, several of the part D requirements under 182(a) are otherwise not applicable for the purposes of redesignation and several of the requirements have already been satisfied by the Commonwealth.

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NOx emitted within the boundaries of the ozone nonattainment area. This required submission was due by August 3, 2020, for the Louisville, KY Area. *See* 40 CFR 51.1315(a). Kentucky provided an emissions inventory for the Area to EPA in a December 22, 2021, SIP submission,

[4] Applicable requirements of the CAA that become due after the area's submittal of a complete redesignation request remain applicable until a redesignation is approved but are not required as a prerequisite to redesignation. *See* Calcagni Memorandum; CAA section 175A(c).

and EPA approved the emissions inventory in an action published on September 30, 2022. *See* 87 FR 59320.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT "fix up" requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments. Furthermore, the Commonwealth complied with this requirement under the 1-hour ozone NAAQS for the Jefferson County, Kentucky, portion of the Louisville, KY-IN Area. *See* 59 FR 32343 (June 23, 1994).

Section 182(a)(2)(B) requires each state with a Marginal or higher ozone nonattainment area classification that implemented, or was required to implement, a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Louisville, KY Area is not subject to the section 182(a)(2)(B) requirement because the Area was designated as nonattainment for the 2015 8-hour ozone standard after the enactment of the 1990 CAA amendments.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Kentucky currently has a fully approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in the Nichols Memorandum.

Kentucky's PSD program will become applicable in the Louisville, KY Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled *Verification of Continued Attainment*, the Commonwealth will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by certain sources within that nonattainment area. Kentucky provided a SIP revision to EPA on October 16, 2020, addressing the section 182(a)(3)(B) emissions statements requirements for Oldham and Bullitt Counties, and on April 26, 2022, EPA published a final rule approving that SIP revision. *See* 87 FR 24429 (April 26, 2022). Kentucky provided a SIP revision to EPA on August 12, 2020, addressing the section 182(a)(3)(B) emissions statements requirements for Jefferson County, and on March 9, 2022, EPA published a final rule approving that SIP revision. *See* 87 FR 13177 (March 9, 2022).

Section 182(b) Requirements. Section 182(b) of the CAA, found in subpart 2 of part D, establishes additional requirements for Moderate (and higher) ozone nonattainment areas. As noted above, no section 182(b) moderate nonattainment area requirements for the 2015 8-hour ozone standard, including RACT under section 182(b)(2), were due at the time that Kentucky submitted its redesignation request on September 6, 2022; therefore, these requirements are not applicable for the 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 the 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).[6]

Thus, for the reasons discussed above, EPA proposes to find that the Louisville, KY Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Louisville, KY Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Kentucky SIP for the Louisville, KY Area under section 110(k) of the CAA for all requirements applicable for purpose 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); and *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action. *See* 68 FR 25426 (May 12, 2003) (including citations therein). Kentucky has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS. *See* 85 FR 33021 (June 1, 2020) and 85 FR 54507 (September 2, 2020). As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment

[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.

[6] Kentucky has an approved conformity SIP for the Louisville, KY Area. *See* 75 FR 20780 (April 21, 2010).

plan submissions, nor linked to an area's nonattainment status, are not applicable requirements for purposes of redesignation and believes that Kentucky has met all Part D requirements applicable for purpose of this redesignation.

Criterion (3) – The Air Quality Improvement in the Louisville, KY-IN Area is Due to Permanent and Enforceable Reductions in Emissions Resulting from Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions.

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Kentucky has demonstrated that the observed air quality improvement in the Louisville, KY-IN Area is due to permanent and enforceable reductions in emissions resulting from Federal measures and from state measures adopted into the SIP and is not the result of unusually favorable weather conditions or the COVID-19 pandemic.[7]

State measures adopted into the SIP and Federal measures enacted in recent years have resulted in permanent emission reductions. Kentucky's September 6, 2022, submittal identifies SIP-approved state measures, some of which implement Federal requirements, that have been

[7] Kentucky provided average temperature data from 2001 to 2021 and precipitation data for 2001 to 2021 showing that meteorological conditions were not unusually favorable during 2019 through 2021. *See* section 2.C.iv of the Commonwealth's September 6, 2022, redesignation request and SIP revision and the NOAA website for further information. https://www.ncdc.noaa.gov/cag. Furthermore, the Commonwealth explains that COVID-19 did not influence emissions for a long enough timescale to affect the Louisville, KY-IN Area's design value. The Commonwealth looked specifically at emissions data from 2017 to 2019 to show that reductions within the state started occurring before the COVID-19 pandemic. The monitoring data also shows that the one-year 4th maximum 8-hour observations did not dramatically change between 2019 and 2021. The Commonwealth looked at the two largest NOx sources to further support these claims and notes that the on-road mobile emissions and EGU emissions dipped briefly at the start of the pandemic, but quickly recovered, further supporting that permanent and enforceable measures are responsible for the attaining 2019–2021 design value and that the COVID-19 pandemic was not a factor in the Area's reduced ozone levels. Lastly, the Commonwealth confirms with EPA that reductions in monitored ozone levels can be contributed to permanent and enforceable reductions rather than changes in meteorological conditions or temporary reductions due to COVID-19.

implemented to date.[8] Those measures specifically regulate cement kilns and open burning, as well as a variety of other sources, as explained in the following paragraphs.

Cement Kilns. Kentucky adopted regulation 401 Kentucky Administrative Regulation (KAR) 51:170 to regulate NOx emissions from cement kilns, setting a limit of 6.6 lbs per ton of clinker produced, averaged over a 30-day period. DAQ has also adopted standards for kilns in the Louisville, KY Area.

Open Burning Bans. Kentucky first incorporated regulation 401 KAR 63:005 Open Burning into the Kentucky SIP in 1982, with the latest revision to the regulation approved on October 17, 2007, and effective November 16, 2007. *See* 72 FR 58759 (October 17, 2007). This regulation prohibits most types of open burning from May through September of each year in areas that have been or are currently in violation of the ozone NAAQS within Kentucky. The Louisville Metro Air Pollution Control District (District) similarly prohibits open fires in the Louisville Metro area and also prohibits any open burning on any day designated by the District as an Air Quality Alert Day, with certain public health hazard exceptions.

Other Sources. Kentucky has regulations in Chapters 59 and 61 of Title 401 of the KAR which limit NOx and VOC emissions for new and existing sources in various source categories. Jefferson County also regulates a variety of sources through regulations on existing and new sources in Parts 6 and 7 of its regulations. Jefferson County Regulation 6.42 specifically requires NOx and VOC-emitting facilities at major NOx-emitting sources and major VOC-emitting sources, respectively, to propose RACT standards and emissions control technology as a source-specific SIP revision.

Additionally, Federal measures enacted in recent years have also resulted in permanent emission reductions in the Louisville, KY Area. The Federal measures that have been implemented include the following.

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[8] The District's regulatory authority for air pollution control in Jefferson County is authorized through KRS Chapter 77.

Tier 2 Emission Standards for Vehicles and Gasoline Sulfur Standards. Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NOx emissions.[9] These standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NOx per mile. Additionally, in January 2006, the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NOx emissions.[10] EPA expects that these standards will reduce NOx emissions from vehicles by approximately 74 percent, and approximately 86 percent for minivans, light trucks, and small SUVs by 2030, translating to nearly 3 million tons annually by 2030.[11]

Tier 3 Motor Vehicle Emission and Fuel Standards.[12] Implementation began in 2017 and will continue to phase in through 2025.[13] These standards set new vehicle emissions standards and lower the allowed sulfur content of gasoline in order to reduce air pollution from passenger cars and trucks. Tailpipe and evaporative emissions will be reduced for passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. The Tier 3 vehicle standards for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles will be a fleet average standard of 0.03 gram of non-methane organic gases (NMOG) + NOx per mile as measured on the Federal Test Procedure (FTP), and a fleet average standard 0.05 gram of NMOG + NOx per mile as measured on the Supplemental Federal Test Procedure (SFTP). The Tier 3 vehicle standards for heavy-duty pickup trucks and vans will be 0.178 gram per mile of non-methane organic gases (NMOG) + NOx for Class 2b vehicles and 0.247 gram per mile of NMOG + NOx for Class 3 vehicles, as measured on the FTP. This standard required Federal gasoline to meet an annual average standard of 10 ppm of sulfur by January 1, 2017. The Tier 3

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[9] EPA, Control of Air Pollution from New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements. *See* 65 FR 6697 (February 10, 2000).
[10] *Id*. at 6702 (discussing how lower sulfur content results in less degradation of catalytic converters).
[11] EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at: https://nepis.epa.gov/Exe/ZyPDF.cgi/P1001Z9W.PDF?Dockey=P1001Z9W.PDF
[12] In its submittal, Kentucky refers to this as the Tier 3 Emission Standards for Vehicles and Gasoline Sulfur Standards.
[13] *See* 79 FR 23414 (April 28, 2014).

tailpipe standards for light-duty vehicles will reduce the fleet average standards for the sum of NMOG and NOx, NMOG + NOx, by approximately 80 percent from the current fleet average standards, and will reduce the per-vehicle particulate matter (PM) standards by 70 percent. The Tier 3 program for heavy-duty vehicles will reduce the fleet average standards for NMOG + NOx and PM by approximately 60 percent from the current fleet average standards. The Tier 3 program is also reducing the evaporative VOCs by approximately 50 percent from the current standards, and these standards apply to all light-duty and on-road gasoline-powered heavy-duty vehicles.

Heavy-Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements.[14] EPA issued this rule in 2001. *See* 66 FR 5002 (January 18, 2001). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NOx and VOC emissions.[15] EPA expects that this rule will achieve a 95 percent reduction in NOx emissions from diesel trucks and buses and will reduce NOx emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.[16]

Control of Emissions of Air Pollution from Nonroad Diesel Engines and Fuel.[17] This rule was promulgated in 2004 and was phased in between 2008 through 2015. *See* 69 FR 38957 (June 29, 2004). This rule reduced the sulfur content in the nonroad diesel fuel and reduced NOx, VOC, particulate matter, and carbon monoxide emissions. This rule applies to diesel engines and fuel used in industries such as construction, agriculture, industrial, and mining. EPA

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[14] The Kentucky submittal refers to this as the *Heavy-Duty Gasoline and Diesel Highway Vehicle Standards & Ultra Low-Sulfur Diesel Rule*.
[15] *See* 66 FR 5002 (January 18, 2001) (explaining that the new emissions standards "are based on the use of high-efficiency catalytic exhaust emission control devices or comparably effective advanced technologies. Because these devices are damaged by sulfur, we are also reducing the level of sulfur in highway diesel fuel significantly by mid-2006.").
[16] *See id*. at 5012.
[17] The Kentucky submittal refers to this rule as *Tier 4 Nonroad Engine Standards*.

estimated that this rule will decrease NOx emissions nationally by 738,000 tons by 2030. EPA estimates that this rule will cut NOx from non-road diesel engines by approximately 90 percent.

National Greenhouse Gas (GHG) Emission Standards for Passenger Cars and Light Trucks. In 2010 and 2012, EPA issued rulemakings for Federal GHG and fuel economy standards that apply to light-duty cars and trucks in model years 2012-2016 (phase 1) and 2017-2025 (phase 2).[18] The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile in carbon dioxide which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed and, therefore, slightly less VOC emissions released.

EPA issued the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule on March 20, 2020, as an update to Phase 2. This new standard sets fuel economy and CO_2 standards that increase 1.5 percent in stringency each year from model years 2021 through 2026 and applies to passenger cars and light trucks. On February 8, 2021, the D.C. Circuit issued an order granting the Federal Government's motion to stay litigation over the SAFE Vehicles Rule (*Union of Concerned Scientists v. NHTSA*, Case No. 19-1230 (D.C. Cir.)).

On December 30, 2021, EPA published the *Revised 2023 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions Standards (Revised 2023 GHG Standards). See* 86 FR 74434. The Revised 2023 GHG Standards revised, and made more stringent, the GHG standards in each model year from 2023 through 2026.[19] The action also includes temporary targeted flexibilities to address the lead time of the final standards and to incentivize the production of vehicles with zero and near-zero emissions technology and EPA made technical amendments to

[18] Final Rule for Model Year 2012-2016 Light Duty Vehicle and Greenhouse Gas Emission Standards and Corporate Average Fuel Economy Standards, 75 FR 25324 (May 7, 2010); and Final Rule for 2017 and Later Model Year Light-Duty Vehicle Greenhouse Gas Emissions and Corporate Average Fuel Economy Standards, 77 FR 62624 (October 15, 2012).

[19] The Revised 2023 GHG Standards revised GHG standards to be more stringent than those from in the "The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule for Model Years 2021–2026 Passenger Cars and Light Trucks," which had previously been stayed by the D.C. Circuit. *See* Order, *Union of Concerned Scientists v. NHTSA*, No. 19-1230 (D.C. Cir. Feb. 8. 2021)).

clarify and streamline regulations. These standards will result in a reduction in GHG emissions. They will also result in a net reduction in NOx emissions by 2050.

National Emission Standards for Hazardous Air Pollutants from Coal- and Oil-Fired Electric Utility Steam Generating Units and Standards of Performance for Fossil-Fuel-Fired Electric Utility, Industrial-Commercial-Institutional, and Small Industrial-Commercial-Institutional Steam Generating Units.[20] The Mercury and Air Toxics Standard (MATS) and the new source performance standard (NSPS) were published in 2012. *See* 77 FR 9304 (February 16, 2012). MATS was promulgated to reduce emissions of heavy metals, including mercury (Hg), arsenic (As), chromium (Cr), and nickel (Ni); and acid gases, including hydrochloric acid (HCl) and hydrofluoric acid (HF) from new and existing coal and oil-fired electric utility steam generating units (EGUs). The MATS compliance date for new sources was April 16, 2012, and April 16, 2015, for existing sources.

National Emission Standards for Hazardous Air Pollutants (NESHAPs) for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters; National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines.[21] The NESHAP for industrial, commercial, and institutional boilers (40 CFR part 63 subpart DDDDD) and the NESHAP for Reciprocating Internal Combustion Engines (RICE) (40 CFR part 63 subpart ZZZZ) are projected to reduce VOC emissions. The former applies to boiler and process heaters located at major sources of hazardous air pollutants (HAPs) that burn natural gas, fuel oil, coal, biomass, refinery gas, or other gas and had a compliance deadline of January 31, 2016. The latter applies to existing, new, or reconstructed stationary RICE located at major or area sources of HAPs, excluding stationary RICE being tested at a

[20] Kentucky's submittal refers to these as *Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS).*
[21] The Kentucky submittal refers to these as the *Boiler and Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP).*

stationary RICE test cell, and has various compliance dates from August 16, 2004, to October 19, 2013, depending on the type of source and date of construction or reconstruction.

Nonroad Spark-Ignition Engines and Recreational Engines Standards. On November 8, 2002 (67 FR 68242), EPA adopted emission standards for large spark-ignition engines such as those used in forklifts and airport ground service equipment; recreational vehicles such as off-highway motorcycles, all-terrain vehicles, and snowmobiles; and recreational marine diesel engines. These emission standards were phased in from model year 2004 through 2012. When fully implemented by 2030, EPA estimates an overall 75 percent reduction in VOC emissions and an 82 percent reduction in NOx emissions. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

Category 3 Marine Diesel Engine Standards. On April 30, 2010 (75 FR 22896), EPA issued emission standards for marine compression-ignition engines at or above 30 liters per cylinder. Tier 2 emission standards applied beginning in 2011 and are expected to result in a 15 to 25 percent reduction in NOx emissions from these engines. Final Tier 3 emission standards applied beginning in 2016 and are expected to result in approximately an 80 percent reduction in NOx from these engines.

Transport Rulemakings. In any given location, ozone pollution levels are impacted by a combination of background ozone concentration, local emissions, and emissions from upwind sources resulting from ozone transport. Downwind states' ability to meet health-based air quality standards such as the NAAQS may be impacted by the transport of ozone pollution across state borders. *See, e.g.,* 87 FR 20036 (April 6, 2022). EPA acknowledges the historical account in Kentucky's September 6, 2022, submittal of national interstate transport rules and associated NOx ozone season trading programs[22] that addressed interstate transport for previous

[22] Kentucky's September 6, 2022, redesignation request identifies the following rules: October 27, 1998, NOx SIP Call (63 FR 57356); 2005 Clean Air Interstate Rule (CAIR) (70 FR 25162); 2011 Cross-State Air Pollution Rule (CSAPR) (76 FR 48208); and 2016 CSAPR Update (81 FR 74504). The NOx SIP Call (including the NOx Budget Trading Program) and CAIR were established to reduce NOx ozone season emissions from EGUs and large non-EGUs for the 1-hour 1979 and 8-hour 1997 ozone standards. *See* 67 FR 17624 (April 11, 2002), 74 FR 54755

1979 1-hour, 1997 8-hour, and the 2008 8-hour ozone NAAQS. These programs have provided some benefits in the form of NOx ozone season emission reductions for certain sources in the Commonwealth and regionally.

EPA proposes to find that the improvements in air quality in the Louisville, KY Area are due to real, permanent and enforceable reductions in NOx and VOC emissions resulting from the federal and SIP-approved state measures discussed above.

Criterion (4) – The Louisville, KY 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. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Louisville, KY Area to attainment for the 2015 8-hour ozone NAAQS, Kentucky submitted a SIP revision to provide for the maintenance of the 2015 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. 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?

(October 23, 2009) and 72 FR 56623 (October 4, 2007). The NOx SIP call NOx Budget trading program provided NOx emission reduction for EGUs and non-EGUs for older ozone NAAQS. Kentucky's redesignation request is not relying on this the NOx SIP Call NOx budget trading program for the purpose of demonstrating permanent and enforceable measures that attribute to the demonstration of attainment for the current and more stringent 2015 8-hour ozone standard. Kentucky's redesignation request is also not relying on CAIR to demonstrate attainment of the 2015 ozone NAAQS for the Louisville KY-IN Area and explicitly states that NOx reductions achieved as a result of CAIR are not reflected in the emissions inventory and projections for the Kentucky portion of the Louisville KY-IN Area. EPA notes that the CAIR and the NOx SIP Call NOx Budget Trading programs are no longer federally enforceable due to subsequent NAAQS interstate transport obligations and legal challenges (*North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008)). However, the Commonwealth still has ongoing NOx SIP call obligations pursuant to 40 CFR 51.121.

The group of CSAPRs addressed the 1997 ozone and $PM_{2.5}$ standards, 2006 $PM_{2.5}$ and 2008 ozone NAAQS. *See* 76 FR 48208 (August 8, 2011) and 81 FR 74504 (October 26, 2016). However, the NOx ozone season trading programs have not been approved into the Kentucky SIP. On March 15, 2023, EPA finalized a FIP for 23 states, including Kentucky, to address interstate transport downwind air quality issues for the 2015 ozone NAAQS. A pre-publication version of the final FIP can be found on EPA's website. *See* https://www.epa.gov/csapr/good-neighbor-plan-2015-ozone-naaqs. The final rule issues NOx emission budgets for EGUs in 22 states to participate in an allowance-based ozone season trading program beginning in 2023.

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Pursuant to 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 2015 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 plan, verification of continued attainment, and a contingency plan. As discussed more fully below, EPA has preliminarily determined that Kentucky's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Kentucky SIP.

b. Attainment Emissions Inventory

As discussed above, the Louisville, KY-IN Area has an attaining design value for the 2015 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2019–2021.[23] The Louisville, KY-IN Area's preliminary 2020–2022 design value currently indicates that the area will likely continue to attain the 2015 ozone NAAQS. Kentucky selected 2019 as the base year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NOx and VOC, from which projected emissions could be developed for 2025, 2030, and 2035. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2015 8-hour ozone NAAQS. Kentucky began development of the attainment inventory by first generating a baseline emissions inventory for the Area. The 2019

[23] Final air quality design values for all criteria pollutants, including ozone, are available at https://www.epa.gov/aqs. These design values are calculated in accordance with 40 CFR part 50.

base year emissions were projected to 2035 for EGU point sources, non-EGU point sources, area sources, non-road mobile sources, and on-road mobile sources. The Commonwealth projected summer day emission inventories using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2035) to the 2019 base year, Kentucky compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2015 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, non-point, on-road, and non-road mobile. Complete descriptions of how the Commonwealth developed these inventories are located in Appendices A, B, C, and D of the September 6, 2022, SIP submittal.

Point Sources

For point sources, Kentucky developed the 2019 attainment year inventory using emissions collected by the District and the Division directly for all sources, with the exception of airports and railyards, which were developed using the 2017 NEI.

To calculate tons per ozone season/tons per summer day (tpsd) emissions, Kentucky used two methods, depending on whether a source reported seasonal operations or annual operations. With respect to point sources in the Louisville, KY Area that reported seasonal operations, Kentucky used that seasonal data to calculate summer emissions by dividing by 92 days (for the summer months of June, July and August). With respect to sources reporting annual data, Kentucky calculated tons per summer day emissions were by dividing annual emissions by four and then by the 92 days of summer.[24]

In order to develop projected year emissions, Kentucky used EPA's 2016v2 modeling platform. The 2016v1 emissions modeling platform is a product from the National Emissions

[24] This calculation method for estimating summer day emissions is supported by the fact that the average summer (June, July, and August) emissions from these point sources were estimated to be approximately 24.6 to 26.3 percent of the annual total. Further supporting this estimation method, a review of data on monthly flights from the Louisville International Airport indicates that flights in June, July, and August made up almost precisely one quarter of total annual flights (25.1 percent).

Inventory Collaborative, a collaboration between state and regional air agencies, EPA, and Federal Land Management agencies, and includes a full suite of base year (2016) and projection year (2023 and 2028) inventories, ancillary emission data, and scripts and software for preparing the emissions for air quality modeling. The 2016v2 emissions modeling platform was developed by EPA as an update to the 2016v1 platform because new data, model versions, and methods became available following the release of 2016v1.[25] In addition, 2016v2 makes use of a new inventory method for solvents, includes minor corrections to the wildfire inventory, and corrects for double counting of the airport emissions. The commercial marine vessel and rail inventories are consistent with the 2016v1 inventories. The 2016v2 platform includes emissions for the years 2016, 2023, 2026, and 2032. Summer day emissions were determined by using county monthly emissions for 2023, 2026, and 2032 for June through August each year from 2016v2 Platform reports, by category within each county for each pollutant, and divided by 92 days to calculate tons per summer day, which was then used to interpolate emissions for 2025, 2030, and 2035 using Microsoft Excel's TREND function.[26]

Non-Point Sources

For non-point sources, the 2019 attainment year inventory was developed using the 2017 NEI and with future year inventories from the EPA 2016v2 modeling platform and Microsoft TREND Function (linear regression). The 2019 emissions were interpolated based on 2017 NEI emissions and 2023, 2028, and 2032 projected emissions.[27]

EPA's 2016v2 was used to develop non-point projected year emissions in the same manner as described above for point sources.

On-Road Sources

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[25] The 2016 v2 platform incorporates emissions based on MOVES3, the 2017 NEI nonpoint inventory, the Western Regional Air Partnership oil and gas inventory, and updated inventories for Canada and Mexico.
[26] See page 15 of Louisville's September 6, 2022, submittal.
[27] Per EPA guidance, the non-point emissions inventory did not include biogenic sources and fires. *See* EPA, Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations (May 2017) at 42, 48, 57, available at https://www.epa.gov/sites/default/files/2017-07/documents/ei_guidance_may_2017_final_rev.pdf.

The 2019 on-road emissions in the Kentucky submittal and all projected years inventories were developed using the most recent information from the travel demand model (TDM) designed by Kentuckiana Regional Planning and Development Agency (KIPDA) and data obtained from EPA MOVES3 (Motor Vehicle Emissions Simulator).[28] KIPDA is the metropolitan planning organization for the Louisville, KY-IN area. This updated data for mobile source emissions is located in Appendix B to Kentucky's submittal, available in the docket for this proposed action.

Non-Road Sources

Some non-road mobile emissions in the U.S. are from the non-road equipment segment (i.e., agricultural equipment, construction equipment, lawn and garden equipment, and recreational vehicles such as boats and jet-skis). For non-road sources, the 2019 attainment year inventory was developed using the 2017 NEI and with future year inventories from the EPA 2016v2 modeling platform and Microsoft TREND Function. The 2019 emissions were interpolated based on 2017 NEI emissions and 2023, 2028, and 2032 projected emissions. EPA's 2016v2 was used to develop non-road projected year emissions in the same manner as described above for point sources.

The 2019 base year inventory for the Area, as well as the projected inventories for other years, were developed consistent with EPA guidance and are summarized in Tables 2 and 3 of the following subsection discussing the maintenance demonstration.

c. Maintenance Demonstration

The redesignation request includes a maintenance plan which includes the following features:

[28] See the Response to Comment and Statement of Consideration documents included in Appendix N of Kentucky's submittal.

(i) Shows compliance with and maintenance of the 2015 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NOx and VOC remain at or below 2019 emissions levels.

(ii) Uses 2019 as the attainment year and includes future emissions inventory projections for 2025, 2030, and 2035. The 2019 emissions were calculated by linear interpolation between 2017 and 2023. Emissions for 2025, 2030, and 2035 were calculated by linear interpolation using 2023, 2026 and 2032.[29]

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NOx and VOC MVEBs were established for the last year (2035) of the maintenance plan as well as for the base year of 2019 (see Section VI, below).[30]

(iv) Provides actual (2019) and projected emissions inventories, in tpsd, for the Louisville, KY Area, as shown in Tables 2 and 3, below.

Table 2 – Actual and Projected Average Summer Day NOx Emissions for the Louisville, KY Area (tpsd)

Source	2019	2025	2030	2035
Point	34.04	29.22	29.09	28.97
Non-point	7.62	6.04	5.94	5.84
On-road	25.31	14.22	11.08	10.26
Non-road	4.00	3.12	2.91	2.69
Total	70.97	52.60	49.02	47.76

Table 3 – Actual and Projected Average Summer Day VOC Emissions for the Louisville, KY Area (tpsd)

Source	2019	2025	2030	2035

[29] All three years of projected emissions were used to interpolate/extrapolate for the inventory; however, using the two closest years (e.g., 2023 and 2026 to interpolate 2025), was evaluated as an alternative but resulted in less than one ton per summer day difference in NOx projections each year except 2035, where use of 2026 and 2032 alone resulted in a greater drop than use of all three years. Use of all three years was retained as the more conservative approach (i.e., an approach that produced higher projected emissions).

[30] Kentucky interpolated 2019 emissions using the TREND function based on the 2017 NEI emissions and 2023, 2028, and 2032 projected emissions. Emissions from 2017 as well as projections from all future years were chosen to interpolate 2019 by using just the two closest years (2017 and 2023).

Point	33.47	23.42	23.61	23.80
Non-point	37.11	31.92	32.40	32.89
On-road	10.28	5.39	3.94	3.46
Non-road	4.72	4.33	4.31	4.28
Total	85.58	65.06	64.26	64.43

Tables 2 and 3 summarize the 2019 and future projected emissions of NOx and VOC in the Louisville, KY Area. In situations where local emissions were the primary contributor to nonattainment, such as the Louisville, KY Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standard should not be exceeded in the future. Kentucky has projected emissions as described previously and determined that emissions in the Louisville, KY Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in Section VI, below, 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. Kentucky selected 2019 as the attainment emissions inventory year for the Louisville, KY Area and calculated safety margins for 2035 (see Table 4). Because the interim MVEB year of 2019 is also the base year for the maintenance plan inventory, there is no safety margin for 2019; therefore, no adjustments were made to the MVEBs for 2019. Kentucky, in consultation with the Louisville, KY-IN Area transportation partners, allocated a portion of the available safety margin to the 2035 MVEBs for the entire Louisville, KY-IN Area.

Table 4 – Safety Margins for the Louisville, KY-IN Area (tpsd)

Year	NOx	VOC
2035	30.17	23.18

Kentucky has allocated 2.98 tpsd (9.9 percent) of the available NOx safety margin to the 2035 NOx MVEB and 0.83 tpsd (3.6 percent) of the available VOC safety margin to the 2035 VOC MVEB to allow for, among other things, unanticipated growth in VMT and changes and uncertainty in vehicle mix assumptions that will influence the emission estimations. After allocation of the available safety margin, the remaining safety margin is 27.19 tpsd for NOx and 22.35 tpsd for VOC. This allocation and the resulting available safety margin for the Louisville, KY Area are discussed further in section VI of this notice along with the MVEBs to be used for transportation conformity purposes.

d. Monitoring Network

There are seven ozone monitors in the Louisville, KY-IN Area; five in the Kentucky portion and two in the Indiana portion. Kentucky will continue to operate the monitors in the Kentucky portion of the Louisville, KY-IN Area in compliance with 40 CFR part 58 and has thus addressed the requirement for the monitoring. EPA approved Kentucky's 2021 ambient air monitoring network plan on October 27, 2021.

e. Verification of Continued Attainment

Kentucky, through the Cabinet and District, has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the Air Emissions Reporting Requirements (AERR) (40 CFR part 51, subpart A), every three years the Cabinet and Division are required to develop a comprehensive, annual, statewide emissions inventory that is due twelve to eighteen months after the completion of the inventory year. Both the Cabinet and Division will update the AERR inventory every three years and will use the updated emissions inventory to track the progress of maintenance of the NAAQS. The maintenance plan states that emissions information will be compared to the

2019 attainment year and the 2035 projected maintenance year inventories to assess emission trends, as necessary, and to assure continued compliance with the standard.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and a 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 September 6, 2022, submittal, Kentucky states that, at a minimum, contingency measures must include all measures with respect to the control of ozone contained in the SIP for the Area before the redesignation, that all such measures are in effect for the Area, and that DAQ and the District will continue to implement these measures. The contingency measures in the maintenance plan include a two-tiered triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures.

Kentucky refers to the first-tier response as an "indicator" response. An indicator response is triggered if (1) there is an annual fourth high monitored value of 0.071 ppm or greater in a single ozone season or (2) periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in ozone precursor emissions within the Area. For the indicator response, Kentucky will evaluate existing control measures to see if further emission reduction measures should be implemented. Kentucky commits to implementing

necessary controls as expeditiously as possible, but no later than 12 months from the conclusion of the most recent ozone season (October 31).

Kentucky refers to the second-tier response as an "action level response." The action level trigger is the occurrence of a three-year average of the fourth highest monitored value of 0.071 ppm or greater (i.e., a violation of the 2015 ozone NAAQS). For an action level response, Kentucky commits to determining additional control measures needed to assure future attainment of the 2015 ozone NAAQS. This will be done in conjunction with the metropolitan planning organization or regional council of governments, and appropriate contingency measures will be implemented within 24 months of a triggered violation.

Kentucky states that potential contingency measures may be chosen from the following list; however, the Commonwealth and the District reserve the right to implement other contingency measures if new control programs should be developed and deemed more advantageous for the Area:

- Implementation of a program to require additional emission reductions on stationary sources, including RACT for point sources of VOC and NOx, and specifically the adoption of new and revised RACT rules based on Groups II, III, and IV CTGs;
- Implementation of a program to enhance inspection of stationary sources;
- Implementation of fuel programs, including incentives for alternative fuels;
- Restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles;
- Trip-reduction ordinances;
- Employer-based transportation management plans, including incentives;
- Programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest;

- Implementation of a modern vehicle inspection/maintenance program;
- Implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations; and
- Additional engine idling reduction programs.

EPA preliminarily finds that the maintenance plan adequately provides the five basic required components of a maintenance plan: the attainment emissions inventory, maintenance demonstration, monitoring plan, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Kentucky for the Louisville, KY Area meets the requirements of section 175A of the CAA and is approvable.

VI. EPA's Analysis of Kentucky's Proposed NOx and VOC MVEBs

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 designated as 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 reasonable

further progress and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule. *See* 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 Louisville, KY-IN Area, MVEBs for NOx and VOC for that area were developed. Kentucky developed these MVEBs for the last year of the maintenance plan (2035) and for the interim year (2019). Because the interim MVEB year of 2019 is also the base year for the maintenance plan inventory, there is no safety margin; therefore, no adjustments were made to the MVEBs for 2019. The 2035 MVEBs reflect the total projected on-road emissions for 2035, plus an allocation from the available NOx and VOC safety margins. 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 NOx and VOC MVEBs 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 NOx and VOC MVEBs for the Area are identified in Table 5, below.

Table 5 – Louisville, KY-IN Area NOx and VOC MVEBs (tpsd)

	2019	**2035**
NOx On-Road Emissions	33.03	14.20
NOx Safety Margin Allocated to MVEB	--	2.98

NOx MVEB	33.03	17.18
VOC On-Road Emissions	13.65	4.68
VOC Safety Margin Allocated to MVEB	--	0.83
VOC MVEB	**13.65**	**5.51**

Kentucky, in consultation with the transportation partners for the Louisville, KY-IN Area chose to allocate a portion of the available safety margin to the 2035 NOx and VOC MVEBs for the Area after consideration of continued air quality improvements, known future motor vehicle and fuels controls, projected fleet turnover, expected future growth, possible future regulation, and model uncertainty. Kentucky allocated 2.98 tpsd of the NOx safety margin to the 2035 NOx MVEB and 0.83 tpsd of the VOC safety margin to the 2035 VOC MVEB.[31] The remaining safety margins for 2035 are 30.17 tpsd and 23.18 tpsd for NOx and VOC, respectively.

Through this proposed rulemaking, EPA is proposing to approve the MVEBs for NOx and VOC for years 2019 and 2035 for the Area because EPA has determined that the Area maintains the 2015 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Area are approved or found adequate (whichever comes first), they must be used for future conformity determinations.

VII. EPA's Adequacy Determination for the Proposed NO_x and VOC MVEBs

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

[31] The safety margins and safety margin allocations are based on the most recent information from the TDM designed by KIPDA and data from EPA MOVES3 (*see* page 34 of the SIP submittal). The final safety margins are roughly 20% of projected 2035 NOx emissions and 18% of projected VOC emissions.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for in an action titled "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. *See* 69 FR 40004. Additional information on the adequacy process for transportation conformity purpose is available in the proposed rule titled "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes." *See* 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Kentucky's maintenance plan includes NOx and VOC MVEBs for the Louisville, KY-IN Area for the interim and base year 2019 and for 2035, the last year of the maintenance plan. EPA reviewed the NOx and VOC MVEBs through the adequacy process described in Section I. EPA intends to make its determination on the adequacy of the 2019 and 2035 MVEBs for the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on September 14, 2022.[32] If EPA finds the 2019 and 2035 MVEBs adequate or approves them, the new MVEBs for NOx and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2019 through 2034, the 2019 MVEBs will be used, and for years 2035 and beyond, the applicable budgets will be the new 2035 MVEBs established in the maintenance plan.

[32] As discussed above, comments were due on October 14, 2022. See https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa.

VIII. Effect of EPA's Proposed Actions

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Kentucky's redesignation request would change the legal designation of Bullitt, Jefferson, and Oldham Counties, found at 40 CFR Part 81, from nonattainment to attainment for the 2015 8-hour ozone NAAQS. Approval of Kentucky's associated SIP revision would also incorporate a plan for maintaining the 2015 8-hour ozone NAAQS in the Area through 2035 into the Kentucky SIP. The maintenance plan establishes NOx and VOC MVEBs for 2019 and 2035 for the Louisville KY-IN Area and includes contingency measures to remedy any future violations of the 2015 8-hour ozone NAAQS and procedures for evaluating potential violations.

IX. Proposed Actions

EPA is proposing to: (1) approve the maintenance plan for the Louisville, KY Area, including the NOx and VOC MVEBs for 2019 and 2035, and incorporate it into the Kentucky SIP, and (2) approve Kentucky's redesignation request for the 2015 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is also describing the status of its adequacy determination for the NOx and VOC MVEBs for the 2019 and 2035 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NOx and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

If finalized, approval of the redesignation request would change the official 2015 8-hour ozone NAAQS designation of Bullitt, Jefferson, and Oldham Counties in Kentucky from nonattainment to attainment, as found at 40 CFR part 81.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical

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

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq*.);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001); and

- 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.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rules do not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, 59 FR 7629, Feb. 16, 1994) directs Federal agencies to identify and address "disproportionately high and adverse human health or environmental effects" of their actions on minority populations and low-income populations to the greatest extent practicable and permitted by law. EPA defines environmental justice (EJ) as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies." EPA further defines the term fair treatment to mean that "no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental, and commercial operations or programs and policies."

The Cabinet and District did not evaluate EJ considerations as part of its redesignation request or SIP submittal; the CAA and applicable implementing regulations neither prohibit nor require such an evaluation. EPA did not perform an EJ analysis and did not consider EJ as part of Kentucky's redesignation request or SIP submittal in these actions. Consideration of EJ is not required as part of these actions, and there is no information in the record inconsistent with the stated goal of EO 12898 of achieving EJ for people of color, low-income populations, and Indigenous peoples.

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

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

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

Dated: April 11, 2023.
Daniel Blackman,

Regional Administrator,

Region 4.

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