

TABLE 3—EPA APPROVED KNOX COUNTY, REGULATIONS

State section	Title/subject	State effective date	EPA approval date	Explanation
32.0	Use of Evidence	11/12/2015	12/16/2016, [Insert citation of publication].	EPA is replacing the language in Section 32.1(C) with “(Reserved)”.

\* \* \* \* \*

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA–R05–OAR–2016–0269; FRL–9956–60–Region 5]

**Air Plan Approval; Ohio; Redesignation of the Ohio Portion of the Cincinnati, Ohio-Kentucky-Indiana Area to Attainment of the 2008 Ozone Standard**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is finding that the Cincinnati, Ohio-Kentucky-Indiana area is attaining the 2008 ozone National Ambient Air Quality Standard (NAAQS or standard) and is redesignating the Ohio portion of the Cincinnati area to attainment for the 2008 ozone NAAQS because the area meets the statutory requirements for redesignation under the Clean Air Act (CAA or Act). The Cincinnati area includes Butler, Clermont, Clinton, Hamilton, and Warren Counties in Ohio; Lawrenceburg Township in Dearborn County, Indiana; and, Boone, Campbell, and Kenton Counties in Kentucky. EPA is also approving, as a revision to the Ohio State Implementation Plan (SIP), the state’s plan for maintaining the 2008 ozone standard through 2030 in the Cincinnati area. Finally, EPA finds adequate and is approving the state’s 2020 and 2030 volatile organic compound (VOC) and oxides of nitrogen (NO<sub>x</sub>) Motor Vehicle Emission Budgets (MVEBs) for the Ohio and Indiana portion of the Cincinnati area. The Ohio Environmental Protection Agency (Ohio EPA) submitted the SIP revision and redesignation request on April 21, 2016.

**DATES:** This final rule is effective December 16, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket ID No. EPA–R05–OAR–2016–0269. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D’Agostino, Environmental Scientist, Attainment Planning and Maintenance Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–1767, [dagostino.kathleen@epa.gov](mailto:dagostino.kathleen@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document whenever “we,” “us,” or “our” is used, we mean EPA.

**I. What is being addressed in this document?**

This rule takes action on the submission from Ohio EPA, dated April 21, 2016, requesting redesignation of the Ohio portion of the Cincinnati area to attainment for the 2008 ozone standard. The background for today’s action is discussed in detail in EPA’s proposal, dated September 28, 2016 (81 FR 66602). In that rulemaking, we noted that, under EPA regulations at 40 CFR part 50, the 2008 ozone NAAQS is attained in an area when the 3-year average of the annual fourth highest daily maximum 8-hour average concentration is equal to or less than 0.075 ppm, when truncated after the thousandth decimal place, at all of the ozone monitoring sites in the area. (See 40 CFR 50.15 and appendix P to 40 CFR part 50.) Under the CAA, EPA may

redesignate nonattainment areas to attainment if sufficient complete, quality-assured data are available to determine that the area has attained the standard and if it meets the other CAA redesignation requirements in section 107(d)(3)(E). The proposed rule, dated September 28, 2016, provides a detailed discussion of how Ohio has met these CAA requirements.

As discussed in the September 28, 2016, proposal, quality-assured and certified monitoring data for 2013–2015 and preliminary data for 2016 show that the Cincinnati area has attained and continues to attain the 2008 ozone standard. In the maintenance plan submitted for the area, Ohio has demonstrated that the ozone standard will be maintained in the area through 2030. Finally, Ohio and Indiana have adopted 2020 and 2030 VOC and NO<sub>x</sub> MVEBs for the Ohio and Indiana portion of the Cincinnati area that are supported by Ohio’s maintenance demonstration.

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

EPA provided a 30-day review and comment period for the September 28, 2016, proposed rule. The comment period ended on October 28, 2016. During the comment period, comments in support of the action were submitted on behalf of the Ohio Utility Group and its member companies. We received no adverse comments on the proposed rule.

**III. What action is EPA taking?**

EPA is determining that the Cincinnati nonattainment is attaining the 2008 ozone standard, based on quality-assured and certified monitoring data for 2013–2015 and that the Ohio portion of this area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. EPA is thus changing the legal designation of the Ohio portion of the Cincinnati area from nonattainment to attainment for the 2008 ozone standard. EPA is also approving, as a revision to the Ohio SIP, the state’s maintenance plan for the area. The maintenance plan is designed to keep the Cincinnati area in

attainment of the 2008 ozone NAAQS through 2030. Finally, EPA finds adequate and is approving the newly-established 2020 and 2030 MVEBs for the Indiana and Ohio portion of the Cincinnati area.

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

#### IV. 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 CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because redesignation is an action that affects the status of a geographical area and does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 14, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects

##### 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Oxides of nitrogen, Ozone, Volatile organic compounds.

##### 40 CFR Part 81

Environmental protection, Administrative practice and procedure, Air pollution control, Designations and classifications, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: December 5, 2016.

**Robert A. Kaplan,**

*Acting Regional Administrator, Region 5.*

Parts 52 and 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

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

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

■ 2. Section 52.1885 is amended by revising paragraph (ff) introductory text and adding paragraph (pp) to read as follows:

**§ 52.1885 Control strategy: Ozone.**

\* \* \* \* \*  
 (ff) Approval—The 1997 8-hour ozone standard maintenance plans for the following areas have been approved:  
 \* \* \* \* \*

(pp) Approval—The 2008 8-hour ozone standard maintenance plans for the following areas have been approved:

(1) Approval—On April 21, 2016, the Ohio Environmental Protection Agency submitted a request to redesignate the Ohio portion of the Cincinnati, OH-KY-IN area to attainment of the 2008 ozone NAAQS. As part of the redesignation request, the State submitted a

maintenance plan as required by section 175A of the Clean Air Act. Elements of the section 175 maintenance plan include a contingency plan and an obligation to submit a subsequent maintenance plan revision in 8 years as required by the Clean Air Act. The 2020 motor vehicle emissions budgets for the Ohio and Indiana portions of the Cincinnati, OH-KY-IN area are 30.00 tons per summer day (TPSD) for VOC and 26.77 TPSD for NO<sub>x</sub>. The 2030 motor vehicle emissions budgets for the Ohio and Indiana portions of the area are 18.22 TPSD for VOC and 16.22 TPSD for NO<sub>x</sub>.

**OHIO—2008 8-HOUR OZONE NAAQS**  
 [Primary and secondary]

**PART 81—[AMENDED]**

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

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

■ 2. Section 81.336 is amended by revising the entry for Cincinnati, OH-KY-IN in the table entitled “Ohio—2008 8-Hour Ozone NAAQS (Primary and secondary)” to read as follows:

**§ 81.336 Ohio.**

\* \* \* \* \*

Designated area	Designation		Classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Cincinnati, OH-KY-IN: <sup>2</sup> Butler County Clermont County Clinton County Hamilton County Warren County	December 16, 2016	Attainment.		
* * * * *				

<sup>1</sup> This date is July 20, 2012, unless otherwise noted.

<sup>2</sup> Excludes Indian country located in each area, unless otherwise noted.

\* \* \* \* \*  
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**LEGAL SERVICES CORPORATION**

**45 CFR Part 1602**

**Procedures for Disclosure of Information Under the Freedom of Information Act**

**AGENCY:** Legal Services Corporation.  
**ACTION:** Final rule.

**SUMMARY:** The Legal Services Corporation (LSC) is revising its regulation on procedures for disclosure of information under the Freedom of Information Act to implement the statutorily required amendments in the FOIA Improvement Act of 2016. LSC is also making technical changes to improve the structure and clarity of its Freedom of Information Act (FOIA) regulations.

**DATES:** The final rule is effective as of December 16, 2016.

**FOR FURTHER INFORMATION CONTACT:** Helen Gerostathos Guyton, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007, (202) 295–1632

(phone), (202) 337–6519 (fax), [guytonh@lsc.gov](mailto:guytonh@lsc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

LSC is subject to the FOIA by the terms of the Legal Services Corporation Act. 42 U.S.C. 2996d(g). LSC has implemented FOIA by adopting regulations that contain the rules and procedures LSC will follow in making its records available to the public. LSC last amended its FOIA regulations in 2008. 73 FR 67791, Dec. 31, 2008.

On June 30, 2016, President Obama signed into law the FOIA Improvement Act of 2016 (“2016 Amendments” or the “Act”). The Act codifies a number of transparency and openness principles and enacts housekeeping measures designed to facilitate FOIA requests and production. The revised regulations described in this final rule reflect the required changes prescribed by the Act. LSC also clarified the language and updated the structure of its FOIA regulations.

In light of the deadline established by Congress, LSC management requested that the Operations and Regulations Committee (Committee) recommend that the Board authorize expedited rulemaking and publication of this final rule. On October 16, 2016, the

Committee considered the request and voted to make the recommendation to the Board. On October 18, 2016, the Board voted to authorize expedited rulemaking and the publication of the final rule and request for comments. LSC published the final rule and request for comments on October 31, 2016, 81 FR 75330, and the comment period closed on November 30, 2016. LSC received no substantive adverse comments. LSC received comments from two parties recommending technical changes, which LSC has incorporated into this final rule where noted.

**II. Section-by-Section Analysis**

*Section 1602.1 Purpose*

There are no proposed changes to this section.

*Section 1602.2 Definitions*

LSC modified several existing definitions, deleted one definition, and added five new definitions to make its regulations clearer. LSC amended the Definitions section as follows:

*Duplication.* LSC modified this definition to require the release of records “in a form appropriate for release.” This change complies with