

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[PA 120-4110b; FRL-6961-3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Conversion of the Conditional Approval of the 15 Percent Plan and 1990 VOC Emission Inventory for the Pittsburgh-Beaver Valley Ozone Nonattainment Area to a Full Approval**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule.

SUMMARY: EPA proposes to convert its conditional approval of the 15 Percent Reasonable Further Progress Plan (the 15% plan) and its associated 1990 base year volatile organic compound (VOC) emissions inventory for the Pittsburgh-Beaver Valley ozone nonattainment area to a full approval. The Commonwealth of Pennsylvania submitted revisions which satisfy the conditions imposed by EPA in its conditional approval. In the Final Rules section of this **Federal Register**, EPA is converting its conditional approval to a full approval as a direct final rule without prior proposal because the Agency views this as noncontroversial and anticipates no adverse comments. A more detailed description of the state submittals and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by May 3, 2001.

ADDRESSES: Written comments should be addressed to David Arnold, Chief, Air Quality Planning & Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency,

Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. They are also available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT:

Brian Rehn, (215) 814-2176, at the EPA Region III address above, or by e-mail at rehn.brian@epa.gov.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the "Rules and Regulations" section of this **Federal Register** publication.

Dated: March 22, 2001.

W.C. Early,

Acting Regional Administrator, Region III.

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Parts 52 and 81**

[IL 196-2; MO 097-1097a; FRL-6961-5]

Approval and Promulgation of Implementation Plans; Illinois and Missouri; One-Hour Ozone Attainment Demonstrations, Motor Vehicle Emissions Budgets, Attainment Date Extension, and Withdrawal of Nonattainment Determination and Reclassification**AGENCY:** Environmental Protection Agency.**ACTION:** Supplemental proposed rule.

SUMMARY: On April 17, 2000, the Environmental Protection Agency (EPA) proposed to approve or, in the alternative, disapprove the Illinois and Missouri 1-hour ozone attainment demonstration State Implementation Plans (SIP) for the St. Louis moderate ozone nonattainment area. This proposed rule supplements the proposed rule published on April 17, 2000, for this ozone nonattainment area. This proposed rule addresses supplemental state submittals relating to corrections to the 1996 emissions inventory and the Missouri transportation conformity budget called for in the April 17, 2000, proposed rule, and additional submissions by the states relevant to the modeled attainment demonstration and motor vehicle emissions budgets. This proposal also proposes to extend the attainment date for the St. Louis nonattainment area to November 15, 2004. Finally, EPA is

proposing to withdraw its March 19, 2001, Determination of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Determination of Nonattainment.

DATES: Written comments must be received on or before May 3, 2001.

ADDRESSES: Written comments should be sent to: Jay Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604; or Wayne Leidwanger, Chief, Air Planning and Development Branch, U.S. Environmental Protection Agency, 901 North 5th Street, Kansas City, Kansas 66101.

Copies of the states' submittals addressed in this supplemental proposed rule, and other relevant materials are available for public inspection during normal business hours at the following addresses: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604 (please telephone Edward Doty at (312) 886-6057 before visiting the Region 5 office); or U.S. Environmental Protection Agency, Region 7, Air, Radiation, and Toxics Division, 901 North 5th Street, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT:

Edward Doty, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, Telephone Number (312) 886-6057, E-Mail Address: doty.edward@epa.gov; or Royan Teter, Air Planning and Development Branch, U.S. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, Kansas 66101, Telephone Number (913) 551-7609, E-Mail Address: teter.royan@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document whenever "we," "us," or "our" is used, we mean EPA. This section provides additional information by addressing the following questions and topics:

Background and Submittal Information*What Is the Scope of This Proposed Rule?*

On April 17, 2000, the Environmental Protection Agency (EPA) proposed to approve or, in the alternative, disapprove the Illinois and Missouri 1-hour ozone attainment demonstration State Implementation Plans (SIP) for the St. Louis moderate ozone nonattainment

area. In that proposal, EPA stated that it proposed to disapprove the attainment demonstration if the states did not make the following submissions: (1) Revisions to the attainment demonstration modeling and analyses to incorporate corrections to the 1996 base year emissions inventory and a demonstration of attainment based on the revisions; (2) regional Oxides of Nitrogen (NO_x) emission control regulations for Electric Generating Units (EGU) as needed for the attainment demonstration; and (3) a transportation conformity motor vehicle emissions budget for the Missouri portion of the nonattainment area. The proposal also stated that EPA was proposing to approve an extension of the ozone attainment date for the St. Louis ozone nonattainment area to November 15, 2003, while retaining the area's current classification as a moderate ozone nonattainment area, if EPA takes final action to approve the attainment demonstration.

This proposed rule supplements the proposed rule published on April 17, 2000, for this ozone nonattainment area. This proposed rule addresses supplemental state submittals relating to items (1) and (3) above (corrections to the 1996 emissions inventory and the Missouri transportation conformity budget) called for in the April 17, 2000, proposed rule, and additional submissions by the states relevant to the modeled attainment demonstration and motor vehicle emissions budgets. Missouri has submitted finally adopted revisions to its attainment demonstration and an adopted transportation conformity budget. Illinois has submitted proposed revisions covering these items and plans to submit final revisions in the near future.

With respect to item (2), the regional NO_x rules, Missouri has submitted and EPA has approved a statewide NO_x rule applicable to Missouri called for in the St. Louis attainment demonstration. In a separate action published elsewhere in today's **Federal Register**, EPA is proposing to approve a proposed statewide NO_x rule which will be applicable in Illinois. If, as expected, Illinois submits final revisions to the attainment demonstration and budgets as specified in this proposal, and a finally adopted NO_x rule as specified in the separate notice, EPA believes that the contingencies specified in the April 17, 2000, proposal will have been met, and that EPA can take final action to approve the attainment demonstration for the St. Louis nonattainment area. In addition to proposing to approve the ozone attainment demonstration SIPs,

EPA is proposing to approve the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri for their respective portions of the St. Louis ozone nonattainment area. This proposal also proposes to extend the attainment date for the St. Louis nonattainment area to November 15, 2004. Finally, EPA is proposing to withdraw its March 19, 2001, Determination of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Determination of Nonattainment.

In this proposal, EPA specifically requests comments on the supplemental submissions of the states relating to the revisions to the attainment demonstration and the motor vehicle emissions budgets. EPA also requests comments on its proposal to extend the attainment date to November 15, 2004 (rather than November 15, 2003, as proposed in the April 17, 2000, action). EPA has previously received comments on other aspects of its April 17, 2000, proposal, and will address those comments prior to final action on the attainment demonstration and attainment date extension. In the final action, EPA will also address comments on the Guidance "Extension of Attainment Dates for Downwind Transport Areas," published March 25, 1999, in the **Federal Register**.

What actions or circumstances led to this proposed rule?

Have the states' attainment demonstration SIPs been adopted after proper notice and hearing?

How did the states address the deficiencies identified in our April 17, 2000, proposed rule?

How did the states address the change of the attainment date from November 15, 2003, to November 15, 2004?

Do the analyses support attainment of the 1-hour ozone standard by November 15, 2004?

How do the revised attainment demonstrations address the transportation conformity requirements for motor vehicle emission budgets?

What is the status of emission control regulations for which the attainment demonstration accounts?

What is the Status of the States' Efforts to Qualify for an Attainment Date Extension?

What is EPA proposing regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification, published on March 19, 2001.

EPA's Preliminary Conclusions

Have the states corrected the deficiencies identified in the April 17, 2000, proposed rulemaking?

What is EPA's assessment of the ozone attainment demonstration for the St. Louis ozone nonattainment area?

What is EPA's assessment of the transportation conformity emission budgets for the Illinois and Missouri portions of the St. Louis ozone nonattainment area?

When will EPA address public comments received regarding the April 17, 2000, proposed rulemaking?

What actions are we proposing today?

Administrative Requirements

- A. Executive Order 12866
- B. Executive Order 13045
- C. Executive Order 13084
- D. Executive Order 13132
- E. Regulatory Flexibility
- F. Unfunded Mandates

Background and Submittal Information

What Actions or Circumstances Led to the State Submittals Reviewed in This Supplemental Proposed Rule?

On April 17, 2000 (65 FR 20404), EPA proposed several actions with respect to Illinois' and Missouri's 1-hour ozone attainment demonstration SIPs for the St. Louis ozone nonattainment area. EPA proposed to: (1) Approve the attainment demonstration SIPs; (2) approve an exemption from NO_x emission control requirements for RACT for the Illinois portion of the St. Louis ozone nonattainment area; (3) approve the transportation conformity motor vehicle emissions budget submitted by Illinois for the Illinois portion of the St. Louis ozone nonattainment area; and (4) extend the ozone attainment date for the entire St. Louis ozone nonattainment area to November 15, 2003, while retaining the area's classification as a moderate ozone nonattainment area.

Alternatively, EPA proposed to disapprove the states' attainment demonstration SIPs if: (1) Illinois and Missouri did not revise the attainment demonstration modeling and analyses to incorporate corrections to the 1996 base year emissions inventory and successfully demonstrate attainment of the 1-hour ozone standard based on the revised modeling; (2) Illinois and Missouri did not submit proposed regional NO_x emission control regulations for EGUs by June 2000 and final adopted regional NO_x emission control regulations for EGUs by December 2000; or (3) Missouri did not submit a proposed motor vehicle emissions budget by June 30, 2000.

Final approval of the attainment date extension for the St. Louis nonattainment area and the NO_x RACT exemption for the Illinois portion of the St. Louis ozone nonattainment area were to be contingent on the final approval of the ozone attainment demonstration SIPs. The proposed new attainment date (November 15, 2003) was premised on EPA's October 27, 1998 (63 FR 57356), NO_x SIP call,

which at the time required the implementation of source emission controls by May 1, 2003.

Subsequent to the April 17, 2000, proposed rulemaking, several Court decisions affecting the proposed extended attainment date for the St. Louis nonattainment area have been issued. First, on August 30, 2000, the United States Court of Appeals for the District of Columbia Circuit issued an Order (*Michigan v. EPA*, No. 98–1497, August 30, 2000), extending the compliance date for the NO_x SIP call from May 1, 2003, to May 31, 2004. The effect of this ruling is that the regional NO_x emission reductions relied on in the attainment demonstration cannot be assumed to occur before the Court-ordered compliance date. As such, EPA requested that Illinois and Missouri consider the impacts of this ruling on the St. Louis attainment demonstration.

Second, on January 29, 2001, the United States District Court for the District of Columbia ordered EPA to make a determination, no later than March 12, 2001, as to whether the St. Louis nonattainment area attained the requisite 1-hour ozone standard. (*Sierra Club v. Whitman*, No. 98–2733 CKK.) On March 8, 2001, EPA informed the Court of the actions that EPA intends to take in response to its Order. While the Court's Order did not directly affect the contents of the attainment demonstrations considered in this proposed rule, its ruling has been considered in the actions which EPA plans to take with regard to them, as later discussed. The state submittals addressed in today's proposed rule were designed to meet the contingencies set forth in our April 17, 2000, proposed rulemaking and account for the additional revisions necessitated by the Court decision in *Michigan v. EPA* discussed above.

Have the States' Attainment Demonstration SIPs Been Adopted After Proper Notice and Hearing?

The states submitted the various components of their attainment demonstration SIPs in segments, following key events. In response to our April 17, 2000, proposed rule, Missouri submitted draft transportation conformity budgets via letter dated June 19, 2000. Both Missouri and Illinois transmitted draft revisions (hereafter referred to as the addendum) to their attainment demonstration SIPs on June 29, 2000. Missouri held public hearings on its draft conformity budgets and attainment demonstration revisions on August 31, 2000. They were adopted by the Missouri Air Conservation Commission (MACC) on September 21,

2000, and submitted to EPA in final form on November 2, 2000. Illinois did not hold a separate public hearing on the state's analogous revisions, but referenced them and made them available to the public in association with the revisions that were the subject of public hearings held on February 27, 2001.

On November 2 and 8, 2000, respectively, EPA notified Missouri and Illinois that further revisions to their attainment demonstration SIPs were necessary in light of the August 30, 2000, United States Court of Appeals for the District of Columbia Circuit Order, extending the compliance date for the NO_x SIP call from May 1, 2003, to May 31, 2004. In the same correspondence, EPA, in part, requested that the states revise their attainment year emissions inventories and transportation conformity budgets to reflect emissions in 2004, since their previous submittals gave consideration to 2003. Both states submitted draft responses on November 15, 2000. The MACC held public hearings on these materials on February 6, 2001, and adopted them on February 26, 2001. EPA received Missouri's revised emissions inventory and transportation conformity budgets in final form on March 5, 2001. Illinois held public hearings on its revised emissions inventory and transportation conformity budgets on February 27, 2001. In a March 1, 2001, submittal of the same items, the Illinois Environmental Protection Agency (IEPA) requested that EPA parallel process its draft revisions. IEPA is expected to submit them in final form shortly after the close of the public comment period which ends on March 29, 2001.

How Did the States Address the Deficiencies Identified in Our April 17, 2000, Proposed Rule?

As noted above, the April 17, 2000, proposed rule stated that the final approval of the ozone attainment demonstration for the St. Louis nonattainment area is contingent, in part, upon the states preparing revised modeling to incorporate corrections to the 1996 base year emissions inventory. The addendum to the attainment demonstration presents the results of the revised modeling performed by the IEPA and the Missouri Department of Natural Resources (MDNR) for the 1996 base year. It updates the base year model performance evaluation and demonstrates attainment of the 1-hour standard in the St. Louis area by November 15, 2003. The attainment date was projected to November 15, 2004, in

subsequent revisions as discussed below.

The revised modeling analyses were performed using the same ozone modeling system, modeling domain, and historically high ozone episodes as used by both states in their 1999 and 2000 ozone attainment demonstration submittals. For a more complete description of the modeling system, domain, and episodes selected for modeling readers may refer to EPA's April 17, 2000, proposed rule (65 FR 20404). The major change in the analyses conducted for the preparation of the addendum was a revision of the base case emissions inputs. All other parameters were essentially unchanged from those reflected in previous submittals.

Pursuant to EPA's comments regarding the Missouri emissions inventory, MDNR modified the 1996 area source emissions inventory, subsequent to the preparation of the ozone modeling EPA reviewed prior to the April 17, 2000, proposal. Modifications were made to the area source (VOC) and NO_x emissions (both are ozone precursors) in response to Missouri's discovery of erroneous data while performing additional quality assurance checks. The 2003 emissions inventory included in the prior ozone modeling had already been corrected (prior to the ozone modeling discussed in the states' 1999 and 2000 submittals) as result of EPA's comments. This led to a discrepancy in the bases for the 1996 emissions and the 2003 emissions used in the prior ozone modeling. In turn, this led EPA to question the degree of change in ozone concentrations which were predicted to occur between 1996 and 2003. Illinois and Missouri have since revised the 1996 emissions used in the ozone modeling to reflect the same bases as the 2003 emissions and the corresponding estimates of the change in ozone concentrations that will result from the implementation of local and upwind control measures, consistent with the requirements set forth in our April 17, 2000, proposed rule.

The photochemical model was rerun after revising the 1996 VOC and NO_x emissions inventories and its performance was revalidated. The model performance evaluation is an important and required part of the technical analysis process, as it provides EPA with a basis for judging the effectiveness of the selected emission control strategies and provides a measure of the likelihood that the standard will be achieved. Therefore, the revision of the 1996 base year

emissions necessitated the reevaluation of the modeling system performance.

Model performance is assessed by employing statistical tests recommended in EPA's "Guideline for Regulatory Application of the Urban Airshed Model" (July 1991, EPA-450/4-91-013). The resulting parameters

include unpaired peak prediction accuracy [acceptable range is ± 15 –20], normalized bias of all data pairs (modeled versus observed) for ozone concentrations in excess of 60 parts per billion (ppb) [acceptable range is ± 5 –15 percent or less], and gross error of all data pairs for ozone concentrations in

excess of 60 ppb [acceptable range is 30–35 percent or less]. The results for each ozone episode day were compared to the acceptable ranges as specified in our guidance. Table 1 summarizes the base period modeling result and performance statistics for the selected statistical parameters.

TABLE 1.—FINAL BASECASE MODEL PERFORMANCE STATISTICS
[Entire Grid M Modeling Domain]

Episode day modeled	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
Observed Peak Level (ppb)	130	140	170	170	125	140	146	178	150
Modeled Base Peak Level (ppb)	136	196	186	155	154	162	171	155	184
Normalized Bias (percent)	–22.1	–20.1	–15.2	–13.6	–18.9	–16.7	–10.8	–7.9	+1.7
Gross Error (percent)	31.0	34.3	30.1	32.3	27.1	27.5	25.5	24.2	24.2
Unpaired Peak Accuracy (percent)	+4.8	+40.6	+9.8	–8.4	+23.5	+15.8	+17.2	–12.6	+23.0

[Note that statistics shown in bold are outside of accepted ranges.]

ST. LOUIS NONATTAINMENT AREA ONLY

Episode day modeled	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
Observed Peak Level (ppb)	108	140	114	107	125	136	129	154	139
Modeled Base Peak Level (ppb) ..	117	133	134	111	91	137	130	136	127
Normalized Bias (percent)	–26.0	–7.7	–6.8	+2.8	–44.0	–7.9	–3.0	–16.9	–2.2
Gross Error (percent)	29.2	29.5	25.0	18.7	45.5	32.6	25.9	24.1	22.7
Unpaired Peak Accuracy (percent)	+8.9	–4.6	+17.9	+3.5	–26.7	+0.7	+1.2	–11.7	–8.1

[Note that statistics shown in bold are outside of accepted ranges.]

The model performance statistics for the leading days of ozone episodes are generally discounted or ignored. These days are referred to as "ramp-up" days. They are included to allow the modeling system to stabilize before it begins simulating the episode days of concern. As such, the modeling system for the St. Louis nonattainment area subdomain is performing in an acceptable manner, despite the out-of-range statistics for July 16, 1991, and July 10, 1995.

The final 2003 modeled attainment strategy assumes that the 22 states affected by EPA's NO_x SIP call, including the eastern one-third of

Missouri and all of Illinois, would limit EGU NO_x emission rates to 0.25 pounds per million British thermal units (mmBtu) of heat input by 2003.¹ The

¹ Missouri and Illinois completed the 2003 attainment modeling during a time when final control level for the NO_x SIP call was in litigation. Hence, the modeling considered a level of upwind NO_x control which was less than that of the NO_x SIP call. In the April 17, 2000, proposal, EPA

EGUs in the remainder of the state of Missouri (in the western two-thirds of the state) would be limited to a NO_x emission rate of 0.35 pounds per mmBtu

of heat input. The 2003 modeling accounted for the implementation of all other emission controls required by the Clean Air Act (CAA) within upwind

states. Table 2 summarizes the revised modeled 1996 and 2003 peak ozone concentrations for the modeled high ozone episodes.

TABLE 2.—MODELED PEAK OZONE CONCENTRATIONS
[Concentrations in parts per billion]

Modeled high ozone episode days	July 1991				July 1995				
	7/16	7/17	7/18	7/19	7/10	7/11	7/12	7/13	7/14
1996 Base Year	117	133	134	111	91	137	130	136	127
2003 Attainment Strategy	106	122	125	105	78	125	124	128	118

It should be noted that the modeled 2003 peak ozone concentrations are slightly different from those summarized in the April 17, 2000, proposed rulemaking (65 FR 20404) because Illinois and Missouri modified the Plume-In-Grid procedures used in the modeling system subsequent to the modeling summarized in the 1999 and 2000 submittals. This procedural change was applied to both the 1996 base year modeling and the 2003 attainment strategy modeling to maintain consistency.

Because the model predicts exceedances of the ozone standard, i.e., ozone concentrations above 124 parts per billion, for three of the episode days under the 2003 attainment strategy, the

states have included a “weight of evidence” determination to support the adequacy of the attainment strategy. The purpose of this determination is to show that attainment of ozone standard is more likely than not, if the proposed control strategy is implemented. The states’ initial weight of evidence determination was addressed in the April 17, 2000, proposed rule. Only two elements of the weight of evidence determination were affected by the revised ozone modeling analysis. These two elements are the “relative reduction attainment test” and the “EPA shortfall calculation.”

The relative reduction attainment test uses a ratio of modeled attainment strategy ozone concentrations to

modeled base year ozone concentrations for each monitoring site coupled with the base year ozone design value² for each monitoring site to derive future (attainment year) ozone design values for the monitoring sites. Predicted ozone design values at or below 124 parts per million for all monitoring sites adds a weight of evidence that the attainment strategy is adequate to result in attainment of the 1-hour ozone standard. Table 3 summarizes the revised relative reduction attainment test results obtained by Illinois and Missouri using the revised 1996 base year emissions and the revised ozone modeling system.

TABLE 3.—RELATIVE REDUCTION ATTAINMENT TEST RESULTS
[Ozone concentrations in parts per billion]

State	County	Ozone design values 1995–1997	Relative reduction factor	Derived attainment strategy ozone design values
Illinois	Madison	128	0.94	120
	St. Clair	108	0.94	101
Missouri	Jefferson	125	0.92	115
	St. Charles	131	0.93	122
	St. Louis	119	0.92	109

Note that the derived ozone design values for all portions of the nonattainment area are below the ozone standard (124 part per million).

EPA shortfall calculation is similar to the relative reduction factor approach, but involves calculating the ratio of the averages across all episode days to generate a reduction factor for the entire ozone nonattainment area coupled with the average monitored ozone design

value over a four-year period (1995 through 1998 in the Illinois and Missouri analysis). Using the revised ozone modeling results and the average monitored ozone design value, Illinois and Missouri calculated a future ozone design value of 123.3 parts per billion, which is below the ozone NAAQS.

In addition to the statistical and modeling data presented here, the states’ submittals include additional

graphical and statistical data to support the validity of the ozone modeling results and the adequacy of the adopted ozone attainment strategy. Included in the submittal are: daily peak ozone concentration isopleth maps for the modeling domain, geographical maps showing the locations and magnitudes of daily peak ozone concentrations, daily wind back-trajectories to key ozone monitoring sites, daily predicted

explained how the NO_x SIP call controls were also utilized in the attainment demonstration. See 65 FR 20404, 20415–6.

²The ozone design value for a monitoring site is the fourth highest daily maximum 1-hour ozone concentration monitored over a three-year period.

peak ozone concentrations for the St. Louis nonattainment area subdomain, a number of other statistical performance parameter results for the full domain and the St. Louis nonattainment area subdomain for each day modeled, observed vs. predicted ozone scatterplots for each modeled day, time series of simulated versus observed ozone concentrations for the St. Louis nonattainment area monitoring sites, and predicted peak ozone concentration isopleths for the St. Louis nonattainment subdomain for 2003 after implementation of the final, selected emissions control strategy.

The states conclude, and EPA concurs, that the revised modeling system performs at an acceptable level as it satisfactorily reproduces peak ozone concentrations relative to the monitored peak ozone concentrations. This is particularly true for the St. Louis nonattainment area subdomain. Additionally, the modeling system adequately simulates the observed magnitude and spatial and temporal patterns of ozone. Furthermore, the modeling results accurately differentiate between days with marginal ozone levels and days with elevated ozone concentrations. As such, EPA believes the revised modeling and weight of evidence results confirm the adequacy of the adopted emission control strategy.

How Did the States Address the Change of the Attainment Date From November 15, 2003, to November 15, 2004?

As noted above, an August 30, 2000, decision by the United States Court of Appeals for the District of Columbia Circuit has delayed the compliance deadline for the NO_x SIP call from May 1, 2003, to May 31, 2004. This has necessitated that EPA and the states consider November 15, 2004, rather than November 15, 2003, as the relevant attainment date because Missouri and Illinois relied upon NO_x SIP call reductions in the attainment demonstration. Both Missouri and Illinois have submitted analyses demonstrating that emission control measures beyond those already considered in the attainment demonstration are not necessary in spite of the delayed NO_x SIP call compliance deadline. Both states have assessed the emissions impacts of the change to the attainment date.

In their respective February 28, 2001, and March 1, 2001, submittals, Missouri and Illinois compared estimated 2004 VOC and NO_x emissions for the St. Louis nonattainment area for all source sectors with their previously submitted 2003 estimates. The states also accounted for expected changes in the

2003 and 2004 EGU NO_x emissions inventories for the states of Illinois, Indiana, Kentucky, Ohio, and Tennessee. In addition, Missouri's 2004 EGU NO_x emissions were analyzed with respect to both the current statewide NO_x control regulations and anticipated impacts of potential revisions to the NO_x SIP call.³

Based on these analyses, we conclude that the VOC and NO_x emissions in 2004 will be lower than the 2003 VOC and NO_x emissions within the St. Louis ozone nonattainment area. We also conclude that NO_x emissions from utilities (EGUs) in Illinois, Indiana, Kentucky, Ohio, and Tennessee will be lower in 2004 than 2003. This implies that fewer ozone precursor emissions and less ozone will be transported into the St. Louis nonattainment area. While Missouri's statewide NO_x emissions may increase slightly (approximately 2.6 tons per day) between 2003 and 2004, NO_x emissions in upwind areas are expected to decrease by 801.92 tons per day. Both states have also accounted for a NO_x rule which will be implemented in Illinois as part of the attainment strategy. Illinois has submitted a draft of this EGU NO_x control rule and has requested a parallel review by EPA. This draft rule is the subject of a separate proposed rule, published elsewhere in today's **Federal Register**. Illinois has also adopted and submitted NO_x control rules to meet the requirements of EPA's NO_x SIP call. These rules are undergoing separate review.

Do the Analyses Support Attainment of the 1-Hour Ozone Standard by November 15, 2004?

In light of the local and regional emission changes expected to occur between 2003 and 2004 and the revised modeling and weight of evidence determinations, we believe that the St. Louis area will attain the 1-hour ozone standard by November 15, 2004.

³ Missouri currently requires EGUs in the eastern third of the state to meet a NO_x emission rate limit of 0.25 pounds per mmBtu of heat input and EGUs in the western two-thirds of the state to meet a NO_x emission rate limit of 0.35 pounds per mmBtu of heat input. Because of EPA's stated intent to repromulgate a NO_x SIP call budget for Missouri, the state also analyzed an alternate scenario, which assumed that the NO_x emission control requirements for the EGUs in the eastern third of Missouri may have to be adjusted to a NO_x emission rate limit of 0.15 pounds per mmBtu of heat input, but that no NO_x emission controls may be required (for purposes of the NO_x SIP call) for the EGUs in the western two-thirds of the state. The 2003 and 2004 emissions in Missouri would be affected by this assumed shift in NO_x emissions controls, and have been considered by Missouri in this analysis.

How Do the Revised Attainment Demonstrations Address the Transportation Conformity Requirements for Motor Vehicle Emission Budgets?

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. This requirement applies to transportation plans, programs and projects developed, funded or approved under title 23 U.S.C. of the Federal Transit Act ("transportation conformity"), and to all other Federally supported or funded projects ("general conformity"). Section 176(c) of the CAA requires transportation conformity. EPA's conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

Attainment demonstrations are required to contain adequate motor vehicle emissions budgets derived from the mobile source portion of the demonstrated attainment emission inventory. The motor vehicle emissions budgets establish caps on mobile source emissions. VOC and NO_x emissions associated with transportation improvement programs and long-range transportation plans cannot exceed these caps. The criteria for judging the adequacy of motor vehicle emission budgets are detailed in the transportation conformity regulations in 40 CFR 93.118. Both Illinois and Missouri have revised the motor vehicle emissions budgets based on the estimated motor vehicle emissions for the 2004 attainment date. The 2001 submittals evaluate the change in vehicle miles of travel (VMT) and the change in emission controls from the previous 2003 attainment date to the 2004 attainment date. Both Illinois and Missouri have submitted mobile source emission budgets for VOC and NO_x based on the emissions analyses included in their 2001 submittals.

The following outlines the techniques used by each state in deriving the resultant VOC and NO_x emissions budgets for their respective portions of the St. Louis ozone nonattainment area.

Illinois

VMT growth estimates were provided to the state by the East-West Gateway Coordinating Council (EWGCC) through an interagency consultation process involving the Missouri Department of Transportation (MDOT) and the Illinois Department of Transportation (IDOT). For the 2004 attainment year, an additional year of VMT growth was applied to the VMT estimates for 2003. The 2003 emissions were increased by 2 percent to account for VMT growth which is expected to occur between 2003 and 2004, in the Illinois portion of the nonattainment area. The 2004 emissions were then adjusted to reflect summer weekday conditions. Emission factors were generated for 2004 using EPA's MOBILE 5b emission factor model. These emission factors were then adjusted to reflect implementation of the Tier II/Low Sulfur gasoline program by using an EPA-supplied information sheet since this national program will be in place in 2004. The resulting motor vehicle emissions budgets for the 2004 attainment year (for the Illinois portion of the St. Louis nonattainment area) are 26.62 tons per day of VOC and 35.52 tons per day of NO_x. Illinois addressed these emission budgets during the February 27, 2001, public hearing on the revised attainment demonstration. There were no public comments at the hearing regarding the revised emission budgets, however, the public comment period is open until March 29, 2001.

Missouri

To estimate VMT For the 2004 attainment year, an additional year of growth was applied to VMT estimates for 2003. The VMT growth estimates were provided to the state by the EWGCC through an interagency consultation process involving the MDOT and the IDOT. Based on recommendations from the EWGCC, the VMT growth rate (for Missouri) between 2003 and 2004 was assumed to be 2.5 percent.

The mobile source control measures considered by Missouri in the development of the 2004 mobile source emissions budgets included: Centralized, enhanced vehicle inspection and maintenance (I/M) (St. Louis City and Jefferson, St. Charles, and St. Louis Counties); basic vehicle I/M (Franklin County only); Federal reformulated gasoline; National Low Emission Vehicle program; Tier II/Low Sulfur gasoline requirements; and planned transportation control measures.

The 2004 VMT estimates were applied to emission factors that were derived by following the same procedures as those employed by Illinois. The 2004 mobile source emission budgets for the Missouri portion of the St. Louis ozone nonattainment area are 43.74 tons per day for VOC and 91.90 tons per day for NO_x.

For Both States

In order for EPA to approve attainment demonstrations, states whose attainment demonstrations include the effects of the Tier II/Low Sulfur gasoline program need to commit to revise and resubmit their motor vehicle emission budgets based on MOBILE 6 after EPA releases the new emission factor model, because Tier II reductions cannot be properly accounted for using the current version of the model (MOBILE 5b). This policy was detailed in the supplemental notice of proposed rule issued on July 28, 2000 (65 FR 46383). Illinois committed to revising its 2004 motor vehicle emissions budgets within two years of the release of MOBILE 6. In addition, no conformity determinations will be made during the second year unless adequate, MOBILE 6 derived budgets are in place. Missouri committed to revising its 2004 motor vehicle emissions budgets within one or two years of the release of MOBILE 6. Missouri has committed that if it chooses the two-year option, no conformity determinations will be made during the second year unless adequate, MOBILE 6 derived budgets are in place. If either of the states fail to meet its commitment to submit revised emission budgets using MOBILE 6, EPA could make a finding of failure to implement the SIP, which would start a sanctions clock under section 179 of the CAA.

Illinois' revised motor vehicle emission budgets have been posted on the EPA Web site for the 30-day public comment period (<http://www.epa.gov/otaq/traq>). The comment period associated with the Web posting will close March 28, 2001. EPA is also seeking comments in association with this proposed rule and will accept such comments provided they are submitted within the 30 days following publication. We will address all comments in our final rulemaking on the attainment demonstration.

Missouri's 2004 emissions budgets have also been posted on EPA's conformity Web site. Unless an extension is requested, the comment period will close on April 12, 2001. EPA is also seeking comments in association with this proposed rule and will accept such comments provided they are

submitted within the 30 days following publication. Consistent with the process being used for Illinois, we will address all comments in our final rulemaking on the attainment demonstration.

EPA has reviewed the states' 2004 motor vehicle emission budgets. Our review indicates that the revised budgets meet the adequacy criteria in section 93.118 of the Transportation Conformity Regulations. Thus, EPA is proposing to find them adequate and to approve them for conformity purposes.

What Is the Status of Emission Control Regulations for Which the Attainment Demonstration Accounts?

Both states rely, in part, on the implementation of statewide NO_x emission controls for EGUs to attain the 1-hour ozone standard by November 15, 2004. On June 29, 2000, the state of Missouri submitted an amendment to Missouri's SIP, rule 10 CSR 10-6.350, "Emissions Limitations and Emissions Trading of Oxides of Nitrogen." This rule requires reductions in NO_x emissions by establishing NO_x emissions limitations for large EGUs with a nameplate capacity greater than 25 megawatts. The rule requires compliance by May 1, 2003. This rule limits the NO_x emission rates for EGUs in the eastern third of the state to 0.25 pounds per mmBtu of heat input and the NO_x emission rates for EGUs in the western two-thirds of the state to 0.35 pounds per mmBtu of heat input. The control period for this rule begins on May 1 and ends on September 30 of each year beginning in 2003. EPA proposed to approve this rule on August 24, 2000 (65 FR 51564), and approved this rule in final rulemaking on December 28, 2000 (65 FR 82285).

On October 20, 2000, the state of Illinois submitted a proposed amendment to Illinois' emission control regulations, 35 Illinois Administrative Code 217, Subpart V (35 IAC 217 Subpart V), "Electric Power Generation." This rule will establish a statewide NO_x emission rate limit of 0.25 pounds per mmBtu of heat input for EGUs, effective in 2003, as required by the state's ozone attainment demonstration for the St. Louis nonattainment area. The state has requested parallel processing of this rule by EPA. This rule is currently undergoing separate review by EPA for purposes of parallel proposed rulemaking which has also been published in today's **Federal Register**.

In addition to the 35 IAC 217 Subpart V rule, IEPA has also submitted additional statewide NO_x control rules to comply with EPA's NO_x SIP call. These rules will result in additional

NO_x emission reductions in the state of Illinois beginning in 2004 which were not considered in the St. Louis attainment demonstration modeling, but were accounted for in the states' 2003 to 2004 emissions analyses. On December 21, 2000, the state of Illinois adopted 35 IAC 217 Subpart W, "NO_x Trading Program for Electrical Generating Units" and amendments to 35 IAC 211. These rule amendments establish a statewide NO_x emission rate limit for EGUs of 0.15 pounds per mmBtu of heat input and establish a statewide emissions trading program. On October 16, 2000, IEPA filed with the Illinois Pollution Control Board proposed rule 35 IAC 217 Subpart U, "NO_x Control and Trading Program for Specified NO_x Generating Units," and rule 35 IAC 217 Subpart X, "Voluntary NO_x Emissions Reduction Program." These rules establish NO_x emission controls for major non-EGU boilers and allows smaller boilers to participate in the trading of NO_x emission reduction credits. On August 21, 2000, IEPA filed with the Illinois Pollution Control Board proposed rule 35 IAC 217 Subpart T, "Cement Kilns." This rule will limit the NO_x emissions from major cement kilns. All of these adopted and/or proposed rules are under review by EPA and will be considered in future rulemakings.

What Is the Status of the States' Efforts to Qualify for an Attainment Date Extension?

In the March 18, 1999, proposal and the April 17, 2000, proposal, EPA described in detail the Guidance "Extension of Attainment Dates for Downwind Transport Areas," (64 FR 14441) March 25, 1999. In the April 17, 2000, proposal, EPA discussed the submissions made by Missouri and Illinois to meet the criteria in the Guidance, and proposed to approve an attainment date extension for the area to November 15, 2003. The proposal to extend the attainment date, and retain the current moderate classification for the St. Louis area, is consistent with other actions which EPA is taking for similarly situated areas, as discussed below.

The following discussion summarizes the criteria for obtaining an attainment date extension and the prior EPA proposals for the St. Louis area relating to the states' request for an attainment date extension. It also updates the states' progress in meeting the criteria for an attainment date extension, and discusses the new attainment date which EPA is proposing in today's action.

EPA Guidance concerning attainment date extensions states that EPA will

consider extending the attainment date for an area or a state that:

1. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

2. Has submitted an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that shows it will attain the 1-hour standard no later than the date that the emission reductions are expected from upwind areas under the final NO_x SIP call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

3. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve attainment, assuming the emission reductions occur as required in the upwind areas; and

4. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

With respect to the showing that the St. Louis area is a downwind area affected by transport, the April 17, 2000, proposal noted that the Ozone Transport Assessment Group modeling and the attainment demonstration for the St. Louis area submitted by Missouri and Illinois showed the impacts of transport, specifically noting that sources in Kentucky make significant contributions to the St. Louis nonattainment area. See 65 FR 20404, 20418. On this basis, EPA proposed to find that this criterion of the Guidance had been met.

With respect to the submittal of an approvable attainment demonstration, EPA noted that the submitted attainment demonstration, with the revisions specified in the April 17, 2000, proposal, and addressed elsewhere in today's proposal, would be adequate to show attainment. As stated elsewhere in this proposal, Missouri has now submitted a revised attainment demonstration containing the corrections and additions requested by EPA, and Illinois has submitted proposed revisions with final adoption expected in the near future. The April 17, 2000, proposal also noted that all of the control measures needed for attainment, with the exception of the regional NO_x emission controls, had been adopted. *Id.* at p. 20418. Missouri

has now adopted, and EPA has approved, regional NO_x controls needed for the attainment demonstration. As discussed elsewhere in this proposal, Illinois has submitted proposed regional NO_x controls, which EPA is proposing to approve separately in today's **Federal Register**. EPA expects Illinois to adopt and submit final regional NO_x rules in the near future.

With respect to the adoption of all local measures required under the area's "moderate" nonattainment classification, the April 17, 2000, proposal stated that both states had previously adopted all local moderate area requirements, with the exception of NO_x RACT for Illinois sources. On May 18, 2000, EPA took final action to approve the following local moderate area measures for Missouri: the NO_x RACT rule (65 FR 31482); the motor vehicle I/M program (65 FR 31480); VOC RACT rules (65 FR 31489); and the 15% Rate-Of-Progress Plan (65 FR 31485).⁴ On December 28, 2000, EPA also approved a statewide NO_x rule for Missouri (65 FR 82285).⁵

In the April 17, 2000, proposal, EPA explained that it was also proposing to approve an exemption from the NO_x RACT requirements for the Illinois portion of the nonattainment area under section 182(f)(2). EPA also explained that if it took final action to approve the exemption and the regional NO_x controls for both states, the states will have met the requirement to have adopted all local measures necessary for the area's current classification. *Id.*

With respect to implementation of all adopted measures by the time upwind controls are expected, EPA noted that the measures adopted by Illinois and Missouri were expected to be implemented by the start of the ozone season in 2003, which, at the time of the April 17, 2000, proposal, was the compliance date for the NO_x SIP call. EPA also proposed 2003 as the new attainment year for the area, consistent with the attainment date extension policy. *Id.* EPA continues to believe that the measures adopted by Illinois and

⁴ A petition for review of EPA's approval of the 15% Plan is currently pending in the Court of Appeals for the Eighth Circuit, *Sierra Club v. EPA*, No. 00-2744.

⁵ The March 18, 1999, proposal and the April 17, 2000, proposal listed the moderate area requirements which had been submitted by the states and approved by EPA. These proposals did not, however, specifically address how the area meets the following moderate area requirements: the requirement to provide for implementation of all reasonably available control measures as expeditiously as practicable under section 172(c)(1) of the Act; and the requirement for contingency measures under section 172(c)(9). EPA intends to issue a supplemental proposal in the near future addressing these requirements.

Missouri will be implemented by 2003, and notes that the regional NO_x controls for both states have a 2003 compliance date. However, as explained elsewhere in this proposal, since the attainment demonstration relies on reductions from the NO_x SIP call to reduce transported ozone precursors, and the compliance date for the NO_x SIP call has been extended to May 31, 2004, EPA believes that the attainment date must be extended to November 15, 2004, to allow the reductions in transport to occur before attainment is required. Therefore, consistent with the attainment date extension policy, EPA proposes to extend the attainment date to November 15, 2004.

What Action Is EPA Proposing Regarding the Determination of Nonattainment as of November 15, 1996, and Reclassification published on March 19, 2001?

As noted above, EPA informed the Court on March 8 of its intended actions regarding St. Louis. These actions included this proposal and the proposal to postpone the effective date of the Determination of Nonattainment that was also published on March 19, 2001. EPA also informed the Court of its intent to withdraw the nonattainment determination and reclassification if EPA approves an attainment date extension for the St. Louis area prior to the determination becoming effective. The Court, in a limited review to determine whether EPA's planned course of action would contravene the Court's Order, indicated that EPA, by signing a determination by March 12 and publishing the required Notice by March 20, would comply with the Court's Order. The Court noted that it lacked jurisdiction to assess the propriety of the remainder of EPA's planned course of action.

EPA is now proposing to withdraw the Notice of Nonattainment and Reclassification if EPA approves an attainment date extension prior to the effective date of the Notice of Nonattainment. EPA believes this is appropriate for the following reasons. Section 181(b)(2)(A) of the Act requires that EPA determine attainment within six months of the attainment date. If the attainment date were extended, there would be a new deadline for the determination that would arise only in the future. See Guidance. Thus, if the attainment date were extended, EPA's obligation to determine attainment would not yet have occurred and EPA could withdraw the published nonattainment determination and the consequent reclassification, which would not yet have gone into effect.

Such a course would harmonize the need to allow the Agency to fulfill its duty to take into account upwind transport, while adhering to a fixed and very near-term schedule. It would also allow EPA to apply to the St. Louis area the attainment date extension policy which EPA has applied in other areas affected by transport. Recently EPA issued three final rulemakings granting requests for attainment date extensions based on its policy in three ozone nonattainment areas: Washington, D.C., Greater Connecticut, and Springfield, Massachusetts. 66 FR 586 (January 3, 2001); 66 FR 634 (January 3, 2001); 66 FR 666 (January 3, 2001). In addition, EPA has proposed granting attainment date extensions to Louisville, Kentucky, and Beaumont, Texas. 64 FR 27734 (May 21, 1999); 64 FR 12854 (April 16, 1999); 65 FR 81786 (December 27, 2000).

Have the States Corrected the Deficiencies Identified in the April 17, 2000, Proposed Rulemaking?

Based on the review of the submittals discussed above, EPA believes that Missouri has corrected the deficiencies identified in our April 17, 2000, proposed rulemaking. The state has submitted: (1) Documentation of revised base year (1996) and attainment year photochemical modeling results incorporating revisions to the 1996 base year emissions for the St. Louis nonattainment area, which demonstrate that St. Louis would have attained the 1-hour ozone standard by November 15, 2003, had the compliance date for the NO_x SIP call remained May 1, 2003; (2) adopted emission control regulations needed to support the ozone attainment demonstration, and EPA has approved these regulations; and (3) motor vehicle transportation conformity emission budgets based on the revised ozone attainment demonstration.

EPA believes Illinois will correct the deficiencies identified in our April 17, 2000, proposed rulemaking when it finalizes and submits the necessary revisions. Illinois has submitted: (1) Draft documentation of revised base year photochemical modeling results incorporating revisions to the 1996 base year emissions for the St. Louis nonattainment area and demonstrating attainment of the 1-hour ozone standard by 2003; and (2) draft motor vehicle transportation conformity emission budgets based on the revised ozone attainment demonstration. The state has submitted a proposed NO_x emission control rule needed to support the attainment demonstration (the 0.25 pounds NO_x per mmBtu of heat input

rule for EGUs). Final adoption of these items is expected to occur in April 2001.

In short, EPA believes Missouri has made the submittals called for in our April 17, 2000, proposed rulemaking, and that Illinois will make the necessary submittals in April of this year.

What Is EPA's Assessment of the Ozone Attainment Demonstration for the St. Louis Ozone Nonattainment Area?

EPA believes the ozone attainment demonstration for the Missouri portion of the St. Louis ozone nonattainment area is fully approvable. We also believe the ozone attainment demonstration for the Illinois portion (the Metro-East area) of the St. Louis ozone nonattainment area is approvable contingent upon the state adoption and EPA approval of the 0.25 pounds NO_x per mmBtu of heat input rule for EGUs, and adoption and submission of the final revisions to the attainment demonstration discussed in this notice.

What is EPA's Assessment of the Transportation Conformity Emission Budgets for the Illinois and Missouri Portions of the St. Louis Ozone Nonattainment Area?

As noted above, EPA believes the transportation conformity emission budgets for both portions of the St. Louis ozone nonattainment area are adequate and approvable with respect to EPA's conformity regulation.

When Will EPA Address Public Comments Received Regarding the April 17, 2000, Proposed Rulemaking?

EPA will address public comments received with respect to both our April 17, 2000, proposed rulemaking and today's supplemental proposed rulemaking in our final rulemaking on the Missouri and Illinois ozone attainment demonstration. With respect to the attainment demonstration and conformity budgets, EPA specifically seeks comments on the supplemental information described in this proposal.

What Actions Are We Proposing Today?

EPA is proposing to approve the St. Louis nonattainment area ozone attainment demonstration for both Missouri and Illinois. Final approval of the attainment demonstration for Illinois is contingent on the state's submittal of an adopted rule requiring EGUs to achieve a NO_x emission rate of 0.25 pounds per mmBtu of heat input or less.

EPA is proposing its finding that the transportation conformity motor vehicle emission budgets submitted by Illinois and Missouri are adequate for

conformity purposes and is therefore proposing to approve them.

In addition, EPA is proposing to withdraw its March 19, 2001, rulemaking determining nonattainment and reclassifying the St. Louis nonattainment area as a serious nonattainment area for ozone (66 FR 15578), if EPA extends the attainment date for St. Louis pursuant to EPA's policy regarding the extension of attainment dates for downwind transport areas prior to the effective date of the March 12 nonattainment determination. EPA proposes instead to extend the attainment date for this area to November 15, 2004, and to retain the classification of the area as a moderate nonattainment area for ozone.

Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled "Regulatory Planning and Review."

B. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it does not meet the criteria stated above.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to provide to OMB, in a separately identified section of the

preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments "to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities."

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure "meaningful and timely input by state and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal Government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This proposed rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in

Executive Order 13132, because it would merely approve a state program implementing a Federal standard, and would not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval and other actions proposed do not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under sections 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing plans under state or local law, and take other actions which impose no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Volatile organic compounds, Nitrogen oxides, ozone.

40 CFR Part 81

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

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

Dated: March 23, 2001.

Wanda L. Johnson,

Acting Regional Administrator, Region 7.
[FR Doc. 01-8019 Filed 4-2-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 36

Meetings of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance

AGENCY: Indian Health Services, HHS.

ACTION: Notice of meetings.

SUMMARY: The Secretary of Health and Human Services has established a Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) to negotiate and develop a proposed rule implementing the Tribal Self-Governance Amendments of 2000 (the Act). We intend to publish the proposed rule for notice and comment no later than one year after the date of enactment of the Act (August 18, 2000+ one year), as required by section 517(a)(2) of the Act.

DATES: Upcoming meetings of the Committee are as follows:

1. April 17-19, 8:30 a.m.-5 p.m., Washington, DC.
2. May 22-24, 8:30 a.m.-5 p.m., Oklahoma City, OK.

ADDRESSES: The meeting locations are:

1. Washington, DC—Hyatt Regency Washington on Capitol Hill, 400 New

Jersey Avenue, NW., Washington, DC 20001, Phone: (202) 737-1234.

2. Oklahoma City, OK—Waterford Marriott, 6300 Waterford Boulevard, Oklahoma City, OK 73118, Phone: 1-800-228-9290.

Written statements may be submitted to Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A-55, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A-55, Rockville, MD 20857, Telephone 301-443-7821. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Both meetings are open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings to the extent time permits and file written statements with the Committee for its consideration. Submit your written statements to the address listed above. Summaries of the Committee meetings will be available for public inspection and copying ten days following each meeting at the same address.

Dated: March 29, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01-8233 Filed 3-30-01; 11:31 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

[HCFA-2100-P]

RIN 0938-AK89

Medicaid Program; Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient Hospital Services, Outpatient Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify the Medicaid upper payment (UPL) limit provisions to establish a new transition period for States that submitted plan amendments before March 13, 2001 that do not comply with

the new UPLs effective on that date (but do comply with the prior UPLs) and were approved on or after January 22, 2001. This new transition period would apply to payments for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 3, 2001.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-2100-P, P.O. Box 8016, Baltimore, MD 21244-8016

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5-14-03, 7500 Security Boulevard, Baltimore, MD 21244.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-2100-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5-10-04 of the headquarters of the Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD on Monday through Friday of each week from 8:30 a.m. to 5 p.m. To schedule a time to view the public comments, please call (410) 786-7195.

FOR FURTHER INFORMATION CONTACT:

Robert Weaver, (410) 786-5914—

Nursing facility services and intermediate care facility services for the mentally retarded.

Larry Reed, (410) 786-3325—Inpatient and outpatient hospital services and clinic services.

SUPPLEMENTARY INFORMATION:

I. Background

In the final rule published on January 12, 2001 in the **Federal Register** (66 FR 3148), we specified transition periods for those States with State plan amendments (SPAs) approved before