

proposed fuel controls, the Birmingham nonattainment area subject to these controls would receive gasoline with a sulfur level in excess of 300 ppm and a RVP of up to 7.8 psi during the summer months. The State, based on modeling results using EPA's Complex Model, estimates that the proposed low-sulfur/low-RVP program will reduce NO<sub>x</sub> emissions from automobiles by at least 6.2 percent and VOC emissions from automobiles by at least 3.6 percent. Thus, we concur with the State's conclusion that implementation of the low-sulfur/low-RVP fuel program will provide some or all of the emission reductions necessary for the Birmingham nonattainment area to achieve the ozone NAAQS in 2003.

#### *Proposed Action by EPA*

EPA is proposing to approve Alabama's low-sulfur/low-RVP fuel program into the federally enforceable SIP. The State has demonstrated that the fuel program will provide some or all of the NO<sub>x</sub> and VOC emission reductions needed to reduce ozone levels for the Birmingham nonattainment area. Additionally, the State has demonstrated necessity for a preemption waiver as required by section 211(c)(4)(C) of the Act. Without the program, the design values for the nonattainment area will continue to exceed the 1-hour ozone NAAQS. In the Birmingham attainment demonstration, the State examined control measures, not previously implemented for this nonattainment area, and concluded that, even with adoption of all reasonable and practicable non-fuel control measures, additional VOC and NO<sub>x</sub> reductions in the area are necessary to achieve the 1-hour ozone NAAQS. The State further demonstrated that the fuel control satisfies the requirements of section 110 and will supply some or all of the reductions needed to achieve the ozone NAAQS.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the SIP shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

#### **Administrative Requirements**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use." (66 FR 28355, May 22, 2001.) This action merely proposes to approve state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This 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 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR

8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### **List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: August 30, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01-22735 Filed 9-10-01; 8:45 am]

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[AL-056-200110; FRL-7053-1]

#### **Approval and Promulgation of Implementation Plans; Alabama; Attainment Demonstration of the Birmingham 1-hour Ozone Nonattainment Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve the additions to Alabama's Air Quality Regulations and the ground-level 1-hour ozone attainment demonstration State Implementation Plan (SIP) for the Birmingham nonattainment area submitted by the Alabama Department of Environmental Management (ADEM) on November 1, 2000. This proposed rule is based on the requirements of the Clean Air Act as amended in 1990 (CAA) related to 1-hour ozone attainment demonstrations. EPA will be proposing approval of the fuel control measure in a separate **Federal Register** action.

**DATES:** Written comments must be received on or before October 11, 2001.

**ADDRESSES:** All comments should be addressed to: Sean Lakeman at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

Copies of documents relative to this action are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960.

Alabama Department of Environmental  
Management, 400 Coliseum  
Boulevard, Montgomery, Alabama  
36110-2059.

#### FOR FURTHER INFORMATION CONTACT:

Sean Lakeman, Regulatory Planning  
Section, Air Planning Branch, 61  
Forsyth Street, SW., Atlanta, Georgia  
30303-8960. The telephone number is  
(404) 562-9043. Mr. Lakeman can also  
be reached via electronic mail at  
lakeman.sean@epa.gov.

**SUPPLEMENTARY INFORMATION:** This  
section provides background  
information on attainment  
demonstration SIPs for the 1-hour ozone  
national ambient air quality standard  
(NAAQS) and an analysis of the 1-hour  
ozone attainment demonstration SIP  
submission for the Birmingham  
nonattainment area.

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#### I. Requirements for Marginal Ozone Nonattainment Areas

The CAA requires EPA to establish  
NAAQS for certain pollutants that cause  
or contribute to air pollution that is  
reasonably anticipated to endanger  
public health or welfare (CAA sections  
108 and 109). In 1979, EPA promulgated  
the 1-hour 0.12 parts per million (ppm)  
ground-level ozone NAAQS (44 FR 8202  
(Feb. 8, 1979)). Ground-level ozone is  
not emitted directly by sources. Rather,  
emissions of nitrogen oxides ( $\text{NO}_x$ ) and  
volatile organic compounds (VOC) react  
in the presence of sunlight to form  
ground-level ozone.  $\text{NO}_x$  and VOC are  
referred to as precursors of ozone.

An area exceeds the 1-hour ozone  
NAAQS each time an ambient air  
quality monitor records a 1-hour average

ozone concentration above 0.124 ppm.  
An area is violating the NAAQS when  
the average of expected exceedances  
during a consecutive three-year period  
is greater than 1 at any one monitor (40  
CFR Part 50, Appendix H). The CAA  
required EPA to designate as  
nonattainment any area that was  
violating the 1-hour ozone NAAQS,  
generally based on air quality  
monitoring data from the three-year  
period from 1987-1989, or any area  
contributing to a violation (CAA section  
107(d)(4); 56 FR 56694 (Nov. 6, 1991)).  
The CAA further classified these areas,  
based on the area's design value (i.e.,  
the 4th highest ozone value during the  
relevant 3 year period at the violating  
monitor with the highest ozone levels),  
as marginal, moderate, serious, severe or  
extreme (CAA section 181(a)). Marginal  
areas were suffering the least significant  
air pollution problems.

The control requirements and dates  
by which attainment needs to be  
achieved vary with the area's  
classification. Marginal areas were  
subject to the fewest mandated control  
requirements and had the earliest  
attainment date. Marginal areas were  
required to attain the 1-hour NAAQS by  
November 15, 1993.

Table 1 presents a summary of the  
CAA requirements for a marginal ozone  
nonattainment area for the 1-hour ozone  
NAAQS. These requirements are  
specified in sections 182(b) and 182(f) of  
the CAA.

**TABLE 1.—CAA REQUIREMENTS FOR  
MARGINAL NONATTAINMENT AREAS**

|                                                                                          |
|------------------------------------------------------------------------------------------|
| Submit emissions inventory for VOC and<br>$\text{NO}_x$ .                                |
| Corrections to the Reasonably Available<br>Control Technology (RACT) for VOC<br>sources. |
| Reasonably Available Control Measures<br>Submit Permit Programs.                         |
| Submit periodic emissions inventory.                                                     |
| Submit Emissions Statement Rule.                                                         |
| Submit Emissions Offset of at least 1.1 to 1<br>for VOC and $\text{NO}_x$ .              |

#### II. Background on Birmingham

The Birmingham area was originally  
classified as a 1-hour ozone  
nonattainment area by EPA on March 3,  
1978 (43 FR 8962). The Birmingham  
nonattainment area at that time, was  
geographically defined as Jefferson  
County, Alabama. On November 6,  
1991, by operation of law under section  
181(a) of the CAA, EPA classified the  
Birmingham nonattainment area as a  
marginal nonattainment area for ozone  
and added Shelby County to the  
nonattainment area (56 FR 56693). The  
nonattainment classification for the

Birmingham marginal ozone area was  
based on ambient air sampling  
measurements for ozone made during  
1987-1989. The area was required to  
attain the 1-hour ozone NAAQS by  
November 15, 1993, (i.e. three years  
from the enactment of the CAA) which  
is the date set forth in section 181(a)(1).

After the 1993 ozone season the area  
had three years of quality assured air  
monitoring data (1991, 1992 and 1993)  
which demonstrated that the 1-hour  
ozone NAAQS was attained, making the  
nonattainment area eligible for  
redesignation to attainment. The State  
submitted a final redesignation request  
on March 16, 1995, that was deemed  
administratively complete by EPA on  
April 11, 1995. A direct final rule  
proposing approval of the redesignation  
request was signed by the Regional  
Administrator and forwarded to the  
Office of the Federal Register on August  
15, 1995, for publication. Prior to  
publication of the document, a violation  
of the 1-hour ozone NAAQS occurred  
on August 18, 1995. Because of the  
violations of the 1-hour ozone NAAQS,  
EPA directed the Office of the Federal  
Register to recall the proposed direct  
final rule from publication. EPA began  
the process to disapprove the  
redesignation request. The final action  
disapproving the redesignation request  
was published in the **Federal Register**  
on September 19, 1997, (62 FR 49154).  
Although exceedances of the 1-hour  
ozone NAAQS continued through 1998,  
the design values for the Birmingham  
nonattainment area for the three-year  
periods 1994-1996, 1995-1997, and  
1996-1998 have remained within the  
range of marginal classification.

Because of these continuing  
violations, in a letter dated September  
10, 1997, EPA requested that ADEM  
submit an enforceable commitment to  
develop an attainment demonstration  
SIP to attain the 1-hour ozone NAAQS.  
The enforceable commitment submitted  
by ADEM included a schedule that  
required them to submit a new  
attainment demonstration by July 1999.  
On August 10, 1998, the State submitted  
an enforceable commitment without  
Board adoption, preventing EPA from  
approving it into the federally  
enforceable SIP. Therefore, Region 4  
informed the State that a SIP call would  
be initiated (to assure that the SIP  
provides for the attainment and  
maintenance of the 1-hour ozone  
NAAQS, pursuant to section 110(k)(5) of  
the CAA which authorizes EPA to find  
that a SIP is substantially inadequate to  
attain or maintain a NAAQS, and to  
require ("call for") the State to submit,  
within a specified period, a SIP revision  
to correct the inadequacy). EPA

published a proposal in the **Federal Register** on December 16, 1999 (64 FR 70205) to require the State to submit an attainment SIP for Birmingham within six months after final action is taken on the SIP call and to implement controls by May 1, 2003. The final rulemaking on the SIP call was published October 28, 2000, with an effective date of November 27, 2000, (65 FR 64352). ADEM submitted the 1-hour ozone attainment demonstration to EPA on November 1, 2000.

Alabama has met all the regulatory requirements for a marginal nonattainment area as specified in sections 182(b) and 182(f) of the CAA and has elected to develop a control strategy for the SIP revision based on photochemical grid modeling. Although, the model simulation for the proposed control strategy was performed for the year 2004, all control strategies proposed by the attainment demonstration will be in place by May 1, 2003, and attainment is projected in 2003 (ADEM responded to comments received during the comment period concerning the projection that Birmingham will achieve attainment in 2003).

The modeling of 2004 for the attainment year was completed prior to agreement with EPA on the appropriate attainment year. However, since the modeling was completed for 2004 and the time and resources to redo the modeling for 2003 were not available, EPA agreed that attainment for 2003 could be demonstrated with the submittal of a 2003 emissions inventory as a supplement to the 2004 demonstration provided that the 2003 emissions inventory emissions are less than or equal to the level of emissions used in the modeling. It could then be concluded that emissions concentration for 2003, if modeled, would be less than or equal to the 2004 1-hour ozone concentrations, which were modeled.

The year 2003 was determined to be the most "expeditious as practicable" based on the control strategies that are needed to bring Birmingham into attainment and can be implemented in a timely manner. Due to the large amount of NO<sub>x</sub> reductions required, a vehicle inspection and maintenance program would not provide the reductions required to attain the standard. Additionally there is no current authority for such a program. Even if such authority existed, development of a regulation, selection of a contractor and completion of the testing sites could not be achieved by 2003. The RACM analysis and fuel waiver request (which will be published in a separate **Federal Register** notice)

show that other programs would not provide the reductions required to attain the standard by 2003. Implementing NO<sub>x</sub> controls on the Gorgas and Miller Power Plants in the area will achieve the needed reductions by 2003. Its not possible to have three years of clean air quality data prior to 2003, based on monitored violations that occurred in 2000.

EPA conducted a detailed examination of the feasibility of installing the NO<sub>x</sub> controls and based on these findings, the EPA believes that the compliance date of May 1, 2003, for installing NO<sub>x</sub> controls (Selective Catalytic Reduction (SCR)) on Gorgas and Miller is a feasible and reasonable deadline.

There are three basic considerations related to implementation of post-combustion controls SCR and Selective Non-Catalytic Reduction (SNCR) by the compliance date: (1) Availability of materials and labor, (2) the time needed to implement controls at plants with single or multiple retrofit requirements, and (3) the potential for interruptions in power supply resulting from outages needed to complete installations. The EPA examined each of these considerations. An adequate supply of off-the-shelf hardware (such as steel, piping, nozzles, pumps, soot blowers, fans, and related equipment), reagent (ammonia and urea), and labor would be available to complete implementation of post-combustion controls projected under the assumed control strategy. However, the catalyst used in the SCR process is not an off-the-shelf item and, therefore, requires additional consideration. EPA conservatively concludes that adequate catalyst supply should be available if SCR installations were to occur over a period of two years or more.

Implementation of a NO<sub>x</sub> control technology on a combustion unit involves conducting facility engineering review, developing control technology specifications, awarding a procurement contract, obtaining a construction permit, completing control technology design, installation, testing, and obtaining an operating permit. The EPA evaluated the amount of time potentially needed to complete these activities for a single unit retrofit and found that about 21 months would be needed to implement SCR while about 19 months would be needed to implement SNCR.

Based on the estimated timelines for implementing NO<sub>x</sub> controls at a plant and availability of materials and labor, the EPA estimates that the NO<sub>x</sub> controls in the assumed control strategy could be readily implemented by September

2002, without causing an adverse impact on the electricity supply or on the cost of compliance. Taking this into consideration NO<sub>x</sub> controls on Gorgas and Miller could be readily implemented by May 2003 but not in time to affect ozone level in 2002.

### III. Relevant Policy and Guidance Documents

This proposal cites several policy and guidance memoranda. The EPA has also developed several technical documents related to the rulemaking action in this proposal. Some of the documents have been referenced. The documents and their location on EPA's web site are listed below.

#### Recent Documents

1. "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: <http://www.epa.gov/ttn/scram/> (file name: "ADDWOE1H").

2. "Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures." Draft Report. November 3, 1999. Ozone Policy and Strategies Group. U.S. EPA, RTP, NC. Web site: [www.epa.gov/ttn/oarpg/t1main.html](http://www.epa.gov/ttn/oarpg/t1main.html).

3. Memorandum "Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations," from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I-VI. November 3, 1999. Web site: <http://www.epa.gov/oms/transp/traqconf.htm>

#### Previous Documents

1. U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA-450/4-91-013, (July 1991). Web site: <http://www.epa.gov/ttn/scram/> (file name: "UAMREG").

2. U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-95-007, (June 1996). Web site: <http://www.epa.gov/ttn/scram/> (file name: "O3TEST")

3. Memorandum "Guidance on Use of Opt-in to RFG and Low-RVP Requirements," from Gay McGregor, Office of Mobile Sources, to Air Division Directors, Regions I-X. August 21, 1997.

#### IV. Description of Revisions to Regulations

The November 1, 2000, submittal included two regulations that will reduce emissions of NO<sub>x</sub> and VOC in the Birmingham modeling domain. Rule 335-3-8-.03 requires utility NO<sub>x</sub> emission reduction controls on Alabama Power Company plants Gorgas and Miller for the period May 1 through September 30, beginning in 2003. This rule includes specific NO<sub>x</sub> emission reduction requirements as well as testing, recordkeeping and reporting requirements. Rule 335-3-20 regulates the sulfur level in gasoline sold in Jefferson and Shelby Counties (will be addressed in the fuel waiver request) which will reduce emissions of NO<sub>x</sub> and VOC.

#### V. Framework for Proposing Action on the Attainment Demonstration SIPs

In general, an attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the NAAQS by its attainment date and the control measures necessary to achieve those reductions.

##### A. Control Measures Relied on in the Modeled Attainment Demonstration SIP

To receive final approval of the attainment demonstration SIP, the State must have adopted the emission control measures required under the CAA for the area's classification or must have established negative source declarations for the source categories for which the area has no sources that are subject to the CAA area's classification requirements for such sources.

The attainment demonstration must incorporate the emission impacts of, and the SIP submittal must address the rule development for, any additional emission control measures needed to achieve attainment. The rules for the emission controls relied upon in the attainment demonstration must also have been adopted by the State and approved by EPA at the time of or prior to final approval of the attainment demonstration SIP. The emission controls for these sources must be implemented as expeditiously as practicable but no later than the beginning of the ozone control season in the attainment year.

##### B. Description of Controls and Reductions Projected

The demonstration shows that 71.5 tons per day (TPD) of NO<sub>x</sub> emission reductions and 7.0 TPD of VOC emission reductions are needed to achieve attainment of the 1-hour NAAQS for ozone in 2003. In order to

achieve attainment in 2003, the following modeled controls are being implemented in addition to the controls mandated and already implemented for marginal nonattainment areas.

(1) During every ozone season (between June 1 and September 15), gasoline sold in Jefferson and Shelby Counties will be required to have a volume-weighted average sulfur content no greater than 150 ppm and a Reid Vapor Pressure (RVP) no greater than 7.0 pounds per square inch. This will provide 3.3 TPD reduction of NO<sub>x</sub> emissions and 7.0 TPD reduction of VOC emissions. A separate **Federal Register** notice will be published to approve the fuel rule and the waiver (CAA section 211(c)(4)(C)).

(2) Beginning in 2003, utility NO<sub>x</sub> controls on Alabama Power Company plants Gorgas and Miller will commence for the period May 1 to September 30 each year beginning in 2003. These controls will provide for 68.2 TPD reduction of NO<sub>x</sub> emissions. The corresponding NO<sub>x</sub> emission rates for each of the Gorgas and Miller units are provided in the following table.

| Plant/Unit           | NO <sub>x</sub> Emission Rate pounds/million British thermal unit (lb/mmBtu) |
|----------------------|------------------------------------------------------------------------------|
| Gorgas Unit 6 .....  | 0.35                                                                         |
| Gorgas Unit 7 .....  | 0.35                                                                         |
| Gorgas Unit 8 .....  | 0.23                                                                         |
| Gorgas Unit 9 .....  | 0.24                                                                         |
| Gorgas Unit 10 ..... | 0.24                                                                         |
| Miller Unit 1 .....  | 0.20                                                                         |
| Miller Unit 2 .....  | 0.20                                                                         |
| Miller Unit 3 .....  | 0.20                                                                         |
| Miller Unit 4 .....  | 0.20                                                                         |

These emission limitations will be enforced by establishing a 0.21 lb/mmBtu NO<sub>x</sub> emission limit for the two plants based on a rolling 30 day average from May 1 through September 30 of each year. The limit is based on a two plant average and the rolling 30 day averages are based on a heat input-weighted average of NO<sub>x</sub> emissions from all units at the two plants.

(3) National VOC and NO<sub>x</sub> control measures on-road mobile, off-road mobile, and area sources, including the national low emission vehicle (NLEV) program, locomotive engine standards, phase 2 requirements for VOC consumer and commercial products, marine engine standards, and phase 2 and 3 non-road diesel engine standards will be in place and were assumed in the model.

##### C. Motor Vehicle Emissions Budget (MVEB)

Another component of the attainment demonstration SIP is a motor vehicle

emissions budget for transportation conformity purposes. Transportation conformity is identification of a process for ensuring that states consider the effects of emissions associated with the transportation plan for the nonattainment area on attainment of the NAAQS. As described in section 176(c)(2)(A), attainment demonstrations necessarily include the estimates of motor vehicle emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether transportation plans, programs, and projects conform to the attainment SIP.

States must include in their attainment demonstration SIP the level of the motor vehicle emissions that will be produced in the attainment year, and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. This level of motor vehicle emissions is used to determine the conformity of transportation plans and programs to the SIP, as described by CAA section 176(c)(2)(A). A state cannot effectively demonstrate attainment through its SIP unless they identify the level of motor vehicle emissions that can be produced while still achieving attainment. The motor vehicle emissions budgets must meet certain criteria which are listed in the Transportation Conformity Rule (40 CFR 93.118) before the budget can be determined adequate and approved as part of the attainment demonstration SIP. When a motor vehicle emissions budget is found to be adequate, it is used to determine the conformity of the transportation plans and programs to the SIP, as required by section 176(c) of the CAA. EPA's adequacy process as outlined in a May 14, 1999, guidance document, provides the public a 30 day comment period upon EPA's receipt of a SIP submittal containing a MVEB. Comments were provided by the Southern Environmental Law Center. EPA considered these comments in its determination of adequacy and provided responses. These responses are posted on the EPA MVEB web site: <http://www.epa.gov/otaq/transp/conform/adequacy.htm>.

On June 7, 2001, EPA published a finding of adequacy of the motor vehicle emissions budget for transportation conformity purposes (66 FR 30737). The budgets identified in the attainment demonstration are 52 TPD of VOC and 65 TPD of NO<sub>x</sub> emissions.

##### D. Additional Measures To Further Reduce Emissions

If the modeling analysis indicates that emission reductions are needed beyond

those in the modeled control strategy, the SIP must include adopted rules to achieve that additional level of control. The analysis for Birmingham indicates no further emission reductions are needed (see section V.A. of this document for further discussion).

## VI. Requirements of a Modeled Attainment Demonstration

States may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment.<sup>1</sup> In order to have a complete modeling demonstration submission, states should submit the required modeling analysis and identify any additional evidence that EPA should consider in evaluating whether the area will attain the NAAQS.

The EPA guidance identifies the following six features of a modeling analysis that are essential to obtain credible results:

1. The state must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (state and local agencies, EPA Regional offices, the regulated community, and public interest groups).

2. For purposes of developing the information to put into the model, the state must select air pollution days, i.e., days in the past with bad air quality, that are representative of the ozone pollution problem for the nonattainment area.

3. The state needs to identify the appropriate dimensions of the area to be modeled, i.e., the domain size. The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment.

4. The state needs to determine the horizontal and vertical grid cell

resolution (i.e., size) of the receptor network. The grid cell size is the size of one edge of a grid cell in both the X and Y directions. The units for the cell size are the same as the coordinate units (e.g., kilometers). The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces.

5. The state needs to generate meteorological data that describe atmospheric conditions and emissions inputs.

6. The state needs to perform a model performance evaluation to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality estimates to support an attainment demonstration.

The modeled attainment test compares model predicted 1-hour ozone daily maximum concentrations in all grid cells for the attainment year to the level of the NAAQS. A predicted concentration above 0.124 ppm ozone indicates that the area is expected to exceed the NAAQS in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to attain the NAAQS. This type of test is often referred to as an exceedance test. The EPA's guidance recommends that states use either of two modeled attainment or exceedance tests for the 1-hour ozone NAAQS: A deterministic test or a statistical test.

The deterministic test requires the State to compare predicted 1-hour daily maximum ozone concentrations for each modeled day<sup>2</sup> to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed. The statistical test takes into account the fact that the form of the 1-hour ozone NAAQS allows exceedances. If, over a three-year period, the area has an average of one or fewer exceedances per year, the area is not violating the NAAQS. Thus, if the state models a very extreme day, the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the NAAQS. (The form of the 1-hour NAAQS allows for up to three readings above the NAAQS over a three-year period before an area is considered to be in violation.) A

complete discussion of how to determine the acceptable upper exceedance limit is included in the Technical Support Document (TSD).

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the NAAQS. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is called a weight of evidence (WOE) determination (ADEM responded to several comments received during the comment period concerning the use of WOE, modeling technique and the models ability to provide a clear demonstration of attainment).

Under a WOE determination, the state can rely on and EPA will consider factors such as other modeled attainment tests (e.g., a rollback analysis), other modeled outputs (e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value), actual observed air quality trends, estimated emissions trends, analyses of monitored air quality data, the responsiveness of the model predictions to further controls, and whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary for a particular area. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the WOE needs to be.

## VII. Technical Analysis of the Attainment Demonstration

The Urban Airshed Model, Variable Grid Version (UAM-V) was approved for use in the attainment modeling demonstration by EPA. The UAM-V model is suitable for evaluating the air quality effects of emission control scenarios because it accounts for the spatial and temporal variations in

<sup>1</sup> The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the 1-hour ozone NAAQS. See U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA-450/4-91-013, (July 1991). A copy may be found on EPA's web site at <http://www.epa.gov/ttn/scram/> (file name: "UAMREG"). See also U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA-454/B-95-007, (June 1996). A copy may be found on EPA's web site at <http://www.epa.gov/ttn/scram/> (file name: "O3TEST").

<sup>2</sup> The initial, "ramp-up" days for each episode are excluded from this determination.

emissions and emission reactivity. The UAM-V modeling domain consists of three nested grids with approximately 36-, 12- and 4-kilometer (km) grid cell resolution (i.e. grid cell size), respectively. The 4-km fine grid, in the Birmingham urban area, encompasses north central Alabama. A modeling protocol was not developed, but, a modeling scope of work was developed for obtaining contractor assistance. This scope of work described the major steps that were used in the modeling project and reviewed and approved by the Regional Office.

One multi-day ozone episode for the July 7–15, 1995, period was modeled for the attainment demonstration. The modeling simulation period included two start-up days (to limit the influence of the initial conditions on the simulation results). The primary episode days used to develop the control strategy include the July 9–15, 1995, period. The July 1995 episode can be generally characterized as an extended period during which high pressure was a dominant meteorological feature over the eastern United States. Local meteorological conditions (high pressure, light winds, high temperatures) are typical of those associated with high ozone concentrations in the Birmingham area. The period encompasses a range of summertime meteorological conditions. It includes days with a range of maximum ozone concentrations so that the response of the modeling system to emissions reductions can be examined for low, moderate and high ozone days. Exceedances of the 1-hour ozone NAAQS were observed on three days of the episode period.

Emission inventories were developed for the base case year (i.e., 1995) for the model performance evaluation and the future year control strategy assessment (i.e., 2004). The modeling emission inventories included five emission source classes: (1) Point, (2) area, (3) on-road mobile, (4) non-road mobile, and (5) biogenic. The 1995 base case inventory used in the OTAG modeling was used to develop the various inventories used in the modeling. This inventory was supplemented with local point source inventories from ADEM, emissions used in the Atlanta 1-hour ozone SIP attainment modeling, and day-specific emissions from a local utility. Bureau of Economic Analysis growth factors were used to project the 1995 inventory to 2004 for the Birmingham 4-km domain. For the outer nested grids in the remainder of the modeling domain, the 2007 OTAG base1C point source inventory was used as the 2004. Biogenic emissions used in

this modeling application were generated using the EPA's Biogenic Emissions Inventory System (BEIS2). BEIS2 provides county-level area coverage of different vegetation classes that include agricultural crop types as well as individual tree genus types, and uses it along with surface temperature and solar energy to calculate emissions from biogenic sources.

The model performance evaluation involves a statistical and graphical assessment. Acceptable model performance is achieved if spatial and temporal concentrations from the model match well with observed (i.e., ambient air quality) spatial and temporal patterns, and the model performance statistics are within EPA's established ranges. The spatial patterns of simulated ozone concentrations are generally well replicated in the Birmingham area. In general the model performance is within EPA's ranges on most days for the statistical analysis. EPA has determined that the model performance is acceptable and that the days modeled can be used to evaluate future control strategies and therefore, are suitable for use in the attainment demonstration. More information on the model performance evaluation is included in the TSD.

The 2004 modeling of the Birmingham control strategy contains regulations that will be implemented by 2003 within the nonattainment area. The UAM-V 2004 simulation of the control strategy predicts modeled ozone peaks of 135, 128, 141, 132, 115, 149, and 130 parts per billion (ppb) for the July 9–15, 1995, episode days, respectively. The deterministic modeled attainment test is not passed since all but one of the episode days have predicted 1-hour ozone daily maximum concentrations above 124 ppb. ADEM applied the statistical attainment test per the EPA guidance, "On Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS (EPA, 1996)." A full explanation of this test is found in the TSD. Of the three benchmarks comprising the statistical test, only benchmark one was passed, because less than three exceedances of 124 ppb occurred in any subregion of the modeling grid. Benchmark two failed because the predicted (modeled) daily maximum ozone concentration for one of the three severe episode days exceeded the maximum exceedance limit (i.e., 133 ppb) allowed by the statistical test. On July 11, 1995, the model predicted concentration is 141 ppb which is close to the allowed exceedances of 133 ppb (within 8 ppb of passing this attainment test). Benchmark three requires that the

number of daytime grid cell hours exceeding 124 ppb for the days allowed an exceedance and on which the model under predicts by 5 percent or more reduced by at least 80 percent, as compared to the base-case simulation. This benchmark is not required for the Birmingham attainment demonstration because the peak ozone concentrations are not underestimated. Nevertheless, the simulation results show significant reductions; the number of exceedance grid cell hours is reduced by 67 percent. According to the EPA guidance, if one or more of the statistical test's benchmarks is failed, a WOE analysis may be performed using corroborative information to determine if the strategy will likely provide for attainment.

The 2004 control strategy simulations indicate that ozone levels in the Birmingham area will be reduced if the currently proposed controls are implemented. The demonstration shows that 71.5 TPD of NO<sub>x</sub> emission reductions and 7.0 TPD of VOC emission reductions are needed to achieve attainment of the 1-hour NAAQS for ozone in 2003. Even though both modeled attainment tests (the statistical test and the deterministic test) are not satisfied, there are several reasons to believe that Birmingham will attain the NAAQS. Additional analyses considered includes: (1) An estimate of additional reductions needed for attainment through application of EPA's, "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled" which included an estimate of the future design value, (2) estimates of future design values at each monitor using the Relative Reduction Factor (RRF) analysis recommended in the DRAFT 8-hour modeling guidance, (3) estimates of additional emissions reductions to be implemented that were not modeled, (4) statistical test benchmark 3, and (5) normalized air quality and emissions trends data.

The first analysis involves the use of information from the photochemical grid modeling and ambient air quality monitoring to estimate additional levels of emission reductions needed for attainment of the 1-hour NAAQS for ozone. ADEM used EPA's guidance to identify the additional percentage reduction in NO<sub>x</sub> and VOC from the 1995 emissions, needed for attainment. This analysis strengthens the WOE and accounts for high modeled peaks by estimating the additional measures that at a minimum bring the model estimated future ozone design value to 124 ppb or below. The method is based on the assumption that the relationship between ozone and its precursors (VOC

and NO<sub>x</sub>) can be calculated. A detailed discussion of the steps to calculate the additional emission reductions needed for attainment is provided in the TSD which can be obtained from the Regional Office staff contact. ADEM's application of this procedure estimates a future design value of 124 ppb which indicates additional reductions NO<sub>x</sub> and VOC are not needed, in accordance with EPA guidance.

The second analysis uses air quality modeling results to estimate a design value in 2003 at each ozone monitor and EPA's draft 8-hour ozone modeling guidance ("Use of Models and Other Analyses In Attainment Demonstrations for the 8-Hour Ozone NAAQS, EPA-454/R-99-004 (1999)") to develop a local relative reduction factor (RRF). A 2004 ozone design value that is less than 124 ppb is estimated at almost all monitors in the Birmingham nonattainment area. The future design value at the McAdory monitoring site was 128 ppb and the design value resulting from using the domain wide max base case design value and average of domain wide model predicted peaks was 127 ppb. This indicates that substantial progress will be made towards attainment, because design values are expected to be reduced by as much as 5 ppb.

The third analysis involves consideration of the additional VOC and NO<sub>x</sub> reductions from three programs that were not modeled in the 2004 control strategy but are subject to an emission reduction regulation or a voluntary program (i.e., Stage 1 Vapor Recovery, Birmingham NOZONER program and open burning ban in Jefferson and Shelby counties). The Stage 1 Vapor Recovery regulations were initiated in the early nineties. Continued implementation of this program has resulted and will continue to result in reductions in VOC emission reductions from bulk gasoline plants and retail outlets. The NOZONER program focuses on collective and individual actions to reduce emissions from the mobile and area source categories. These actions include changes in vehicle volumes and traffic patterns by promoting alternative commuting options, and other actions that involve operational and maintenance activities. A ban on open burning during the ozone season has been instituted in Shelby County since 1998 and an open burning ban in Jefferson County has been in effect since 1998. These emission reductions are difficult to quantify; however it is believed that these programs will provide future emissions reductions for VOC and NO<sub>x</sub>.

The fourth analysis uses statistical test benchmark 3. Benchmark 3 assesses the improvement in ozone exposure (i.e., reduction in grid cell hours of 124 ppb or greater). Although, benchmark 3 was not applicable in the statistical test for the Birmingham area (see previous discussion), a 67 percent reduction in the number of ozone exceedance exposure occurrences is predicted by the model. This is a significant reduction in the extent of the predicted ozone exceedances over the domain.

The last analysis considers normalized trends data for air quality and NO<sub>x</sub> point source emissions. The changes in NO<sub>x</sub> point source emissions from 1995 until 1998 for Birmingham nonattainment area indicate a large increase from 1995 to 1996 and a slight increase from 1996 until 1998. The normalized air quality trends analysis for the period from 1988 to 1998 indicates a decrease in the design values from 1996 (i.e., 132 ppb) until 1998 (i.e., 128 ppb) and projects a continued decrease below the 124 ppb level in the future. Air quality monitoring data in the 1998 to 2000 period indicated a 137 ppb design value which appears to temporarily deflect the projected downward trend indicated in the SIP. However, it is expected that the point source controls in the attainment strategy will support the projected downward trend in the air quality analysis.

Although, the model simulation for the proposed control strategy that demonstrates attainment was performed for the year 2004, all control strategies proposed by the attainment demonstration will be in place by the year 2003 and attainment is projected in 2003. A 2003 emissions inventory, representative of emissions expected in the attainment year was developed. The 2003 inventory represents future levels of VOC and NO<sub>x</sub> that are less than that used in the modeling due to growth between 2003 and 2004 as well as control programs being implemented. The levels of anthropogenic NO<sub>x</sub> and VOC that are modeled in 2004 strategy in the Birmingham nonattainment area are 249.9 TPD and 157.3 TPD, respectively. The levels of anthropogenic NO<sub>x</sub> and VOC expected in 2003 in the Birmingham nonattainment area are 246.8 TPD and 155.6 TPD, respectively. The controls modeled in the 2004 strategy are included in the 2003 inventory. Since the VOC and NO<sub>x</sub> emissions projected for 2003 are less than the levels modeled for 2004, it is expected that if modeled, attainment would also be projected for 2003. The SIP included several modeled sensitivity simulations

to support this statement (i.e., lower VOC and NO<sub>x</sub> emissions than that modeled in the 2004 attainment strategy can result in lower ozone concentrations). Therefore, EPA believes the area will attain the NAAQS in 2003.

#### **VIII. Reasonably Available Control Measures (RACM)**

Section 172(c)(1) of the CAA requires that SIPs provide for the implementation of all RACM as expeditiously as practicable. EPA has previously provided guidance interpreting the RACM requirements of 172(c)(1) (See 57 FR 13498, 13560). In that guidance, EPA indicated its interpretation that potentially available measures that would not advance the attainment date for an area would not be considered RACM. States must consider all potentially available measures to determine whether they were reasonably available for implementation in the area prior to the attainment date and whether they will advance attainment. If measures are deemed reasonably available and they will advance the attainment date, they must be adopted as control measures in the SIP.

Finally, states can reject potential RACM measures either because they would not advance the attainment date, would cause substantial widespread and long-term adverse impacts, or for various reasons related to local conditions, such as economics or implementation issues. EPA issued a recent memorandum on this topic confirming its earlier guidance, "Guidance on the Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas," John S. Seitz, Director, Office of Air Quality Planning and Standards, November 30, 1999. Web site: <http://www.epa.gov/ttn/oarpg/t1pgm.html>.

Pursuant to section 172(b) of the Clean Air Act as amended in 1977 (now section 172(c)(1)), Alabama conducted a RACM analysis for Jefferson County in 1985 that underwent public notice and comment. Since 1990, Birmingham's design value has not exceeded the marginal ozone concentrations, which may be attributed to improved vehicle emission technology and previously implemented control measures in the Birmingham nonattainment area to reduce NO<sub>x</sub> and VOC emissions. This continued marginal level has occurred despite dramatic increases in the level of construction and economic activity and substantial growth in the mobile fleet.



The 1985 RACM analysis evaluated the following 19 measures for the purpose of reducing vehicle emissions:

- Inspection and Maintenance Program
- Vapor Recovery Program
- Improved Public Transit
- Exclusive Bus and Carpool Lanes
- Areawide Carpool Programs
- Private Car Restrictions
- Long-Range Transit Improvements
- On-Street Parking Controls
- Park-and-Ride and Fringe Parking Lots
- Pedestrian Malls and Vehicle Restricted Zones
- Employer Participation in Carpools, Vanpools, etc.
- Bicycle Lanes and Storage Facilities
- Staggered Work Hours
- Road Pricing to Discourage Single Occupancy Vehicles
- Controls on Extended Vehicle Idling
- Traffic Flow Improvements
- Conversion to Cleaner Fuels
- Emission Control Retrofit
- Reducing Extreme Cold Start Emissions

Some examples of control measures that were implemented include rideshare/carpool program, vanpool subsidy, park and ride lots, bicycle and pedestrian program, ClasTran public paratransit, incident/congestion response team, commute smart program, and ozone awareness program. Programs that are scheduled to be implemented include adding high occupancy vehicle lanes (September 2001), expanding downtown shuttle service (October 2001) and installing bicycle racks on all area buses.

As a part of this submittal ADEM evaluated the feasibility of implementing non-fuel control measures to show necessity for a fuel control measure as required by section 211(c)(4)(C) of the 1990 CAA. Under section 211(c)(4)(C), EPA may approve such a fuel control measure into a SIP if it is concluded that this fuel control is “necessary” to achieve a NAAQS. A fuel control is “necessary” if no other measures that would bring about timely attainment exist, or if other measures exist and are technically feasible, but are unreasonable or impracticable. The EPA guidance used to review a state’s submittal for a fuel waiver is the August 21, 1997, Guidance on Use of Opt-in to RFG and Low-RVP Requirements. The guidance on SIP approvals of fuel controls sets out four issues to be analyzed:

1. The quantity of emissions reductions needed to achieve the NAAQS;
2. Other possible control measures and the reductions each would achieve;

3. The explanation for rejecting alternatives as unreasonable or impracticable; and

4. A demonstration that reductions are needed even after implementation of reasonable and practicable alternatives, and that the fuel control will provide some or all of the needed reductions. Although the information provided in Appendix II for the fuel waiver was not specifically identified by ADEM as a RACM analysis for this submittal, the information provided meets the intent of a RACM analysis. As part of this submittal, the fuel waiver request went through public review and comment. EPA will be proposing approval of the fuel control measure in a separate **Federal Register** action.

EPA acknowledges that the 1985 RACM analysis did not include Shelby County. However, given the large reductions (68.2 TPD reduction of NO<sub>x</sub> emissions) from the Gorgas and Miller power plants which will begin in 2003, and the small reductions from the potential RACM measures, EPA believes that even if ADEM had conducted a new RACM analysis for both counties, they still would not have identified sufficient additional measures that would achieve enough emission reductions to advance attainment prior to 2003.

Furthermore, the process of taking additional measures through a public hearing, board approval, funding, and time needed to implement would severely limit the feasibility of obtaining emission reductions that could accelerate the attainment date. Alabama plans to continue reviewing and implementing new technologies as appropriate for the Birmingham area. The area will also benefit from EPA’s requirements for cleaner vehicles and fuels in the future.

#### IX. Proposed Action

The EPA believes that the Birmingham attainment demonstration SIP meets the requirements of the CAA. Therefore, EPA is proposing to grant an attainment date of 2003 and approve the State’s demonstration that Birmingham will attain the 1-hour ozone NAAQS by November 15, 2003. The modeling and WOE analyses of ozone and ozone precursor emissions from sources in the Birmingham area, demonstrate that the modeled control strategy will provide for attainment of the 1-hour ozone NAAQS by November 2003.

#### X. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a “significant regulatory action” and therefore is not subject to review by the Office of Management and

Budget. For this reason, this action is also not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355 (May 22, 2001)). This proposed action merely approves state law as meeting federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This proposed rule also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely proposes to approve a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This proposed rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of



Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order.

This proposed approval of the Birmingham attainment demonstration SIP does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Nitrogen dioxide, Ozone, Volatile Organic Compounds, Reporting and recordkeeping requirements.

Dated: August 24, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01-22734 Filed 9-10-01; 8:45 am]

BILLING CODE 6560-50-U

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL-7052-4]

#### National Oil and Hazardous Substance Pollution Contingency Plan; National Priorities List

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

**ACTION:** Notice of intent to delete the Farmers' Mutual Cooperative Superfund site (site) from the National Priorities List (NPL).

**SUMMARY:** The EPA Region VII is issuing a notice of intent to delete the Farmers' Mutual Cooperative Superfund site (site) located in Hospers, Iowa, from the NPL and requests public comments on this notice of intent. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of 40 CFR Part 300 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the state of Iowa through the Iowa Department of Natural Resources have determined that all

appropriate response actions under CERCLA have been completed. However, this deletion does not preclude future actions under Superfund.

In the "Rules and Regulations" section of today's **Federal Register**, we are publishing a direct final notice of deletion of the Farmers' Mutual Cooperative Superfund site without prior notice of intent to delete because we view this as a noncontroversial revision and anticipate no adverse comment. We have explained our reasons for this deletion in the preamble to the direct final deletion. If we receive no adverse comment(s) on the direct final notice of deletion, we will not take further action on this notice of intent to delete. If we receive adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

**DATES:** Comments concerning this site must be received by October 11, 2001.

**ADDRESSES:** Written comments should be addressed to Catherine Barrett, Remedial Project Manager, Superfund Division, U.S. Environmental Protection Agency, Region VII, 901 North 5th Street, Kansas City, KS 66101.

**FOR FURTHER INFORMATION CONTACT:** Catherine Barrett, Remedial Project Manager, U.S. EPA, Region VII, Superfund Division, Missouri/Kansas Remedial Branch, 901 North 5th Street, Kansas City, KS 66101, fax (913) 551-7063 or 1-800-223-0425.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

#### Information Repositories

Information concerning this deletion decision can be found in the Deletion Docket at the information repositories at the following locations: U.S. EPA, Region VII, Superfund Division Records Center, 901 North 5th Street, Kansas City, KS 66101 and at the Iowa Department of Natural Resources, Wallace State Office Building, 900 East Grand, Des Moines, IA 50319.

#### List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Dated: August 30, 2001.

**William W. Rice,**

*Acting Regional Administrator, EPA Region VII.*

[FR Doc. 01-22608 Filed 9-10-01; 8:45 am]

BILLING CODE 6560-50-U

### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 213, 247, and 252

[DFARS Case 2000-D014]

#### Defense Federal Acquisition Regulation Supplement; Ocean Transportation by U.S.-Flag Vessels

**AGENCY:** Department of Defense (DoD).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to specify that requirements for use of U.S.-flag vessels, in the transportation of supplies by sea, apply to contracts at or below the simplified acquisition threshold as well as those that exceed the simplified acquisition threshold.

**DATES:** Comments on its proposed rule should be submitted to the address shown below on or before November 13, 2001 to be considered in the formation of the final rule.

**ADDRESSES:** Respondents may submit comments directly on the World Wide Web at <http://emissary.acq.osd.mil/dar/dfars.nsf/pubcomm>. As an alternative, respondents may e-mail comments to: [dfars@acq.osd.mil](mailto:dfars@acq.osd.mil). Please cite DFARS Case 2000-D014 in the subject line of e-mailed comments.

Respondents that cannot submit comments using either of the above methods may submit comments to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, OUSD (AT&L)DP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301-3062; facsimile (703) 602-0350. Please cite DFARS Case 2000-D014.

At the end of the comment period, interested parties may view public comments on the World Wide Web at