

from the comparable measure so calculated and presented.

(2) A non-GAAP financial measure would not include operating and other financial measures and ratios or measures calculated using only:

(i) Financial measures calculated in accordance with GAAP; and
(ii) Operating measures or other measures that are not non-GAAP financial measures.

(b) *GAAP*. GAAP refers to generally accepted accounting principles in the United States, except that in the case of foreign private issuers whose primary financial statements are prepared in accordance with other generally accepted accounting principles, references to GAAP also include the principles under which those primary financial statements are prepared.

(c) *Registrant*. A registrant subject to this regulation is one that has a class of securities registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l), or is required to file reports under Section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)), excluding any investment company registered under Section 8 of the Investment Company Act of 1940 (15 U.S.C. 80a–8).

(d) *United States*. United States means the United States of America, its territories and possessions, any State of the United States, and the District of Columbia.

§ 244.102 No effect on antifraud liability.

Nothing in this Regulation G (§§244.100 through 244.102) shall affect any person's liability, and a person's compliance or non-compliance with this Regulation G shall not affect any person's liability, under Section 10(b) (15 U.S.C. 78j(b)) of the Securities Exchange Act of 1934 or § 240.10b–5 of this chapter.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

* * * * *

8. Amend Form 8–K (referenced in § 249.308 as proposed in Release No. 33–8106, 67 FR 42913) by adding Item 1.04 and revising Item 6.01 of Section 1.

Note.— The text of Form 8–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 8–K—Current Report

Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

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Section 1—Registrant's Business Operations

* * * * *

Item 1.04. Results of Operations and Financial Condition

(a) If a registrant, or any person acting on its behalf, makes any public announcement or release (including any update of an earlier announcement or release) disclosing material non-public information regarding the registrant's results of operations or financial condition for a completed quarterly or annual fiscal period, the registrant shall briefly identify the announcement or release and file the text of that announcement or release as an exhibit;

(b) A filing under this Item shall not be required in the case of disclosure of material non-public information that is disclosed orally, telephonically, webcast, or by similar means if:

(1) The information is provided as part of a presentation that initially occurs within 48 hours of a related, written announcement or release that is filed on Form 8–K pursuant to this Item 1.04;

(2) The presentation is accessible to the public by dial-in conference call, webcast or similar technology;

(3) The financial and other statistical information contained in the presentation is provided on the registrant's Web site, together with any information that would be required under § 244.100 of Regulation G; and

(4) The presentation was announced by a widely disseminated press release, that included instructions as to when and how to access the presentation and the location on the registrant's Web site where the information would be available.

(c) Forward-looking information, as defined by Section 21E of the Securities Exchange Act of 1934, included in an announcement or release that would otherwise be required to be filed pursuant to paragraph (a) of this Item, may instead be identified specifically and furnished under Item 6.01 in the same Form 8–K that contains the historical information filed pursuant to Item 1.04.

Instructions

1. The filing requirement under this Item 1.04 is triggered by the disclosure of material non-public information regarding a completed fiscal year or quarter. Release of additional or updated material non-public information regarding a completed fiscal year or quarter would trigger an additional Item 1.04 filing requirement.

2. Issuers that make earnings announcements or other disclosures of material non-public information regarding a completed fiscal year or quarter in an interim or annual report to shareholders, are permitted to specify which portion of the report contains the information required to be filed under Item 1.04.

3. This Item 1.04 does not apply in the case of a disclosure of material non-public information that is made in a quarterly report filed with the Commission on Form 10–Q (or 10–QSB) or an annual report filed with the Commission on Form 10–K (or 10–KSB).

* * * * *

Item 6.01. Regulation FD Disclosure and Forward Looking Information.

Unless filed under Item 7.01 or Item 1.04, report under this item only information that the registrant elects to disclose through Form 8–K pursuant to Regulation FD (§§ 243.100–243.103 of this chapter) or forward-looking information that is required to be filed under Item 1.04 of this form.

* * * * *

9. By amending Form 20–F (referenced in § 249.220) by removing in General Instruction C.(e) the words “performance and the Commission's policy on securities ratings” and adding, in their place, the words “performance, the Commission's policy on securities ratings and the Commission's policy on use of non-GAAP financial measures in Commission filings”.

Dated: November 4, 2002.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 02–28603 Filed 11–12–02; 8:45 am]

BILLING CODE 8010–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[SC–041, 046–200211(b); FRL–7406–8]

Approval and Promulgation of Implementation Plans; South Carolina; Adoption of Revision Governing Credible Evidence and Removal of Standard 3

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revision to the State Implementation Plan (SIP) submitted on October 7, 2002, by the State of South Carolina, Department of Health and Environmental Control (Department). This revision consisted of an addition to Regulation 61–62.1, Definitions and General Requirements, entitled “Section V—Credible Evidence.” The submission of Section V—Credible Evidence by South Carolina is to meet the requirements for credible evidence set forth in EPA's May 23, 1994, SIP call letter. EPA is also proposes to approve a correction to the SIP regarding removal of Standard 3 “Emissions from Incinerators” from the SIP as requested by the State of South Carolina. In the Final Rules Section of this **Federal Register**, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the

approval is set forth in the direct final rule. If no significant, material, and adverse comments are received in response to this rule, 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 rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before December 13, 2002.

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

Copies of the State submittal is 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. Sean Lakeman, 404/562-
9043.

South Carolina Department of Health
and Environmental Control, 2600 Bull
Street, Columbia, South Carolina
29201-1708.

FOR FURTHER INFORMATION CONTACT:
Sean Lakeman at 404/562-9043, or by
electronic mail at
lakeman.sean@epa.gov.

SUPPLEMENTARY INFORMATION: For
additional information see the direct
final rule which is published in the
Rules Section of this **Federal Register**.

Dated: November 1, 2002.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

[FR Doc. 02-28699 Filed 11-12-02; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[DC039-2028; MD073-3091; VA090-5060;
FRL-7407-6]

Designation of Areas for Air Quality Purposes; District of Columbia, Maryland, Virginia; Metropolitan Washington, DC Ozone Nonattainment Area

AGENCY: Environmental Protection
Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue a
finding that the Metropolitan

Washington, DC serious ozone
nonattainment area (hereinafter referred
to as the Washington area) has failed to
attain the one-hour ozone National
Ambient Air Quality Standard (NAAQS)
by November 15, 1999, the date set forth
in the Clean Air Act (CAA or Act) for
serious nonattainment areas. If EPA
takes final action to issue this proposed
finding of nonattainment, the area
would be reclassified as a severe ozone
nonattainment area. EPA is proposing to
set the dates by which the District of
Columbia, the State of Maryland and the
Commonwealth of Virginia each must
submit revisions to its State
Implementation Plan (SIP) that adopt
the severe area requirements. Finally,
EPA is proposing to adjust the dates by
which the area must achieve a nine (9)
percent reduction in ozone precursor
emissions to meet the 2002 rate-of-
progress requirement and adjust
contingency measure requirements as
this relates to the 2002 rate-of-progress
requirement.

DATES: Written comments must be
received on or before December 13,
2002.

ADDRESSES: Written comments may be
mailed to Walter K. Wilkie, Deputy
Branch Chief, Air Quality Planning and
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.

FOR FURTHER INFORMATION CONTACT:
Christopher Cripps, (215) 814-2179, or
by e-mail at
Cripps.Christopher@epa.gov. Please
note that while questions may be posed
via telephone and e-mail, formal
comments must be submitted in writing,
as indicated in the **ADDRESSES** section of
this document.

SUPPLEMENTARY INFORMATION: The use of
“we,” “us,” or “our” in this document
refers to EPA.

Table of Contents

- I. What Action Are We Proposing?
- II. What Are the National Ambient Air
Quality Standards?
- III. What Is the NAAQS for Ozone?
- IV. What Is the Washington Ozone
Nonattainment Area?
- V. Why Is the Washington Area Currently
Classified as a Serious Nonattainment
Area?
- VI. Why Are We Proposing to Reclassify the
Washington Area?

- A. What Are the Clean Air Act
Requirements for Attainment Findings?
- B. What Is the Applicable Ozone Season
Air Quality Data for the Washington
Area?
- VII. Why Did EPA Defer Making a Finding of
Nonattainment Regarding the
Washington Area's Attainment Status
Beyond the Time Frame Prescribed by
the CAA?
- VIII. Has Air Quality Improved in the
Washington Area in Recent Years?
- IX. What Actions Has the District, Maryland
and Virginia Taken to Improve Air
Quality in the Washington Area?
- X. If We Finalize Our Proposed Rulemaking
Reclassifying the Washington Area, What
Would Be the Area's New Classification?
- XI. What Progress Has the Washington, DC
Area Made Towards Planning to Attain
the Ozone NAAQS by 2005?
- XII. What Would a Reclassification Mean for
the Washington Area?
- XIII. What Are the Transportation Conformity
Implications of Reclassification?
- XIV. How Does the Recent Release of
MOBILE6 Interact With Reclassification?
 - A. What Is the Relationship Between
MOBILE6 and the Attainment Year
Motor Vehicle Emissions Budgets
 - B. What Is the Relationship Between
MOBILE6 and the Post-1999 Rate-of-
Progress Requirement
- XV. If the Washington Area Is Reclassified to
Severe, What Would its New Schedule
be?
 - A. What Would the Attainment Date be?
 - B. When Are the Required SIP Revisions
Due?
 - C. What Will Be the Rate-of-Progress and
Contingency Measure Schedules?
- XVI. What Is the Impact of Reclassification
on Title V Operating Permit Programs?
- XVII. What Are the Relevant Policy and
Guidance Documents?
- XVIII. Administrative Requirements

I. What Action Are We Proposing?

We are proposing to find that the
Washington area has failed to attain the
one-hour ozone NAAQS by the
November 15, 1999, attainment deadline
prescribed under the CAA for serious
ozone nonattainment areas. EPA's
authority to make this finding is
discussed under section 181(b)(2) of the
CAA. Section 181(b)(2) explains the
process for determining whether an area
has attained the one-hour ozone
standard and reclassification of the area
if necessary. If we issue a final finding
of failure to attain, the Washington area
will be reclassified by operation of law
from serious nonattainment to severe
nonattainment.

II. What Are the National Ambient Air Quality Standards?

Since the CAA's inception in 1970,
EPA has set NAAQS for six common
pollutants: carbon monoxide, lead,
nitrogen dioxide, ozone, particulate
matter, and sulfur dioxide. For most of