0001, and/or R03–OAR–2005–PA–0010] by one of the following methods:

A. *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

B. *Agency Web site: http://www.docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Follow the on-line instructions for submitting comments.

C. *E-mail: morris.makeba@epa.gov*.

D. *Mail:* R03–OAR–2005–DC–0001, R03–OAR–2005–MD–0001, and/or R03–OAR–2005–PA–0010, Makeba Morris, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

E. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to RME ID No. R03–OAR–2005–DC–0001, R03–OAR–2005–MD–0001, and/or R03–OAR–2005–PA–0010. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *http://www.docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov or e-mail. The EPA RME and the Federal regulations.gov Web sites are an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://www.docket.epa.gov/rmepub/*. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at District of Columbia Department of Public Health, Air Quality Division, 51 N Street, NE., Washington, DC 20002; Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland, 21230; Pennsylvania Department of Environmental Resources Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia, 23219; Department of Public Health, Air Management Services, 321 University Avenue, Philadelphia, Pennsylvania 19104.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@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. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: March 18, 2005.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. 05–6502 Filed 4–1–05; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2004–KY–0003–200502; FRL–7895–4]

Approval and Promulgation of Implementation Plans for Kentucky: Inspection and Maintenance Program Removal for Northern Kentucky; Commercial Motor Vehicle and Mobile Equipment Refinishing Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve four related revisions to the Kentucky State Implementation Plan (SIP) submitted by the Commonwealth of Kentucky on November 12, 2004. These revisions affect the Northern Kentucky area, which is comprised of the Kentucky Counties of Boone, Campbell, and Kenton, and is part of the Cincinnati-Hamilton Metropolitan Statistical Area. EPA is proposing to approve the movement of the regulation underlying the Northern Kentucky inspection and maintenance (I/M) program from the active portion of the Kentucky SIP to the contingency measures section of the Northern Kentucky 1-Hour Ozone Maintenance Plan. EPA is also proposing to approve revisions to a Kentucky rule which provides for the control of volatile organic compounds from new solvent metal cleaning equipment. Further, EPA proposes to add a new rule to the Kentucky SIP affecting commercial motor vehicle and mobile equipment refinishing operations in Northern Kentucky. Finally, EPA is proposing to approve updated mobile source category emission projections using MOBILE6.2, with updated, subarea motor vehicle emission budgets (MVEBs) for the year 2010. EPA's final approval is contingent upon Kentucky making some clarifications in the final SIP submittal.

DATES: Written comments must be received on or before May 4, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04–OAR–2004–KY–0003, by one of the following methods:

1. Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. Agency Web site: *http://docket.epa.gov/rmepub/.* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the

system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: *notarianni.michele@epa.gov.*

4. Fax: (404) 562–9019.

5. Mail: ''R04–OAR–2004–KY–0003,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.

6. Hand Delivery or Courier. Deliver your comments to: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to RME ID No. R04-OAR–2004–KY–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME Web site and the federal regulations.gov Web site are ''anonymous access'' systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9031. E-mail: *notarianni.michele@epa.gov.*

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I. What Changes to the Kentucky SIP Were Submitted for EPA Approval?

In response to a Kentucky Legislative action signed by the Governor on April 9, 2004, Kentucky submitted to EPA a proposed revision to the Kentucky SIP on November 12, 2004, for parallel processing. This revision affects regulation 401 KAR 65:010, ''Vehicle emission control programs,'' which is a SIP-approved regulation underlying the Northern Kentucky I/M program, also known as the Northern Kentucky Vehicle Emissions Testing (VET) Program. Kentucky has requested to move the VET Program regulation from the active control measures portion of the SIP to the contingency measures portion of the Northern Kentucky 1-Hour Ozone Maintenance Plan, which is part of the Kentucky SIP. The Northern Kentucky VET Program is a basic I/M program that includes on-board diagnostics (*i.e.*, OBD) and results in emissions reductions of nitrogen oxides (NO_X), volatile organic compounds (VOC), and carbon monoxide (CO). The VET Program began testing vehicles in Boone, Campbell, and Kenton Counties in September 1999, to help meet nonattainment area requirements for the ozone NAAQS effective at the time.

The Northern Kentucky area is comprised of the Kentucky Counties of Boone, Campbell, and Kenton, and is part of the Cincinnati-Hamilton Metropolitan Statistical Area (MSA). Presently, Boone, Campbell, and Kenton Counties comprise the Northern Kentucky portion of the Cincinnati 1-Hour Ozone Maintenance Area. This maintenance status means these counties were formerly designated nonattainment for the 1-hour ozone standard, are now attaining this standard, and have since been redesignated to attainment for the 1-hour ozone standard effective July 5, 2000 (July 31, 2002, 67 FR 49600). This area was previously classified as a moderate ozone nonattainment area. As such, the area was required to

implement a basic I/M program under section 182(b)(4) of the Clean Air Act.

Kentucky's November 12, 2004, draft SIP submittal proposes to implement new emission reductions to compensate for the NO_X and VOC emission increases resulting from removing the Northern Kentucky VET Program as an active control measure in the SIP. To demonstrate non-interference with applicable requirements of the Act through replacement emissions reductions, the compensating emissions reductions must be equivalent to or greater than those achieved with the VET Program. Equivalent emissions reductions are needed to replace an anticipated increase of 0.78 tons per summer day (tpsd) of VOC and 0.29 tpsd of NO_X in the year 2005 due to closure of the VET Program. These replacement VOC and NO_X emissions reductions must also occur in a time period contemporaneous to the VET Program's closure, as explained further in section IV. The VOC and NO_X replacement emissions reductions are needed to support a demonstration of non-interference with the 8-hour ozone and fine particulate matter ($PM_{2.5}$) NAAQS.

The VET Program also reduces CO emissions. In response to EPA comments on the November proposal, Kentucky will also include a demonstration of non-interference with the CO NAAQS in the final SIP submittal to address the CO emission increases due to discontinuation of the VET Program.

The November 12, 2004, submittal proposes VOC emissions reductions from two Kentucky rules. The revisions to Kentucky rule 401 KAR 59:185, ''New solvent metal cleaning equipment,'' requires the use of VOC solvents with lower vapor pressures in batch cold cleaning machines used in specified facilities located in the Northern Kentucky Counties of Boone, Campbell, and Kenton. These revisions were originally submitted to EPA on July 16, 2004. Kentucky's public hearing on the proposed amendments to 401 KAR 59:185 was held August 25, 2004, with written comments due by August 31, 2004. In a letter dated August 31, 2004, EPA concurred with the revisions and the analysis for estimating VOC emissions reductions from these rule changes. (A copy of this letter is located on the RME Web site under the Docket ID, R04–OAR–2004–KY–0003.) The November 12, 2004, submittal, which replaces the July 16, 2004, proposed SIP revision, also proposes to add a new rule, 401 KAR 59:760, ''Commercial Motor Vehicle and Mobile Equipment Refinishing Operations,'' to the Kentucky SIP. This new regulation requires the use of high transfer efficiency application techniques at auto body repair and refinishing operations, and prescribes operating procedures to minimize the emissions of VOCs. The Commonwealth also enacted and included in the November 12, 2004, submittal an emergency version of rule 401 KAR 59:760, *i.e.*, 401 KAR 59:760E, with a State effective date of November 15, 2004, and a compliance date of February 1, 2005. EPA is not taking action on this emergency regulation, 401 KAR 59:760E. The public hearing on rule 401 KAR 59:760 and movement of the VET Program to the contingency measures list was held on January 4, 2005.

Under the parallel processing procedure, the Commonwealth of Kentucky submits a copy of the proposed regulation or other revisions to EPA before conducting its public hearing. EPA reviews this proposed State action, and prepares a notice of proposed rulemaking for publication in the **Federal Register** within the same general time frame as Kentucky's public comment period. After the Commonwealth submits a final SIP revision (including a response to public comments raised during the Commonwealth's public participation process) to EPA, the Agency will prepare a final rulemaking notice. If the Commonwealth's final SIP submittal contains changes which occur after EPA's notice of proposed rulemaking, such changes must be described in EPA's final rulemaking action. If the Commonwealth's changes are significant, then EPA must decide whether it is appropriate to re-propose the Commonwealth's action.

II. What Authorities Apply To Moving the Northern Kentucky I/M Program to a Contingency Measure in the Kentucky SIP?

Section 110(l) of the Clean Air Act (*i.e.*, ''Act'') states:

> Each revision to an implementation plan submitted by a State under this Act shall be adopted by such State after reasonable notice and public hearing. The Administrator shall not approve a revision to a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this Act.

The States' obligation to comply with each of the NAAQS is considered as ''any applicable requirement(s) concerning attainment.'' A demonstration is necessary to show that this revision will not interfere with attainment or maintenance of the NAAQS, including those for ozone, CO, and $PM_{2.5}$, or any other requirement of the Act.

With respect to the 1-hour ozone NAAQS, EPA redesignated the Kentucky portion of the Cincinnati-Hamilton area to attainment for the 1-hour ozone standard in a final action published July 31, 2002 (67 FR 49600). The Cincinnati-Hamilton moderate 1-hour ozone nonattainment area (Cincinnati-Hamilton area) includes the Ohio Counties of Hamilton, Butler, Clermont, and Warren, and the Kentucky Counties of Boone, Campbell, and Kenton. As part of its redesignation to attainment for a NAAQS, the area must have a plan to maintain the standard, called a ''maintenance plan.'' Under section 175A(a) of the Act, emission reduction programs in a maintenance plan for a NAAQS must be continued unless a demonstration is made that the future, projected emissions for the area, without credit for reductions due to the emission reduction program being removed, remain at or below the baseline attainment level of emissions identified in the maintenance plan. If such a demonstration is made, that program is eligible for removal from the SIP. However, section 175A(d) of the Act requires that available contingency measures in the maintenance plan include all measures in the SIP for the area before that area was redesignated to attainment. Since the VET Program was in the SIP prior to redesignation to attainment for the 1-hour ozone NAAQS, the VET Program must be listed in the contingency portion of the 1-hour ozone maintenance plan as required by section 175A(d). Kentucky was able to demonstrate continued maintenance of the 1-hour ozone standard for the requisite timeframe without taking credit for reductions from the Northern Kentucky VET Program, as summarized in section III below.

In addition, provisions in EPA's I/M rule, set forth in 40 CFR 51.372(c) under the heading ''Redesignation requests,'' apply to the Northern Kentucky VET Program situation. These provisions were published January 5, 1995, at 60 FR 1735. The provisions allow certain areas seeking redesignation to submit only the authority for an I/M program rather than an implemented program in satisfaction of the applicable I/M requirements. Under these I/M rule provisions, a basic I/M area (*i.e.*, was required to adopt a basic I/M program) which has been redesignated to attainment for the 1-hour ozone NAAQS can convert the I/M program to a contingency measure as part of the

area's 1-hour ozone maintenance plan, notwithstanding the new antibacksliding provisions in EPA's 8-hour ozone implementation rule published April 30, 2004 (69 FR 23858). A basic I/M area which is designated nonattainment for the 8-hour ozone NAAQS, yet not required to have an I/M program based on its 8-hour ozone designation, continues to have the option to move its I/M program to a contingency measure as long as the 8-hour ozone nonattainment area can demonstrate that doing so will not interfere with its ability to comply with any NAAQS or any other applicable Clean Air Act requirement pursuant to section 110(l) of the Act. For further details on the application of 8-hour ozone anti-backsliding provisions to basic I/M programs in 1-hour ozone maintenance areas, please refer to the May 12, 2004, EPA Memorandum from Tom Helms, Group Leader, Ozone Policy and Strategies Group, Office of Air Quality Planning and Standards, and Leila H. Cook, Group Leader, State Measures and Conformity Group, Office of Transportation and Air Quality, to the Air Program Managers, the subject of which is ''1 Hour Ozone Maintenance Plans Containing Basic I/M Programs.'' A copy of this memorandum may be obtained at *http://www.epa.gov/ttn/oarpg/t1pgm.html* under the file date ''5–12–04.''

III. What Is EPA's Analysis of Kentucky's Demonstration of Non-Interference With the 1-Hour Ozone and CO NAAQS?

A. EPA's Analysis of Kentucky's Demonstration of Non-Interference With the 1-Hour Ozone NAAQS

The November 12, 2004, Kentucky SIP revision seeking removal of the VET Program includes an evaluation for the 1-hour ozone NAAQS of the potential emission impacts associated with increased emissions that would result from removal of the Northern Kentucky VET Program as an active control measure in the SIP. For the 1-hour ozone NAAQS, the submittal provides VOC and NO_X emission inventory data for the Northern Kentucky portion (*i.e.*, Boone, Campbell, and Kenton Counties) of the Cincinnati-Hamilton MSA for 1996, the year the area met the 1-hour ozone NAAQS, and projected emissions through 2010. The emission inventory data for the ''Mobile'' source category are calculated using MOBILE6.2 because this same model was used to determine the emissions reductions from the VET Program needing to be replaced. MOBILE6.2 is a model which provides estimates of emissions from onroad mobile sources. The mobile source data updated with MOBILE 6.2 are to replace the MOBILE5a emissions data in the currently approved Northern Kentucky 1-Hour Ozone Maintenance Plan, which results in updated MVEBs for the year 2010 of 7.68 tons per summer day (tpsd) VOC and 17.42 tpsd NO_X.

In Tables 1 and 2 below, the emission inventory projections for 2005, 2008, and 2010 are updated to reflect the changes proposed by the November 12, 2004, submittal, namely removal of the VET Program as an active control measure and application of two rules to further control VOCs in the Northern Kentucky area. The VOC and NO_X emission totals for this area include emissions from the point, area, mobile, and non-highway (or nonroad) source categories. As shown in Tables 1 and 2 below, the projected, total VOC and NO_X emissions without the VET Program for 2005, 2008, and 2010 for the Northern Kentucky area all fall below the 1996 attainment year emission levels of 45.10 tpsd VOC and 74.13 tpsd NO_X. For example, Table 1 shows the current 2005 total VOC emissions projected for the area are 34.16 tpsd. By adding the predicted increase of 0.78 tpsd VOC in 2005 due to the closure of the VET Program, this results in 34.94 tpsd of VOC in 2005, which is below the 1996 attainment level of 45.10 tpsd VOC. This same analysis proves true when comparing the VOC emissions in tpsd of 34.01 in 2008 and 34.40 in 2010 to the 1996 attainment level of 45.10, and when comparing the NO_X emissions in tpsd for 2005, 2008, and 2010 of 69.13, 65.13, and 64.06, respectively, to the 1996 attainment level of 74.13 tpsd. The area does not exceed its 1-hour ozone maintenance level of emissions, even after removal of the VET Program. Thus, the Northern Kentucky area demonstrates continued maintenance of the 1-hour ozone NAAQS without the Northern Kentucky VET Program.

TABLE 1.—TOTAL VOC EMISSIONS FOR THE NORTHERN KENTUCKY COUNTIES (BOONE, CAMPBELL, KENTON); KENTUCKY PORTION OF THE CINCINNATI-HAMILTON 1-HOUR OZONE MAINTENANCE AREA

VOC (in tpsd)	1996	1999	2002	2005	2008	2010
Total VOC for Northern KY Area*	45.10	38.41	35.12	34.16	33.44	33.74
VOC Increase Without VET Program	.....	.....	.....	0.78	0.57	0.66
Total VOC for Northern KY Area Without VET Program	.....	.....	.....	34.94	34.01	34.40

*Emissions reflect updated mobile emissions using MOBILE6.2.

TABLE 2.—TOTAL NO_X EMISSIONS FOR THE NORTHERN KENTUCKY COUNTIES (BOONE, CAMPBELL, KENTON); KENTUCKY PORTION OF THE CINCINNATI-HAMILTON 1-HOUR OZONE MAINTENANCE AREA

NO_X (in tpsd)	1996	1999	2002	2005	2008	2010
Total NO_X for Northern KY Area*	74.13	74.82	71.53	68.84	65.11	63.97
NO_X Increase Without VET Program	.....	.....	.....	0.29	0.02	0.09
Total NO_X for Northern KY Area Without VET Program	.....	.....	.....	69.13	65.13	64.06

*Emissions reflect updated mobile emissions using MOBILE6.2.

B. Updated MVEBs for 2010

In the November 12, 2004, submittal, Kentucky notes that the MVEBs established for the year 2010 for the Kentucky portion of the Cincinnati-Hamilton MSA (*i.e.*, the Northern Kentucky area) are also updated using MOBILE6.2. A MVEB is the projected level of controlled emissions from the transportation sector (mobile sources) that is estimated in the SIP. The SIP controls emissions through regulations, for example, on fuels and exhaust levels for cars. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and revise the MVEB.

The 2010 MVEBs were originally established by Kentucky and Ohio for this area as a part of the 1-hour ozone maintenance plan that was associated with the redesignation of this area to attainment of the 1-hour ozone NAAQS. Subsequently, both Kentucky and Ohio revised the 2010 MVEBs for this area, and established individual State MVEBs for their respective portions of the Cincinnati 1-hour ozone maintenance area. Kentucky's revised 2010 MVEBs, applicable only to Boone, Kenton and Campbell counties in Kentucky, were approved by EPA on May 30, 2003, through final rulemaking (68 FR 104). These MVEBs, which included an allocation from the available safety margin, were developed with the MOBILE5 emissions factor model, and are 7.02 tpsd of VOC and 17.33 tpsd of NO_X. The establishment of the individual State MVEBs for these areas allows each State to implement the conformity requirements independent of one another. Today's action relates only to revisions to the Kentucky 2010 MVEBs.

EPA is proposing to approve the updated 2010 MVEBs of 7.68 tpsd VOC and 17.42 tpsd NO_X because the total emissions from all sources in the Northern Kentucky area remain below the 1996 attainment levels, as depicted in Tables 1 and 2 above. These revised MVEBs were developed with the MOBILE6.2 mobile emissions factor model and do not include an allocation from the available safety margin. Upon final approval of these updated MVEBs, the budgets will be used by the Northern Kentucky area to determine transportation conformity.

C. EPA's Analysis of Kentucky's Demonstration of Non-Interference With the CO NAAQS

The November 12, 2004, submittal does not include a demonstration of non-interference with the CO standard to show that the CO increases expected from closure of the VET Program will not interfere with continued attainment of the CO NAAQS in the Northern Kentucky area. Because CO is one of the applicable requirements of the Act, Kentucky will need to include a demonstration of non-interference for CO in the final SIP submittal. In Kentucky's July 16, 2004, proposed SIP revision, the Commonwealth provided data showing that CO levels are expected to increase by 12.5 tpsd in 2005 due to discontinuation of the VET Program.

The Northern Kentucky area has always been attainment for the CO NAAQS, and CO monitoring data from the years 1991–2001 show CO levels trending downward. Specifically, in 1991, CO levels in Northern Kentucky were 77 percent below the 1-hour and 46 percent below the 8-hour CO standards. In contrast, monitored CO levels in 2001 fell 93 percent below the 1-hour and 80 percent below the 8-hour CO standards. Based on a preliminary review of this data, EPA believes closure of the VET Program will not interfere with continued attainment of the CO NAAQS in the Northern Kentucky area.

IV. What Is EPA's Analysis of Kentucky's Demonstration of Non-Interference With the 8-Hour Ozone and Fine Particulate Matter NAAQS?

A. What Criteria Must Be Met?

EPA designated the Kentucky Counties of Boone, Campbell, and Kenton nonattainment for the 8-hour ozone NAAQS on April 30, 2004 (69 FR 23858), effective June 15, 2004. EPA designated these same counties nonattainment for the $PM_{2.5}$ NAAQS in a final action published January 5, 2005 (70 FR 944), effective April 5, 2005. For an area such as the Northern Kentucky area that does not yet have an attainment demonstration for the new 8-hour ozone and $PM_{2.5}$ NAAQS, EPA has provided its interpretation of section 110(1) of the Clean Air Act in a May 11, 2004, letter from EPA to Louisville's Assistant County Attorney. (To view a copy of this letter, go to the RME Web site, *http://docket.epa.gov/rmepub/,* enter the Docket ID for this action, R04–OAR–2004–KY–0003, and click on the appropriate Document ID.) A strict interpretation of the requirement in section 110(1) of the Clean Air Act would allow EPA to approve a SIP revision removing a SIP requirement only after determining, based on a completed attainment demonstration, that it would not interfere with applicable requirements concerning attainment and reasonable further progress. However, EPA recognizes that prior to the time areas are required to submit attainment demonstrations for the 8-hour ozone and $PM_{2.5}$ NAAQS, this strict interpretation could prevent any changes to SIP control measures. EPA does not believe this strict interpretation is necessary or appropriate.

Prior to the time that attainment demonstrations are due for the 8-hour ozone and $PM_{2.5}$ standards, it is unknown what suite of control measures are needed for a given area to attain these standards. During this period, to demonstrate no interference with any applicable NAAQS or requirement of the Clean Air Act under section 110(l), EPA believes it is appropriate to allow States to substitute equivalent emissions reductions to compensate for the control measure being moved from the active portion of the SIP to the contingency provisions, as long as actual emissions in the air are not increased. EPA concluded that preservation of the status quo air quality during the time new attainment demonstrations are being prepared will prevent interference with the States' obligations to develop timely attainment demonstrations.

''Equivalent'' emissions reductions mean reductions which are equal to or greater than those reductions achieved by the control measure to be removed from the active portion of the SIP. To show the compensating, emissions reductions are equivalent, modeling or adequate justification must be provided. (EPA memorandum from John Calcagni, Director, Air Quality Management Division, to the Air Directors in EPA Regions 1–10, September 4, 1992, pages 10 and 13.) As stated in the May 11, 2004, letter referenced earlier, the compensating, equivalent reductions must represent actual, new emissions reductions achieved in a contemporaneous time frame to the termination of the existing SIP control measure, in order to preserve the status quo level of emissions in the air. In addition to being contemporaneous, the equivalent emissions reductions must also be permanent, enforceable, quantifiable, and surplus to be approved into the SIP.

B. What Is EPA's Analysis of Whether the Proposed Reductions Meet the Criteria of Contemporaneous, Equivalent, Quantifiable, Permanent, Enforceable, and Surplus?

The November 12, 2004, submittal proposes equivalent VOC emissions reductions for the Northern Kentucky VET Program from two Kentucky rules. The following is a description of how the proposed VOC emissions reductions from two Kentucky rules, 401 KAR 59:185 and 401 KAR 59:760, meet the six criteria of contemporaneous, equivalent (or greater), permanent, enforceable, quantifiable, and surplus.

1. Contemporaneous

While ''contemporaneous'' is not explicitly defined in the Clean Air Act, a reasonable interpretation is to enact the compensating, equivalent emissions reductions within one year (prior to or following) the cessation of the substituted control measure. The State effective date of revisions to regulation 401 KAR 59:185 is January 4, 2005. The State effective date of 401 KAR 59:760 is likely to occur, at the latest, during the March-April 2005 timeframe, contingent on the typical schedule of Kentucky's rulemaking process, with the emergency version of this rule already in effect as of November 15, 2004. The November 12, 2004, submittal requests two different effective dates for the VET Program's closure. Kentucky will clarify in the final submittal the correct date requested. The actual effective date is contingent upon EPA's final action. In accordance with Kentucky Senate Joint Resolution 3 dated March 29, 2004, the closure of the Northern Kentucky VET Program is legislated to occur once EPA approves, through rulemaking, a revision to the Kentucky SIP incorporating compensating, equivalent emissions reductions to replace the VET Program. (To view a copy of the Senate Joint Resolution 3, please see Appendix A of the November 12, 2004, submittal available in EPA's RME system.) As long as closure of the VET Program occurs within one year from the replacement emissions reductions, these reductions will be contemporaneous to the emissions reductions from both rules, 401 KAR 59:185 and 401 KAR 59:760.

2. Equivalent

The VET Program reduces emissions of VOC, NO_X, and CO. VOC and NO_X are contributors (''precursors'') to the formation of ground-level ozone and fine particulate matter. Thus, the increase in VOC and NO_X need to be offset with equivalent (or greater) emissions reductions from another control measure(s) in order to demonstrate non-interference with the 8-hour ozone and $PM_{2.5}$ NAAQS. Substitute CO emissions reductions are not needed for this demonstration because the area is attaining the CO NAAQS and CO levels in the area are well below the standard, as noted in section III.C. of this document. It is unlikely that removing the VET Program will interfere with the area's ability to continue to attain the CO NAAQS.

a. *Selection of the Year 2005 To Estimate Emission Increases From Closure of the Northern Kentucky VET Program.* To demonstrate that the VOC emissions reductions from 401 KAR 59:185 and 401 KAR 59:760 provide the equivalent benefit of the VOC and NO_X emissions reductions achieved by the VET Program, Kentucky first identified the expected increases in emissions due to closure of the program for the years 2005, 2008, and 2010. As shown in Table 3 below, VOC and NO_X emissions from onroad mobile sources are expected to increase in 2005 by 0.78 tpsd and 0.29 tpsd, respectively, due to closure of the Northern Kentucky VET Program. In 2008 and 2010, expected VOC and NO_X reductions from the VET Program decline. In particular, NO_X reductions are predicted to be 0.02 tpsd in 2008 and 0.09 tpsd for 2010. Thus, the year 2005 provides the greatest number of VET Program emissions that need to be replaced. For these reasons, EPA believes that analyzing emissions for 2005 is conservative, and represents the greatest impact on air quality from the Program's closure beginning in 2005, when emissions from the loss of the Program would first impact the area.

Kentucky used MOBILE6.2, EPA's latest version of the mobile model for estimating onroad mobile source emissions, to develop the onroad mobile emission estimates for the Northern Kentucky area. The MOBILE6.2-based emissions are proposed to replace the Mobile5a-generated emissions in the current, approved 1-hour ozone maintenance plan for the Northern Kentucky area.

TABLE 3.—EMISSION INCREASES FROM CLOSURE OF THE VET PROGRAM

Strategy	Onroad VOC mobile emissions (tpsd)			Onroad NO_X mobile emissions (tpsd)		
	2005	2008	2010	2005	2008	2010
With VET Program	8.98	7.33	7.02	24.21	19.30	17.33
Without VET Program	9.76	7.90	7.68	24.50	19.32	17.42
Emission Increases without VET Program	0.78	0.57	0.66	0.29	0.02	0.09

b. *Methodology for Substituting VOC for NO_X to Determine All ''VOC-Equivalent'' Needed To Replace the VET Program.* To determine the equivalent number of VOCs to replace 0.78 tpsd VOC and 0.29 tpsd NO_X emissions reductions predicted in 2005 from the VET Program, Kentucky converted the 0.29 tpsd of NO_X into VOC using an equation developed in accordance with the August 5, 1994, EPA memorandum, ''Clarification of Policy for Nitrogen Oxides (NO_X) Substitution,'' from John Seitz. This memorandum pertains to EPA's ''NO_X Substitution Guidance'' (December 1993). The guidance acknowledges that controlling only VOCs may not be the most effective approach in all areas for attaining the ozone standard, and allows for substitution of NO_X for VOC emissions reductions required for Reasonable Further Progress, contingent upon approval by EPA. The 1994 memorandum further clarifies that NO_X for VOC substitution is a viable approach prior to completing modeling to support an area's attainment demonstration. Using the principles of EPA's NO_X Substitution Guidance, EPA will similarly allow substitution of VOC for NO_X emissions reductions on a percentage basis, where it is demonstrated that VOC emissions reductions are effective in attaining or maintaining the ozone NAAQS. Furthermore, the most recent authoritative assessments of ozone control approaches [1] [2] have concluded that although a NO_X control strategy

[1] Ozone Transport Assessment Group OTAG Final Report, 1997.

[2] NARSTO, An Assessment of Tropospheric Ozone Pollution—A North American Perspective, July 2000.

would be most effective for reducing regional scale ozone transport, VOC reductions are most effective in more dense urbanized areas. The Kentucky Counties of Boone, Campbell, and Kenton are in the Cincinnati-Hamilton MSA adjacent to the highly populated Ohio Counties of Hamilton and Clermont.

To determine the amount of VOC that will provide equivalent ozone reduction benefits as the 0.29 tpsd of NO_X, Kentucky used the following equation in accordance with EPA guidance: (NO_X increase due to closure of the VET Program)/(Total NO_X Emissions for the Northern Kentucky Area) × (Total VOC Emissions for the Northern Kentucky Area) = Equivalent VOC emissions reductions required. This equation incorporates calculation of the VOC/NO_X ratio, which determines what a one percent reduction in VOC is equivalent to, in tpsd, for a one percent reduction in NO_X. This ratio is based upon EPA's NO_X Substitution Guidance (December 1993). To calculate the VOC/NO_X ratio, the area's total VOC emissions are divided by the area's total NO_X emissions from all source categories for a given year. For example, the 2005 VOC/NO_X ratio is: (32.56 tpsd VOC)/(64.77 tpsd NO_X) = (1 percent VOC reduction)/(1 percent NO_X reduction) = 0.50 tpsd VOC/1.0 tpsd NO_X. Thus, to reduce 1.0 tpsd of NO_X, 0.50 tpsd of VOC is required to be reduced. Using this same calculation, the ratios for 2008 and 2010 are 0.52 tpsd VOC/1.0 tpsd NO_X and 0.53 tpsd VOC/1.0 tpsd NO_X, respectively. In the 2005 example, the VOC/NO_X ratio is then applied as follows to solve for ''X'': 0.50 tpsd VOC/1.0 tpsd NO_X = X tpsd VOC/0.29 tpsd NO_X. For 2005, ''X'' equals 0.145 or, with rounding, 0.15 tpsd of VOC must be reduced to be equivalent to a 0.29 tpsd reduction of NO_X. Similar calculations for 2008 and 2010 show that the equivalent amount of VOC emissions reductions needed to replace the 0.29 tpsd NO_X are 0.151 tpsd and 0.154 tpsd, respectively, which both round to 0.15 tpsd VOC. This analysis shows that the year used to develop the VOC/NO_X ratio does not alter, after rounding, the resulting amount of 0.15 tpsd VOC-equivalent for 0.29 tpsd of NO_X.

In the November 2004 submittal, Kentucky's methodology applied total VOC and NO_X emission data for the year 2010 in the ''VOC Equivalent Emissions'' equation above because this provides the greatest number of VOC-equivalent emissions to replace. Kentucky computed the VOC-equivalent to the 0.29 tpsd of NO_X emissions reductions expected in 2005 from the VET Program as follows: (0.29 tpsd NO_X)/(63.77 tpsd NO_X) × (34.05 tpsd VOC) = 0.1548 or, with rounding, 0.15 tpsd VOC. In the final submittal, Kentucky will clarify references to the VOC/NO_X ratio in the November 2004 proposed revision to show how the ratios derived in Appendices B and E are used in the ''VOC Equivalent Emissions'' equation above.

c. *Equivalent Emissions Reductions From Two Kentucky Rules.* To calculate the total number of VOC emissions reductions needed to replace the VET Program, Kentucky added the 0.15 tpsd VOC-equivalent of 0.29 tpsd NO_X to the 0.78 tpsd VOC emissions increase expected in 2005 from closure of the program, yielding 0.93 tpsd VOC (*i.e.*, 0.15 + 0.78). Thus, 0.93 tpsd of VOC emissions reductions are needed to replace the VET Program.

As explained in the following section, ''4. Quantifiable,'' revisions to rule 401 KAR 59:185 and new rule 401 KAR 59:760 are expected to reduce VOCs in 2005 by 0.71 tpsd and 0.27 tpsd, respectively, yielding a total of 0.98 tpsd VOC emissions reductions (*i.e.*, 0.71 + 0.27 = 0.98) from these rules. These emissions reductions exceed the 0.93 tpsd VOCs needed to replace the VET Program by 0.05 tpsd (*i.e.*, 0.98–0.93 = 0.05).

Therefore, based on this conservative equivalency analysis, the proposed 0.98 tpsd of VOC reductions from the two Kentucky rules are equivalent, in terms of reduced ozone formation benefits, to the VOC and NO_X reductions from the VET Program. In addition, VOC and NO_X, the relevant pollutants controlled by the VET Program, are contributing precursors to the formation of $PM_{2.5}$ and thus, EPA concludes that these equivalent reductions also demonstrate non-interference with the $PM_{2.5}$ NAAQS.

3. Quantifiable

The November 12, 2004, submittal shows that in 2005, 0.71 tpsd of VOC will be reduced through the revisions to rule 401 KAR 59:185, and 0.27 tpsd of VOCs will be reduced through rule 401 KAR 59:760. The emissions reductions meet the criterion for quantifiable, as the VOC emissions reductions may be calculated as follows.

The rule revisions to 401 KAR 59:185 establish a vapor pressure limit for solvents used in cold cleaning degreasing operations in the Northern Kentucky Counties of Boone, Campbell, and Kenton. Section 4(3)(a) of the regulation requires that vendors provide in these counties only solvents with a vapor pressure at or below 1.0 millimeters (mm) of mercury measured at 20 degrees Celsius for solvents sold in units greater than five gallons for use in cold cleaners. Section 4(3)(b) prohibits operations of a cold cleaner using a solvent exceeding the vapor pressure limit described for section 4(3)(a). In addition, section 4(4) of the regulation requires users to keep records of their solvent purchases.

To determine the amount of VOC reductions from revisions to 401 KAR 59:185 affecting the Northern Kentucky counties, the projected 2005 cold cleaning degreasing emissions (in tpsd) for these counties are multiplied by 67 percent, which is the control efficiency (CE) of the rule, and 80 percent, which is the rule effectiveness (RE) factor. The CE provides an estimate of the percent VOC reduction expected from lowering the vapor pressure limit in the rule as described above. The 67 percent CE has been used in similar cold cleaning degreasing regulations in the States of Indiana, Illinois, and Maryland. The RE factor of 80 percent is an EPA estimate of the effectiveness of this type of rule. The results of this calculation provide the 2005 cold cleaning degreasing estimated emissions reductions. For example, in Boone County, 0.32 tpsd of VOC emissions are projected for 2005 from cold cleaning degreasing. This 2005 cold cleaning degreasing projection was derived from identifying the percent contribution to the 2005 VOC projections from the total solvent degreasing area source category listed in Appendix I of the Northern Kentucky 1-Hour Ozone Maintenance Plan approved by EPA into the Kentucky SIP. Using EPA emission factors, Kentucky determined that cold cleaning degreasing VOC emissions contribute 84 percent to the total solvent degreasing emission projection of 0.38 tpsd VOC, *i.e.*, (0.38 tpsd VOC) × (84 percent) = 0.32 tpsd VOC. Using the multipliers described above for the Boone County example, (0.32 tpsd VOC) × (67 percent CE) × (80 percent RE) = 0.17 tpsd VOC cold cleaning degreasing emissions are expected to be reduced in 2005 from the rule revisions. Table 4 below presents the VOC reductions expected for Boone, Campbell, and Kenton Counties from the revisions to 401 KAR 59:185, which total 0.71 tpsd VOC.

TABLE 4.—COLD CLEANING DEGREASING VOC EMISSIONS REDUCTIONS (TPSD)

County	Projected 2005 cold cleaning degreasing emissions (tpsd)	2005 Cold cleaning degreasing estimated emissions reductions (tpsd)—(CE) × (RE)	2005 Cold cleaning degreasing estimated emissions reductions (tpsd)
Boone	0.32	(67%) × (80%)	0.17
Campbell	0.36	(67%) × (80%)	0.19
Kenton	0.66	(67%) × (80%)	0.35
Total	1.34		0.71

To determine the amount of VOC reductions in the Northern Kentucky counties from new rule, 401 KAR 59:760, calculations similar to what are described for 401 KAR 59:185 are made. Kentucky applied a 35 percent CE for implementation of high transfer efficiency spray gun technology required by this rule. This 35 percent CE is based on figures provided in the Ozone Transport Commission Pechan Report, dated March 31, 2001, and CEs approved by EPA in other areas. Kentucky also applied EPA's default 80 percent RE factor, resulting in 0.27 tpsd VOC are predicted to be reduced in 2005 from 401 KAR 59:760. Table 5 below presents the VOC reductions expected for Boone, Campbell, and Kenton Counties from 401 KAR 59:760, which total 0.27 tpsd VOC.

TABLE 5.—2005 MOBILE EQUIPMENT REFINISHING VOC EMISSIONS REDUCTIONS (TPSD)

County	Projected 2005 mobile equipment refinishing emissions (tpsd)	Estimated mobile equipment refinishing emissions reductions (tpsd)—(CE) × (RE)	2005 Mobile equipment refinishing emissions reductions (tpsd)
Boone	0.27	(35%) × (80%)	0.08
Campbell	0.26	(35%) × (80%)	0.07
Kenton	0.43	(35%) × (80%)	0.12
Total	0.96		0.27

EPA has reviewed the calculations, methodology, and supporting analyses provided by Kentucky and agrees with the 2005 VOC emission reduction estimates of 0.71 tpsd and 0.27 tpsd for 401 KAR 59:185 and 401 KAR 59:760, respectively, described above and summarized in Tables 4 and 5.

4. Permanent

The emissions reductions from Kentucky rules, 401 KAR 59:185 and 401 KAR 59:760, are made permanent through Kentucky's rulemaking process. Once State effective, these regulations have the full force of a law and establish obligatory requirements applicable to affected groups. EPA's approval of the final SIP revision will incorporate revisions to 401 KAR 59:185 and new rule 59:760 into the federally enforceable Kentucky SIP. EPA is not taking action on emergency rule, 401 KAR 59:760E, included in the November 12, 2004, submittal because the rule has an expiration date under Kentucky Revised Statute 13A.190, and thus, is not permanent. Since the emissions reductions from the emergency rule are not included in the calculation of equivalent emissions reductions needed to replace the VET Program, EPA inaction on this rule does not affect the approvability of this proposed revision.

5. Enforceable

The emissions reductions are enforceable by the Commonwealth of Kentucky as of the State effective date of these regulations. Upon final approval into the Kentucky SIP, revised rule 401 KAR 59:185 and new rule 59:760 will be Federally enforceable by the EPA, as of the effective date of EPA's final rulemaking.

6. Surplus

The VOC emissions reductions from Kentucky's two rules are surplus for two reasons. The emissions reductions go beyond the reductions already required in the Kentucky SIP, and the reductions are not from a Federal Control Measure that would occur without any State or local action. Specifically, the 0.71 tpsd of VOC emissions reductions from revisions to 401 KAR 59:185 are due to new provisions created in sections 4(3) and 4(4) which prohibit the sale and use of solvents with vapor pressure limits exceeding that specified in the regulation. Rule 401 KAR 59:760 is a new regulation proposed for inclusion into the Kentucky SIP, which will provide 0.27 tpsd of VOC emissions reductions in 2005 from requirements to use high transfer efficiency spray gun technology at mobile equipment refinishing operations in Northern Kentucky.

V. What Is EPA's Proposed Action?

EPA is proposing to move 401 KAR 65:010, ''Vehicle emission control programs'' from the active control measure portion of the Kentucky SIP to the contingency measures section of the Northern Kentucky 1-Hour Ozone Maintenance Plan. EPA is also proposing to approve revisions to Kentucky rule 401 KAR 59:185, ''New solvent metal cleaning equipment'' and the addition of new rule 401 KAR 59:760, ''Commercial Motor Vehicle and Mobile Equipment Refinishing Operations,'' into the Kentucky SIP. Finally, EPA is proposing to approve updated mobile source category emission projections using MOBILE6.2, with updated, subarea MVEBs of 7.68 tpsd VOC and 17.42 tpsd NO_X for the year 2010. EPA's proposed approval is contingent upon Kentucky addressing

the requested clarifications in EPA's December 29, 2004, comment letter on this proposed SIP revision. Kentucky must include a demonstration of non-interference with the CO NAAQS, as demonstrated by very low levels of ambient CO—well below the NAAQS—and the fact that the area is in attainment of the CO NAAQS. Kentucky must also clarify references to the VOC/NO_X ratio and modify subsection (1)(j) of section 3, ''Operating requirements,'' of 401 KAR 59:760. This subsection uses language which mirrors that of the Ozone Transport Commission model rule. However, to be consistent with current Agency policy, this language needs to be revised to include some form of public review for determining other coating application methods which achieve emissions reductions equivalent to high volume low pressure or electrostatic spray application methods. In the current language proposed, the Kentucky Cabinet makes this determination.

VI. Statutory and Executive Order Reviews

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 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 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 (Public Law 104–4).

This proposed rule also does not have tribal implications because it will 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). This action also does not have Federalism implications because it does 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). This action 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 Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (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 Clean Air 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 Clean Air 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. This proposed 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, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: March 25, 2005.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 05–6631 Filed 4–1–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 67

[Docket No. FEMA–D–7616]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA), Emergency Preparedness and Response Directorate, Department of Homeland Security.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Doug Bellomo, P.E., Hazard Identification Section, Emergency Preparedness and Response Directorate, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–2903.

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other