

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 11, 2006. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be

challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 70

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: May 1, 2006.

**James B. Gulliford**,  
Regional Administrator, Region 7.

■ Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart AA—Missouri**

■ 2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for "10-6.110" to read as follows:

**§ 52.1320 Identification of plan.**

\* \* \* \* \*  
(c) \* \* \*

**EPA-APPROVED MISSOURI REGULATIONS**

Missouri citation	Title	State effective date	EPA approval date	Explanation
<b>Missouri Department of Natural Resources</b>				
* * * * *				
<b>Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri</b>				
* * * * *				
10-6.110 .....	Submission of Emission Data, Emission Fees, and Process Information.	12/30/05	5/12/06 [insert FR page number where the document begins].	Section (3)(D), Emission Fees, has not been approved as part of the SIP
* * * * *				

\* \* \* \* \*  
**PART 70—[AMENDED]**

■ 1. The authority citation for part 70 continues to read as follows:

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

**Appendix A—[Amended]**

■ 2. Appendix A to part 70 is amended by adding paragraph (q) under Missouri to read as follows:

**Appendix A to Part 70—Approval Status of State and Local Operating Permits Programs**

\* \* \* \* \*  
Missouri  
\* \* \* \* \*

(q) The Missouri Department of Natural Resources submitted revisions to Missouri rule 10 CSR 10-6.110, "Submission of Emission Data, Emission Fees, and Process

Information" on January 5, 2006, approval of section (3)(D) effective July 11, 2006.

\* \* \* \* \*  
[FR Doc. 06-4432 Filed 5-11-06; 8:45 am]  
**BILLING CODE 6560-50-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[EPA-OAR-2005-AL-0003-200608; FRL-8169-4]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Alabama; Redesignation of the Birmingham, AL 8-Hour Ozone Nonattainment Area to Attainment for Ozone**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving a request, submitted in draft on November 16, 2005, and in final on January 27, 2006, through the Alabama Department of Environmental Management (ADEM), to redesignate the Birmingham 8-hour ozone nonattainment area (Birmingham area) to attainment for the 8-hour ozone National Ambient Air Quality Standard (NAAQS). The Birmingham area is composed of two counties, Jefferson and Shelby. EPA's approval of the redesignation request is based on the determination that the Birmingham area and the State of Alabama have met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA), including the determination that the Birmingham area has attained the 8-hour ozone standard. Additionally, EPA is approving an Alabama State Implementation Plan (SIP) revision containing a maintenance plan with a

2017 end year for the Birmingham area and approving the new Motor Vehicle Emission Budgets (MVEBs) for the year 2017 that are contained in the maintenance plan. This final rule also addresses comments made on EPA's proposed rulemaking for this action, previously published January 25, 2006 (71 FR 4077).

**DATES:** *Effective Date:* This rule will be effective June 12, 2006.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-OAR-2005-AL-0003. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through [www.regulations.gov](http://www.regulations.gov) 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 legal holidays.

**FOR FURTHER INFORMATION CONTACT:** Stacy DiFrank, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, U.S. Environmental Protection Agency, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Ms. DiFrank can be reached via telephone number at (404) 562-9042 or electronic mail at [difrank.stacy@epa.gov](mailto:difrank.stacy@epa.gov).

**SUPPLEMENTARY INFORMATION:**

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- VII. Statutory and Executive Order Reviews

**I. What Is the Background for the Actions?**

On November 16, 2005, the State of Alabama submitted a request for parallel processing to redesignate the Birmingham area to attainment for the 8-hour ozone standard, and for EPA

approval of an Alabama draft SIP revision containing a maintenance plan. On January 27, 2006, the State submitted its final adopted SIP revision and redesignation request. In an action published on January 25, 2006 (71 FR 4077), EPA proposed to approve the redesignation of the Birmingham area to attainment. EPA also proposed approval of the State's plan for maintaining the 8-hour ozone NAAQS as a SIP revision, and proposed to approve the MVEBs for the Birmingham area contained in the maintenance plan.

This rule is EPA's final action on the January 25, 2006, proposed rule. Since the final, State-adopted SIP revision request is substantially the same as that submitted for parallel processing by EPA and contains no significant revisions, we will not publish an additional proposed rule on this State submittal.

During the comment period for EPA's proposal, one commenter submitted adverse comments. EPA is addressing these comments in this action, and is taking final action as described in section II and section V.

EPA is also providing information on the status of the Agency's transportation conformity adequacy determination for the new MVEBs for the year 2017 that are contained in the maintenance plan for the Birmingham area. The maintenance plan establishes MVEBs for the year 2017 of 23 tons per day (tpd) for volatile organic compounds (VOCs) and 42 tpd for nitrogen oxides (NO<sub>x</sub>). EPA's adequacy public comment period on these budgets began on November 17, 2005, and closed on December 19, 2005. No comments were received during EPA's adequacy public comment period.

Consequently, in a letter dated February 2, 2006, to Ron Gore, Chief of the Air Division for ADEM, EPA informed the State of its intention to find the new 2017 MVEBs for VOC and NO<sub>x</sub> adequate for transportation conformity purposes. Subsequently, in a **Federal Register** notice dated February 23, 2006 (71 FR 9332), EPA found the 2017 MVEBs adequate. These MVEBs meet the adequacy criteria contained in the Transportation Conformity Rule. The new 2017 MVEBs are thus currently being used for transportation conformity determinations.

**II. What Actions Is EPA Taking?**

After consideration of the comments received in response to the January 25, 2006, proposed rule, as described in Section III below, and the State's final adopted SIP revision and supporting material reviewed in draft form in the proposed rule, EPA is taking final action

to approve the State's redesignation request and to change the legal designation of the Birmingham area from nonattainment to attainment for the 8-hour ozone NAAQS. The Birmingham area is composed of two counties, Jefferson and Shelby. EPA is also approving Alabama's 8-hour ozone maintenance plan for Jefferson and Shelby Counties (such approval being one of the CAA criteria for redesignation to attainment status). The maintenance plan is designed to help keep the Birmingham area in attainment for the 8-hour ozone NAAQS through 2017. These approval actions are based on EPA's determination that Alabama has demonstrated that the Birmingham area has met the criteria for redesignation to attainment specified in the CAA, including the demonstration that the Birmingham area has attained the 8-hour ozone standard. EPA's analyses of the Birmingham 8-hour ozone redesignation request and maintenance plan are described in detail in the proposed rule published January 25, 2006 (71 FR 4077).

In this action, EPA is also approving the MVEBs. For regional emission analysis years that involve the year 2017 or beyond, the applicable budget for the purpose of conducting transportation conformity analysis are the new 2017 MVEBs. EPA determined that the 2017 MVEBs are adequate through a previous action. EPA is approving such MVEBs in this action.

Additionally, in this action, EPA is responding to the adverse comments received on the January 25, 2006 (71 FR 4077), rulemaking proposing to approve the redesignation request and the maintenance plan SIP revision.

**III. Why Are We Taking These Actions?**

EPA has determined that the Birmingham area has attained the 8-hour ozone standard and has also determined that the State of Alabama has demonstrated that all other criteria for the redesignation of the Birmingham area from nonattainment to attainment of the 8-hour ozone NAAQS have been met. See section 107(d)(3)(E) of the CAA. EPA is also fully approving the maintenance plan for the Birmingham area as meeting the requirements of sections 175A and 107(d) of the CAA. In the January 25, 2006, proposed rulemaking, EPA described the applicable criteria for redesignation to attainment and its analysis of how those criteria have been met. The rationale for EPA's findings and actions is set forth in the proposed rulemaking and in this rulemaking.

In our January 25, 2006, proposed rulemaking, we proposed to approve the

redesignation of the Birmingham area and the maintenance plan through parallel processing. Such parallel rulemaking can be completed through final rulemaking without additional proposed rulemaking if a state has made a final submittal of adopted plans that do not significantly differ from the versions described and reviewed by EPA in its proposed rulemaking. The State of Alabama has provided a final submittal that does not significantly differ from the draft submittal described and reviewed in the notice of proposed rulemaking. Therefore, we believe that the public has had suitable opportunity to comment on the substance of our proposed rule and today's final rule, and that EPA may properly proceed with final action on the State's submittal.

#### IV. What Are the Effects of These Actions?

Approval of the redesignation request changes the official designation of the Birmingham area for the 8-hour ozone NAAQS found at 40 CFR part 81. It also incorporates into the Alabama SIP a plan for maintaining the 8-hour ozone NAAQS in the area through 2017. The maintenance plan includes contingency measures to remedy future violations of the 8-hour ozone NAAQS and establishes MVEBs for the year 2017 for the Birmingham area.

#### V. Response to Comments

EPA received comments from one individual commenter. The following is a summary of the adverse comments received on the proposed rule published January 25, 2006 (71 FR 4077), and EPA's response to the comments.

*Comment:* The commenter expresses concern about alleged violators of environmental regulations and about ADEM's enforcement response to alleged violators in Jefferson and Shelby Counties.

*Response:* The CAA establishes a cooperative arrangement between EPA and the states for the attainment and maintenance of national air quality goals. Under that arrangement, EPA and the states share concurrent enforcement responsibility over SIPs, permits issued pursuant to SIP-approved programs, permits issued under title V of the CAA, and other delegated CAA regulatory requirements. To obtain EPA's approval of the various permit programs in its SIP and under title V (the operating permit program), Alabama has previously demonstrated to EPA that it has adequate resources and authority to enforce permits issued pursuant to these programs, including permits for sources in Jefferson and Shelby Counties.

With regard to this redesignation action, the commenter has presented no information or data suggesting that any alleged noncompliance with environmental regulations or any alleged failure of ADEM to enforce violations of air permits has impacted or will impact the Birmingham area's attainment and maintenance of the 8-hour ozone NAAQS or otherwise affect the appropriateness of the area's redesignation. Under the CAA, nonattainment areas may be redesignated to attainment if sufficient, complete, quality-assured data is available for the Administrator to determine that the area has attained the NAAQS and the area meets the other CAA redesignation requirements in section 107(d)(3)(E). As detailed in the proposed rule, EPA has determined that the Birmingham area has attained the 8-hour ozone NAAQS and that the area meets the other CAA redesignation requirements.

*Comment:* The commenter did not understand why new sources of pollution could move into an area regardless of its designation status and asked who reviews those new sources and whether such reviews are only done for new sources in nonattainment areas.

*Response:* The CAA provides for review of new sources located in both attainment and nonattainment areas. These new sources are subject to a preconstruction new source review (NSR) process to ensure that emissions will not impact air quality in that area. In attainment areas, NSR assures that new emissions do not significantly worsen air quality. In nonattainment areas, NSR assures that new emissions do not slow progress toward cleaner air. The CAA's NSR requirements are contained in section 110(a)(2)(C), part C of title I (attainment NSR provisions), and part D of title I (nonattainment NSR provisions). The CAA requires SIPs to contain provisions implementing both the attainment and nonattainment NSR programs. Under either NSR program, the state is the permitting authority and issues the permits as appropriate. EPA's role is one of oversight. Alabama's EPA-approved SIP contains provisions implementing these NSR requirements and, pursuant to those provisions, ADEM conducts NSR for new sources which locate in attainment as well as nonattainment areas.

The NSR programs assure people that any large new (or modified) industrial source in their neighborhoods will be as clean as possible, and that advances in pollution control occur concurrently with industrial expansion. Under part D of title I of the CAA, new major stationary sources in nonattainment

areas must obtain a nonattainment NSR permit, install control technology representing the lowest achievable emissions rate (LAER), and obtain emissions offsets. Under part C of title I of the CAA, new major stationary sources in attainment areas are subject to the Prevention of Significant Deterioration (PSD) preconstruction permitting program which requires the installation of best available control technology (BACT) and a demonstration that the new source will not cause or contribute to a violation of a NAAQS or PSD air quality growth increment. The applicability of the PSD program to a particular source must be determined in advance of construction and is pollutant-specific. Once a source is determined to be subject to PSD, it must undertake a series of analyses to demonstrate that it will meet BACT and will not cause or contribute to a violation of any NAAQS or to an incremental ambient pollutant concentration increase.

New major sources located in an area redesignated from nonattainment to attainment status become subject to NSR requirements under part C (attainment NSR) instead of NSR requirements under part D (nonattainment NSR). In addition, for an area to be redesignated to attainment status, it must have an EPA-approved maintenance plan that demonstrates that the area will continue to maintain clean air. For the Birmingham area, Alabama's approved maintenance plan demonstrates that, after taking into account population and economic growth, the area will continue to maintain clean air for the next eleven years.

*Comment:* The commenter asks that no more "polluters" be allowed in the "areas where the pollution is not legal" and states that the pollution is "illegal" when the counties do not report monitoring every day of the year. The commenter states that EPA's "total pollution data is incomplete per Scorecard.org." and that Shelby County did not report data for 365 days in 2002 as did Jefferson County. The commenter wants to know why monitoring was not done for total pollution every single day of the year, and believes that ADEM "is not doing the job" because it only reports part of the yearly total pollution level amounts.

*Response:* First, EPA believes that the commenter misunderstands the impact of a nonattainment designation on new sources. As stated in the Response above, new major sources can locate in nonattainment areas as long as they comply with the nonattainment NSR requirements of part D of the CAA and the Alabama SIP. As for monitoring total

pollution every day of the year, EPA notes that this rulemaking action addresses only the status of the Birmingham area with respect to the 8-hour ozone standard, and therefore the levels of other pollutants are not relevant to this rulemaking.

Data completeness is reviewed and considered in the determination that the area has met the NAAQS for 8-hour ozone. Ozone is formed when certain precursor pollutants (VOC and NO<sub>x</sub>) combine in the presence of heat and sunlight. As a result, ozone is a seasonal pollutant with elevated levels during warmer months. While ozone is present year round, elevated levels that have a potential impact on public health occur during the "ozone season." The ozone season is determined for each state based on actual historical monitored data to determine the appropriate duration of this seasonal period. EPA's monitoring requirements specify that the pollutant be monitored only through the ozone season, which for Alabama (including the Birmingham area) is March 1 through October 31 of each year. ADEM has met these monitoring requirements for 2003–2005. The monitoring requirements are found at 40 CFR part 58. Alabama is at 95–100 percent data completeness for 2005, which is well within the data compliance requirement of 40 CFR part 58. All data entered into EPA's air quality monitoring database has been quality assured consistent with EPA requirements. We completed a thorough review of the data during our review of ADEM's redesignation request and believe the data to be complete, of high quality, and accurate. ADEM's submittal met the requirements in the CAA and EPA's regulations for an area to demonstrate attainment.

States can elect to operate monitors for periods outside the ozone season for a number of reasons. In fact, one monitor in Jefferson County does operate year round. There are two reasons for the 12-month operation: (1) Jefferson County Department of Health is attempting to have the site designated as a "Super Site," which will be designated under new proposed regulations found in 40 CFR part 58 and which will monitor many pollutants at the same site. EPA requires that in order for the site to be designated as such, the monitor must operate year round; and (2) the North Birmingham ozone monitor operates year round to assist Atmospheric Research and Analysis (ARA) in its operation of their ozone monitor at the same site. ARA then uses the data collected year round in order to understand variability of the oxidation state of the atmosphere. While data that

is most relevant is collected during the ozone season, concentrations at other times provide information about photochemical oxidation rates.

*Comment:* The commenter states that "We have no choice but to continue to breathe horrific deadly air and nothing is being done by the EPA to get it cleaned up\* \* \*"

*Response:* EPA has determined that the Birmingham area has attained the 8-hour ozone standard based on the three most recent years of monitoring data. This action addresses only the 8-hour ozone standard, which the area has been shown to attain. EPA and ADEM have implemented a number of programs that have resulted in reduced local NO<sub>x</sub> and VOC emissions and that have brought the area into attainment for ozone during 2003–2005. The programs include the following:

- The Reid Vapor Pressure (RVP) Control Program—gasoline sold from June 1st until September 15th of each year in Jefferson and Shelby Counties was required to have a RVP no greater than 7.0 pounds per square inch (psi). This is lower than the standard of 9.0 psi and 7.8 psi used by other states.
- Since 2003, utility NO<sub>x</sub> controls (including selective catalytic reduction and low NO<sub>x</sub> burners) on Alabama Power Company plants Gorgas and Miller have been required for the period of May 1st to September 30th each year. NO<sub>x</sub> emission limitations have been established at 0.21 pounds per million British thermal units (lb/mmBtu) for the two plants, based on a rolling 30-day average.
- Alabama's NO<sub>x</sub> SIP Call established a NO<sub>x</sub> budget from 2004 and beyond for large industrial sources such as boilers, turbines, and electric generating units that are subject to the NO<sub>x</sub> SIP Call. This emissions level is equivalent to 0.15 lb/mmBtu.

- EPA has instituted the National Low Emissions Vehicles (NLEV) program, which went into effect nationally in 2001.

- EPA promulgated the Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, which took effect in 2004 and have significantly lowered the sulfur content of gasoline and NO<sub>x</sub> emissions from mobile sources.

- EPA's 2004 Heavy-Duty Highway Engine Rule, which began with 2004 model year vehicles, and the complementary 2007 Heavy-Duty Diesel Rule, will reduce emissions from diesel trucks and buses.

In addition, ADEM is currently developing regulations that are designed to bring the Birmingham area into attainment for fine particulate matter

(PM<sub>2.5</sub>) and help keep the area in attainment for ozone. Jefferson County alone has reduced point source NO<sub>x</sub> emissions by 37 percent from 2002 to 2004, and will reduce them by 65 percent by 2017. The whole area has reduced total NO<sub>x</sub> emissions by 22 percent from 2002 to 2004, and will reduce them by 45 percent by 2017. See 71 FR 4082 (January 25, 2006). In the future, NO<sub>x</sub> emissions from power plants will be subject to EPA's Clean Air Interstate Rule (CAIR), 70 FR 53612 (May 12, 2005). Since Alabama is covered by CAIR, sources within Alabama that are subject to CAIR and to the State's rules that result from CAIR, will remain subject to NO<sub>x</sub> emissions budgets for the State.

*Comment:* The commenter questions why citizens do not have ADEM representation in Shelby and Jefferson Counties.

*Response:* There is one SIP for Alabama, which includes regulations for Jefferson County. These regulations are Federally enforceable. There is a local Air Pollution Control Agency in the Jefferson County Health Department, which adopts and enforces regulations for Jefferson County. ADEM is responsible for all counties in Alabama (including Jefferson and Shelby Counties), but defers to the Jefferson County Health Department to enforce regulations in Jefferson County. The request for redesignation from ADEM addresses the entire 8-hour ozone nonattainment area (both Jefferson and Shelby Counties), and the maintenance plan approved by this action covers the both Counties.

*Comment:* The commenter is concerned about the white fog in the air and the subsequent property and health effects.

*Response:* This issue is not relevant to a redesignation of the area for the 8-hour ozone standard, where the area has been shown to be attaining the 8-hour ozone standard. A number of pollutant sources lead to the formation of fine particulates, which can contribute to haze or fog levels, and which are addressed through the fine particulates standards.

*Comment:* The commenter would like to know what is being done regarding emissions from automobiles as communities continue to grow, and how EPA plans to keep the air within legal limits.

*Response:* Transportation conformity is a CAA requirement for nonattainment areas as well as for areas that were previously nonattainment but were redesignated to attainment with a maintenance plan (maintenance areas). In nonattainment and maintenance

areas, emissions from transportation activities (i.e., automobiles) must be shown to be under an emissions cap that is established in the air quality plan before they can be funded or approved. The 8-hour ozone maintenance plan associated with this redesignation request has an emissions cap which is also known as a MVEB.

Transportation conformity for the 8-hour ozone standard for the Birmingham area was demonstrated in 2005 and 2006. The transportation conformity determination that was prepared by the Birmingham Metropolitan Planning Organization shows a downward trend in emissions from transportation activities (including automobiles) from the present through the year 2030. For example, mobile emissions between 2009 and 2030 for the ozone precursor, VOC, will decrease from 23.79 tons per summer day to 15.38 tons per summer day. Likewise, mobile emissions between 2009 and 2030 for the ozone precursor, NO<sub>x</sub>, will decrease from 38.71 tons per summer day to 15.56 tons per summer day. This downward trend in mobile emissions is also represented in the emission projections included in the maintenance plan. Additionally, there are Federal, State, and local programs which will benefit air quality in the Birmingham area by reducing emissions from automobiles. The State of Alabama is currently implementing a Reid Vapor Pressure control program for gasoline sold in Jefferson and Shelby Counties. In addition, the Federal Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements in 2004 and the 2007 Heavy-Duty Diesel Rule, both described in a previous Response above, will also contribute to maintaining the 8-hour ozone standard in the Birmingham area. The phase-in of these programs is, and will continue, to result in reductions in emissions as newer vehicles replace older, higher-polluting vehicles. Additionally, the maintenance plan included in the redesignation request demonstrates that emissions will stay well below attainment levels, and in fact will decrease over time.

*Comment:* The commenter expressed concern regarding reporting requirements for toxic chemicals in Alabama and alleged water pollution from a facility in Pelham, Alabama. The commenter also requested EPA assistance in promoting hydrogen fuel.

*Response:* This action only addresses redesignation and attainment for the 8-hour ozone standard, thus, the issues raised by the commenter are outside the scope of action for this rulemaking. This rulemaking does not address emissions

or reporting requirements for other pollutants, however, sources remain subject to the statutory and regulatory requirements governing those pollutants.

#### VI. Final Action

After evaluating Alabama's redesignation request and the comments received, EPA is taking final action to approve the redesignation and change the legal designation of the Birmingham area from nonattainment to attainment for the 8-hour ozone NAAQS. Through this action, EPA is also approving into the Alabama SIP, the 8-hour ozone maintenance plan for Jefferson and Shelby Counties, which includes the new 2017 MVEBs of 23 tpd for VOC, and 42 tpd for NO<sub>x</sub>.

#### VII. Statutory and Executive Order Reviews

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 approves 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 (Pub. L. 104-4).

This 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 affects the status of a geographical area, does not impose any new requirements on sources or allow a state to avoid adopting or implementing other requirements, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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 and because the Agency does not have reason to believe that the rule concerns an environmental health risk or safety risk that may disproportionately affect children.

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 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.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 11, 2006. Filing a petition for reconsideration by

the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects**

*40 CFR Part 52*

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone,

Reporting and recordkeeping requirements, Volatile organic compounds.

*40 CFR Part 81*

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

Dated: May 3, 2006.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

■ 40 CFR part 52 and 81 is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart B—Alabama**

■ 2. Section 52.50(e) is amended by adding a new entry at the end of the table for “8-Hour Ozone Maintenance plan for the Birmingham area” to read as follows:

**§ 52.50 Identification of plan**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED ALABAMA NON-REGULATORY PROVISIONS**

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
8-Hour Ozone Maintenance plan for the Birmingham area.	Jefferson County and Shelby County.	01/26/06	05/12/06	[Insert citation of publication].

**PART 81—[AMENDED]**

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

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

■ 2. In § 81.301, the table entitled “Alabama-Ozone (8–Hour Standard)” is amended by revising the entry for

“Birmingham, Alabama: Jefferson and Shelby County” to read as follows:

**§ 81.301 Alabama.**

\* \* \* \* \*

**ALABAMA-OZONE (8-HOUR STANDARD)**

Designated area	Designation <sup>a</sup>		Category/classification	
	Date <sup>1</sup>	Type	Date <sup>1</sup>	Type
Birmingham, AL:				
Jefferson County .....	06/12/06	Attainment		
Shelby County .....	06/12/06	Attainment		

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.

<sup>1</sup> This date is June 15, 2004, unless otherwise noted.

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**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 102–34**

[FMR Amendment 2006–03; FMR Case 2006–102–1]

RIN 3090–AH68

**Federal Management Regulation; Motor Vehicle Management**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

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

**SUMMARY:** The General Services Administration (GSA) is amending the Federal Management Regulation (FMR) by updating requirements and information on motor vehicle management. This interim rule makes changes to vehicle identification requirements. Specifically, it allows agencies to have limited identification exemptions for motor vehicles that are regularly used for common administrative purposes. Some agencies have expressed a need to exempt even their administrative vehicles from displaying Government identification for situations with specifically identified security risks. Agencies will

still need to have a certification of need signed by the agency head or designee before authorizing limited identification exceptions.

This interim rule provides information for obtaining U.S. Government license plates from UNICOR, Federal Prison Industries Inc., the current license plate supplier. This interim rule further updates Federal motor vehicle management regulations by replacing the requirement for agencies to provide certain motor vehicle information to GSA on the Standard Form 82 with the requirement to use the Federal Automotive Statistical Tool (FAST), an Internet-based reporting tool.

This interim rule also requires agencies to have an agency-wide fleet