

need for a rulemaking plan and issuance of the rule by the Executive Director for Operations. Moreover, the NRC staff continues to find ways to expedite the internal approval process as additional experience is gained. Under the alternative process suggested by the petitioner, the staff's technical review would take longer than it currently takes because the staff would be required to conduct some activities currently conducted under rulemaking and some new activities that they do not perform under the current process. An environmental assessment would need to be prepared for each new CoC and each CoC amendment (this is currently performed during rulemaking). As part of this process, the staff would need to consult with the states. If appropriate, a Finding of No Significant Impact (associated with the environmental review) would need to be prepared and published in the **Federal Register**. The NRC staff would need to prepare, and have published in the **Federal Register**, the no significant impact consideration finding (a new action). In addition, an order granting the CoC (new action) would need to be prepared and issued. These activities would increase the staff effort and review time necessary for approval of a CoC amendment. Moreover, whatever time savings petitioner's process might achieve would be offset if it should prove necessary to resolve cask design issues on a case-by-case basis in ISFSI proceedings. Unquestionably, a case-by-case consideration, rather than a generic review, would significantly increase the time and resources necessary for finally resolving cask design issues. Any uncertainty in the finality of the NRC's decision on cask design issues could postpone the loading of casks, because one outcome of any case-by-case consideration could be to overturn the NRC decision to approve a cask.

Finally, with respect to the fourth goal of reducing unnecessary regulatory burden, the petitioner asserts that its alternative process achieves this goal because "the new process removes the burdensome aspects of rulemaking which are unnecessary because they do not add to the quality of the regulatory decision" and "the new process identifies the CoC amendment requests which do not present significant potential impacts and subjects those amendment requests to a suitably streamlined review and approval process." The NRC notes that the petitioner's suggested process for considering initial CoCs and amendments which do involve significant impacts—a process that

involves a 60-day comment period and no final NRC action until NRC has addressed the comments—is not significantly different from the present process and would not provide significant burden reduction for either the NRC staff or the industry. There could be a slight increase in burden for the staff because petitioner's process calls for publication in the **Federal Register** of a Notice of Receipt and Availability of the Application, a step not part of the current process. The petitioner's process for CoC amendments would require the applicant to submit a no significant impacts determination consideration along with the application. This would actually place an additional burden on the applicant and on the NRC staff assigned to reviewing the determination even though the extra burden might produce the benefit of an immediately effective amendment. Staff effort would also continue to be expended on preparation of an environmental assessment and the necessary **Federal Register** notices (currently part of the rulemaking process). The staff would also have the added burden of preparing an order to issue the CoC amendment. In short, there would be little, if any, burden reduction stemming from petitioner's alternative process. Moreover, if it should prove necessary to offer an opportunity for a hearing, a hearing request would also result in an increased expenditure of resources by both staff and the industry.

In conclusion, for the reasons explained above, we believe that NRC's performance goals are better served by retention of the current process.

For the reasons cited in this document, the NRC denies this petition.

Dated at Rockville, Maryland, this 5th day of December, 2001.

For the Nuclear Regulatory Commission.

Annette Vietti-Cook,

Secretary of the Commission.

[FR Doc. 01-30611 Filed 12-10-01; 8:45 am]

BILLING CODE 7590-01-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[SPATS No. OK-028-FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing receipt of a proposed amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposes revisions to its rules concerning employment and financial interests of state employees and members of advisory boards and commissions, and reining and reclamation of previously mined and certain inadequately reclaimed lands. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations. Oklahoma also intends to correct some cross references and typographical and grammatical errors.

This document gives the times and locations that the Oklahoma program and the proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments until 4:00 p.m., c.s.t., January 10, 2002. If requested, we will hold a public hearing on the amendment on January 7, 2002. We will accept requests to speak at the hearing until 4:00 p.m., c.s.t. on December 26, 2001.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Oklahoma program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135-6547, Telephone: (918) 581-6430.

Oklahoma Department of Mines, 4040 N. Lincoln Blvd., Suite 107, Oklahoma City, Oklahoma 73105, Telephone: (405) 521-3859.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa

Field Office. Telephone: (918) 581-6430. Internet: mwolfrom@osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a state to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, "a state law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act." See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the January 19, 1981, **Federal Register** (46 FR 4902). You can find later actions concerning the Oklahoma program at 30 CFR 936.15 and 936.16.

II. Description of the Proposed Amendment

By letter dated November 1, 2001 (Administrative Record No. OK-993), Oklahoma sent us an amendment to its program under SMCRA and the Federal regulations at 30 CFR 732.17(b). Oklahoma sent the amendment at its own initiative. Oklahoma proposes to amend the Oklahoma Administrative Code (OAC), Title 460, Chapter 20. Below is a summary of the changes proposed by Oklahoma. The full text of the program amendment is available for your inspection at the locations listed above under **ADDRESSES**.

A. Subchapter 3. Permanent Regulatory Program

OAC 460:20-3-5. Definitions

Oklahoma proposes to add definitions for "Lands eligible for re-mining" and "Unanticipated event or condition."

B. Subchapter 5. Financial Interests of State Employees

1. OAC 460:20-5-1. Purpose

In this section, Oklahoma proposes to add persons who are prohibited from having any direct or indirect financial interest in any underground or surface coal mining operation. These additional persons are (1) members of advisory boards, (2) the Oklahoma Mining

Commission, and (3) commissions representing multiple interests.

2. OAC 460:20-5-2. Objectives

Currently, the state's regulations prohibit employees of the Department of Mines who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 from having any direct or indirect financial interest in any underground or surface coal mining operation. Oklahoma proposes to expand the list of persons who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 and who are prohibited from these financial interests to include (1) members of advisory boards, (2) the Oklahoma Mining Commission, and (3) commissions representing multiple interests.

3. OAC 460:20-5-3. Authority

Oklahoma proposes to remove the authority of the Director of the Department of Mines to "file all statements and supplements received pursuant to 45 O.S. Supp., Section 765 from members of advisory boards and the Oklahoma Mining Commission with the Oklahoma Governor's Office, Director of Appointment."

4. OAC 460:20-5-4. Responsibility

a. In paragraph (a), Oklahoma proposes to require the Financial Officer of the state Department of Mines to furnish a blank employment and financial interest statement to each state employee, and members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests who are required to file a statement. The blank statement must be provided 45 days in advance of the filing date established by Section 460:20-5-8(a). In addition, the Financial Officer must provide annually to all state employees (required to file the statement) the name, address, and telephone number of the person whom they may contact for advice and counseling.

b. Oklahoma proposes to add a new paragraph (b) that sets forth the duties of the Director of Appointments of the Oklahoma Governor's Office.

c. Oklahoma proposes to revise paragraph (c) to read as follows:

(c) Department of Mines employees, members of advisory boards, the Oklahoma Mining Commission, or commissions representing multiple interests performing any duties or functions under the Act shall:

- (1) Have no direct or indirect financial interests in coal mining operations;
- (2) File a fully completed statement of employment and financial interest 120 days

after this Chapter becomes effective or upon entrance of duty, and annually thereafter on specified filing dates; and

(3) Comply with directives issued by persons responsible for approving each statement and comply with directives issued by those persons responsible for ordering remedial actions.

5. OAC 460:20-5-7. Who Shall File

In paragraph (a), Oklahoma proposes to require any employee, and members of the Oklahoma Mining Commission, advisory boards, and commissions representing multiple interests who perform any function or duty under the Oklahoma Coal Reclamation Act of 1979 to file a statement of employment and financial interests.

6. OAC 460:20-5-8. When To File

a. In paragraph (a), Oklahoma proposes to add that members of the Oklahoma Mining Commission who perform functions or duties under the Oklahoma Coal Reclamation Act of 1979 must file employment and financial interest statements.

b. In paragraph (b), Oklahoma proposes to add that new appointments to advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests who are hired, appointed, or transferred to perform functions or duties under the Oklahoma Coal Reclamation Act of 1979 will be required to file employment and financial interest statements at the time of entrance to duty.

c. In paragraph (c), Oklahoma proposes to add that new appointments to advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests are not required to file annual employment and financial interest statements on the subsequent annual filing date if this date occurs within two months after their initial statement was filed.

7. OAC 460:20-5-9. Where To File

In paragraph (b), Oklahoma proposes to add that members of the Oklahoma Mining Commission must file employment and financial interest statements with the Governor's Office, Office of Appointments.

8. OAC 460:20-5-10. What To Report

a. In paragraph (a), Oklahoma proposes to add that advisory board members and commissioners must report all information required on the statement of employment and financial interests for themselves, their spouses, minor children, or other relatives who are full-time residents of their homes.

b. Oklahoma proposes to revise paragraph (a)(2) to read as follows:

(2) A certification that none of the listed financial interests represent a direct or indirect financial interest in an underground or surface coal mining operation except as specifically identified and described by the employee, advisory board member or commissioner as part of the certificate; and

c. In paragraphs (b)(1) through (b)(4), Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide information regarding any financial interests pertaining to employment, securities, real property, and creditors.

d. In paragraph (c), Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide a signed certification that (1) none of the financial interest shown on the financial interest statement represent an interest in an underground or surface coal mining operation except as specifically identified and described as exceptions, and (2) the information shown on the statement is true, correct, and complete. Also, in paragraph (c)(3)(C) regarding exceptions in the financial interest statements, Oklahoma proposes to require advisory board members and commissioners, in addition to employees, to provide any other information which they believe should be considered in determining whether or not an interest represents a prohibited interest.

9. OAC 460:20-5-13. Appeals Procedures

Oklahoma proposes to designate the existing paragraph as paragraph (a) and to add new paragraph (b) to read as follows:

(b) Members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests should follow any appeals process provided for by the Oklahoma Governor's Office, Director of Appointments.

C. Subchapter 15. Requirements for Permit and Permit Processing

1. OAC 460:20-15-4. Regulatory Coordination With Requirements Under Other Laws

Oklahoma proposes to add a provision that each regulatory program must provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of, among other things, all state, federal, and local permitting and licensing requirements.

2. OAC 460:20-15-6. Review of Permit Applications

a. Oklahoma proposes to add new paragraphs (b)(4) and (b)(5) to read as follows:

(4) Subsequent to October 24, 1992, the prohibitions of paragraph (b) of this Section regarding the issuance of a new permit shall not apply to any violation that:

(A) Occurs after that date;

(B) Is unabated and

(C) Results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit:

(i) Issued before September 30, 2004, or any renewals thereof; and

(ii) Held by the person making application for the new permit;

(5) For permits issued under Section 460:20-33-12 of this Chapter, an event or condition shall be presumed to be unanticipated for the purposes of this paragraph if it:

(A) Arose after permit issuance;

(B) Was related to prior mining; and

(C) Was not identified in the permit.

b. Oklahoma proposes to add new paragraph (c)(13) to read as follows:

(13) For permits to be issued under Section 460:20-33-12 of this Chapter, the permit application must contain:

(A) Lands eligible for remining;

(B) An identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and

(C) Mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of the regulatory program can be accomplished.

D. Subchapter 33. Requirements for Permits for Special Categories of Mining

OAC 460:20-33-12. Lands Eligible for Remining

Oklahoma proposes to add this new section to its regulations. It contains the permitting requirements for conducting coal mining operations on lands eligible for remining.

E. Subchapter 43. Permanent Program Performance Standards: Surface Mining Standards

OAC 460:20-43-46. Revegetation: Standards for Success

1. Oklahoma proposes to revise paragraphs (b)(6) to read as follows:

(6) For areas previously disturbed by mining that were not reclaimed to the requirements of this Chapter and that are

remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion. In general this is considered to be at least 70% vegetative ground cover of approved vegetation species.

2. Oklahoma proposes to revise paragraphs (c)(2) through (c)(3) to read as follows:

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Five full years, except as provided in paragraph (c)(2)(B) of this Section. The vegetation parameters identified in Subsection (b) of this Section for grazingland or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in Subsection (b) of this Section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(B) Two full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b)(6), the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Ten full years, except as provided in Subsection (c)(3)(B) below. Vegetation parameters identified in Subsection (b) of this Section shall equal or exceed the approved success standards for at least the last two consecutive years of the responsibility period.

(B) Five full years for lands eligible for remining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b)(6), the lands shall equal or exceed the standards during the growing seasons of the last two consecutive years of the responsibility period.

F. Subchapter 45. Permanent Program Performance Standards: Underground Mining Activities

OAC 460:20-45-46. Revegetation: Standards for Success

1. Oklahoma proposes to revise paragraphs (b)(6) to read as follows:

(6) For areas previously disturbed by mining that were not reclaimed to the requirements of this Chapter and that are reminded or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to

control erosion. In general this is considered to be at least 70% vegetative ground cover of approved vegetation species.

2. Oklahoma proposes to revise paragraphs (c)(2) through (c)(3) to read as follows:

(2) In areas of more than 26.0 inches average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Five full years, except as provided in paragraph (c)(2)(B) of this Section. The vegetation parameters identified in Subsection (b) of this Section for grazingland or pastureland and cropland shall equal or exceed the approved success standard during the growing seasons of any two years of the responsibility period, except the first year. Areas approved for the other uses identified in Subsection (b) of this Section shall equal or exceed the applicable success standard during the growing season of the last year of the responsibility period.

(B) Two full years for lands eligible for reminting included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b), the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

(3) In areas of 26.0 inches or less average annual precipitation, the period of responsibility shall continue for a period of not less than:

(A) Ten full years, except as provided in Subsection (c)(3)(B) below. Vegetation parameters identified in Subsection (b) of this Section shall equal or exceed the approved success standards for at least the last two consecutive years of the responsibility period.

(B) Five full years for lands eligible for reminting included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by Subsection (b), the lands shall equal or exceed the standards during the growing seasons of the last two consecutive years of the responsibility period.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the Oklahoma program.

Written Comments: If you submit written or electronic comments on the proposed rule during the 30-day comment period, they should be specific, should be confined to issues pertinent to the notice, and should explain the reason for your recommendation(s). We may not be able to consider or include in the Administrative Record comments delivered to an address other than the one listed above (see **ADDRESSES**).

Electronic Comments: Please submit Internet comments as an ASCII,

WordPerfect, or Word file avoiding the use of special characters and any form of encryption. Please also include "Attn: SPATS NO. OK-028-FOR" and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581-6430.

Availability of Comments: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours at OSM's Tulsa Field Office (see **ADDRESSES**).

Individual respondents may request that we withhold their home address from the administrative record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Public Hearing: If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4:00 p.m., c.s.t. on December 26, 2001. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak at the public hearing, the hearing will not be held.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at a public hearing provide us with a written copy of his or her testimony. The public hearing will continue on the specified date until all persons scheduled to speak have been heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after all persons scheduled to speak and persons present in the audience who wish to speak have been heard.

If you are disabled and need a special accommodation to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Public Meeting: If only one person requests an opportunity to speak at a hearing, a public meeting, rather than a public hearing, may be held. If you wish to meet with us to discuss the proposed

amendment, you may request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES**. We will also make a written summary of each meeting a part of the Administrative Record.

IV. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulations.

Executive Order 13132—Federalism

This rule does not have federalism implications. SMCRA delineates the roles of the federal and state governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Section 503(a)(1) of SMCRA requires that state laws regulating surface coal mining and reclamation operations be "in accordance with" the requirements of SMCRA, and section 503(a)(7) requires that state programs contain rules and regulations "consistent with" regulations issued by the Secretary under SMCRA.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of this section. However, these standards are not applicable to the actual language of state regulatory programs and program amendments since each program is drafted and promulgated by a specific state, not OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed state regulatory programs and program amendments submitted by the states must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the

other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13211—Regulations That Significantly Affect the Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a State of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866, and because it is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

Section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that a decision on a proposed state regulatory program provision does not constitute a major Federal action within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)). A determination has been made that such decisions are categorically excluded from the NEPA process (516 DM 8.4.A).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined 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.*). The state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the state. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

- a. Does not have an annual effect on the economy of \$100 million.
- b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions.
- c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises.

This determination is based upon the fact that the state submittal which is the subject of this rule is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 16, 2001.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 01-30578 Filed 12-10-01; 8:45 am]

BILLING CODE 4310-05-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-57-200209; FRL-7116-1]

Potential Clean Air Reclassification and Notice of Potential Eligibility for Attainment Date Extension and Approval of Attainment Demonstration, Georgia: Atlanta Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental proposed rule.

SUMMARY: On July 17, 2001, the Georgia Environmental Protection Division (GAEPD) submitted to EPA a revised 1-hour ozone attainment demonstration for the Atlanta 1-Hour Ozone Nonattainment area (Atlanta area) that replaces the attainment demonstration

submitted to EPA on October 28, 1999. The new submittal contains revised motor vehicle emissions budgets (MVEB), a request for an attainment date extension to November 15, 2004, a revised partnership for a smog free Georgia (PSG) program and the reasonably available control measure (RACM) analysis. GAEPD also commits to perform an early assessment of the Atlanta Ozone Attainment State Implementation Plan (SIP) and submit it to EPA by November 15, 2003.

EPA is proposing to approve the attainment demonstration, including the components listed above, and to grant an attainment date extension, pursuant to EPA's "Guidance on Extension of Air Quality Attainment Dates for Downwind Transport Areas." The extension policy applies where pollution from upwind areas interferes with the ability of a downwind area to demonstrate attainment with the 1-hour ozone national ambient air quality standard (NAAQS) by the dates prescribed in the Clean Air Act, as amended in 1990 (CAA). As an alternative to reclassification for areas affected by transport, the extension policy provides that an area, such as Atlanta, is eligible for an attainment date extension if it can make submissions that meet certain conditions. EPA is proposing that the Atlanta area meets all of the required conditions.

In the alternative, EPA is proposing to find that the Atlanta area has failed to attain the 1-hour ozone NAAQS by November 15, 1999, the date set forth in the CAA for serious nonattainment areas. If EPA finalizes this finding, the Atlanta area would be reclassified, by operation of law, as a severe nonattainment area. EPA is also taking comment on a proposed schedule for submittal of the SIP revisions required for severe areas should the area be reclassified.

This attainment demonstration relies on the benefits from Georgia's rule "(bbb) Gasoline Marketing" as submitted to EPA on August 21, 2001. EPA will be proposing action on this rule, as well as the fuel waiver request, which was submitted to EPA on May 31, 2000, in a separate **Federal Register** action.

DATES: Comments must be received on or before January 25, 2002.

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

Copies of the State submittals are available at the following addresses for