

distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Regulatory Flexibility Act

The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

#### Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

#### Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of \$100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

#### List of Subjects in 28 CFR Part 522

Prisoners.

Dated: January 8, 2010.

**Harley G. Lappin,**

*Director, Bureau of Prisons.*

Under rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons, we amend 28 CFR part 522 as follows.

#### Subchapter B—Inmate Admission, Classification, and Transfer

#### PART 522—ADMISSION TO INSTITUTION

1. The authority citation for 28 CFR part 522 continues to read as follows:

**Authority:** 5 U.S.C. 301; 18 U.S.C. 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 4161–4166 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984, as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

2. Revise Subpart C to read as follows:

#### Subpart C—Intake Screening

Sec.

522.20 Purpose and scope.

522.21 Procedures.

##### § 522.20 Purpose and scope.

The purpose of this subpart is to explain that Bureau of Prisons staff screen newly arrived inmates to ensure that Bureau health, safety, and security standards are met.

##### § 522.21 Procedures.

(a) Upon an inmate's arrival, the inmate will be interviewed to determine if there are non-medical reasons for housing the inmate away from the general population.

(b) Within 24 hours after an inmate's arrival, the inmate will be medically screened to determine if there are medical reasons, including mental health reasons, for housing the inmate away from the general population or for restricting temporary work assignments.

[FR Doc. 2010–878 Filed 1–19–10; 8:45 am]

**BILLING CODE 4410–05–P**

#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA–R04–OAR–2007–1186; FRL–9104–6]

#### Approval and Promulgation of Air Quality Implementation Plan: Kentucky; Approval Section 110(a)(1) Maintenance Plan for the 1997 8-Hour Ozone Standard for the Owensboro Area

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve a revision to the Kentucky State Implementation Plan (SIP) concerning the maintenance plan addressing the 1997 8-hour ozone standard for the Owensboro 8-hour ozone attainment

area, which comprises Daviess County and a portion of Hancock County (hereafter referred to as the “Owensboro Area”). This maintenance plan was submitted to EPA on May 27, 2008, by the Commonwealth of Kentucky, and ensures the continued attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS) through the year 2020. On July 15, 2009, the Commonwealth of Kentucky submitted supplemental information with updated emissions tables to reflect actual emissions for this Area. EPA proposes to find that this plan meets the statutory and regulatory requirements, and is consistent with EPA's guidance. EPA is proposing to approve the revisions to the Kentucky SIP, pursuant to Section 110 of the Clean Air Act (CAA). On March 12, 2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the Owensboro Area under the 2008 standard will be addressed in the future.

**DATES:** Comments must be received on or before February 19, 2010.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2007–1186, by one of the following methods:

1. <http://www.regulations.gov>: Follow the on-line instructions for submitting comments.

2. *E-mail:* [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

3. *Fax:* 404–562–9019.

4. *Mail:* EPA–R04–OAR–2007–1186, 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.

5. *Hand Delivery or Courier:* Lynorae Benjamin, Chief, 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. 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 Docket ID No. EPA–R04–OAR–2007–1186. 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.regulations.gov>, 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 through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is 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 <http://www.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. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. 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 <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 Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Zuri Farnago, 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. The telephone number is (404) 562-9152. Mr. Farnago can also be reached via electronic mail at [farnago.zuri@epa.gov](mailto:farnago.zuri@epa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Table of Contents

- I. Background
- II. Analysis of the Commonwealth's Submittal
- III. Final Action
- IV. Statutory and Executive Order Reviews

##### I. Background

In accordance with the CAA, the Owensboro Area, consisting of Daviess County and a portion of Hancock County in Kentucky, was designated as marginal nonattainment for the 1-hour ozone NAAQS effective November 6, 1991 (56 FR 56694) because the Area did not meet the 1-hour ozone NAAQS. On November 13, 1992, the Commonwealth of Kentucky submitted a request to redesignate the Owensboro Area to attainment for the 1-hour ozone standard. At the same time as the redesignation request, Kentucky submitted the required ozone monitoring data and maintenance plan to ensure that the Owensboro Area would remain in attainment for the 1-hour ozone standard for a period of 10 years, consistent with the CAA section 175A. The maintenance plan submitted by Kentucky followed EPA guidance for limited maintenance areas, which applied to 1-hour ozone standard areas with design values lower than 85 percent of the applicable standard (0.12 parts per million (ppm)). On February 7, 1995, EPA approved Kentucky's request to redesignate the Owensboro Area (60 FR 7124) to attainment for the 1-hour ozone standard.

On April 30, 2004, EPA designated areas for the 1997 8-hour ozone NAAQS (69 FR 23858), and published the final Phase I Implementation Rule for the 1997 8-hour ozone NAAQS (69 FR 23951) (Phase I Rule). Daviess County and a portion of Hancock County (i.e., which make up the Owensboro Area) were designated as attainment for the 1997 8-hour ozone standard, effective June 15, 2004. The Owensboro attainment area consequently was required to submit a 10-year maintenance plan under section 110(a)(1) of the CAA and the Phase I Rule, 40 CFR 51.905(a)(3) and (4). On May 20, 2005, EPA issued guidance providing information on how a state might fulfill the maintenance plan obligation established by the CAA and the Phase I Rule (Memorandum from Lydia N. Wegman to Air Division Directors, *Maintenance Plan Guidance*

*Document for Certain 8-hour Ozone Areas Under Section 110(a)(1) of Clean Air Act*, May 20, 2005—hereafter referred to as "Wegman Memorandum"). On December 22, 2006, the United States Court of Appeals for the District of Columbia Circuit issued an opinion that vacated portions of EPA's Phase I Implementation Rule for the 1997 8-hour ozone standard. See *South Coast Air Quality Management District v. EPA*, 472 F.3d 882 (D.C. Cir. 2006). The Court vacated those portions of the Rule that provided for regulation of the 1997 8-hour ozone nonattainment areas designated under Subpart 1 in lieu of Subpart 2 (of part D of the CAA), among other portions. The Court's decision did not alter any requirements under the Phase I Rule for section 110(a)(1) maintenance plans. EPA is proposing to find that Kentucky's May 27, 2008, proposed SIP revision satisfies the section 110(a)(1) CAA requirements for a plan that provides for implementation, maintenance, and enforcement of the 1997 8-hour ozone NAAQS in the Owensboro Area. On March 12, 2008, EPA issued a revised ozone standard. The current action, however, is being taken to address requirements under the 1997 ozone standard. Requirements for the Owensboro Area under the 2008 standard will be addressed in the future.

##### II. Analysis of the Commonwealth's Submittal

On May 27, 2008, the Commonwealth of Kentucky submitted a SIP revision containing a 1997 8-hour ozone maintenance plan for the Owensboro Area as required by section 110(a)(1) of the CAA and the provisions of EPA's Phase I Rule (see 40 CFR 51.905(a)(4)). The purpose of this maintenance plan is to ensure continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Owensboro Area until 2020.

As required, this plan provides for continued attainment and maintenance of the 1997 8-hour ozone NAAQS in the Owensboro Area for 10 years from the effective date of the Area's designation as attainment for the 1997 8-hour ozone NAAQS, and includes contingency measures. A July 15, 2009, submittal from Kentucky updated the emissions projections for point sources for 2005 and 2008 with actual data, and revised the point source projections for 2011, 2014, 2017 and 2020 based on more recent data. Each of the section 110(a)(1) plan components for the Owensboro Area is discussed below.

(a) *Attainment Inventory.* In order to demonstrate maintenance in the Owensboro Area, Kentucky developed comprehensive inventories of volatile

organic compounds (VOC) and nitrogen oxide (NO<sub>x</sub>) emissions from area, stationary, and mobile sources using 2002 as the base year. The year 2002 is an appropriate year for Kentucky to base attainment level emissions, because states may select any one of the three years on which the 1997 8-hour attainment designation was based (2001, 2002, and 2003). The Commonwealth's submittal contains the detailed inventory data and summaries by source category. Using the 2002 inventory (as a base year) reflects one of the years used for calculating the air quality design value on which the 1997 8-hour ozone designation for the Area was based.

A further practical reason for selecting 2002 as the base year emission inventory is that section 110(a)(2)(B) of the CAA and the Consolidated

Emissions Reporting Rule (67 FR 39602, June 10, 2002) require states to submit emissions inventories for all criteria pollutants and their precursors every three years, on a schedule that includes the emissions year 2002. The due date for the 2002 emissions inventory is established in the Rule as June 2004. In accordance with these requirements, Kentucky compiles a statewide emissions inventory for point sources on an annual basis. On-road mobile emissions of VOC and NO<sub>x</sub> were estimated using MOBILE6.2 motor vehicle emissions factor computer model. Non-road mobile emissions data were derived using the U.S. EPA's Non-Road Model.

In projecting data for the attainment year 2020 inventory, Kentucky used several methods to project data from the

base year 2002 to the years 2005, 2008, 2011, 2014, 2017 and 2020. These actual and projected inventories were developed using EPA-approved technologies and methodologies. Point source and non-point source projections were derived from the Emissions Growth Analysis System version 4.0 (EGAS 4.0). Non-road mobile projections were derived from EGAS 4.0, as well as from the National Mobile Inventory Model.

The following tables provide VOC and NO<sub>x</sub> emissions data for the 2002 base attainment year inventory; as well as actual VOC and NO<sub>x</sub> emission inventory data for 2005 and 2008, and projected VOC and NO<sub>x</sub> emission inventory data for 2011, 2014, 2017 and 2020.

TABLE 1. OWENSBORO AREA<sup>1</sup>—VOC AND NO<sub>x</sub> EMISSIONS INVENTORY

Emissions	2002	2005	2008	2011	2014	2017	2020
Total VOC (tons per day) .....	18.97	14.54	14.42	14.09	13.85	13.79	13.81
Total NO <sub>x</sub> (tons per day) .....	44.87	36.78	31.07	30.63	30.28	30.27	30.58

As shown in Table 1 above, the Owensboro Area total VOC and NO<sub>x</sub> emissions are projected to decrease from the base year of 2002 to the maintenance year of 2020, thus demonstrating continued attainment/maintenance of the 1997 8-hour ozone standard. Total VOC emissions are projected to steadily decrease from the base year of 2002 through 2017, but are then projected to slightly increase by 0.02 tons per day (tpd) between the years 2017 and 2020. Additionally, total NO<sub>x</sub> emissions steadily decreased from the base year of 2002 to 2017, but are then projected to slightly increase by 0.31 tpd. However, year 2020 emissions projected for both VOC and NO<sub>x</sub> are well under the 2002 baseline year emission levels. Thus EPA proposes to find that Kentucky demonstrated that the 1997 8-hour ozone standard will continue to be maintained.

As shown in the table above, Kentucky has demonstrated that the future year emissions will be less than the 2002 base attainment year's emissions for the 1997 8-hour ozone NAAQS. The attainment inventory submitted by Kentucky for this Area is consistent with the criteria discussed in the Wegman Memorandum. EPA finds that the actual emissions levels in 2005, and 2008, along with the future

emissions for 2011, 2014, 2017, and 2020 are expected to be less than the emissions levels in 2002. See Table 2 for design value trends for this Area.

In the event that a future 8-hour ozone monitoring reading in this Area is found to violate the 1997 8-hour ozone standard, the contingency plan section of the maintenance plan includes measures that at least one of which will be promptly implemented to ensure that this Area returns the maintenance of the 1997 8-hour ozone standard. Please see section (d) Contingency Plan, below, for additional information related to the contingency measures.

(b) *Maintenance Demonstration.* The primary purpose of a maintenance plan is to demonstrate how an area will continue to remain in compliance with the 1997 8-hour ozone standard for the 10 year period following the effective date of designation as unclassifiable/attainment. The end projection year for the maintenance plan for Owensboro Area was 2020. As discussed in section (a) Attainment Inventory above, Kentucky identified the level of ozone-forming emissions that were consistent with attainment of the NAAQS for ozone in 2002. For the original submittal, Kentucky projected VOC and NO<sub>x</sub> emissions for the years 2005, 2008, 2011, 2014, 2017 and 2020 in the Owensboro Area. Subsequently, Kentucky provided updated projections for all the years. See Table 1. EPA proposes to find that the future emissions levels in those years are

expected to be below the emissions levels in 2002.

Kentucky's SIP revision also relies on a combination of several air quality measures that will provide for additional 8-hour ozone emissions reductions in the Owensboro Area. These measures include the potential implementation of the following, among others: (1) Federal motor vehicle control program; (2) fleet turnover of automobiles; (3) low Reid vapor pressure of gasoline; (4) tier 2 motor vehicle emissions and fuel standards; (5) heavy-duty gasoline and diesel highway vehicles standard; (6) large nonroad diesel engines rule; (7) nonroad spark ignition engines and recreational engines standard; (8) point source emission reductions; (9) Air Products and Chemicals -21-157-00009, (10) reasonably available control measures, (11) maximum available control technology; (12) NO<sub>x</sub> SIP Call; (13) Clean Air Interstate Rule (CAIR)<sup>2</sup>; (14) several control programs to reduce area source emissions from aerosol coatings, architectural and industrial maintenance coatings, and commercial/consumer products; (15) non-highway mobile source reductions; and (16) emissions standards for small and large spark-ignition engines, locomotives and land based diesel engines.

<sup>1</sup> These emissions estimates in this table were provided by Kentucky on July 15, 2009, through John Lyons, Director, Division of Air Quality, as an update to emissions estimates provided in the May 25, 2007 submittal.

<sup>2</sup> Despite the legal status of CAIR as remanded, many facilities have already or are continuing with plans to install emission controls that may benefit Kentucky areas.

There are no sources subject to CAIR or the NO<sub>x</sub> SIP Call in the Owensboro Area. Hence the recent remand of CAIR does not impact the maintenance inventories or maintenance demonstration in any way. Further, the Owensboro Area was in attainment prior to implementation of these rules. Hence any contribution to the reduction in the background ozone levels from these rules will be in addition to the projected decreases within the maintenance planning area. These rules

are included in the discussion of the maintenance plan because, even though the submittal takes no credit for them, they are expected to reduce transported NO<sub>x</sub> and ozone from outside the nonattainment area, providing a further, unquantified improvement in the Area's air quality.

(c) *Ambient Air Quality Monitoring.* The table below shows monitoring and design values<sup>3</sup> for the Owensboro Area. The ambient ozone monitoring data was collected at sites that were selected with assistance from EPA and are considered

to be representative of the area of highest concentration.

There is a monitor in Hancock and Daviess Counties in the Owensboro Area. There was no design value exceeding the 1997 0.08 ppm standard and it is anticipated that the monitors will remain at current locations, unless otherwise allowed to be removed in consultation with EPA and in accordance with the 40 CFR part 58. See, Wegman Memorandum, pages 4 and 5.

TABLE 2—MONITORING AND DESIGN VALUES FOR 8-HOUR OZONE [ppm]

Year	Owensboro area monitoring values		
	Daviess County	Hancock County	Area design value
2000–2002	0.077	0.083	0.083
2001–2003	0.076	0.082	0.082
2002–2004	0.073	0.080	0.080
2003–2005	0.072	0.073	0.073
2004–2006	0.074	0.073	0.074
2005–2007	0.081	0.076	0.081
2006–2008	0.077	0.076	0.077

Based on the Table above, each of the three-year average available design values demonstrates attainment of the 1997 ozone NAAQS. The design value for the area is the higher of the design values at either of the monitors. Further, these design values indicate that the Owensboro Area is expected to continue attainment of the 1997 ozone NAAQS. The attainment level for the 1997 8-hour ozone standard is 0.08 ppm, effectively 0.084 ppm with the rounding convention. However, in the event that a design value at one of Owensboro Area monitoring sites exceeds the 1997 8-hour ozone standard, the contingency plan included in the Kentucky's maintenance plan submittal includes contingency measures which will be promptly implemented in accordance with section (d) Contingency Plan, below.

(d) *Contingency Plan.* In accordance with 40 CFR 51.905(a)(4)(ii) and the Wegman Memorandum, the section 110(a)(1) maintenance plan includes contingency provisions to promptly correct any violation of the 1997 8-hour ozone NAAQS that occurs. In this maintenance plan, if contingency measures are triggered by a violation of the 8-hour ozone NAAQS, Kentucky is committing to adopt one or more of the

contingency measures listed below, within nine months following the trigger, and implement the measures within eighteen months following the trigger. The contingency measures include: (1) Implementation of a program to require additional emissions reductions on stationary sources; (2) requirement for Stage I Vapor Recovery; (3) requirement of Stage II Vapor Recovery; (4) open burning during summer ozone season; (5) restriction of certain roads or lanes to, or construction of such roads or lanes for use by, passenger buses or high-occupancy vehicles; (6) trip-reduction ordinances; (7) employer-based transportation management plans, including incentives; (8) programs to limit or restrict vehicle use in downtown areas, or other areas of emissions concentration, particularly during periods of peak use; and (9) programs for new construction and major reconstructions of paths or tracks for use by pedestrians or by non-motorized vehicles when economically feasible and in the public interest.

The maintenance plan also includes two additional triggers (which would occur prior to a violation of the 1997 8-hour ozone NAAQS) for an evaluation of existing control measures to see if any

further emission reduction measures should be implemented at that time. These triggers are an exceedance of the NAAQS in any portion of the maintenance area or a ten percent or greater increase in emissions of either VOC or NO<sub>x</sub>, based on the 2002 emissions inventory and periodic emission inventory updates. If either of these triggers occurs, Kentucky commits to evaluating existing control measures to see if any further emission reduction measures should be implemented.

EPA proposes to find that these contingency measures and schedules for implementation satisfy EPA's guidance on the requirements of section 110(a)(1) of continued attainment. Continued attainment of the 1997 8-hour ozone NAAQS in the Owensboro Area will depend, in part, on the air quality measures discussed previously (see section II). In addition, Kentucky commits to verifying the 1997 8-hour ozone status in each maintenance plan through annual and periodic evaluations of the emissions inventories. In the annual evaluations, Kentucky will review VOC and NO<sub>x</sub> emission data from stationary point sources. During the periodic evaluations (every three years), Kentucky will update the emissions inventory for all

<sup>3</sup> The air quality design value at a monitoring site is defined as that concentration that when reduced to the level of the standard ensures that the site meets the standard. For a concentration-based

standard, the air quality design value is simply the standard-related test statistic. Thus, for the primary and secondary ozone standards, the 3-year average annual fourth-highest daily maximum 8-hour

average ozone concentration is also the air quality design value for the site. 40 CFR Part 50, Appendix I, Section 3.

emissions source categories, and compare the updated emissions inventory data with actual 2005 and 2008, and projected 2011, 2014, 2017 and 2020 attainment emissions inventories to verify continued attainment of the 1997 8-hour ozone standard.

### III. Proposed Action

Pursuant to section 110(a)(1) of the CAA, EPA is proposing to approve the maintenance plan addressing the 1997 8-hour ozone standard for the Owensboro Area, which was submitted by Kentucky on May 27, 2008, as updated in a July 15, 2009, submission, and which ensures continued attainment of the 1997 8-hour ozone NAAQS through the year 2020. EPA has evaluated the Commonwealth's submittal and has determined that it meets the applicable requirements of the CAA and EPA regulations, and is consistent with EPA policy.

### IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this proposed action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Ozone, Nitrogen dioxides, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 4, 2010.

**Beverly H. Banister,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2010-971 Filed 1-19-10; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF DEFENSE

### Defense Acquisition Regulations System

**48 CFR Parts 205, 207, 208, 209, 211, 215, 216, 217, 219, 225, 228, 232, 237, 246, 250, 252**

### Defense Federal Acquisition Regulation Supplement: Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2009-D003)

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

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

**SUMMARY:** DoD is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005. Section 807 provides for adjustment every 5 years of statutory acquisition-related thresholds, except for Davis-Bacon Act, Service

Contract Act, and trade agreements thresholds. This case also reviews nonstatutory acquisition-related thresholds for adjustment in 2010.

**DATES:** Comments on the proposed rule should be submitted in writing to the address shown below on or before March 22, 2010, to be considered in the formation of the final rule.

**ADDRESSES:** You may submit comments, identified by DFARS Case 2009-D003, using any of the following methods:

*Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

*E-mail:* [dfars@osd.mil](mailto:dfars@osd.mil). Include DFARS Case 2009-D003 in the subject line of the message.

*Fax:* 703-602-0350.

*Mail:* Defense Acquisition Regulations System, Attn: Ms. Amy Williams, OUSD(AT&L)DPAP(DARS), 3060 Defense Pentagon, Room 3B855, Washington, DC 20301-3060.

*Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202-3402.

Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Ms. Amy Williams, (703) 602-0328.

### SUPPLEMENTARY INFORMATION:

#### A. Background

This rule proposes to amend multiple DFARS parts to implement Section 807 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Pub. L. 108-375). Section 807 provides for adjustment every 5 years (in years evenly divisible by 5) of statutory acquisition-related thresholds, except for Davis-Bacon Act, Service Contract Act, and trade agreements thresholds. This case also reviews nonstatutory DFARS acquisition-related thresholds for adjustment in 2010. FAR case 2008-024 proposes comparable changes to acquisition-related thresholds in the FAR.

This is the second review of DFARS acquisition-related thresholds. The last review was conducted under DFARS case 2004-D022. The final rule was published in the **Federal Register** on December 19, 2006 (71 FR 75891).

#### B. Analysis

##### 1. What is an acquisition-related threshold?

This case builds on the review of DFARS thresholds in 2005 and uses the same interpretation of the statutory definition of acquisition-related threshold. The statute defines an