ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[RO4-OAR-2005-GA-0002; RO4-OAR-2005-GA-0003; R04-OAR-2004-GA-0003-200517; FRL-]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia, Redesignation of Atlanta Severe 1-Hour Ozone Nonattainment Area to Attainment for Ozone; Maintenance Plan; Motor Vehicle Emission Budgets; Revisions to Rules for Air Quality

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting final approval of the 1-hour ozone redesignation request and the 10-year maintenance plan State Implementation Plan (SIP) revision, including the new 2015 Motor Vehicle Emission Budgets (MVEB) for the Atlanta severe 1-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area, which were submitted by the Georgia Environmental Protection Division (EPD) on February 1, 2005. The current Atlanta severe 1-hour ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale (Atlanta area). EPA's approval of the 1-hour ozone redesignation request is based on our determination that the Atlanta area has met the criteria for redesignation to attainment specified in the Clean Air Act (CAA or Act), including a demonstration that the Atlanta area has attained the 1-hour ozone NAAQS. EPA is granting final approval of the 10-year maintenance plan SIP revision, including the new 2015 MVEB, because EPA has determined that the plan

complies with the requirements of section 175A of the Act.

For transportation purposes, EPA is also finalizing its adequacy determination for the new 2015 MVEB. EPA has determined that the MVEB for the year 2015 are adequate for transportation conformity purposes.

EFFECTIVE DATE: This rule is effective June 14, 2005.

ADDRESSES: EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. **RO4-OAR-2005-GA-0002; RO4-OAR-2005-GA-0003; R04-OAR-2004-GA-0003**. All documents in the docket are listed in the RME index at http://docket.epa.gov/rmepub/. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia, 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin, 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. The telephone number is (404) 562-9036. Mr. Martin can also be reached via electronic mail at martin.scott@epa.gov.

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

Table of Contents

I. What is the background for this action?

II. What actions are we taking?

III. When are these actions effective?

IV. What comments did we receive and what are our responses?

V. Statutory and Executive Order Reviews.

I. What is the background for this action?

On February 1, 2005, EPD submitted a request to redesignate the severe 1-hour ozone nonattainment area of Atlanta, Georgia, to attainment, and a request for EPA approval of a Georgia SIP revision containing a 10-year maintenance plan for the Atlanta area, including new MVEB for the year 2015. In addition, Georgia requested that EPA make a determination that certain SIP submittal requirements related to attainment demonstrations and reasonable further progress (RFP) are not applicable requirements for the purposes of this redesignation request

because the Atlanta area has attained the 1-hour ozone NAAQS based on ambient air ozone season monitoring data for the 3-year period including the years 2002, 2003, and 2004. On April 20, 2005, (70 FR 20495), EPA published a proposed rule proposing to take four actions on these requests: to find that the Atlanta area has attained the 1-hour ozone NAAQS; to find that certain attainment demonstration and RFP requirements, along with other related requirements of part D of title I of the CAA, are not applicable to the Atlanta area for so long as it continues to attain the 1-hour ozone NAAQS; to approve the 10-year maintenance plan, including the 2015 MVEB; and to approve the 1-hour ozone redesignation request for the Atlanta area.

In a separate action, effective June 14, 2005, EPA granted final approval on two of the four actions proposed for approval on April 20, 2005, (70 FR 20495). In that separate action, EPA determined that the Atlanta severe 1-hour ozone nonattainment area has attained the 1-hour ozone NAAQS, and that certain CAA requirements are no longer applicable, so long as the Atlanta area continues to maintain the 1-hour ozone NAAQS.

In addition, in another separate action taken on May 9, 2005, (70 FR 24310), EPA published a direct final rule approving revisions to Georgia's Rules for Air Quality to satisfy the additional requirements for severe 1-hour ozone nonattainment areas. The comment period for the May 9, 2005, action ended on June 8, 2005, and EPA received no adverse comment.

II. What actions are we taking?

EPA is granting final approval of the remaining two actions proposed for approval on April 20, 2005, (70 FR 20495). Specifically, EPA is approving Georgia's request for redesignation and thereby approving a change in the legal designation of the Atlanta area from

nonattainment to attainment for the 1-hour ozone NAAQS. EPA is also approving Georgia's 10-year maintenance plan SIP revision for the Atlanta area because the plan complies with the requirements of section 175A of the Act. The maintenance plan is designed to keep the Atlanta area in attainment for the 1-hour ozone standard for the next 10 years.

Finally, for transportation purposes, EPA is finalizing its adequacy determination for the new 2015 MVEB. EPA has determined that the MVEB for the year 2015 are adequate for transportation conformity purposes.

A. Redesignation and 10-Year Maintenance Plan

Section 107(d)(3)(D) of the Act allows a Governor to initiate the redesignation process for an area to apply for attainment status. On February 1, 2005, Georgia requested redesignation of the Atlanta area's severe 1-hour ozone nonattainment status to attainment status and requested EPA approval of the 10-year maintenance plan for the Atlanta area. Today, EPA is approving the 1-hour ozone redesignation request and the 10-year maintenance plan SIP revision. EPA's approval of the 1-hour ozone redesignation request is based on our determination that the Atlanta area has met the five criteria for redesignation to attainment specified in the CAA, including a demonstration that the area has attained the 1-hour ozone NAAQS. The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific criteria that an area must meet in order to be redesignated from nonattainment to attainment. These five criteria are: (1) the area has attained the applicable NAAQS; (2) the area has a fully approved SIP under section 110(k) of the CAA; (3) the air quality improvement is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions; (4) the area has a fully approved

maintenance plan pursuant to section 175A of the Act; and (5) the area has met all applicable requirements under section 110 and part D of the CAA. EPA's analysis of the five criteria as applied to the Atlanta area is discussed in detail in the April 20, 2005, (70 FR 20495), proposed rule.

With regard to criteria 1, EPA has already determined, in a separate action effective June 14, 2005, that the Atlanta severe 1-hour ozone nonattainment area has attained the 1-hour ozone NAAQS. With regard to criteria 2 and 5, EPA has determined that the Atlanta area has a fully approved SIP under section 110(k) of the CAA, and that the area has met all applicable requirements under section 110 and part D of the Act.

Specifically, EPA has analyzed the Georgia SIP and determined that it is consistent with the requirements of CAA section 110(a)(2). Title 40 CFR part 52.570, subpart L, contains the historical record of the Georgia SIP. The Georgia SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting.

In addition, EPA has determined that the Atlanta area has met all applicable requirements under section 110 and part D of the CAA. At the time of the proposed rule on April 20, 2005, (70 FR 20495), EPA proposed to find that the Atlanta area had met most of the applicable requirements under section 110 and part D of the Act. However, in the proposed rule, we stated that EPA had not yet approved certain rule revisions pertaining to section 182(a)(2)(A) and section 182(d) of the Act, and that we would take action on these rule revisions separately and

prior to any final rule on the redesignation request. On May 9, 2005, (70 FR 24310), EPA published a direct final rule approving revisions to Georgia's Rules for Air Quality to satisfy the additional requirements for severe 1-hour ozone nonattainment areas required by section 182(d) of the Act. The comment period for this direct final rule ended on June 8, 2005, and EPA received no adverse comment. These revisions satisfy the additional requirements for severe 1-hour ozone nonattainment areas. Also, on April 12, 2005, (70 FR 19031), EPA proposed approval of Georgia's Severe Area Vehicle Miles Traveled SIP submittal which was for the purpose of offsetting any growth in emissions from growth in vehicle miles traveled (VMT) as required by the Act. In a separate action, effective June 14, 2005, EPA granted final approval to this submittal.

In our April 20, 2005, (70 FR 20495), proposed rule, EPA also indicated that we had not yet approved Georgia's reasonably available control technology (RACT) rule corrections, which are required by section 182(a)(2)(A) of the Act. This was an error. EPA approved Georgia's RACT rule corrections on October 13, 1992, (57 FR 46780), effective December 14, 1992.

Finally, EPA determined, in a separate action effective June 14, 2005, that certain attainment demonstration requirements (section 172(c)(1) of the CAA), along with certain other related requirements of part D of title I of the CAA, including the section 172(c)(9) contingency measure requirement (measures needed to mitigate a state's failure to achieve RFP toward, and attainment of, a NAAQS), the section 182 attainment demonstration and rate of progress (ROP) requirements, and the section 182(j) multi-state attainment demonstration requirement, are not applicable to the Atlanta area. Therefore, with regard to redesignation criteria 2 and 5, EPA finds that the Atlanta area has a fully approved SIP under section 110(k) of the CAA, and that

the area has met all applicable requirements under section 110 and part D of the Act.

EPA also finds that redesignation criteria 3 and 4 have been met for the Atlanta area. For the reasons discussed in the April 20, 2005, (70 FR 20495), proposed rule, EPA has determined that the air quality improvement in the Atlanta area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. In addition, our April 20, 2005, (70 FR 20495), proposed rule provides a detailed discussion of EPA's reasons for its proposed approval of the Atlanta area's 10-year maintenance plan. EPA notes that in the proposed rule, we announced our preliminary conclusion that the Atlanta area's maintenance of the 1-hour ozone standard is indicated under either future fuel scenario (use of reformulated gasoline (RFG) or use of only the Georgia gasoline currently in place). We also announced our intention to confirm this preliminary conclusion prior to taking final action on the redesignation request and approval of the 10-year maintenance plan. As fully discussed in the Response to Comments section of this final rule, EPA has confirmed our preliminary conclusion that the Atlanta area will maintain the 1-hour ozone standard throughout the 10-year maintenance plan period by using only Georgia gasoline or by using RFG that meets the low-sulfur requirements in Georgia's SIP. For the reasons stated in our proposed rule on the 10-year maintenance plan and based on our confirmation concerning future fuel scenarios for the Atlanta area, EPA is finalizing its approval of Georgia's 10-year maintenance plan SIP submittal for the Atlanta area.

EPA's approval of Georgia's 10-year maintenance plan SIP submittal for the Atlanta area, includes our approval of the new 2015 MVEB contained within the maintenance plan. The

2015 MVEB for nitrogen oxide (NOx) in the Atlanta area is 121.88 tons per ozone season weekday (tpd). The 2015 MVEB for volatile organic compounds (VOC) in the Atlanta area is 83.42 tpd.

B. What are the Effects of Redesignation

Approval of the Atlanta area redesignation request changes the official designation for the 1-hour ozone NAAQS found at 40 CFR part 81 for the State of Georgia, Atlanta Area, from nonattainment to attainment. It also incorporates into the Georgia SIP a plan for maintaining the 1-hour ozone NAAQS through 2015. The plan includes contingency measures to remedy any future violations of the 1-hour ozone NAAQS, and includes VOC and NOx MVEB for 2015 for the Atlanta area.

C. Adequacy of the 2015 Motor Vehicle Emission Budgets

Through this rule, EPA is providing notice that it has determined that the 2015 MVEB for VOC and NOx, as contained in the 10-year maintenance plan, meet the substantive criteria for "adequacy," as set out in 40 CFR 93.118(e)(4), and are adequate for purposes of transportation conformity. The availability of the 10-year maintenance plan SIP submission containing these 2015 MVEB was announced for public comment on EPA's adequacy Web page on January 24, 2005, at: http://www.epa.gov/otaq/transp/conform/currsips.htm. The EPA public comment period on adequacy of the 2015 MVEB for the Atlanta area closed on February 24, 2005, and no adverse comments were received.

For transportation plan analysis years that involve the year 2014 or before, the applicable MVEB for the purposes of conducting transportation conformity analyses will be the 2004 MVEB for VOC (160.80 tpd) and for NOx (318.24 tpd). For transportation plan analysis years

that involve the year 2015 or beyond, the applicable MVEB for the purposes of conducting transportation conformity analyses will be the 2015 MVEB for VOC (83.42 tpd) and for NOx (121.88 tpd).

III. When are these actions effective?

EPA finds that there is good cause for these determinations (approval of redesignation and 10-year maintenance plan, including the 2015 MVEB) to become effective June 14, 2005, because a delayed effective date is unnecessary due to the nature of the determinations, which relieve the Atlanta area from certain CAA requirements that would otherwise apply to it. The expedited effective date for these actions is authorized under both 5 U.S.C. 553(d)(1), which provides that rule actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and section 5 U.S.C. 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."

A redesignation to attainment relieves the Atlanta area from certain CAA requirements that otherwise would apply to it. The relief from these obligations is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(1). In addition, Georgia's relief from these obligations provides good cause to make this rule effective June 14, 2005, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule relieves obligations rather than imposes obligations, affected parties, such as the State of Georgia, do not need time to adjust and prepare before the

rule takes effect.

IV. What comments did we receive and what are our responses?

Proposed Redesignation of the Atlanta Severe 1-Hour Nonattainment Area to Attainment for Ozone

EPA received one comment letter from the Renewable Fuels Association (RFA).

Comment: The RFA commented that EPA should not approve the proposed maintenance plan because: "Georgia's submission seeking to demonstrate that attainment of the 1-hour ozone standard will continue to be maintained ... relies on emissions data based on use of RFG [reformulated gas], while at the same time Georgia is trying to avoid use of RFG in Atlanta .... Georgia did not model the emissions for 2005 to 2015 based on use of Georgia Gas. Therefore, EPA has no basis to support a finding that Georgia Gas is sufficient to establish maintenance as required under the Act. EPA cannot approve a redesignation request which is based on use of Georgia Gas without a maintenance demonstration using Georgia Gas only. EPA must confirm such modeling and make it available for public comment prior to approving any redesignation. Until this demonstration is made, Georgia's application does not satisfy the criteria for redesignation established in section 107(d)(3)(E) and EPA cannot redesignate Atlanta to attainment for the 1-hour ozone standard." The commenter included two attachments to its comment: EPA's September 30, 2004, letter to Carol Couch, Director of Georgia EPD denying Georgia's request to waive the RFG requirement for Atlanta with EPA's "Analysis of and Action on Georgia's Request for a Waiver of the Reformulated Gasoline Program" (EPA420-S-04-006, October 2004); and "Comments on Georgia's Petition for an RFG Waiver in Atlanta: Technical Analysis" by Gary Z. Whitten, PH.D., dated August 24, 2004.

Response: In EPA's proposed rule for this action on April 20, 2005, (70 FR 20495), EPA announced its preliminary conclusion that maintenance is indicated under either future fuel scenario (i.e., using RFG or Georgia gasoline currently in place) for the Atlanta area for the 1-hour ozone NAAQS. Since the use of low-sulfur Georgia gasoline is a SIP requirement, Georgia correctly concluded that RFG sold in the Atlanta area would have to meet the low-sulfur requirement from the Georgia SIP as well as RFG requirements. EPA's preliminary conclusion that the Atlanta area would maintain the 1-hour ozone NAAQS by using Georgia gasoline or RFG that met the low-sulfur requirement for Georgia gasoline in the SIP was based on EPA's "Analysis of and Action on Georgia's Request for a Waiver of the Reformulated Gasoline Program" (EPA420-S-04-006, October 2004) that EPA conducted in its review of Georgia's petition request to be relieved of the RFG requirement and which the commenter attached to its comment[1]. EPA's analysis in the proposal was based on Georgia's modeling using RFG, its predictions of a declining mobile source emissions inventory post 2002, along with the modeling prepared by EPA comparing emissions between RFG and Georgia gasoline in 2005. The preliminary conclusion from the analysis in the proposed rule focused on predicting the emissions that would be expected over time with Georgia gasoline only. In the April 20, 2005, proposed rule, EPA announced our intention to confirm this preliminary conclusion prior to taking final action on the redesignation request and approval of the maintenance plan. After

[1] This analysis was not included in the docket before the proposed rule was published; however the analysis was discussed in the proposal notice and was attached to the only comment received. Since it was publicly available, and was distributed to the commenter before the rule, EPA believes that the omission of this analysis from the docket at the time of the proposed rule is not significant. It is part of the docket for the final rule.

publication of the proposed rule, EPD ran a full MOBILE model run using only Georgia gasoline. This post-proposal analysis addresses the same issue that EPA addressed in the proposed rule, using a more direct modeling of the emissions at issue, and confirms EPA's preliminary conclusion in the proposed rule that the area will maintain the 1-hour ozone NAAQS with Georgia gasoline only throughout the initial maintenance period, as required by section 107(d)(3)(E) of the Act. Since these data confirm EPA's preliminary analysis, EPA does not believe taking additional comment on this point is necessary.

The commenter also attached a memorandum from Gary Z. Whitten, "Comments on Georgia's Petition for an RFG Waiver in Atlanta: Technical Analysis" that was written to refute the State's assertion in its waiver request that utilization of federal RFG will adversely affect air quality in the Atlanta area. The commenter relies on Dr. Whitten's memo to support their argument that Georgia needs to model Georgia gasoline as part of a maintenance demonstration. As noted above, that modeling has been done by Georgia EPD. To the extent the commenter relies on Dr. Whitten's memo to indicate possible concerns with the modeling of Georgia gasoline, EPA notes that Dr. Whitten's comments basically address the inadequacy of prior modeling done by Georgia to compare RFG to Georgia gasoline, and raise concerns that Georgia underestimated various benefits of RFG in this comparison. The issue here, however, is the benefits of Georgia gasoline, and any claimed underestimation of the benefits of RFG compared to Georgia gasoline is irrelevant to determining whether Georgia would maintain the 1-hour ozone NAAQS with Georgia gasoline. In that context, EPA notes that the recent MOBILE modeling of Georgia gasoline performed by Georgia, uses sulfur, reid vapor pressure (RVP) and oxygen levels that are similar to the levels EPA determined appropriate in its analysis of Georgia

only gasoline, as part of EPA's evaluation of Georgia's request for a waiver of the RFG program[2]. Further discussion of the levels EPA used in its evaluation of Georgia only gasoline can be found in EPA's "Analysis of Emission Impacts of Implementation of Federal Reformulated Gasoline (RFG) in the Atlanta Area," which can be found in the docket for this rule.

Below are tables that show the results of the full MOBILE model run using Georgia low-sulfur gasoline only, which demonstrates that the emissions levels of NOx and VOC for the period 2005-2015 are below those for the base year (i.e., 2002), and thus indicate continued maintenance of the 1-hour standard. These tables were provided by the Georgia EPD during the public comment period on EPA's proposal as a supplement to their maintenance plan demonstration which accounted for a gasoline during the maintenance period which met the requirements of Georgia gasoline and RFG. With the supplemental information, the State has demonstrated continued maintenance for either a RFG or Georgia gasoline scenario. It should be noted that the mobile sector NOx emissions are projected to be the same for either scenario because of the federal requirement for all gasoline to meet the low-sulfur standards that are being phased in beginning in 2004 and continuing through 2006.

[2] To the extent that RVP and oxygen parameters are different, emissions are expected to offset each other and would continue to support the conclusion that emissions in 2005 and later would be lower than 2002.

NOx with Georgia Gasoline Only				
	2002	**2005**	**2010**	**2015**
Point	55.58	54.99	58.43	63.79
Area	28.57	29.52	31.75	33.81
Mobile	365.55	284.72	191.65	110.80
Nonroad	114.35	113.34	105.26	95.62
Total	564.05	482.57	387.09	304.02

VOC with Georgia Gasoline Only				
	2002	**2005**	**2010**	**2015**
Point	15.71	17.11	19.69	22.12
Area	294.20	314.68	357.11	398.41
Mobile	184.84	143.80	113.61	77.29
Nonroad	83.44	68.84	52.13	50.19
Total	578.19	544.43	542.54	548.01

By taking this final action, EPA is not waiving the requirement to use RFG in the Atlanta severe 1-hour ozone NAAQS nonattainment area. The use of RFG in severe ozone nonattainment areas is required by section 211 of the Act, and the applicability of this requirement to Atlanta is currently in litigation before the 11th Circuit Court of Appeals. EPA believes that the redesignation request and approval of the 1-hour ozone maintenance plan are separate issues from the applicability of the RFG requirement for the Atlanta area, and thus the redesignation request and 10-year maintenance plan SIP submittal can be approved under the

CAA section 107(d)(3)(E) since the data indicate that the Atlanta area will maintain the 1-hour ozone NAAQS through 2015 with either RFG or Georgia gasoline. EPA will take appropriate action in the future with respect to the applicability of RFG to the Atlanta area if necessary.

Comment: The commenter also stated in a footnote that Georgia omitted data from a 12th monitor that showed increasing emissions from 2000-2002 and recorded a violation[3] in 2002.

Response: Although, we do not construe this to be a comment with regard to EPA's determination of attainment (because it was provided in the context of the 10-year maintenance plan for the Atlanta area), we provided the following clarification in our separate final attainment determination rule. "In response, EPA notes that there was a special purpose monitor (SPM) in Cherokee County, Georgia, (Waleska site) that operated from 1999-2002[4]. This monitor recorded only one exceedance of the 1-hour ozone NAAQS during this period that occurred in 2002. This one exceedance does not constitute a violation of the 1-hour ozone NAAQS. The monitor at the Waleska site was terminated by the State due to siting issues (potential interference by trees and a school's chemistry laboratory). The Waleska site was designated a SPM, and for this type of monitor the states are not required to obtain EPA concurrence for its termination.

[3] A violation of this standard occurs when the daily maximum 1-hour average concentration measured by a continuous ambient air monitor exceeds 0.12 parts per million more than once per year, averaged over three consecutive years.

[4] A special purpose monitor is a generic term used for all monitors other than State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), Photochemical Assessment Monitoring Stations (PAMS), and Prevention of Significant Deterioration (PSD) monitors included in an agency's monitoring network for monitors used in a special study whose data area officially reported to EPA.

Georgia's request for redesignation and a determination of attainment did include data from all ozone monitors in the Atlanta area with complete data for the period of 2002-2004, showing no violations of the 1-hour ozone NAAQS. Thus, there were no recorded violations of the 1-hour ozone NAAQS omitted from Georgia's redesignation request as implied by the commentator."

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 (Public Law 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 approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) 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. section 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. By June 14, 2005, EPA will submit a report containing these rules 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 June 14, 2005. 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. section 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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. 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 in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

List of Subject in 40 CFR Part 81

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

Dated: 6/9/05

June 9, 2005

J. I. Palmer, Jr.,

Regional Administrator,

Region 4.

Part 52 and 81, chapter I, title 40, 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 L - Georgia

2. Section 52.570(e) is amended by adding a new entry for "21. Atlanta 1-hour ozone attainment area 2015 maintenance plan."

§ 52.570 Identification of Plan

* * * * *

(e) EPA Approved Georgia Nonregulatory Provisions.

EPA Approved Georgia Nonregulatory Provisions.

Name of nonregulatory SIP Provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
* *	* *	* *	*
21. Atlanta 1-hour ozone attainment area 2015 maintenance plan.	Atlanta severe 1-hour ozone maintenance area.	February 1, 2005	June 14, 2005. [Insert first page number 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 section 81.311 the table entitled "Georgia--Ozone (1-hour standard)" is amended by revising the entry for the Atlanta area to read as follows:

§ 81.311 Georgia

* * * * *

Georgia--Ozone (1-Hour Standard)

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Atlanta Area:	June 14, 2005	Attainment		
Cherokee County	June 14, 2005	Attainment		
Clayton County	June 14, 2005	Attainment		
Cobb County	June 14, 2005	Attainment		
Coweta County	June 14, 2005	Attainment		
DeKalb County	June 14, 2005	Attainment		
Douglas County	June 14, 2005	Attainment		
Fayette County	June 14, 2005	Attainment		

Forsyth County	June 14, 2005	Attainment		
Fulton County	June 14, 2005	Attainment		
Gwinnett County	June 14, 2005	Attainment		
Henry County	June 14, 2005	Attainment		
Paulding County	June 14, 2005	Attainment		
Rockdale County	June 14, 2005	Attainment		
* *	* *	*	*	*

[1] This date is October 18, 2000, unless otherwise noted.

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