

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.*

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**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

inspection during normal business hours:

Environmental Protection Agency,  
Region 4, Air Planning Branch, 61  
Forsyth Street, SW, Atlanta, Georgia  
30303-8960.

Air Protection Branch, Georgia  
Environmental Protection Division,  
Georgia Department of Natural  
Resources, 4244 International  
Parkway, Suite 120, Atlanta, Georgia  
30354. Telephone (404) 363-7000.

**FOR FURTHER INFORMATION CONTACT:**  
Scott M. Martin, EPA Region 4, (404)  
562-9036 or email:  
martin.scott@epa.gov.

**SUPPLEMENTARY INFORMATION:**

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**I. National Ambient Air Quality Standards**

Since the CAA's inception in 1970, EPA has set NAAQS for six common air pollutants: carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. The CAA requires these standards be set at levels that protect public health and welfare with an adequate margin of safety. These standards present state and local governments with the air quality levels they must meet to achieve clean air. Also, these standards allow the American people to assess whether or not the air quality in their communities is healthful.

**II. Ozone National Ambient Air Quality Standards**

The 1-hour ozone NAAQS of 0.12 parts per million (ppm) was promulgated in 1979 and areas were designated and classified as attainment/unclassifiable or nonattainment pursuant to the 1990 CAA amendments. It is the designation and classification of the Atlanta area relative to the 1-hour ozone NAAQS that is addressed in this document.

**III. Atlanta 1-Hour Ozone Nonattainment Area**

The Atlanta 1-hour ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale.

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone NAAQS prior to enactment of the 1990 CAA amendments, such as the Atlanta area, was designated nonattainment by operation of law upon enactment of the 1990 amendments. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as "marginal," "moderate," "serious," "severe," or "extreme," depending on the severity of the area's air quality problem. These nonattainment designations and classifications were codified in 40 CFR part 81 (see 56 FR 56694, November 6, 1991). The design value for an area, which characterizes the severity of the air quality problem, is represented by the highest design value at any individual ozone monitoring site (i.e., the highest of the fourth highest 1-hour daily maximums in a given three-year period with complete monitoring data). Table 1 in section 181(a) provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 ppm and 0.180 ppm for the three year period 1987-1989 were classified as serious. The Atlanta area design value was 0.162 ppm and thus the area was classified as serious.

Under section 182(c) of the CAA, states containing areas that were classified as serious nonattainment were required to submit SIPs to provide for certain controls, to show progress toward attainment, and to provide for attainment of the ozone NAAQS as expeditiously as practicable but no later than November 15, 1999.

**IV. Background on Attainment Demonstration Submissions**

The CAA requires serious areas to use a photochemical grid model to demonstrate attainment with the 1-hour ozone NAAQS. EPA's guidance provides that states may also rely on a weight of evidence (WOE) analysis to support attainment if the modeled demonstration does not facially demonstrate that the area will attain by the attainment date.

On October 28, 1999, the GAEPD submitted to EPA a 1-hour ozone attainment demonstration for the Atlanta area that was based on photochemical grid modeling and also provided a WOE analysis to support attainment. In addition, Georgia requested that the Atlanta area attainment date be extended to November 15, 2003. The request for an extension of the attainment date was based on the belief that ozone is transported from upwind areas and affects the ability of the downwind area to attain the 1-hour ozone NAAQS. Thus, emission reductions that were going to be achieved by upwind states under EPA's final NO<sub>x</sub> SIP Call rule, published on October 27, 1998 (63 FR 57356), by May 1, 2003, were critical to the State's demonstration that Atlanta would attain the standard by November 2003. The states identified in EPA's final NO<sub>x</sub> SIP Call rule as affecting Atlanta are Alabama, Kentucky, North Carolina, South Carolina and Tennessee.

In the October 28, 1999, SIP, as part of the WOE analysis, GAEPD committed to identify and adopt regulations to achieve additional reductions of NO<sub>x</sub> and VOC emissions as needed for attainment and to implement these control measures by May 1, 2003.<sup>1</sup> On December 16, 1999, EPA proposed approval of the attainment demonstration and the request for an extension of the attainment date in the **Federal Register** (64 FR 70478), provided that the State would take several actions before final approval: (1) fulfill the commitments to adopt additional VOC and NO<sub>x</sub> controls necessary to attain the standard and to perform and to complete an early attainment assessment—i.e., prior to the attainment date—of whether the area will attain; and (2) revise the State's low sulfur fuel rule to address enforcement

<sup>1</sup> "Guidance for Improving Weight of Evidence Through Identification of Additional Emission reductions, Not Modeled." U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Emissions, Monitoring, and Analysis Division, Air Quality Modeling Group, Research Triangle Park, NC 27711. November 1999. Web site: <http://www.epa.gov/ttn/scram/> See file ADDWOE1H.

and waiver issues. EPA received comments on the December 1999 proposal during the comment period. All relevant comments pertaining to the December 1999 proposal, as well as this supplemental proposal, will be addressed in the final action pertaining to the 1-hour ozone attainment demonstration for the Atlanta area. Detailed information on the 2003-based attainment photochemical modeling demonstration, the supplemental WOE analysis and EPA modeling requirements are contained in the Technical Support Document (TSD) for the December 16, 1999 **Federal Register** document. Copies of this TSD can be obtained from the EPA contact listed in the addresses section of this document.

The GAEPD submitted revisions to the attainment demonstration, including the additional adopted emission control regulations identified as part of the WOE analysis as necessary to attain the standard, to EPA on January 31, 2000, and July 31, 2001. EPA proposed approval of the emission control regulations on December 18, 2000 (65 FR 79034), and granted final approval on July 10, 2001 (66 FR 35906).

On July 17, 2001, the State submitted a revised attainment demonstration, which relied upon emission reductions from the State's low sulfur fuel rule—"(bbb) Gasoline Marketing"—and included a commitment to perform an early attainment assessment. As described more fully below, in this action, EPA is proposing to approve the revised attainment demonstration (including a new request to extend the attainment date to 2004) and the commitment to perform an early attainment assessment. EPA will propose action on the revised low sulfur rule and an associated fuel waiver request that was submitted on May 31, 2000, and revised on November 4, 2001, in a separate document. However, because the State is relying on the low sulfur rule and the associated waiver request as part of its attainment demonstration, EPA cannot take final action approving the attainment demonstration unless and until EPA takes final action approving the low sulfur fuel rule and the associated waiver request.

#### *2004 Attainment Demonstration Background*

The photochemical grid ozone modeling performed for the Atlanta 1-hour ozone nonattainment area is based on an emissions projection to 2003, the attainment extension year that the GAEPD requested of EPA in its October 28, 1999, submittal. Under a WOE determination, a state can rely on, and

EPA will consider, factors such as other modeled attainment tests, e.g., a rollback analysis; other modeled outputs, e.g., changes in the predicted frequency and pervasiveness of exceedances and predicted changes in the design value; actual observed air quality trends; estimated emissions trends; analyses of monitored air quality data; the responsiveness of the model predictions to further controls; and, whether there are additional control measures that are or will be approved into the SIP but were not included in the modeling analysis. This list is not an exclusive list of factors that may be considered and these factors could vary from case to case. The EPA's guidance contains no limit on how close a modeled attainment test must be to passing to conclude that other evidence besides an attainment test is sufficiently compelling to suggest attainment. However, the further a modeled attainment test is from being passed, the more compelling the WOE needs to be.

Detailed information on the 2003 Atlanta attainment photochemical modeling demonstration, the supplemental WOE analysis and EPA modeling requirements are contained in the TSD for the December 16, 1999, proposal (64 FR 70478). The 2003 modeled control strategy simulations indicate that ozone levels in the Atlanta area would be significantly reduced when the state and local controls identified in the October 1999 submission (and subsequently approved by EPA) and NO<sub>x</sub> SIP Call plans in upwind states are implemented. Even though the statistical and deterministic modeled attainment tests and the modeling exceedance test used in the photochemical grid modeling assessment for attainment are not satisfied, there were several reasons to believe that Atlanta could reasonably attain the 1-hour ozone NAAQS in 2004 through the development of a WOE analysis for the 2003 demonstration. The WOE submitted as a part of the attainment demonstration for the October 28, 1999, Atlanta SIP includes: (a) an estimate of additional reductions needed for attainment, calculated without the use of additional photochemical grid modeling, (b) estimates of the future design value using EPA's modeling of the NO<sub>x</sub> SIP Call; and (c) estimates of the future design value using the Relative Reduction Factor (RRF) analysis. The additional reductions identified by this method, considered along with the results of the Urban Airshed Model (UAM) modeled attainment tests and other weight of evidence presented in

the technical analyses for the attainment demonstration, indicate the area would attain the 1-hour ozone NAAQS by November 2003. This analysis strengthens the WOE and accounts for high modeled peaks by estimating the additional measures that at a minimum bring the model estimated future ozone design value to 124 parts per billion (ppb) or below. An air quality and emissions trends analysis is also reviewed as a part of the WOE analysis in attainment demonstrations for other urban areas. Though not submitted as part of Georgia's WOE, EPA considered that air quality in Georgia has improved since the 1980s. The average design value of 162 ppb in the 1980s had decreased to an average design value of 148 ppb in the 1990s. This improvement in air quality has occurred despite growth. The reductions associated with VOC and NO<sub>x</sub> reductions implemented in 1999 appear to be beneficial.

#### **V. Evaluation of the 2004 Attainment Demonstration**

Subsequent to the State's October 1999 submission and EPA's December 1999 proposed approval of the Atlanta attainment demonstration, the source compliance date under the NO<sub>x</sub> SIP Call rule was extended from May 1, 2003 to May 31, 2004. In May 1999, the Court of Appeals for the District of Columbia Circuit stayed the obligation of states to submit SIPs in response to EPA's NO<sub>x</sub> SIP Call rule, pending litigation over the rule. In March 2000, the Court issued an opinion largely upholding the SIP Call rule. In later rulings in the summer of 2000, the Court lifted the stay of the SIP submission obligation, but provided that since SIP submissions were delayed, EPA could not mandate that states require sources to comply with state-adopted rules under the SIP Call earlier than May 31, 2004. Because the source compliance date under the SIP Call was delayed, Georgia determined that it could not attain in the year preceding the source-compliance date under the SIP and submitted a revised SIP requesting an attainment date of November 2004.

The revised attainment demonstration submitted by the State on July 17, 2001, relies on the photochemical grid modeling that was submitted in October 1999, but provides additional analysis. The photochemical grid modeling demonstration assumed an attainment year of 2003. The time and resources to redo the modeling for 2004 were not available. Allowing additional time to redo the modeling for 2004 would not be consistent with the CAA intent that areas come into attainment as expeditiously as practicable nor would

it significantly advance the technical basis for the attainment demonstration. Therefore, EPA agreed that attainment for 2004 could be demonstrated with the submittal of a 2004 emissions inventory as a supplement to the 2003 demonstration, provided that the 2004 emissions are less than or equal to the level of emissions used in the modeling. It could then be concluded that if emissions for 2004 were modeled, the predicted concentrations of ozone would be less than or equal to the 2003 1-hour ozone concentrations modeled. If increases in the 2004 emissions were indicated, the supplemental WOE analysis would have to demonstrate why the increase in emissions would not produce an increase in ozone concentrations. Although a 2004 attainment year is being proposed for approval for the Atlanta nonattainment area because of the upwind contribution, the local controls in the attainment strategy will all be implemented no later than May 2003.

The 2004 demonstration is based on the following procedures. First, the State uses information from the photochemical grid modeling and ambient air modeling to assess whether or not additional levels of emission reductions are needed beyond those that were necessary to demonstrate attainment. This assessment was completed using the emissions projections for 2004. The second part of the analysis involves an assessment of the levels of attainment emissions for 2004 and whether or not attainment in 2004 is reasonably likely to occur. A determination was made that if the estimates of the projected 2004 emissions with controls implemented are at or below the 2003 modeled levels then attainment by 2004 is reasonably likely to occur. Both parts of the analysis are described in the following subsections.

#### *Identification of Additional Reductions Needed for Attainment*

On December 16, 1999, EPA proposed to approve the 2003 attainment demonstration if the State identified, adopted, and submitted additional controls needed for attainment and revised Georgia's low sulfur fuel rule to address the enforcement and waiver issues in accordance with EPA guidance.

As provided above, the State adopted, and EPA approved, the additional controls identified in the December 1999 proposed approval. In identifying the additional emissions reductions needed to achieve attainment, the State opted to implement controls outside of the nonattainment area, thus requiring a

recalculation of the emissions reductions needed. GAEPD used EPA's "Guidance for Improving Weight of Evidence Through Identification of Additional Emission Reductions, Not Modeled" identified additional controls needed beyond those identified in the 2003 modeling analysis. This analysis involved the use of information from the photochemical grid modeling and ambient air quality monitoring to estimate additional levels of emission reductions needed for attainment of the 1-hour NAAQS for ozone. GAEPD used the analysis to identify the additional percentage reduction in NO<sub>x</sub> and VOC from the 1996 emissions base year that are needed for attainment. The method is based on the assumption that the relationship between ozone and its precursors (VOC and NO<sub>x</sub>) can be calculated. A detailed discussion of the steps used in the analysis to calculate the additional emission reductions needed for attainment is provided in the TSD which can be obtained from the Regional Office staff contact. GAEPD's application of this analysis estimated that additional reductions of 3.94 percent NO<sub>x</sub> and 3.59 percent VOC were needed to attain by 2003. This equates to an additional reduction of 35.75 tons per day (TPD) NO<sub>x</sub> and 20.81 TPD VOC. To achieve these reductions the GAEPD adopted and implemented open burning prohibition regulations outside the nonattainment area, additional electric generating units regulations applicable to power plants, and a new combustion rule. An excess of reductions of 5.6 TPD NO<sub>x</sub> and 6.0 TPD VOC were available beyond the needed reductions for attainment.

#### *Development of the 2004 Emissions Inventory*

The GAEPD developed a 2004 projected emission inventory for the 4-km fine-grid domain from the 2003 modeling inventory and adjusted the projected 2004 emissions inventory with the additional emission reductions identified through the WOE analysis. Mobile source emissions were recalculated using the most recent data available. The emissions from major point sources within the nonattainment area were assumed to have zero growth from 2003 to 2004 because of the Offset Rule, 391-3-1-.03 section (8) (c) 13 that was adopted by the Department of Natural Resources (DNR) Board in September of 1999 and approved by EPA on July 10, 2001. However, this assumption is conservative because the regulation requires an offset ratio (1.2 to 1 for external; 1.3 to 1 for internal) in emissions, so point source emissions in this area should decrease if any new

sources are permitted for this area. Also, with the new power plant offset rule in 32 counties, there should be no growth of electric generating unit (EGU) point source NO<sub>x</sub> (i.e., >50 TPD in 13 counties, > 100 TPD in 32 counties) emissions. Furthermore, zero growth should have been assumed in projecting the 1999 point source emissions in the nonattainment area to 2003 for the 2003 modeling. Therefore, the 2003 modeling inventory contains approximately 2 to 3 TPD more NO<sub>x</sub> emissions in the nonattainment area than it should in Table 2. In the remainder of the fine-grid domain, the Emission Processing System 2 (EPS2) was used to grow point sources outside the 13-County Atlanta nonattainment area to 2004 by applying the appropriate Bureau of Economic (BEA) projection factors to 2003 emission rates for the relevant industry. The emissions from non-road mobile sources were calculated using EPA's version 2000 of the draft NONROAD Model and the 2003 control emissions. The model was used to develop a growth or reduction factor between 2003 and 2004. The calculated factors were multiplied by the 2003 projected controlled emissions for off-road mobile sources to determine the projected 2004 emissions. The TSD contains additional details on the development of the inventory for the 2004 non-road mobile source emissions.

The 2003 on-road mobile source emissions inventory was calculated using 12-speed vehicle categories. However, the metropolitan planning organization, the Atlanta Regional Commission (ARC), develops mobile emissions based on 64 averaged speeds. For consistency, GAEPD and ARC needed to develop a methodology to incorporate the higher-resolution information from ARC as well as the result from the Atlanta speed study without revising the mobile source ozone modeling inventory software. The speed study was conducted to update data (i.e., higher speeds and consider the impact of congestion on speeds) for on-road mobile emissions, based on submitted comments indicating faults in that data. The speed study is located on the GAEPD website at [http://www.dnr.state.ga.us/dnr/enviro/plans\\_files/plans/Speed\\_Study.pdf](http://www.dnr.state.ga.us/dnr/enviro/plans_files/plans/Speed_Study.pdf). Data from the Atlanta Nonattainment Area Speed Study were used by ARC to develop a typical summer day 2004 mobile source inventory. The 2003-to-2004 adjustment factors for the ozone episode modeling inventories in the 13-county Atlanta nonattainment area were developed by taking the ratio of the 2004 64-speed inventory to the 2003 12-

speed inventory submitted by GAEPD in the October 28, 1999, attainment SIP. These factors were then applied to 2003 episode-day-specific mobile source modeling inventories to adjust them to 2004 modeling inventories reflecting all of the mobile modeling changes between 2003 and 2004, including the revised speed data and the more disaggregate speed averaging. For the 30 counties within the UAM-IV domain but outside the nonattainment area, an area not covered by ARC's travel demand model, an adjustment factor (the percent difference between the resulting 2004 30-county typical summer day inventory and a 2003 30-county typical summer day mobile inventory) was applied to episode-day-specific 2003 mobile modeling inventories in the 30 attainment area counties to produce 2004 mobile modeling inventories. EPA believes that

the projected growth rates, methodologies and emissions reductions from the sources subject to the federal and local measures were calculated correctly.

*2004 Attainment Assessment*

In the 2004 attainment demonstration submitted in the July 2001 SIP, the State included a projected emissions inventory for the 2004 attainment extension year which accounts for (a) growth between 2003 and 2004; (b) the results of the speed study conducted pursuant to comments on the December 1999 proposal; (c) correction to the PSG voluntary program SIP reductions; (d) removal of NSR and VOC and NO<sub>x</sub> RACT for attainment counties within the fine grid domain; and (e) revised estimates to the original "additional reductions" identified in the October 28, 1999, SIP. Table 1 provides a

comparison between the 2003 projected inventory used for the 2003 modeling demonstration and the 2004 projected attainment inventory in the 4-km fine grid modeling domain. The emissions represent the typical summer day emissions derived from averaging emissions from the three days used in the modeling demonstration as submitted in the July 2001 SIP (i.e., July 31, 1987, August 1, 1987, and July 8, 1988). The levels of anthropogenic NO<sub>x</sub> and VOC that were modeled in the 2003 strategy for the Atlanta nonattainment area are 591.6 TPD and 525.8 TPD, respectively. The levels of anthropogenic NO<sub>x</sub> and VOC projected for 2004 are 604.5 TPD and 482.1 TPD, respectively. This comparison of emission estimates resulted in an additional reduction of 43.7 TPD VOC and increase of 12.9 TPD NO<sub>x</sub> emissions in 2004.

TABLE 1.—COMPARISON OF 2003 MODELED AND 2004 PROJECTED NO<sub>x</sub> AND VOC EMISSIONS IN THE MODELING DOMAIN

NO <sub>x</sub> (TPD)				VOC (TPD)			
Category	2003	2004	Change	Category	2003	2004	Change
Point .....	119.4	120.1	0.7	Point .....	66.7	67.1	0.4
Area .....	54.9	55.2	0.3	Area .....	144.7	140.9	-3.8
Non-road .....	108.9	108.0	-0.9	Non-road .....	121.5	106.5	-15.0
Mobile .....	308.4	321.2	12.8	Mobile .....	192.9	167.6	-25.3
Total .....	591.6	604.5	12.9	Total .....	525.8	482.1	-43.7
Biogenics .....	13.5	13.5	.....	Biogenics .....	2261.6	2261.6	.....

*2004 Air Quality Assessment for Emissions Changes*

A comparison of the 2003 and 2004 modeling inventories indicate that NO<sub>x</sub> emissions increase about 2 percent over the modeling domain, while VOC emissions decrease over 8 percent. Since the total NO<sub>x</sub> emissions projected for 2004 are more than the levels modeled for 2003, a demonstration was needed to show why this would not adversely affect the ability of the area to attain the 1-hour ozone NAAQS by 2004. We believe that the relationship between VOC emission reductions and ozone concentration reductions and between NO<sub>x</sub> emission reductions and ozone concentration reductions can be determined using the photochemical modeling results. Sensitivity analyses from the photochemical modeling in the fine grid were used to develop a relationship to assess the potential for increases in ozone formation for the emission levels projected for 2004. The majority of the local emissions reductions for the attainment strategy occur within the 4-km fine grid with the exception of two power plants near the southern boundary. The sensitivity

simulations used were based on the three episode days (i.e., July 31, 1987; August 1, 1987; and July 8, 1988) that were used in the 2003 control strategy simulations. These sensitivity simulations represented modeling scenarios based on reductions across emission inventory categories (e.g., low-level source or elevated sources) while holding all other emissions source categories constant. The air-quality-to-emission-change ratio (i.e., tons per day of emissions change per ppb change in ozone) was developed for each day and sensitivity simulation. The average of these ratios over all days and sensitivities was then determined for each pollutant for each episode day.

The submitted ratios indicate that a 41.5 TPD increase in NO<sub>x</sub> is needed to cause a 1.0 ppb increase in ozone or a 164.9 TPD increase in VOC is needed to cause a 1.0 ppb increase in ozone. These relationships were applied to the emissions changes predicted between 2003 and 2004 as presented in Table 1. The tables indicate that NO<sub>x</sub> emissions are expected to increase by 12.9 TPD and VOC emissions will decrease by 43.7 TPD in 2004. The NO<sub>x</sub> and VOC

ratios were applied to the emission changes between 2003 and 2004 to determine how ozone formation would be affected in 2004. This analysis indicated that a 0.3 ppb increase in ozone from the increase in NO<sub>x</sub> emissions is offset by the a 0.3 ppb decrease in ozone from the VOC emissions. The identified shortfall gap has thus been met by the State and the necessary control measures approved by EPA. Therefore, the assessment supports the conclusion that the area will attain the NAAQS in 2004.

*Reasonably Available Control Measures Analysis (RACM)*

Section 172(c)(1) of the CAA requires attainment demonstration SIPs to provide for the implementation of all RACM as expeditiously as practicable (including such reductions in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology, RACT) and shall provide for the attainment of the NAAQS. EPA issued a memo dated December 2, 1999, and entitled, "Guidance on the Reasonably Available Control Measures (RACM) Requirement

and Attainment Demonstration Submissions for Ozone Nonattainment Areas” stating that states need to provide justification as to why potential RACM have not been adopted. The justification should clearly demonstrate that implementation of feasible measures will not advance the attainment date and will not compensate for any transport contribution such that attainment could be achieved prior to upwind reductions. Evaluations of control measures may be based on technological or economic grounds.

The Georgia RACM analysis must address measures from any anthropogenic source of emissions, i.e., point, area, on-road mobile or non-road mobile. The RACM analysis contains an exhaustive set of control measures, addresses several reasons as to why many of the measures have not been adopted, and contains a demonstration as to why the implementation of remaining potential RACM by the 2003 ozone season would not advance the attainment of the 1-hour ozone NAAQS. Georgia EPD performed a RACM analysis for potential control of NO<sub>x</sub> and VOC emission sources not included in the attainment demonstration for the Atlanta 1-hour ozone nonattainment area. Most of the controls identified in the RACM analysis were included in a study completed by Georgia State University (“The Direct Costs of Controlling NO<sub>x</sub> and VOC emissions in Atlanta.” Georgia State University. Atlanta, Georgia; November 1, 1997, pp. 43–65). In the Georgia State Report, the 1990 NO<sub>x</sub> and VOC emissions inventory data were updated using growth factors to reflect emissions in 1999. Georgia EPD multiplied the percent reduction expected from a particular control measure from the study by a 2003 base level of emissions in order to calculate 2003 reductions for VOC and NO<sub>x</sub>. The 2003 base level was acquired from the 2003 Base Modeling run for the day of July 31. This method was applied to most of the calculations in the RACM analysis. For many of the remaining RACM calculations, GAEPD applied reduction factors from sources such as STAPPA/ALAPCO and EPA to emissions data derived from modeling runs for the Atlanta nonattainment area in order to get projected 2003 VOC and NO<sub>x</sub> reductions from a particular control measure. Other reductions were based on similar control measures enacted in other areas and the reduction results obtained in those areas. Georgia EPD performed a RACM analysis to determine if the 2004 attainment date could be advanced. They analyzed the

2003 season to determine if control measures could be implemented that were sufficient to prevent 1-hour ozone NAAQS violations during the 2003 season and thus advance the attainment date.

Each control option was evaluated according to: (1) the State’s authority to implement controls; (2) the amount of NO<sub>x</sub> reductions; (3) the amount of VOC reductions; (4) whether a similar control measure is already being implemented in the SIP; (5) the cost effectiveness of the control; (6) whether SIP credit has already been taken for the measure; and (7) whether the measure can be implemented to achieve reductions during the 2003 ozone season, (measures implemented after the 2003 ozone season cannot advance the 2004 attainment date). Any measures determined to be feasible to implement after the above described evaluation were grouped, by primary category, under the heading “remaining measures.” Georgia used a cut-off of \$5,000 per ton in their analysis of whether a measure was cost effective. Georgia has used this threshold for over 12 years in developing their VOC and NO<sub>x</sub> RACT regulations. It was, therefore, used in the RACM analysis for consistency. EPA does not consider this cut-off valid for all areas and it may not be valid for Georgia in all areas. However, for the purpose of this RACM demonstration and considering consistency in developing other measures supporting this demonstration, EPA believes this cut-off is acceptable for Atlanta. The RACM analysis indicates that additional reductions of 18.66 TPD NO<sub>x</sub> and 51.76 TPD VOC are available for implementation by 2003 in the Atlanta 1-hour ozone nonattainment area. For the RACM analysis, the GAEPD had to demonstrate why these remaining reductions would not advance attainment for a 2003 attainment year prior to the regional NO<sub>x</sub> reductions expected from the EPA NO<sub>x</sub> SIP Call in 2004. To do this, GAEPD estimated the effect of the NO<sub>x</sub> SIP Call and the RACM reductions on ozone concentrations.

The SIP for bringing the Atlanta area into compliance with the 1-hour ozone NAAQS relies upon reductions from the NO<sub>x</sub> SIP Call implemented in upwind states. In order to advance the attainment date from November 15, 2004, and thereby be classified as RACM, a control measure or set of control measures would need to provide a greater effect, during the 2003 ozone season, on ozone reduction than the NO<sub>x</sub> SIP Call measures will provide in 2004. Appendix C, “1-Hour Upwind/

Downwind Linkages” of *The Air Quality Modeling Technical Support Document for the NO<sub>x</sub> SIP Call*, September 23, 1998, lists Alabama, Kentucky, North Carolina, South Carolina, and Tennessee as significant contributors to Atlanta’s ozone exceedances. Table 6 of EPA’s Final 2007 Base NO<sub>x</sub> emission rates published in the **Federal Register** on March 2, 2000, (65 FR 11222) gives totals for these five states equal to 1,109,255 tons per season or 10,177 tons per day.

Not all of these emissions are transported into Georgia or the Atlanta area. Therefore, any meaningful comparison must be based on the NO<sub>x</sub> SIP Call’s effect on ozone concentrations in Atlanta. Appendix G of the EPA NO<sub>x</sub> SIP TSD referenced above, “Evaluation of Contributions—Tables of Metrics, 1-Hour CAMX: Upwind States to Downwind States,” page G–6, gives average contributions to an Atlanta area exceedance as follows: Alabama 8 percent; Kentucky, 1 percent; North Carolina, 1 percent; South Carolina, 1 percent; and Tennessee, 4 percent for a total contribution of 15 percent. The State calculated the effect on a monitored exceedance occurring at 125 ppb, the result being a contribution of 18.6 ppb (125 ppb x 15 percent) from upwind states. The implementation of the NO<sub>x</sub> SIP Call in 2004 would reduce the contribution to ozone exceedances in Atlanta by 18.6 ppb.

The effect the “remaining measures” would have on air quality if implemented during the 2003 ozone season is calculated by dividing the estimated NO<sub>x</sub> or VOC reduction amount times the change in pollutant per change in ozone. Using the factors developed in the air quality assessment to determine the change in ozone concentration from emissions reductions (i.e., 41.45 TPD NO<sub>x</sub> per 1 ppb ozone, 164.9 TPD VOC per 1 ppb ozone), the expected change in ozone concentration from the emissions reductions from the remaining measures in the RACM analysis (i.e., 18.66 TPD NO<sub>x</sub>, 51.71 TPD VOC) can be estimated. The procedure used to develop the NO<sub>x</sub> and VOC factors are discussed in the TSD. Taking the ratio of the factors and the remaining measures reductions would yield 0.45 ppb of ozone decreases from the NO<sub>x</sub> reductions and 0.31 ppb of ozone decreases from the VOC reductions. The total ozone reduction due to remaining measures would be 0.75 ppb of ozone. Hence, implementation of the remaining measures in 2003 from the RACM analysis is much less than would be needed to achieve attainment in 2003 without the much larger reductions

from the NO<sub>x</sub> SIP Call that will be achieved in 2004. This analysis therefore demonstrates that no additional RACM measures are reasonably available for the Atlanta 1-hour ozone nonattainment area.

Approval of a RACM analysis must be done on a case-by-case basis and the approval for the Atlanta area is not intended to set precedent for any other area requiring a RACM analysis or for any other pollutant.

Although EPA does not believe that section 172(c)(1) requires implementation of additional measures for the Atlanta area, this conclusion is not necessarily valid for other areas. Thus, a determination of RACM is necessary on a case-by-case basis and will depend on the circumstances for the individual area. In addition, if in the future EPA moves forward to implement another ozone standard, this RACM analysis would not control what is RACM for these or any other areas for that other ozone standard.

Also, EPA has long advocated that states consider the kinds of control measures that the commenters have suggested, and EPA has indeed provided guidance on those measures. See, e.g., <http://www.epa.gov/otaq/transp.htm>. In order to demonstrate that they will attain the 1-hour ozone NAAQS as expeditiously as practicable, some areas may need to consider and adopt a number of measures—including the kind that GAEPD evaluated in its RACM analysis—that even collectively do not result in many emission reductions. Furthermore, EPA encourages areas to implement technically available and economically feasible measures to achieve emissions reductions in the short term—even if such measures do not advance the attainment date—since such measures will likely improve air quality. Also, over time, emission control measures that may not be RACM now for an area may ultimately become feasible for the same area due to advances in control technology or more cost-effective implementation techniques. Thus, areas should continue to assess the state of control technology as they make progress toward attainment and consider new control technologies that may in fact result in more expeditious improvement in air quality.

#### *2004 Motor Vehicle Emissions Budgets*

The MVEB for 2004 were calculated using the revised speeds, updated registration data, updated vehicle miles traveled (VMT), and projected 2004 VMT, and the control measures identified in the 1-hour ozone attainment demonstration for the

Atlanta area. The resulting budgets are 106.25 and 225.12 tons per typical summer day of VOC and NO<sub>x</sub>, respectively.

These MVEB reflect the most up-to-date mobile modeling assumptions including 2004 VMT projected from the travel demand model for the Atlanta area and July 2004 emission factors from EPA's MOBILE5b emission factor model and 1999 vehicle registration data, which was the most recent available data at the time of SIP adoption. The control measures identified and modeled for mobile emissions used to establish the MVEB, along with other control measures in this plan, will result in attainment of the 1-hour ozone NAAQS by 2004.

The GAEPD has provided a clearly identified conformity budget for which the Region has initiated the adequacy review process. Comments received during the public comment period are being addressed and the response to these comments will be posted on the agency's internet location at <http://www.epa.gov/otaq/transp/conform/adequacy.htm>. (Memorandum, "Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision," from Gay MacGregor, Director, Regional and State Programs Division, Office of Mobile Sources, issued May 14, 1999, to Regional Air Division Directors.)

EPA is proposing to approve the 2004 MVEB because they are based on the most recent data, they reflect reductions from the control measures included in the attainment demonstration and they are consistent with the overall attainment demonstration. However, a final decision on adequacy will be made on a later date.

#### *Partnership for a Smog Free Georgia*

In 1997, EPA published the "Voluntary Mobile Source Emission Policy" (VMEP) in order to assist states considering nonregulatory emission strategies, which are generally not effective on a mandatory basis. The VMEP policy allows states to take credit for expected emission reductions from voluntary mobile source programs, and allows states to take credit for up to 3 percent of the total emission reductions needed for attainment through the VMEP policy. Georgia is using this policy to take credit for its PSG program. The PSG promotes effective voluntary actions that employers, their employees and general residents in the region can take to help improve air quality in the metro Atlanta region during the ozone season. Since 1997, EPA and the State have been working to evaluate the PSG program and its

corresponding emission reductions. It was agreed that the best way to evaluate the program was to set VMT emission targets based on assumptions which are consistent with the existing emission models and travel demand models used in the region. The program assumes that 20 percent of the PSG program members will use a non-single occupancy vehicle (SOV) method to commute to work. Data collected between 1997 and 2000 indicates that non-PSG partners also change commuter patterns and that about 40 percent of the non-PSG commuters use non-SOV methods to get to work at least one day per week. However, due to programmatic uncertainty, the State reduced this expectation by 75 percent and is assuming 10 percent of all non-PSG program commuters will commute using non-SOV methods. This assumption is consistent with the VMEP policy regarding programmatic uncertainty. The GAEPD has committed to attaining 4.28 tpd of NO<sub>x</sub> reductions and 6.51 tpd of VOC reductions by the year 2003 through this program.

The VMEP policy allows the State to take credit for projected emission reductions without the need for preapproved contingency measures should the program fall short of the expected emission reductions. However, the State has committed to meeting the specific emission targets and will make up any emission reduction shortfall through other means. The State has demonstrated that it has sufficient funding to implement an effective program and is committed to annual program evaluation to ensure that target levels are met. In addition, the State is committing to provide annual evaluation reports to EPA each February 1 beginning in 2002. The State will use these evaluations to adjust the PSG program prior to the 2004 attainment date if needed to ensure that target levels are met or the emission reductions are achieved through other means. Additional information can be found in the corresponding TSD. Therefore, EPA is proposing to approve the PSG program, its evaluation procedures, and the expected emission reduction targets as an enforceable part of the SIP.

#### *Commitment to Mid-Course Review*

A mid-course review (MCR) is a reassessment of modeling analyses and more recent monitored data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone

as expeditiously as practicable but no later than the statutory dates.

The EPA believes that a commitment to perform a MCR is a critical element of the WOE analysis for the attainment demonstration on which EPA is proposing to take action today. In order to approve the attainment demonstration SIP for the serious areas requesting an attainment date extension to a year prior to 2005, a review that occurs at a midpoint prior to the attainment date would be impractical in terms of timing. Therefore, for these areas, the State's commitment to an MCR would be a commitment to perform an early attainment assessment to be submitted by the end of the attainment year (e.g., 2003). GAEPD has committed to perform an early attainment assessment of the Atlanta 1-hour ozone attainment demonstration and submit it to EPA by November 15, 2003.

#### *Summary of the 2004 Attainment Demonstration Evaluation*

The ozone attainment demonstration for the Atlanta 1-hour ozone SIP, as submitted on July 17, 2001, contains modeling that was developed according to EPA recommended modeling protocols. Based on the results of the modeling plus additional WOE analysis, the supplemental assessment for attainment in 2004, the suite of control measures to be implemented by 2003 and the RACM analysis, EPA is proposing that the State has adequately demonstrated that the Atlanta area will attain the 1-hour ozone NAAQS by the end of the 2004 ozone season. Prior to, or simultaneous with, taking final action on this proposal, EPA will need to take action on the Georgia fuel rule and the associated fuel waiver request.

#### **VI. Attainment Date Extension**

EPA's policy regarding an extension of the ozone attainment date for areas affected by transport was set forth in a July 16, 1998, guidance Memorandum entitled "Extension of Attainment Dates for Downwind Transport Areas" which was published in a notice of interpretation on March 25, 1999 (64 FR 12221). In it, EPA set forth its interpretation of the CAA regarding the extension of attainment dates for ozone nonattainment areas that have been classified as moderate or serious for the 1-hour ozone NAAQS, and which are downwind of areas that have interfered with the moderate and serious nonattainment areas' attainment of the ozone NAAQS by dates prescribed in the CAA. EPA stated that it will consider extending the attainment date for an area or a state that:

a. Has been identified as a downwind area affected by transport from either an upwind area in the same state with a later attainment date or an upwind area in another state that significantly contributes to downwind ozone nonattainment;

b. Has submitted an approvable attainment demonstration with any necessary, adopted local measures, and with an attainment date that shows it will attain the 1-hour NAAQS no later than the date that the emission reductions are expected from upwind areas in the final NO<sub>x</sub> SIP Call and/or the statutory attainment date for upwind nonattainment areas, i.e., assuming the boundary conditions reflecting those upwind emission reductions;

c. Has adopted all applicable local measures required under the area's current ozone classification and any additional emission control measures demonstrated to be necessary to achieve timely attainment, assuming the emission reductions occur as required in the upwind areas; and

d. Has provided that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

EPA proposes that the Atlanta area has satisfied the criteria for an attainment date extension as follows.

(i) The State has cited EPA's NO<sub>x</sub> SIP Call modeling and analyses documented in EPA's final NO<sub>x</sub> SIP Call notice published on October 27, 1998, (63 FR 57356) to demonstrate that the Atlanta area is affected by an upwind area in another state that significantly contributes to ozone nonattainment in the Atlanta area. In our December 16, 1999, notice (64 FR 70478) proposing approval of the initial 1-hour ozone attainment demonstration for the Atlanta area submitted on October 28, 1999, we explained how the Ozone Transport Assessment Group (OTAG) modeling which supported the NO<sub>x</sub> SIP Call and the attainment demonstration for the Atlanta area demonstrates the impacts of transport. The NO<sub>x</sub> SIP Call notice provides that emissions from sources in Alabama, Kentucky, North Carolina, South Carolina, and Tennessee significantly contribute to violations of the 1-hour ozone standard in the Atlanta area.

(ii) As explained elsewhere in this notice, the GAEPD has submitted an attainment demonstration that EPA believes is approvable. All of the local control measures relied upon in the attainment demonstration have been adopted and submitted to EPA. These

measures include all serious area requirements under section 182(c) and the additional controls discussed in the December 16, 1999, proposal (64 FR 70478) and the July 10, 2001, (66 FR 35906) final rule.

(iii) The GAEPD has adopted all local measures required by section 182(c) of the CAA for the Atlanta serious nonattainment area. (See 59 FR 46176, 60 FR 12691, 60 FR 66150, 61 FR 3819, 62 FR 42918, 64 FR 20188). Additionally, see discussion of contingency measures discussed below.

(iv) With respect to implementation of all adopted measures as expeditiously as practicable but no later than the time upwind controls are expected, the Atlanta SIP requires that all local control measures needed for attainment be in place by May 1, 2003, or earlier. The upwind areas identified above are required to implement controls consistent with the NO<sub>x</sub> SIP Call by May 31, 2004. All of the local control measures in the Atlanta SIP will, therefore, be implemented prior to that time and EPA also proposes to find that they will be implemented as expeditiously as possible.

EPA proposes, based on the above discussion, that the Atlanta SIP has met the criteria for an attainment date extension. Therefore, EPA is proposing to extend the attainment date for the Atlanta area to November 15, 2004, to allow the reductions in transport to occur before attainment is required. This does not affect the GAEPD's obligation to implement the remaining local measures by the dates required in the approved SIP regulations. Additional background information on EPA's attainment date extension policy can be found in the following **Federal Register** notices:

64 FR 12284 .....	March 18, 1999.
64 FR 18864 .....	April 16, 1999.
64 FR 27734 .....	May 21, 1999.
64 FR 70459 .....	December 16, 1999.
65 FR 20404 .....	April 17, 2000.
66 FR 586 .....	January 3, 2001.
66 FR 634 .....	January 3, 2001.
66 FR 666 .....	January 3, 2001.
66 FR 17647 .....	April 3, 2001.
66 FR 20122 .....	April 19, 2001.
66 FR 26913 .....	May 15, 2001.
66 FR 33996 .....	June 26, 2001.

#### **VII. Proposed Finding of Nonattainment**

Table 2 lists the number of exceedances of the 1-hour ozone NAAQS for each monitor in the Atlanta nonattainment area for the period 1997–1999. The ozone design value for each monitor is also listed for the same period. A complete listing of the ozone exceedances for each monitoring site, as

well as EPA's calculations of the design values, can be found in the docket file. For the three year period ending in 1999 (*i.e.*, 1997–1999), the design value for the Atlanta area was 0.156 ppm. For this

three year period and each three year period thereafter, the Atlanta area had a design value greater than 124 ppm. Therefore, if EPA does not approve an attainment date extension for Atlanta

pursuant to section 181(b)(2)(A) of the CAA, EPA proposes to find that the Atlanta area did not attain the 1-hour NAAQS by the November 15, 1999, statutory attainment deadline.

TABLE 2.—AIR QUALITY MONITORING DATA FOR THE ATLANTA AREA 1997–1999

Site ID	County	Total exceedances 97–99	Annual average expected exceedances	Design value (ppms)
13-089-0002 .....	DeKalb .....	16	6.7	0.142
13-089-3001 .....	DeKalb .....	10	4.4	0.135
13-097-0004 .....	Douglas .....	9	3.5	0.131
13-121-0055 .....	Fulton .....	28	10.8	0.156
13-135-0002 .....	Gwinnett .....	7	2.9	0.138
13-223-0003 .....	Paulding .....	3	1.1	0.124
13-247-0001 .....	Rockdale .....	28	10.3	0.153

\*Only monitors with three complete years of data were used for these calculations.

**VIII. Reclassification**

Section 181(b)(2)(A) of the CAA requires that, when an area is reclassified for failure to attain, its reclassification be the higher of the next higher classification or the classification applicable to the area's ozone design value at the time the notice of reclassification is published in the **Federal Register**. Section 181(b)(2)(A)(ii) provides that no area shall be reclassified as Extreme. The Atlanta area is a serious nonattainment area with a design value of 0.156 ppm. Therefore, if EPA finalizes the finding of failure to attain, the Atlanta area would be reclassified, by operation of law, as a severe nonattainment area.

Section 182(i) states that the Administrator may adjust applicable deadlines (other than attainment dates) to the extent such adjustment is necessary or appropriate to assure consistency for submission of the new requirements applicable to an area which has been reclassified. An area reclassified to severe is required to submit SIP revisions addressing the severe area requirements for the 1-hour ozone NAAQS in section 182(d).

If the Atlanta area is reclassified to severe, EPA must also address the schedule by which Georgia is required to submit SIP revisions meeting the severe area requirements. EPA is proposing to require that the State submit SIP revisions containing all the severe area requirements no later than 12 to 18 months after final action on the reclassification. EPA is soliciting comments pertaining to the time frame for SIP submission. This submission would include a new attainment demonstration and all additional measures required by section 182(d) of the CAA. The additional measures include, but are not limited to, the

following: (1) the use of reformulated gasoline in the nonattainment area, (2) the new source review offset requirements would increase from 1.2 to 1 to 1.3 to 1, (3) the definition of a major source would decrease from 50 tons per year to 25 tons per year, and (4) sources in the nonattainment area could be subject to enforcement penalties for failure to attain. Additionally, the attainment date will be as expeditiously as practicable, but no later than 2005.

**IX. Contingency Measures**

Section 172(c)(9) and 182(c)(a) of the Act require SIPs to contain additional measures that will take effect without further action by the state or EPA if an area fails to attain the standard by the applicable date or to meet rate-of-progress (ROP) deadlines. The CAA does not specify how many contingency measures are needed or the magnitude of emissions reductions that must be provided by these measures. However, EPA provided guidance interpreting the control measure requirements of 172(c)(1) and 182(c)(a) in the April 16, 1992, General Preamble for Implementation of the CAA (see 57 FR 13498, 13510). In that guidance, EPA indicated that states with moderate and above ozone nonattainment areas should include sufficient contingency measures so that, upon implementation of such measures, additional emissions reductions of up to 3 percent of the emissions in the adjusted base year inventory (or such lesser percentage that will cure the identified failure) would be achieved in the year following the year in which the failure has been identified. States must show that their contingency measures can be implemented with minimal further action on their part and with no additional rulemaking actions such as

public hearings or legislative reviews. The additional 3 percent reduction would ensure that progress toward attainment occurs at a rate similar to that specified under the reasonable further progress requirements for moderate areas (*i.e.*, 3 percent per year), and that the state will achieve these reductions while conducting additional control measure development and implementation as necessary to correct the shortfall in emissions reductions.

EPA has also determined that federal measures can be used to analyze whether the contingency measure requirements of section 179(c)(9) and 182(c)(a) have been met. While these measures are not SIP-approved contingency measures which would apply if an area fails to attain, EPA believes that existing federally enforceable measures can be used to provide the necessary substantive relief. Therefore, federal measures may be used in the analysis, to the extent that the attainment demonstration does not rely on them or take credit for them (*see, e.g.*, 66 FR 586, 615 (January 3, 2001)).

EPA believes the contingency measure requirements of sections 172(c)(9) and 182(c)(9) are independent requirements from the attainment demonstration requirements under sections 172(c)(1) and 182(c)(2)(A) and the ROP requirements under sections 172(c)(2) and 182(c)(2)(B). The contingency measure requirements are to address the event that an area fails to meet a ROP milestone or fails to attain the ozone NAAQS by the attainment date established in the SIP. The contingency measure requirements have no bearing on whether a state has submitted a SIP that projects attainment of the ozone NAAQS or the required ROP reductions toward attainment. The attainment or ROP SIP provides a

demonstration that attainment or ROP requirements ought to be fulfilled, but the contingency measure SIP requirements concern what is to happen only if attainment or ROP is not actually achieved. The EPA acknowledges that contingency measures are an independently required SIP revision, but does not believe that submission of contingency measures is necessary before EPA may approve an attainment or ROP SIP. However, EPA believes that areas should have sufficient reductions to meet contingency measure requirements, even if a contingency measure SIP has not been approved, in order to receive an attainment date extension.

EPA has examined the 15 percent ROP and 9 percent ROP plans which were submitted to EPA on June 17, 1996. EPA believes that contingency measure requirements can be met by surplus reductions achieved in the ROP plans. EPA granted approval to the 15 percent ROP in a **Federal Register** published on April 26, 1999, (64 FR 20186). The 9 percent ROP was approved in a **Federal Register** published on March 18, 1999, (64 FR 13348). Detailed information relating to the calculation of Georgia's 1990 adjusted baseline inventory for VOC and NO<sub>x</sub> emissions for the Atlanta area can be found in the above referenced **Federal Register** actions. The adjusted baseline inventory for VOC found in Georgia's 15 percent ROP is 526.19 tpd and the adjusted baseline inventory for NO<sub>x</sub> found in the 9 percent ROP is 483.12. Therefore, the required 3 percent ROP reductions would be 15.79 tps for VOC ( $0.03 \times 526.19 = 15.79$ ) and 14.50 tpd for NO<sub>x</sub> ( $0.03 \times 483.12 = 14.5$ ). In the 15 percent ROP Georgia exceeds the required VOC emissions reduction by 1.06 tpd. This equates to 0.20 percent of the required 3 percent reduction, leaving a balance of 2.80 percent to be made up by NO<sub>x</sub> reductions. This must be 2.8 percent of the NO<sub>x</sub> adjusted baseline inventory. Therefore, the required NO<sub>x</sub> reductions to satisfy contingency requirements for ROP equal 13.53 tpd ( $0.0280 \times 483.12$ ). The 9 percent ROP achieves an excess NO<sub>x</sub> emissions reduction of 19.47 tpd. Thus, the excess emission reductions achieved in the ROP plans meet the 3 percent contingency requirement. EPA is proposing to approve these contingency measures for ROP.

Additionally, EPA examined the attainment demonstration for the Atlanta area submitted on July 17, 2001, for contingency measures. Although no measures have been specifically designated as contingency measures, EPA has found that measures that could

reasonably constitute appropriate contingency measures are already contained in the SIP or exist in promulgated federal regulations. These measures include EPA's Tier 2 tailpipe standards, national low emission vehicle program, heavy duty diesel emission standards for 2004. Additionally, the Atlanta area will benefit from fleet turnover, as well as an additional model year of light duty vehicles subject to on-board diagnostic (OBD) testing. These measures will continue to provide reductions after November 2004, the attainment date EPA is proposing to approve for the Atlanta area. The measures are estimated to reduce emissions in the area by 1.45 percent of the 1990 VOC adjusted baseline emissions and 3.31 percent of the 1990 NO<sub>x</sub> adjusted baseline emissions by 2005 (the year following the time by which EPA must determine whether the area has attained). More details on EPA's contingency measure analysis are included in the docket for this rulemaking action. While there is not an approved contingency measure that would apply if the Atlanta area failed to attain, EPA believes that existing federally enforceable measures would provide the necessary substantive relief sufficient to provide the basis for proposing approval of an extension to the area's attainment date.

#### X. Proposed Action

Today, EPA is proposing to approve the 1-hour ozone attainment demonstration for the Atlanta area as submitted on July 17, 2001, the RACM analysis, commitment to perform an early attainment assessment, contingency measures, the 2004 MVEB, PSG program and to extend the attainment date to November 15, 2004. In the alternative, EPA is proposing to find that the Atlanta area failed to attain the 1-hour ozone NAAQS by November 15, 1999. Should EPA not take final action to approve the attainment demonstration and extend the attainment date, EPA is also proposing, in the alternative, to reclassify the Atlanta area to severe. In such case, additional **Federal Register** action will be taken to set the appropriate submittal dates for any additional measures required for severe areas and the attainment date.

#### XI. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is

also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise

satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: November 30, 2001.

#### A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[GA-47-2; GA-55-2; GA-58-2-200208; FRL-7116-2]

#### Approval and Promulgation of Air Quality State Implementation Plans; Georgia: Control of Gasoline Sulfur and Volatility

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to fully approve a State Implementation Plan (SIP) revision, submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD), establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Georgia developed these fuel requirements to reduce emissions of nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Atlanta nonattainment area. EPA is approving Georgia's fuel requirements into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

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

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

Copies of the State submittal(s) are available at the following addresses for inspection during normal business hours: Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Lynorae Benjamin, (404) 562-9040. Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone (404) 363-7000.

#### FOR FURTHER INFORMATION CONTACT:

Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9040. Ms. Benjamin can also be reached via electronic mail at [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

**SUPPLEMENTARY INFORMATION:** The following section provides the rationale for EPA's approval of the Georgia fuel requirements into the SIP, as provided in section 211(c)(4)(C) of the Act. Georgia's fuel requirements are being implemented in two phases. The initial phase requires the low-sulfur/low-RVP gasoline sold in the 13-county Atlanta nonattainment area and 12 surrounding attainment counties during the regulatory control period (June 1 through September 15) each year through 2002. The second phase of the Georgia fuel program expands the low-sulfur/low-RVP requirements to an additional 20 attainment counties. The program becomes a year-round program in 2003, except that the RVP requirement applies only during the June 1 through September 15 control period.

#### I. Analysis of State's Submittal

##### What Did the State Submit?

On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-hour ozone NAAQS for the Atlanta nonattainment area for inclusion into the Georgia SIP. This submittal included a version of the low-sulfur/low-RVP fuel regulations that has subsequently been amended by the State, and submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001. The version submitted on August 21, 2001, which is

the subject of this proposed rulemaking, is the "Gasoline Marketing Rule," provided in Georgia's Rules for Air Quality Control, Chapter 391-3-1.02(2)(bbb).

On May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD also submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Act, the fuel control is necessary to achieve a NAAQS. On November 9, 2001, GAEPD submitted an updated "necessity" demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations.

#### Does the State Submittal Meet the SIP Approval Requirements Under Section 110?

The SIP submittals, including the rule for Georgia's low-sulfur/low-RVP fuel control program, meet the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The current version of the fuel rule was formally adopted by the GAEPD Board on June 27, 2001, and became effective July 18, 2001.

#### How Does the Low-Sulfur/Low-RVP Proposal Relate to Other SIP Activities in the State?

As noted above, on October 28, 1999, GAEPD submitted for EPA approval an ozone attainment demonstration for the Atlanta nonattainment area, which relies upon a number of control measures, including the low-sulfur/low RVP fuel program, to support the demonstration. On December 16, 1999, EPA proposed to approve the October 28, 1999, attainment demonstration for the Atlanta nonattainment area, as well as the underlying rule revisions with the exception of the Georgia fuel rule (the subject of this proposed rulemaking) (see 64 FR 70478). EPA's proposed approval was based on the condition that the GAEPD satisfy certain requirements.

Subsequently, the GAEPD submitted revisions to the Atlanta attainment demonstration on January 31, 2000, and July 31, 2000, along with revisions to State rules supporting the attainment demonstrations. Those rule revisions were proposed for approval on December 18, 2000 (see 65 FR 79034). No adverse comments were received pertaining to any rule revisions.

On July 10, 2001, EPA granted final approval to the rule revisions contained