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**Lawrence W. Roffee,**

*Executive Director, Architectural and Transportation Barriers Compliance Board.*  
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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R04-OAR-2005-TN-0001, R04-OAR-2004-GA-0004-200414; FRL-7917-7]

### Approval and Promulgation of Air Quality Implementation Plans; Tennessee and Georgia; Attainment Demonstrations for the Chattanooga, Nashville, and Tri-Cities Early Action Compact Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the Tennessee and Georgia State Implementation Plans (SIPs) respectively submitted by the State of Tennessee through the Department of Environment and Conservation on December 29, 2004, and by the State of Georgia through the Environmental Protection Division on December 31, 2004. These revisions are submitted pursuant to the Early Action Compact (EAC) protocol<sup>1</sup> and will result in emission reductions needed to attain and maintain the 8-hour ozone National Ambient Air Quality Standard (NAAQS) in the Chattanooga, Nashville, and Tri-Cities EAC areas. EPA is proposing approval of the photochemical modeling which supports the attainment demonstration of the 8-hour ozone standard within

these areas. The proposed revisions further incorporate the local control measures of the Chattanooga, Nashville, and Tri-Cities EAC area agreements into the SIP. EPA is also proposing revisions to the Vehicle Inspection and Maintenance (I/M), Stage I Vapor Recovery and Motor Vehicle Tampering Tennessee SIP regulations. EPA is proposing to approve revisions to Georgia's rules for Stage I Vapor Recovery and open burning.

**DATES:** Comments must be received on or before June 27, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04-OAR-2005-TN-0001 for any comments regarding the Tennessee submittal or ID No. R04-OAR-2004-GA-0004 for any comments regarding the Georgia submittal, by one of the following methods:

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

2. *Agency Web site:* <http://docket.epa.gov/rmepub/> RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* [martin.scott@epa.gov](mailto:martin.scott@epa.gov), or [hoffman.annemarie@epa.gov](mailto:hoffman.annemarie@epa.gov).

4. *Fax:* 404-562-9019.

5. *Mail:* "R04-OAR-2005-TN-0001" or "R04-OAR-2004-GA-0004", 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.

6. *Hand Delivery or Courier:* Deliver your comments to: Anne Marie Hoffman, or Scott Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**Instructions:** Direct your comments to RME ID No. R04-OAR-2005-TN-0001 for comments regarding the Tennessee submittal or to R04-OAR-2004-GA-0004 for any comments regarding the Georgia submittal. EPA's policy is that

all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME Web site and the federal [regulations.gov](http://regulations.gov) Web site are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket:** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in 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 contact 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 Martin, or Anne Marie Hoffman,

<sup>1</sup> The EAC Protocol can be found at <http://www.epa.gov/air/eac/> and in the Regional Materials Edoctet (RME) I.D. "R04-OAR-2005-TN-0001, R04-OAR-2004-GA-0004 see ADDRESSES section of this notice for further information on RME.

Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone for Mr. Martin is (404) 562-9036, and the telephone number for Ms. Hoffman is (404) 562-9074. Mr. Martin can also be reached via electronic mail at [martin.scott@epa.gov](mailto:martin.scott@epa.gov). Ms. Hoffman can also be reached via electronic mail at [hoffman.annemarie@epa.gov](mailto:hoffman.annemarie@epa.gov).

**SUPPLEMENTARY INFORMATION:** The use of “we,” “our,” and “us” refers to EPA.

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#### I. What Action Are We Proposing?

Today we are proposing to approve revisions to the Tennessee and Georgia SIPs under sections 110 and 116 of the Clean Air Act (CAA or the Act). These revisions demonstrate attainment and maintenance of the 8-hour ozone standard, 0.08 parts per million (ppm),<sup>2</sup> within the Chattanooga, Nashville and Tri-Cities EAC areas (The Tennessee and Georgia EAC areas) by 2007, and incorporate the measures developed by these EACs into the Tennessee and Georgia SIPs. The EACs are voluntary agreements between the States, local governments and EPA. The intent of these agreements is to reduce ozone pollution and thereby attain and maintain the 8-hour ozone standard by 2007, sooner than required by the CAA for areas designated nonattainment. Section VII of this rulemaking describes the control measures that will be implemented within the Tennessee and Georgia EAC areas.

#### II. What Is a SIP?

The “SIP” is the State Implementation Plan required by Section 110 of the CAA and its implementing regulations. In essence, the SIP is a set of air pollution

regulations, control strategies and technical analyses developed by the State to ensure that the State meets the NAAQS. Once included in the SIP, these regulations, strategies, and analyses are federally enforceable by EPA. The NAAQS are established under Section 109 of the Act and they currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. These SIPs can be extensive, containing state regulations or other enforceable documents and supporting information such as emission inventories, monitoring networks, and modeling demonstrations. Discussed in greater detail below, SIP revisions relating to attainment of the 8-hour ozone standard submitted by Tennessee and Georgia on December 29, and December 31, 2004, are now being proposed for inclusion into the SIPs.

#### III. What Is Ozone and the Purpose of the 8-hour Ozone Standard?

Ozone is formed by a series of chemical reactions involving nitrogen oxides (NO<sub>x</sub>), the result of combustion processes, and reactive organic gases, also termed volatile organic compounds (VOCs). NO<sub>x</sub> and VOCs are emitted into the air through many sources such as vehicles, power plants and other industrial facilities. Ozone and its precursors have many adverse effects on human health and can cause the following: Irritation of the respiratory system, reduction of lung function (making it more difficult to breathe), aggravation of asthma, inflammation and damage to the lining of the lungs, and an increase in the risk of hospital admissions and doctor visits for respiratory problems. In order to reduce ozone it is necessary to reduce NO<sub>x</sub> and VOCs, ozone precursors. Consistent with the Act, ozone reductions are achieved by establishing NAAQS, such as the 8-hour ozone standard, and implementing the measures necessary to reduce ozone and its precursors. In the April 30, 2004, (69 FR 23858), **Federal Register** document entitled “Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates,” EPA designated every county in the United States unclassifiable/attainment or nonattainment. Generally, when areas are designated nonattainment, they must put measures in place that will control and maintain ozone at healthy levels; areas designated as attainment must also develop maintenance plans to ensure ozone concentrations do not increase over time

to unhealthy levels. The EAC program involves a commitment by areas close to attainment of the ozone standard to achieve clean air sooner. The areas’ commitment is demonstrated by implementing control measures to achieve attainment earlier than mandated by the 8-hour ozone NAAQS and the Clean Air Act. The EAC areas that were designated nonattainment, but were able to meet the requirements of the EAC Protocol currently have a deferral of their nonattainment designation until September 30, 2005.

#### IV. What Is an EAC?

An “EAC” is an “Early Action Compact.” This is an agreement between a State, local governments, and EPA to implement measures not necessarily required by the Act in order to achieve cleaner air as soon as possible. Communities close to or exceeding the 8-hour ozone standard that have elected to enter into an EAC have started reducing air pollution at least two years sooner than required by the Act. In many cases, these reductions will be achieved by local air pollution control measures not otherwise mandated under the Act. The program was designed for areas that approach or monitor exceedances of the 8-hour standard, but are in attainment for the 1-hour ozone standard. The one-hour ozone standard will be revoked as of June 15, 2005, in most areas. It will not be revoked for previous 1-hour nonattainment areas that are 8-hour EAC areas, such as the Nashville, Tennessee and Greensboro-Winston Salem-High Point, North Carolina 1-hour area (the Triad 8-hour EAC area).<sup>3</sup> These areas will continue to implement transportation conformity requirements related to the 1-hour ozone standard. The 1-hour ozone transportation conformity requirements will no longer be in effect one year after the 8-hour ozone attainment designation if the areas are successful in achieving attainment through implementation of the EAC. If any EAC area is unsuccessful in attaining the 8-hour ozone NAAQS through the EAC process, it will be subject to the 8-hour ozone transportation conformity requirements one year after the nonattainment designation becomes effective.

The initial choice to enter into a EAC was voluntary on behalf of the local officials and State air quality officials. EPA believes that early planning and implementation of control measures that

<sup>2</sup> The 8-hour ozone standard was promulgated on July 18, 1997 (62 FR 38856).

<sup>3</sup> Notably, the counties included in the 8-hour EAC area may not directly correspond with all the counties included in the previous 1-hour area for the similar geographic area.

improve air quality will likely accelerate protection of public health. The EAC program allows participating State and local entities to make decisions that will accelerate meeting the new 8-hour ozone standard using local pollution control measures in addition to federally mandated measures. While the choice of entering into an EAC was voluntary, all measures adopted as part of the EAC are being proposed to be incorporated into the SIP and will be mandatory and federally enforceable.

In Region 4, EPA initially received 22 requests to enter into EACs in December 2002, including 100 counties in four states. Currently, there are 17 areas and 85 counties included in the EAC program in four states. Of those 17, only eight areas received a deferral of their nonattainment designation. Five of the eight areas that have a deferred nonattainment designation are now attaining the 8-hour ozone standard and modeling attainment of that into the future. Consistent with EPA's EAC Protocol, states with communities participating in the EAC program had to submit plans for meeting the 8-hour ozone standard by December 31, 2004, rather than June 15, 2007, the CAA deadline for all other areas not meeting the standard. The EAC Protocol further requires communities to develop and implement air pollution control strategies, account for emissions growth and demonstrate attainment by 2007 and maintenance for at least five years of the 8-hour ozone standard. Greater details of the EAC program are explained in EPA's December 16, 2003, (68 FR 70108) proposed **Federal Register** document entitled "Deferral of

Effective Date of Nonattainment Designations for 8-hour Ozone National Ambient Air Quality Standards for Early Action Compact Areas."

Tennessee submitted an EAC for the Chattanooga area, the Nashville area, and the Tri-Cities area, on December 30, 2002. The State of Georgia submitted materials supporting the Chattanooga EAC on December 24, 2002. These were signed by representatives of the local communities, State air quality officials and the Regional Administrator. The Tennessee and Georgia EAC area designations are discussed further in Section V of today's rulemaking. To date, the Tennessee and Georgia EAC areas have met all EAC milestones and, as long as EAC areas continue to meet the agreed upon milestones, the nonattainment designations will be deferred until April 15, 2008. At that time EAC areas with air quality monitoring data showing attainment for the years 2005–2007 and that have met all compact milestones will be designated attainment.

#### V. What Are the Tennessee and Georgia EAC Areas and Their Respective 8-hour Ozone Designations?

In the April 30, 2004, (69 FR 23858) **Federal Register** document entitled "Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas with Deferred Effective Dates," the EPA designated every area in the United States unclassifiable/attainment or nonattainment. The EPA deferred the effective date of nonattainment designations for EAC areas that were violating the 8-hour

ozone standard (and attaining the 1-hour ozone standard), but continue to meet the compact milestones. Details of this deferral were published in the April 30, 2004, (69 FR 23858) **Federal Register** document. The Tennessee and Georgia EAC area designations are discussed further in Section V of today's rulemaking.

In the April 30, 2004, (69 FR 23858) rulemaking, the EPA designated counties within the EAC areas that were violating the 8-hour NAAQS based on 2001–2003 air quality monitoring data as nonattainment-deferred. EPA designated five counties within the Nashville EAC area as nonattainment-deferred and three counties as unclassifiable/attainment for the 8-hour ozone standard (*See Table 1*). In the same document, EPA designated two counties within the Tri-Cities EAC area as nonattainment-deferred and four counties as unclassifiable/attainment for the 8-hour ozone standard (*See Table 1*). In the same document, EPA found Chattanooga's report submitted to meet the March 31, 2004, EAC milestone was insufficient. EPA therefore designated Hamilton County, Tennessee and Catoosa and Walker Counties, Georgia as nonattainment and the two remaining counties as unclassifiable/attainment. Due to extensive efforts on the part of the local governments and State Agencies consistent with requirements for EAC areas, EPA reinstated the Chattanooga area into the EAC on June 18, 2004, (69 FR 34080) and designated Hamilton County, Tennessee and Catoosa and Walker Counties, Georgia as nonattainment-deferred (*See Table 1*).

TABLE 1.—TENNESSEE AND GEORGIA EAC 8-HOUR OZONE DESIGNATIONS

| EAC areas                 | EAC 8-hour Ozone designation |
|---------------------------|------------------------------|
| Chattanooga EAC area:     |                              |
| Hamilton County, TN ..... | Nonattainment-deferred.      |
| Meigs County, TN .....    | Nonattainment-deferred.      |
| Marion County, TN .....   | Unclassifiable/Attainment.   |
| Walker County, GA .....   | Unclassifiable/Attainment.   |
| Catoosa County, GA .....  | Nonattainment-deferred.      |
| Nashville EAC area:       |                              |
| Davidson County .....     | Nonattainment-deferred.      |
| Rutherford County .....   | Nonattainment-deferred.      |
| Williamson County .....   | Nonattainment-deferred.      |
| Wilson County .....       | Nonattainment-deferred.      |
| Sumner County .....       | Nonattainment-deferred.      |
| Robertson County .....    | Unclassifiable/Attainment.   |
| Cheatham County .....     | Unclassifiable/Attainment.   |
| Dickson County .....      | Unclassifiable/Attainment.   |
| Tri-Cities EAC area:      |                              |
| Sullivan County .....     | Nonattainment-deferred.      |
| Hawkins County .....      | Nonattainment-deferred.      |
| Washington County .....   | Unclassifiable/Attainment.   |
| Unicoi County .....       | Unclassifiable/Attainment.   |
| Carter County .....       | Unclassifiable/Attainment.   |
| Johnson County .....      | Unclassifiable/Attainment.   |

To date, the Tennessee and Georgia EAC areas have met all EAC milestones and, as long as EAC areas continue to meet the agreed upon milestones, the impact of the nonattainment designations will be deferred until April 15, 2008. At that time, EPA will evaluate the 8-hour ozone designations for these areas.

#### VI. How Is Attainment Demonstrated for the 8-Hour Ozone Standard With a Photochemical Model?

In developing its SIP, an area will typically evaluate necessary control measures using modeling programs to determine how that area can meet and maintain the NAAQS. This process is no different for EAC areas which used modeling and screening tests to evaluate attainment and maintenance of the 8-hour ozone standard. The attainment tests use ambient air quality monitored design values with model-generated ozone concentration data. The test is applied at each monitor in the area as well as applicable unmonitored

modeling sites in the EAC area. A future year design value is developed by multiplying the ratio of the future year to current year model-predicted 8-hour daily maximum ozone concentrations by a current design value. The current design value is developed from air quality monitored data. Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations is less than or equal to 0.08 ppm. (See 69 FR 23857 (April 30, 2004) for further information). If modeled predicted future site-specific design values are less than 0.085 ppm at each monitor site, the test is passed.<sup>4</sup>

##### A. How Was Attainment Demonstrated Through the Tennessee EAC Modeling?

The Tennessee modeling was developed consistent with the EPA draft modeling guidance and EAC protocol guidance that was available when the modeling was conducted.<sup>5</sup> The air quality modeled concentrations were

developed using the variable-grid Urban Airshed Model, Version 1.5 (UAM-V5), a regional- and urban-scale, nested-grid photochemical air quality model. Areas with 8-hour ozone SIPs due in 2007 are expected to use the 2002 inventory as mentioned in the policy memo ("2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, PM<sub>2.5</sub>, and Regional Haze Programs" by Lydia N. Wegman dated November 18, 2002). However, for EAC SIPs submitted in 2004, EPA will accept another year provided the data represents recent conditions. A current year of 2001 was used by Tennessee for the modeling because it was the most representative year with the most complete data available.

The attainment test is passed for all EAC area monitors for the future years of 2007, 2012 and 2017 for the Chattanooga, Nashville and Tri-Cities EAC areas using current design values from 2000–2002. The future-predicted design values using the Tennessee modeling are presented in Table 2.

TABLE 2.—TENNESSEE EAC FUTURE DESIGN VALUES (PPB)

| Area/Monitor                       | 2007 | 2012 | 2017 |
|------------------------------------|------|------|------|
| <b>Chattanooga EAC Area</b>        |      |      |      |
| Sequoyah .....                     | 84   | 80   | 77   |
| Chattanooga .....                  | 84   | 79   | 75   |
| Meigs County .....                 | 84   | 80   | 77   |
| <b>Nashville EAC Area</b>          |      |      |      |
| Rockland Road .....                | 81   | 79   | 75   |
| East Nashville Health Center ..... | 66   | 64   | 61   |
| Percy Priest Dam .....             | 75   | 73   | 70   |
| Rutherford County .....            | 82   | 79   | 75   |
| Wright's Farm .....                | 82   | 79   | 75   |
| Fairview .....                     | 80   | 77   | 74   |
| Lebanon .....                      | 76   | 72   | 69   |
| <b>Tri-Cities EAC Area</b>         |      |      |      |
| Kingsport .....                    | 84   | 81   | 80   |
| Blountville .....                  | 83   | 80   | 78   |

##### B. How Was Supplemental Modeling Developed by Georgia Used in the Demonstration for Attainment?

The Chattanooga EAC is a multi-state EAC area and includes counties in Tennessee and Georgia. An attainment demonstration was independently developed for the Chattanooga EAC area

by the states of Tennessee and Georgia. The Georgia modeling was developed consistent with existing EPA modeling and EAC protocol guidance. The air quality modeled concentrations were developed using the Community Multiscale Air Quality (CMAQ), a regional- and urban-scale, nested-grid

photochemical air quality model. A current year of 2000 was modeled for the attainment test. The attainment test is passed for all EAC area monitors for the future years of 2007 and 2012 for the Chattanooga EAC area using current design values from 1999–2001. A comparison of the future-predicted

<sup>4</sup> Although the 8-hour ozone standard is 0.08 ppm, monitored values less than 0.085 are rounded down to 0.08 whereas monitored values equal to or greater than 0.085 are rounded up, and considered to be an exceedance of the standard. The 8-hour ozone standard can also be expressed in parts per billion and EPA often refers to monitors meeting the standard if they monitor values less than 85 ppb.

<sup>5</sup> The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the 8-hour ozone NAAQS. See U.S. EPA, (1999), Draft Guideline on the Use of Models and Other Analysis in Attainment Demonstrations for the 8-Hour Ozone NAAQS, EPA-454/R-99-00413, (May 1999). A copy may be found on EPA's Web site at <http://www.epa.gov/ttn/scram/> (file name: "DRAFT8HR").

EPA, June, 2002. "Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-Hour Ozone Standard". Located at <http://www.epa.gov/ttn/naaqs/ozone/eac/>.

"Appendix W to 40 CFR Part 51: Guideline on Air Quality Models." Located at <http://www.epa.gov/scram001/> (file name: "Appendix W")

design values as independently

developed in the Georgia and Tennessee modeling is presented in Table 3.

TABLE 3.—CHATTANOOGA FUTURE DESIGN VALUES (PPB) FROM TENNESSEE AND GEORGIA

| Monitor            | 2007      |         | 2012      |         |
|--------------------|-----------|---------|-----------|---------|
|                    | Tennessee | Georgia | Tennessee | Georgia |
| Sequoyah .....     | 84        | 81      | 80        | 79      |
| Chattanooga .....  | 84        | 81      | 79        | 78      |
| Meigs County ..... | 84        | 81      | 80        | 78      |

### C. Supplemental Analyses Used in the Technical Demonstration for Attainment?

According to the 1999 draft EPA 8-hour ozone modeling guidance, a weight of evidence (WOE) analysis is optional if attainment is modeled through photochemical modeling. If it is submitted, WOE provides additional corroborative analyses to support and strengthen the photochemical modeling. The WOE analyses are particularly useful in verifying the attainment demonstration if the photochemical modeling results are within a few parts per million of the 8-hour standard. The State of Tennessee chose to submit a weight of evidence analysis to support the attainment modeling results. The WOE results varied for each EAC area but were, overall, supportive of the modeling conclusions for attainment. Therefore, WOE strengthens the

photochemical modeling analysis. The WOE is described in detail and for each EAC area in the technical support document (TSD) for this document. Briefly, the WOE elements in the SIP submittal include:

1. An additional application of the modeled attainment test using the 2001–2003 data for the current design values. Using a lower ambient air quality current design value results in all monitors indicating attainment with design values well below 84 ppb.

2. A sensitivity analysis on the radius of influence to use around the monitor to determine the modeling concentrations to use in the attainment tests. Attainment was indicated at all monitors in the Tri-Cities and Nashville area.

3. An 8-hour ozone exceedance exposure analysis to determine the change in difference of 8-hour ozone predictions > 85 ppb. The percent

reduction improvement is presented in Table 4.

4. Three analysis items as defined in the draft EPA 8-hour ozone modeling guidance were analyzed to determine the percent reduction improvement: (1) Change in number of grid cell hours with 1-hour ozone > 84 ppb, (2) change in number of grid cell hours with 1-hour ozone > 84 ppb, and (3) change in difference of 1-hour ozone predictions > 84 ppb. The results for the three metrics are presented in Table 4. Improvement ranging from 51 to 78 percent is shown for each analysis item for all three areas.

5. Applying the modeled attainment test by omitting episode days based on model performance and using only episode days with observed exceedance. Attainment was indicated with future design values similar and sometimes less than the future design values in Table 3.

TABLE 4.—WEIGHT OF EVIDENCE ANALYSES RESULTS (PERCENT)

| Analysis Items  | Percent reduction for each EAC area |           |            |
|---|-------------------------------------|-----------|------------|
|   | Chattanooga                         | Nashville | Tri-Cities |
| Change in difference of 8-hour ozone predictions > 85 ppb .....                     | 78                                  | 73        | 71         |
| Change in number of grid cell hours with 1-hour ozone concentrations > 84 ppb ..... | 73                                  | 64        | 69         |
| Change in number of grid cell hours with 8-hour ozone concentrations > 85 ppb ..... | 67                                  | 59        | 51         |
| Change in difference of 1-hour ozone predictions > 84 ppb .....                     | 63                                  | 55        | 55         |

The WOE analysis supports the conclusions of attainment presented in section IV.A. Improvements in air quality are indicated in the WOE analyses. The sensitivity analyses on the application of the model attainment test further support attainment for the EAC areas. Additional details by EAC areas for the WOE analysis is included in the TSD for this document.

### D. What Is the Maintenance for Growth Plan for the EAC Areas?

The Tennessee SIP included a comprehensive maintenance plan for the EAC areas that met the minimum requirements of the EAC protocol. The EAC maintenance plan includes the following:

1. An attainment demonstration for the 2007–2017 period. Future design values developed through modeling for 2007, 2012 and 2017 are below 85 ppb at all monitors in the EAC areas.

2. A commitment for an interim evaluation in 2008.

3. A commitment to annually track stationary and highway mobile source emissions starting in 2005. Provides triggers (emissions growth thresholds and rates) and actions (air quality analyses, modeling and adopting additional controls) to be performed to address emission growth.

4. Based on the tracking the growth of stationary and onroad mobile sources, Tennessee commits to adopt and implement additional control measures,

as needed from their analyses, as expeditiously as practicable, but no later than two years from meeting a triggering condition.

5. A timeline of actions and submittals for the maintenance plan from December 2004 to December 2017:

- December 2004—Tennessee Division of Air Pollution Control (TDAPC) submits the EAC SIP covering both the attainment date of 2007 and the 10-year maintenance period through 2017

- December 2005—TDAPC and EAC areas fully implement EAC control measures

- December 2005—First annual emissions tracking report submitted for each EAC area

- December 2006—Second annual tracking report submitted for each EAC area
- December 2007—Ozone NAAQS attainment date
- December 2007—Third annual tracking report submitted for each EAC area
- April 2008—EPA designates areas for the 8-hour ozone standard
- December 2008—TDAPC completes evaluation of new emissions data and determines whether revised modeling analysis is required
- December 2008—Fourth annual tracking report submitted for each EAC area and continues each year thereafter through the end of the maintenance period.

The Georgia maintenance for growth plan was based on modeling the next five year period following the attainment year, *i.e.*, 2012. Developing modeled future design values for 2012 satisfies the five-year maintenance for growth demonstration requirements in the EAC protocol, *i.e.*, to assess attainment beyond 2007. The Georgia modeling indicates that maintenance of the attainment will occur beyond the December 31, 2007, attainment date. The EPA EAC protocol also states that the plan must detail a continuing planning process and discusses what this should involve. The Georgia EAC maintenance plan for the Chattanooga EAC area includes an attainment demonstration with future design values developed through modeling for 2007 and 2012 that are below 85 ppb at all EAC monitors. A commitment is included to track the EAC design value. If the design value increases beyond 0.084 ppm, the state will conduct a comprehensive study of air quality, emissions and modeling (as applicable) to determine if additional controls are needed. Additional controls will be developed, completed and submitted to EPA no later than 18 months of a determination based on the air quality trigger.

#### *E. What Are EPA's Conclusions on the EAC Technical Demonstration for Attainment and Maintenance?*

EPA's analysis indicates that the appropriate data and procedures were used to assess 8-hour ozone attainment for the Chattanooga, Nashville and Tri-Cities EAC areas. Although modeling demonstrations by Tennessee and

Georgia were independently developed using different assumptions, inventories, episodes, and models, the results were consistent in modeling attainment. EPA's review indicates that the modeling from both states indicates attainment and maintenance of the 8-hour ozone NAAQS will be achieved. Finally, EPA believes that the combination of local scale modeling, WOE analyses and control strategies demonstrates attainment of the 8-hour ozone NAAQS for each Tennessee EAC area. Additional details of the Georgia and Tennessee EAC modeling are presented in the TSDs for the two state submittals.

#### **VII. What Measures Are Included in This EAC SIP Submittal?**

The Tennessee and Georgia submittals outline State and local measures that have been adopted and implemented, or will be implemented, by December 31, 2005, to attain and maintain the 8-hour ozone standard. These measures include controls on both stationary and mobile emissions sources. The Tennessee TSD discusses the results of photochemical modeling and technical analyses that support a demonstration of attainment of the 8-hour ozone standard by December 31, 2007, and maintenance of that standard through 2017. The Georgia TSD discusses the results of photochemical modeling and technical analyses that support a demonstration of attainment of the 8-hour ozone standard by December 31, 2007, and maintenance of that standard through 2012.

Statewide rule revisions adopted by the State of Tennessee to control emissions include an expansion of the Motor Vehicle Inspection and Maintenance (I/M) program, an expansion of the Stage 1 Gasoline Vapor Recovery program, and a Motor Vehicle Tampering provision. The Light-Duty Motor Vehicle Inspection and Maintenance revision broadens the scope of the existing rule to achieve additional mobile source emissions reductions. Significant changes require gasoline and diesel vehicles 1975 and newer with a gross vehicle weight rating up to 10,500 pounds or less to pass an emissions inspection prior to registration renewal. The Motor Vehicle Tampering revision reduces air pollution caused by tampering. Tampering may be defined as

modifying, removing or rendering inoperable, any air pollution emission control device which results in an increase in emissions beyond established federal motor vehicle standards. The Volatile Organic Compounds—Stage I Vapor Recovery revision broadens the scope of the existing rule to achieve additional emissions reductions. Stage I Vapor Recovery is used during the refueling of gasoline storage tanks to reduce emissions of VOCs. Vapors in storage tanks that are displaced by incoming gasoline would be routed into the gasoline tank truck and therefore captured, instead of being vented to the atmosphere. The revision extends Stage I requirements for bulk gasoline plants and gasoline dispensing stations to additional Tennessee counties.

The State of Georgia submittal included two controls that will be implemented in the Chattanooga EAC area, an open burning ban during the ozone season and Stage I Vapor recovery. An open burning ban will be implemented at the state level in Catoosa and Walker Counties. The open burning ban will be in effect for the duration of the ozone season, which is May 1 through September 30. Stage I Vapor Recovery will be implemented at the state level in Catoosa and Walker Counties, Georgia in the Chattanooga area. Emissions reductions estimates from stage I vapor recovery in Walker and Catoosa Counties are estimated to be 0.81 tons per day (tpd) of VOCs in 2007 and 0.93 tpd of VOCs in 2012.

The majority of local EAC control measures being proposed for the SIP were not included in the modeling because they were not necessary to model attainment. These expected emission reductions further support the conclusion that the Tennessee and Georgia EAC areas will attain and maintain the 8-hour ozone standard in the future. Examples of these expected emission reductions not modeled are summarized in Table 5. For a complete list of local reductions see the 8-hour ozone attainment demonstrations for the Tennessee and Georgia EAC areas submitted to EPA on December 29, 2004, and December 31, 2004, found in the RME system as mentioned in the **ADDRESSES** section of today's rulemaking.

TABLE 5.—ADDITIONAL EAC LOCAL REDUCTIONS NOT MODELED

| Strategy                              | Estimated reduction           |                   |
|---------------------------------------|-------------------------------|-------------------|
|                                       | NO <sub>x</sub><br>(tons/day) | VOC<br>(tons/day) |
| <b>Chattanooga EAC</b>                |                               |                   |
| Seasonal Open Burning Ban .....       | 1.04                          | 3.15              |
| Spare the Air Program .....           | 0.130                         | 0.170             |
| <b>Nashville EACe</b>                 |                               |                   |
| Seasonal Open Burning Ban .....       | 0.111                         | 0.423             |
| Air Quality Action Day Measures ..... | 1.220                         | 0.470             |
| HOV Lane Expansion .....              | 0.017                         | 0.021             |
| Traffic Signal Synchronization .....  | 0.206                         | 0.260             |

The modeled control measures detailed in Section VII meet the requirements of the EAC protocol: They are specific, quantified, permanent and will be federally enforceable when approved by EPA. In compliance with the next EAC program milestone, each of the control measures listed above, including any measures substituted by local areas, are scheduled to be implemented on or before December 31, 2005. The TSD contains additional information on each of these control measures, as well as information on numerous locally-implemented measures whose expected emission reductions have not been quantified. Local measures for the Tri-Cities EAC area are not included in Table 5 because the area did not quantify the local control measures which included an open burning ban, ozone action day program, and transportation emissions control measures.

Additionally, federal emission controls are projected to substantially reduce emissions of NO<sub>x</sub> and VOCs in the newer fleet of vehicles and improved emission controls in major industrial, commercial and institutional facilities (point sources) are projected to significantly reduce emissions of NO<sub>x</sub>. Using air quality models to anticipate the impact of growth, as well as the state-assisted and locally-implemented measures to reduce emissions, the States have projected that the EAC areas will be in attainment of the 8-hour ozone standard in 2007 and will remain in attainment through 2012 and 2017. The EPA has reviewed the modeling and emission projections and believes attainment is demonstrated. Therefore, EPA is proposing to approve the demonstration of attainment.

#### VIII. What Happens If the Area Does Not Meet the EAC Commitments or Milestones?

In the April 30, 2004 (69 FR 23858), Final Rulemaking, EPA designated counties within the Nashville and Tri-Cities EAC areas as nonattainment-deferred. Other counties within these EAC areas were designated attainment/unclassifiable. Also on April 30, 2004, EPA designated Hamilton County, Tennessee and Catoosa County, Georgia as nonattainment but reinstated the Chattanooga area into the EAC on June 18, 2004 (69 FR 34080), and reclassified those counties as nonattainment-deferred. In accordance with the April 30, 2004 (69 FR 23858), Final Rulemaking, the effective date of nonattainment for the EAC areas (see Table 1) have been deferred until September 30, 2005 (and will continued to be deferred so long as the areas meet the EAC milestones). The measures outlined in the Tennessee and Georgia SIP submittals provide every indication that the Tennessee and Georgia EAC areas will attain the 8-hour ozone standard by December 31, 2007, and complete each milestone and action agreed upon in the compact. However, if one milestone is missed, EPA will take action to propose and promulgate a finding of failure to meet the milestone, and withdraw the deferred effective date of the nonattainment designation.

#### IX. Why Are We Proposing To Approve This EAC SIP Submittal?

We are proposing to approve this EAC SIP submittal because implementation of the requirements in this EAC will help ensure the three Tennessee and Georgia EAC areas comply with the 8-hour ozone standard by December 31, 2007, and maintenance of that standard through 2017 for Tennessee and 2012 for Georgia. We have reviewed the submittals and determined that they are

consistent with the requirements of the Act, EPA's policy, and the EAC protocol. The TSD contains detailed information concerning this rulemaking action.

Approving the EAC submittals into the SIP will also mean that measures and controls identified therein become federally enforceable and citizens within the EAC areas will start to benefit from reductions in air pollution earlier than the Clean Air Act deadlines. See section VII of this rulemaking action for the description of air pollution control measures. Finally, it means that EPA has determined that the State and local areas have continued to fulfill the milestones and obligations of the EAC Program. In a separate document, EPA will take action proposing to defer the effective date of nonattainment designation for these areas until December 31, 2006, so long as the areas continue to fulfill the EAC obligations, including semi-annual reporting requirements, implementation of the measures in the EAC submittal by December 31, 2005, and a progress assessment by June 30, 2006.

#### X. Proposed Action

EPA is proposing to approve the attainment demonstration in the Chattanooga area, Nashville area, and Tri-Cities area EACs and incorporate these into the Tennessee and Georgia SIPs. The modeling of ozone and ozone precursor emissions from sources in these three EAC areas demonstrate that the specified control strategies will provide for attainment of the 8-hour ozone NAAQS by December 31, 2007. These specified control strategies are consistent with the EAC program.

#### XI. Statutory and Executive Order Reviews

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 (Pub. L. 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 actions, 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 40 CFR Part 52

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

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

Dated: May 18, 2005.

**J.I. Palmer, Jr.,**

*Regional Administrator, Region 4.*

[FR Doc. 05-10472 Filed 5-25-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[R04-OAR-2004-NC-0005-200513; FRL-7917-8]

### Approval and Promulgation of Air Quality Implementation Plans; North Carolina; Attainment Demonstration of the Mountain, Unifour, Triad and Fayetteville Early Action Compact Areas

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

**ACTION:** Proposed rule.

**SUMMARY:** The EPA is proposing to approve revisions to the State Implementation Plan (SIP) submitted by the State of North Carolina through the Department of Environment and Natural Resources (DENR) on December 21, 2004. These revisions are submitted pursuant to the Early Action Compact (EAC) protocol<sup>1</sup> and will result in emission reductions needed to attain and maintain the 8-hour ozone National Ambient Air Quality Standard (NAAQS) in the Mountain, Unifour, Triad and Fayetteville EAC areas (the North Carolina EAC Areas). EPA is proposing approval of the photochemical modeling used by North Carolina to support the

attainment demonstration of the 8-hour ozone standard within these areas. The proposed revisions further incorporate the local control measures of the Mountain, Unifour, Triad and Fayetteville EAC area agreements into the SIP.

**DATES:** Written comments must be received on or before June 27, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID No. R04-OAR-2004-NC-0005, by one of the following methods:

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

2. *Agency Web site:* <http://docket.epa.gov/rmepub/>. RME, EPA’s electronic public docket and comment system, is EPA’s preferred method for receiving comments. Once in the system, select “quick search,” then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail:* [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

4. *Fax:* 404-562-9019.

5. *Mail:* “R04-OAR-2004-NC-0005”, 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.

6. *Hand Delivery or Courier:* Deliver your comments to: Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to RME ID No. R04-OAR-2004-NC-0005. EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub/>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through RME, regulations.gov, or e-mail if you believe that it is CBI or otherwise protected from disclosure. The EPA RME Web site and the Federal

<sup>1</sup> The EAC Protocol can be found at <http://www.epa.gov/air/eac/> and in Regional Materials in EDocket (RME) ID No. R04-OAR-2004-NC-0005 (see the ADDRESSES section of this notice for further information on RME).