

the necessary exceptions to the rule governing date of receipt because he or she provides technical expertise and advice to the Secretary of Veterans Affairs on veterans benefits issues and is well qualified to exercise this authority in an expeditious, objective, and impartial manner. Further, there is no need to elevate these determinations to the Secretary of Veterans Affairs.

We are publishing this amendment as an interim final rule. We do not believe that it is necessary to issue a Notice of Proposed Rulemaking (NPRM) as a prelude because there is "good cause" for dispensing with the customary procedure of notice and comment in this case under section 553(b)(B) of title 5, United States Code. This rule is designed to address emergency situations by compensating for delays in the delivery of important information that those situations could create. It applies to unforeseen situations that may arise at any time in the future and can only redound to the public's benefit in its operation. It would therefore be contrary to the public interest to delay the publication and operation of this rule because an emergency situation requiring its operation could arise at any time, including the time that it would take to publish this rule by conventional means. It would be contrary to the public interest to delay the publication of this rule when it so clearly benefits the public in an emergency that could happen at any time. Further, this rule does not impose any additional obligations or have any adverse effects on claimants, as it insures that claimants may establish entitlement to benefits they otherwise would have had but for the occurrence of a special or unforeseen circumstance.

Because it would permit VA to respond to an emergency situation that could arise at any time, and because it imposes no additional obligations, we find that publication of this rule as an interim rule serves the public interest. VA will consider comments received during the comment period for this interim rule (see **DATES** section). After the comment period closes, VA will publish another document in the **Federal Register** to discuss any comments received in response to this interim rule and any amendments made as a result of those comments.

For the reasons stated above in connection with our discussion of section 553(b)(B), we find that there is "good cause" under 5 U.S.C. 553(d)(3) for making this rule effective on the date of its publication in the **Federal Register**. Our intent is that the rule shall apply to claims filed on or after the date of publication. We see no reason to give

this rule retroactive effect because we do not believe that there is any mail affected by the anthrax incident that is still outstanding, and we are not aware of any man-made or natural disruption other than the anthrax incident that precipitated delays in the receipt of correspondence. In addition, this rule certainly "grants or recognizes an exemption or relieves a restriction" under section 553(d)(1).

Regulatory Flexibility Act

Because no notice of proposed rule making was required in connection with the adoption of this interim final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act (5 U.S.C. 601–612). Even so, the Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any given year. This rule would have no such effect on State, local, or tribal governments, or the private sector.

Executive Order 12866

This rule has been reviewed by the Office of Management and Budget under Executive Order 12866.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

The Catalog of Federal Domestic Assistance program numbers are 64.100 through 64.110 and 64.127.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Disability benefits, Health care, Pensions, Radioactive materials, Veterans, Vietnam.

Approved: April 9, 2004.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set forth in the preamble, 38 CFR part 3 is amended as follows:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

■ 1. The authority citation for Part 3, subpart A continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. In § 3.1, paragraph (r) is amended by adding at the end of the paragraph the following:

§ 3.1 Definitions.

* * * * *

(r) * * * However, the Under Secretary for Benefits may establish, by notice published in the **Federal Register**, exceptions to this rule, using factors such as postmark or the date the claimant signed the correspondence, when he or she determines that a natural or man-made interference with the normal channels through which the Veterans Benefits Administration ordinarily receives correspondence has resulted in one or more Veterans Benefits Administration offices experiencing extended delays in receipt of claims, information, or evidence from claimants served by the affected office or offices to an extent that, if not addressed, would adversely affect such claimants through no fault of their own. (Authority: 38 U.S.C. 501(a), 512(a), 5110)

* * * * *

[FR Doc. 04–16308 Filed 7–16–04; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04–OAR–2004–GA–0001–200420; FRL–7788–3]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing the approval of a revision to the Georgia State Implementation Plan (SIP) submitted by the Georgia Environmental

Protection Division (GAEPD) on December 24, 2003. The revision pertains to the Post-1999 Rate-of-Progress Plan (Post-1999 ROP Plan). This submittal was made to meet the reasonable further progress requirements of section 182 of the Clean Air Act, as amended in 1990 (CAA). The SIP revision also establishes a motor vehicle emissions budget (MVEB) for transportation conformity purposes. EPA is approving Georgia's Post-1999 ROP plan, including the 2004 MVEB adequacy determination and addressing comments submitted in response to EPA's proposed rule/notification of adequacy process published/posted previously for this action.

DATES: This rule will be effective August 18, 2004.

ADDRESSES: EPA has established a docket for this action under Docket ID No. R04-OAR-2004-GA-0001. All documents in the docket are listed in the index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Publicly available docket materials are available in hard copy at: 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 Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. The telephone number is (404) 562-9036. Mr. Martin can also be reached via electronic mail at martin.scott@epa.gov.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Today's Action
- III. Response to Comments
- IV. Final Action
- V. Statutory and Executive Order Reviews

I. Background

Section 182 of the CAA requires ozone nonattainment areas with air quality classified as "moderate" or worse to submit plans showing reasonable further progress towards attainment of the national ambient air quality standards (NAAQS). Because Atlanta was classified as a "serious" nonattainment area for ozone, the CAA required Georgia to develop a SIP to

reduce emissions of VOCs in the 13-county Atlanta 1-hour ozone nonattainment area by 15 percent from 1990 to 1996. The most recent revision to Georgia's 15% ROP SIP (*i.e.*, the 15% Plan) was submitted by the GAEPD on June 17, 1996, and was approved by the EPA effective May 26, 1999, (64 FR 20186).

The CAA also requires Post-1996 emission reductions of VOCs and/or NO_x totaling 3 percent per year, averaged over each consecutive three-year period beginning in 1996 and continuing through the attainment date. Georgia chose to rely solely on NO_x emission reductions in its Post-1996 ROP SIP (*i.e.*, the 9% Plan). This plan was required to describe how Georgia would achieve reasonable further progress towards attaining the ozone NAAQS between 1996 and 1999, the attainment deadline for serious nonattainment areas. The most recent revision to Georgia's 9% Plan was submitted June 17, 1996, and was approved by EPA effective April 19, 1999, (64 FR 13348).

On July 17, 2001, GAEPD submitted the Atlanta 1-hour ozone attainment SIP to EPA which included a demonstration that Atlanta would attain the 1-hour ozone NAAQS by November 15, 2004. That attainment demonstration, including the extension of the attainment date, was approved by the EPA in a notice published in the **Federal Register** on May 7, 2002, (67 FR 30574), which cited EPA's policy to grant attainment date extensions for areas dependent upon upwind states' emission reductions mandated by the regional NO_x SIP Call as a basis for approval. On June 25, 2002, a challenge to EPA's approval of the attainment demonstration was filed in the 11th Circuit Court of Appeals. Subsequently, in challenges to other attainment date extensions, several federal appeals courts ruled that EPA lacked the authority to grant such attainment date extensions. On February 20, 2003, EPA filed a motion for voluntary vacatur of Atlanta's attainment date extension and approval of Atlanta's ozone attainment demonstration. On June 16, 2003, the United States Court of Appeals for the Eleventh Circuit issued an order granting EPA's motion, thereby vacating approval of the July 17, 2001, attainment demonstration.

In response to these court rulings, EPA issued a final rulemaking action in the September 26, 2003, **Federal Register** (68 FR 55469). It included a determination that the Atlanta area had failed to attain the 1-hour ozone standard by the statutory deadline of November 1, 1999, and that by

operation of law, the Atlanta area was being reclassified to a "severe" ozone nonattainment area effective January 1, 2004. Under section 181(a)(1) of the CAA, the attainment deadline for Atlanta as a new "severe" nonattainment area is "as expeditiously as practicable," but not later than November 15, 2005.

GAEPD has recently conducted an Early Attainment Assessment to review the progress made to date in implementing the July 17, 2001, ozone attainment SIP. The Early Attainment Assessment indicates that the emission reductions achieved to date from the 1-hour ozone attainment SIP control measures have been effective in reducing monitored levels of ozone and that the area appears to be on track to attain by the end of the 2004 ozone season.

EPA's September 26, 2003, action requires submission of a severe area Post-1999 ROP SIP. The severe area Post-1999 ROP SIP must describe how at least a 3 percent per year reduction in emissions of ozone precursors (VOCs or NO_x) will be achieved, from the time of failure to meet the "serious" area attainment date (November 15, 1999) until the "severe" area attainment date.

This Atlanta severe area Post-1999 ROP SIP contains a description of how the 3 percent per year reductions in ozone precursor emissions, required over the period from November 15, 1999, through November 15, 2004, will be achieved. It also contains MVEBs for the Atlanta 1-hour ozone nonattainment area. Submission only through 2004 is based on the State's Early Attainment Assessment discussed above.

On January 6, 2004, EPA provided the public with an opportunity to review and comment on the adequacy of new VOC and NO_x MVEBs for the year 2004 for purposes of determining transportation conformity. The adequacy comment period ended on February 5, 2004. On May 6, 2004, (69 FR 25348) EPA published a notice of proposed rulemaking (NPR) proposing to approve the Post-1999 ROP Plan. The May 6, 2004, NPR provides a detailed description of each of these matters and the rationale for each of EPA's proposed actions, together with a discussion of the opportunity to comment on the adequacy of the 2004 MVEB. The public comment period for the NPR ended on June 7, 2004. EPA received adverse comments during both these comment periods.

II. Today's Action

In this final rulemaking, EPA is responding to comments made on EPA's proposed rulemaking published May 6,

2004 (69 FR 25348) and during the adequacy comment period which ran from January 6, 2004, through February 5, 2004. EPA is approving the Georgia Post-1999 Rate-of-Progress Plan and providing notice that it has determined the 2004 VOC and NO_x MVEBs to be adequate under the requirements of 40 CFR 93.118(e)(4). Additionally, through this action, EPA is approving the 2004 MVEBs.

On December 24, 2003, Georgia submitted a revision to its SIP pertaining to the Post-1999 ROP Plan. Today, EPA is addressing comments received on the May 6, 2004, NPR and approving the Post-1999 ROP Plan. Additionally, through this rulemaking, EPA is providing notice that it has determined that the 2004 MVEBs for VOC and NO_x, as discussed above, meet the substantive criteria for "adequacy" as set out in 40 CFR 93.118(e)(4), and are adequate for purposes of transportation conformity.

EPA's adequacy determination for the 2004 MVEBs is also being announced on EPA's conformity Web site: *BM_1_* <http://www.epa.gov/otaq/transp.htm>, (once there, click on the "Transportation Conformity" text icon, then look for "Adequacy Review of State Implementation Plan (SIP) Submissions for Conformity"). The new budget for VOCs is 160.68 tons per day (tpd) and 318.24 tpd of NO_x.

III. Response to Comments

1. The Rate of Progress State Implementation Plan Fails To Demonstrate Adequate Reductions of NO_x in the Nonattainment Area

Comment: The commentor states that the proposed ROP SIP is flawed because the EPD takes credit for reductions at five coal fired electric power plants located outside the 13 county ozone nonattainment area in order to demonstrate the required three percent per year reduction in emissions and that these reductions are inconsistent with CAA requirements.

Response: EPA refers the commentor to a December 23, 1997, memo from Richard D. Wilson, Acting Assistant Administrator for Air and Radiation, entitled "Guidance for Implementing the 1-Hour Ozone and Pre-existing PM₁₀ NAAQS." This document outlines EPA policy relating to allowing states flexibility to expand the geographic size of the area from which they can obtain emission reductions to meet their annual average 3 percent per year ROP requirements. Specifically, EPA states that an area in nonattainment for the 1-hour NAAQS should be allowed to take credit for emissions reductions obtained

from sources outside the designated nonattainment area for the post-1999 ROP requirement as long as the sources are no farther than 100 km (for VOC sources) or 200 km (for NO_x sources) away from the nonattainment area. Because the ROP requirement is a general ROP requirement for at least 3 percent-per-year and not a requirement for specific programs or measures such as vehicle inspection and maintenance, this flexibility would continue to provide the same ROP in terms of reducing emissions. EPA believes that this additional flexibility for crediting reductions outside nonattainment areas is consistent with the CAA.

EPA believes that emissions from the source(s) outside the nonattainment area that are involved in the substitution must be included in the baseline ROP emissions and target ROP reduction calculation. Emissions from source(s) outside the nonattainment area that are not involved in the substitution would not have to be inventoried or included in the baseline ROP emissions and target ROP calculation. Under this approach, States will need to track and record emission reductions and certify to EPA the amount of emission reductions achieved for ROP.

In order to develop the Post-1999 ROP Plan in accordance with EPA guidance, EPD updated the 1990 NO_x emissions inventory and adjusted the inventory by removing NO_x already scheduled for control by previous federal regulations on motor vehicles and gasoline volatility. The required NO_x reductions and the resulting target levels of future NO_x emissions were calculated, growth in NO_x emissions was estimated, and the effects on projected emissions of various emissions control rules already adopted and implemented, or scheduled for implementation prior to the end of 2004, were calculated.

EPD is including reductions of NO_x emissions at five coal-fired electrical power plants. These Georgia Power Company plants impact the nonattainment area but are located in neighboring counties designated as attainment for the 1-hour ozone standard. As a control strategy to attain the 1-hour ozone standard in Atlanta, stricter controls have been placed on these power plants. All five of these power plants are located within 200 kilometers of the Atlanta 1-hour ozone nonattainment area.

EPD has recently conducted an Early Attainment Assessment to review the progress made to date in implementing the July 17, 2001, ozone attainment SIP. The Early Attainment Assessment indicates that the emission reductions achieved to date from the 1-hour ozone

attainment SIP control measures have been effective in reducing monitored levels of ozone and that the area appears to be on track to attain in 2004.

2. The Early Attainment Demonstration Is Flawed

Comment: This commentor stated that the early attainment demonstration performed by the state is flawed and does not demonstrate attainment since it was not based on photochemical grid modeling.

Response: As explained in the Proposal Notice, the purpose of the ROP SIP is to demonstrate a percentage of emission reductions from the baseline emissions and is not an attainment demonstration SIP. Thus these comments are not applicable to the ROP SIP or the adequacy of MVEBs established in the ROP SIP. EPA will take comments regarding the adequacy and approvability of the MVEBs established in the attainment demonstration when it takes action on the attainment SIP.

3. Proposed Early Adequacy Determination for Motor Vehicle Emissions Budgets

Comment: EPA may not approve the revised, higher MVEBs for 2004 absent a showing that they will be adequate to attain the NAAQS. Since no demonstration has been submitted to demonstrate that the SIP as a whole, including the higher motor vehicle emissions budgets, will provide for attainment, there is no basis for EPA to approve or find these proposed budgets adequate pursuant to 40 CFR 93.118(e)(4).

Response: The comment refers to the budgets providing for attainment. However, the purpose of the implementation plan is to demonstrate reasonable further progress toward attainment. To quote 40 CFR 93.118(e)(4)(iv) in full—"the motor vehicle emissions budget(s) when considered together with all other emissions sources, is consistent with the applicable requirements for reasonable further progress, attainment or maintenance (whichever is relevant to the given implementation plan submission)." Since the purpose of the relevant implementation plan is to demonstrate reasonable further progress, commonly referred to as a ROP demonstration, the budgets do not need to provide for attainment as suggested by the commentors.

Furthermore, EPA believes that it is correct that the inventory of mobile emissions is higher than the past SIP mobile emissions because they are based upon use of updated planning assumptions and emissions models.

Since the time of last rate of progress SIP submittal and approval a new emission model has been approved by EPA—MOBILE 6. EPA requires that the latest emissions model approved by EPA be used for the development of implementation plans (Section 110 of the CAA). The previously submitted implementation plan referenced by the commentors was based on version 5 of the MOBILE model applicable at the time of its development. Therefore, comparisons between inventories developed using different models and updated planning assumptions, models, and methodologies are not valid. In accordance with EPA's MOBILE6 policy guidance (<http://www.epa.gov/otaq/models/mobile6/m6policy>), base year and future year motor vehicle emission inventories for this Post-1999 ROP plan were recalculated with the latest available planning assumptions. As stated in section 6.2 of the Post-1999 ROP plan, "These mobile source inventories reflect the most up-to-date mobile modeling assumptions, including * * * VMT projected from a state-of-the-art travel demand model for the 13 counties and emission factors from EPA's latest mobile source emission factor model, MOBILE6.2."

Other updated planning assumptions and methodologies reflected in the Post-1999 ROP plan's projected mobile source emissions inventories include revised speeds and fleet age distributions, and the use of a travel demand model link-based emissions estimation procedure.

Comment: Compliance with the ROP requirements requires that total NO_x be reduced in 2004 to 392.2 tpd, even conceding EPD's new flawed baseline methodology or 376.7 tpd under the proper baseline methodology employed by the agency in 1997. The SIP does not contain measures that will achieve this level of NO_x emissions if the MVEB are 318 tpd. All other emissions of NO_x must be reduced to 58 tpd in order to allow an MVEB at 318 tpd in 2004.

Response: This comment is based in part on the position that emissions for the five power plants within 200 kilometers of the nonattainment area cannot be included in the ROP calculation. As explained by EPD in the State's responses to the commentor issues 1 and 2 on pages 2 and 3 of the December 24, 2003, comments response memo from EPD, EPD followed EPA's guidance, which allows states the flexibility to expand the geographic size of the area from which the state can obtain emission reductions. EPA has explained its position on this issue in the first response to comment.

In accordance with EPA policy, EPD did account for the required 9% reduction in NO_x emissions for the period 1996–1999 in calculating the 2002 and 2004 target levels of emissions. The state explains this in the response to commentor Issue 3 on page 3 of the December 24, 2003, State's comments response memo. This memo explained how EPD used the correct methodology for calculating ROP target levels of emissions, Georgia's 9% Plan, and how the emissions reductions required between 1996 and 1999 would be achieved. For the Post-1999 ROP plan, EPD followed EPA guidance in updating the 1999 NO_x target level of emissions, in calculating the post-1999 target levels, and in projecting 2002 and 2004 emissions for all source sectors. In accordance with EPA guidance, EPD modeled the mobile and nonroad source sectors for 2002 and 2004, and grew (with an EPA computer model entitled: Economic Growth and Analysis System) all other emissions from those compiled in Georgia's 1999 Periodic Emissions Inventory. This methodology correctly accounts for all growth as well as reductions in emissions that occurred up to 1999, and results in a NO_x emissions target for 2004 of 854.7 tpd.

Comment: MVEB in a submitted SIP may not be approved unless the SIP "is consistent with applicable requirements for reasonable further progress, attainment or maintenance." 40 CFR 93.118 (e)(4) (iv).

Response: As stated above the commentors's citation is incomplete and the quotation omits the key contextual phrase, "whichever is relevant to the given implementation plan or submission." The regulatory text to which the commentor refers is 40 CFR 93.118(e)(4)(iv). That section states: "(4) EPA will not find a motor vehicle emissions budget in a submitted control strategy implementation plan revision or maintenance plan to be adequate for transportation conformity purposes unless the following minimum criteria are satisfied: [subparagraphs i through iii omitted] (iv) The motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance (whichever is relevant to the given implementation plan submission);"

The SIP now under consideration is not an attainment demonstration, but a "reasonable further progress" SIP within the context of 40 CFR 93.118(e)(4)(iv). Accordingly, the relevant criterion for MVEB adequacy is that the MVEB, when considered together with all other emissions sources, is consistent

with the requirement to show an average 3% per year reduction in ozone precursors from 1999 to the anticipated attainment date of 2004. The Post-1999 ROP SIP does show this required reduction, in full accordance with guidance issued by EPA.

Comment: With regard to the State's draft Vehicle Miles Traveled (VMT) SIP, currently under internal review prior to submission to EPA, concern is raised regarding the lack of controls, coupled with the proposed elevated MVEB and a regional transportation plan, that, while still in draft form, demonstrates an almost overwhelming preference for road-building projects, will place Atlanta at a disadvantage in the long run as it struggles to meet the more stringent 8-hour standard that will be in place as of April 15, 2005.

Response: The VMT requirement is separate from the ROP SIP requirement. The purpose of the ROP SIP is to demonstrate a percentage of emission reductions. Its purpose is not to meet the VMT requirement in the severe classification attainment SIP pursuant to section 182 of the CAA. EPA will take comments regarding the VMT requirement in the attainment demonstration when that SIP is submitted and EPA takes action on that SIP. Furthermore, EPA continues to consult and work closely with the state transportation and air quality stakeholders in the development of the 2030 regional transportation plan and the air quality motor vehicle emissions analysis of that plan to ensure that it does not create new violations of the Federal air quality standards, increase the frequency or severity of existing violations of the standard or delay attainment of the standards in Atlanta.

IV. Final Action

EPA is approving the Georgia Post-1999 Rate-of-Progress Plan and providing notice that it has determined the 2004 VOC and NO_x MVEBs to be adequate under the requirements of 40 CFR 93.118(e)(4). Additionally, through this action, EPA is approving the 2004 MVEBs.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves

state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety

Risks" (62 FR 19885, April 23, 1997), because it is not economically significant. In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of

this action must be filed in the United States Court of Appeals for the appropriate circuit by September 17, 2004. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Dated: July 9, 2004.

A. Stanley Meiburg,
Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, *Code of Federal Regulations*, is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart L—Georgia

■ 2. Section 52.570(e), is amended by adding a new entry at the end of the table for "Post-1999 Rate of Progress Plan" to read as follows:

§ 52.570 Identification of plan.
* * * * *
(e) * * *

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date
19. Post-1999 Rate of Progress Plan	Atlanta Metropolitan Area	December 24, 2003 ...	July 19, 2004 [Insert citation of publica- tion]