

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2018–0617; FRL–9992–54–Region 4]

Air Plan Approval; GA: Non-Interference Demonstration and Maintenance Plan Revision for Federal Low-Reid Vapor Pressure Requirement in the Atlanta Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision that supports a change to the Federal Reid Vapor Pressure (RVP) requirements in 13 counties in Atlanta, Georgia. They comprise the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale (Atlanta fuel volatility Area). The Atlanta fuel volatility Area is a subset of the Atlanta 15-county 2008 8-hour ozone maintenance area. The 15-county 2008 8-hour ozone maintenance area is comprised of the following counties: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale (Atlanta maintenance Area). This approval is based in part on EPA's analysis of whether the SIP revision would interfere with the Atlanta maintenance Area's ability to meet the requirements of the Clean Air Act (CAA or Act). On August 15, 2018, Georgia, through the Georgia Environmental Protection Division (GA EPD), submitted a noninterference demonstration to support its SIP revision requesting that EPA relax the Federal RVP requirements for the Atlanta fuel volatility Area. This SIP revision updates Georgia's 2008 8-hour ozone maintenance plan for the Atlanta maintenance Area and its emissions inventory, the associated motor vehicle emissions budgets (MVEBs), and includes measures to offset the emissions increases expected from the relaxation of the Federal RVP requirements. Georgia's noninterference demonstration concludes that relaxing the Federal RVP requirement from 7.8 pounds per square inch (psi) to 9.0 psi for gasoline sold between June 1 and September 15 of each year in the Atlanta fuel volatility Area would not interfere with attainment or maintenance of any national ambient air quality standards (NAAQS or standards) or with any other

CAA requirement. EPA is approving this SIP revision because EPA has determined that the revision is consistent with the applicable provisions of the CAA. EPA will also initiate a separate rulemaking to relax the current Federal requirement to use gasoline that complies with the Federal RVP limit from 7.8 psi to 9.0 psi in the Atlanta fuel volatility Area.

DATES: This rule will be effective May 23, 2019.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R04–OAR–2018–0617. All documents in the docket are listed on the www.regulations.gov website. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 through www.regulations.gov or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation 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 possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dianna Myers, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW, Atlanta, Georgia 30303–8960. Ms. Myers can be reached via telephone at (404) 562–9207 or via electronic mail at Myers.Dianna@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the background for this action?

On November 6, 1991 (56 FR 56694), EPA designated and classified the following counties in and around the Atlanta, Georgia metropolitan area as a Serious ozone nonattainment area for the 1-hour ozone NAAQS: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. This 13-county 1-hour ozone

area is the “Atlanta fuel volatility Area.” The nonattainment designation triggered various requirements for the Atlanta 1-hour ozone nonattainment area. One of those requirements for the 1-hour ozone nonattainment area was the Federal 7.8 psi RVP limit for gasoline sold between June 1 and September 15, which is the subject of this action.

EPA issued a final rulemaking action on September 26, 2003, to reclassify or “bump up,” the area to a Severe ozone nonattainment area. This reclassification became effective on January 1, 2004 (68 FR 55469). EPA redesignated the Atlanta 1-hour ozone area to attainment, effective June 14, 2005 (70 FR 34660).

On April 30, 2004 (69 FR 23858), EPA designated the following 20 counties in and around metropolitan Atlanta as a Marginal nonattainment area for the 1997 8-hour ozone NAAQS: Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, and Walton. The Atlanta fuel volatility Area is a sub-set of this 20-county area. Subsequently, EPA reclassified the Atlanta 1997 8-hour ozone nonattainment area as a Moderate nonattainment area on March 6, 2008 (73 FR 12013), because the area failed to attain the 1997 8-hour ozone NAAQS by the required attainment date of June 15, 2007. On December 2, 2013 (78 FR 72040), EPA redesignated the area to attainment for the 1997 8-hour ozone NAAQS.

Effective July 20, 2012, EPA designated the following 15-counties Marginal nonattainment for the 2008 8-hour ozone NAAQS: Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale.¹ (77 FR 30088, May 21, 2012, and 77 FR 34221, June 11, 2012). As mentioned before, the Atlanta fuel volatility Area is sub-set of this 15-county area. The 15-county Atlanta 2008 8-hour ozone nonattainment area did not attain the 2008 8-hour ozone NAAQS by the attainment date of July 20, 2015, and therefore on May 4, 2016 (81 FR 26697), EPA published a final rule reclassifying the area from a Marginal nonattainment area to a Moderate nonattainment area for the 2008 8-hour ozone standard. Moderate areas were required to attain the 2008 8-hour ozone NAAQS no later than July

¹ In the proposed rule published on February 12, 2019 (84 FR 3358) on page 3360 Newton was inadvertently left off the list of the 15-counties in the Marginal 2008 8-hour ozone nonattainment area.

20, 2018, which is six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103.

On July 14, 2016 (81 FR 45419), EPA determined that the Atlanta 2008 8-hour ozone nonattainment area attained the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified ozone monitoring data for years 2013 through 2015. On July 18, 2016, Georgia submitted a 2008 8-hour ozone redesignation request and maintenance plan for the area (hereafter the “Atlanta maintenance Area”), which EPA approved on June 2, 2017 (82 FR 25523).

On October 1, 2015 (80 FR 65292), EPA revised the 8-hour ozone standard from 0.075 ppm to 0.070 ppm. Subsequently, on June 4, 2018 (83 FR 25776), EPA published a final rule (effective August 3, 2018) designating the following 7 Atlanta counties Marginal nonattainment for the 2015 8-hour ozone NAAQS: Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett and Henry. Areas designated Marginal nonattainment must attain the standard by August 3, 2021.

On August 15, 2018, Georgia submitted a SIP revision to the 2008 8-hour ozone maintenance plan with a CAA section 110(l) noninterference demonstration to support the State’s request that EPA relax the Federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1 and September 15 of each year (high ozone season) in the Atlanta maintenance Area, which encompasses the smaller

Atlanta fuel volatility Area, and the 7-county 2015 8-hour ozone nonattainment area. The demonstration concluded that relaxing the RVP requirement within the Atlanta fuel volatility Area will not interfere with the maintenance or attainment of the NAAQS or with reasonable further progress toward attainment.²

The demonstration included an evaluation of the impact that the relaxation of the 7.8 psi RVP requirement would have on Atlanta’s ability to maintain the 1997 and 2008 ozone standards. It also evaluates whether the relaxation of the Federal RVP requirement would interfere with the ability of the 7-county 2015 8-hour ozone nonattainment area to attain the ozone standard by August 3, 2021, which is the attainment date for areas classified as Marginal, or with any of the other applicable NAAQS. Although the attainment date is August 3, 2021, Marginal areas must show attainment using air quality data for years 2018 through 2020. Based on modeling data from EPA’s Cross State Air Pollution Rule, the entire State of Georgia is showing attainment for the 2015 8-hour ozone NAAQS through 2023.³

The demonstration also included two offset measures—school bus replacements and rail locomotive conversions—to obtain the necessary emissions reductions from the small increases in nitrogen oxides (NO_x) and volatile organic compounds (VOC) emissions at the 9.0 psi RVP level. This RVP relaxation will not worsen air

quality because Georgia’s offsets provided compensating, equivalent emissions reductions to negate the increases in emissions from NO_x and VOC.

Georgia replaced five old school buses (built in 2000–2003) in Paulding County with five 2017 school buses. Also, forty old school buses (built in 1999–2003) in Fulton County were replaced with forty 2017 school buses. The locomotive conversion program consists of two components: (1) The conversion of three older traditional switcher locomotives into newly-available low emissions engine technology from Norfolk Southern Railway, Inc., and (2) Norfolk Southern Railway, Inc.’s conversion of two switchers into “slugs” which are driven by electrical motors whose electricity is received from companion “mother” locomotives.

The amount of NO_x reductions obtained from the school bus replacements and locomotive conversions were more than what is needed to compensate for the small amount of NO_x and VOC increases associated with relaxing the Federal gasoline RVP limit from 7.8 psi to 9.0 psi. The SIP revision also included an update to the mobile emissions inventory and associated 2030 MVEBs due to the relaxation. The on-road emissions inventory and safety margin allocation for the year 2030 were updated but the MVEB totals themselves remained unchanged. *See* Table 1 below.

TABLE 1—UPDATED MVEBS FOR THE 15-COUNTY ATLANTA MAINTENANCE AREA IN TONS PER DAY (tpd)

	2014 ⁴		2030	
	NO _x	VOC	NO _x	VOC
On-Road Emissions	170.15	81.76	39.63	36.01
Safety Margin Allocation ⁵	18.37	15.99
MVEBs with Safety Margin	170.15	81.76	58	52

In a notice of proposed rulemaking (NPRM) published on February 12, 2019 (84 FR 3358), EPA proposed to approve the August 15, 2018, SIP revision. The details of Georgia’s submittal and the rationale for EPA’s actions are explained in the NPRM.

II. Response to Comments

EPA received one comment from the Society of Independent Gasoline Marketers of America (SIGMA).

Comment: SIGMA expressed support for the approval of the SIP revision while also expressing concerns over the compliance date for the future

rulemaking that would relax the Federal RVP standard for gasoline from 7.8 psi to 9.0 psi in the 13-county Area. Specifically, SIGMA stated that a compliance date that is either too close to the start or in the middle of the 2019 summer fuel season would inject

² While this final rule focuses on ozone, which is the pollutant most likely to be impacted by the proposed revision, the demonstration provided information that the relaxation would have little to no impact on particulate matter (PM), sulfur dioxide (SO₂), nitrogen dioxide (NO₂), carbon monoxide (CO), lead (Pb), and related precursors.

³ *See* the Peter Tsigotis Memorandum dated October 19, 2018, entitled “Considerations for Identifying Maintenance Receptors for Use in Clean

Air Act Section 110(a)(2)(D)(i)(I) Interstate Transport State Implementation Plan Submissions for the 2015 Ozone National Ambient Air Quality Standards.” *See also* <https://www.epa.gov/airmarkets/memo-and-supplemental-information-regarding-interstate-transport-sips-2015-ozone-naaqs>.

⁴ The 2014 on-road emissions and MVEBs in this chart are shown for illustration purposes because

no changes were made to the 2014 attainment year emissions inventory due to the relaxation.

⁵ The safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The transportation conformity rule provides for establishing safety margins for use in transportation conformity determinations. *See* 40 CFR 93.124(a).

significant disruption into the fuel marketplace.

Response: SIGMA's comment on the compliance date for the future RVP relaxation rulemaking is outside of the scope of the approval of this SIP revision, which updates Georgia's 2008 8-hour ozone maintenance plan for the Atlanta maintenance Area and adds measures to offset emissions increases expected from the relaxation of the Federal RVP standard. As explained at proposal, EPA intends to engage in a notice and comment rulemaking that would relax the Federal RVP standard in the 13-county area from 7.8 psi to 9.0 psi (84 FR 3358). SIGMA is encouraged to submit this comment when EPA proposes any such rule.

III. Final Action

EPA is taking final action to approve Georgia's August 15, 2019, SIP revision, including the section 110(l) noninterference demonstration supporting the change of 7.8 psi to 9.0 psi RVP requirements in the Atlanta fuel volatility Area, which is a subset of the Atlanta maintenance Area. The SIP revision updates Georgia's 2008 8-hour ozone maintenance plan for the Atlanta maintenance Area, its emissions inventory, the MVEBs, and it includes measures to offset the emissions increases expected from the relaxation of the Federal RVP requirements. Georgia's noninterference demonstration concludes that relaxing the Federal RVP requirement from 7.8 psi to 9.0 psi for gasoline sold between June 1 and September 15 of each year in the Atlanta fuel volatility Area would not interfere with attainment or maintenance of any NAAQS or with any other CAA requirement. EPA is approving this SIP revision because EPA has determined that the revision is consistent with the CAA.

Through this action, EPA is not removing the Federal 7.8 psi RVP requirement for the Atlanta fuel volatility Area. Any such action would occur in a separate rulemaking.

IV. Statutory and Executive Order Reviews

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

requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

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 action 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 CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 24, 2019. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 11, 2019.

Mary S. Walker,

Acting Regional Administrator, Region 4.

Title 40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 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 an entry for "Non-Interference Demonstration and Maintenance Plan Revision for Federal Low-Reid Vapor Pressure Requirement in the Atlanta Area" at the end of the table to read as follows:

§ 52.570 Identification of plan.

*	*	*	*	*
(e)	*	*	*	

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
* Non-Interference Demonstration and Maintenance Plan Revision for Federal Low-Reid Vapor Pressure Requirement in the Atlanta Area.	* Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties.	* 8/15/2018	* 4/23/2019, [Insert Federal Register citation].	*

[FR Doc. 2019-08062 Filed 4-22-19; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 180**

[EPA-HQ-OPP-2017-0593; FRL-9991-86]

Bacteriophage Active Against *Xylella fastidiosa*; Exemption From the Requirement of a Tolerance**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of lytic bacteriophage active against *Xylella fastidiosa* in or on all food commodities when the bacteriophage are sequenced and have sequences free of toxins and lysogenic genes and are used in accordance with label directions and good agricultural practices. Otsuka Pharmaceutical Co., Ltd. (c/o Technology Sciences Group Inc.) submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of bacteriophage active against *Xylella fastidiosa* in or on all food commodities under FFDCA.

DATES: This regulation is effective April 23, 2019. Objections and requests for hearings must be received on or before June 24, 2019, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0593, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William

Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: BPPDFRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information***A. Does this action apply to me?*

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Publishing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a(g), any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2017-0593 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before June 24, 2019. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0593, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>. Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is