State and local officials early in the process of developing the proposed regulation.

This rule will 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), because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

The EPA's alternative proposed disapproval of the State request under section 110 and subchapter I, part D of the Act would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the Act does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed disapproval because it would affect only the State of Maryland, the Commonwealth of Virginia or the District of Columbia each of which is not a small government.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical. EPA believes that VCS are inapplicable to this action. Today's action on the One-Hour Ozone attainment demonstration SIP revisions submitted by Maryland, Virginia and the District does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone.

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

Dated: November 30, 1999.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–31718 Filed 12–15–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–47–200002; FRL–6502–9]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve the ground-level 1-hour ozone attainment demonstration State implementation plan (SIP) for the Atlanta nonattainment area submitted by the Georgia Environmental Protection Division (GAEPD) on October 28, 1999, and supplemented on November 23, 1999, provided the State follows through on certain commitments discussed in this notice. The November 23 supplemental information includes a clarification of the commitments discussed in this notice and an updated shortfall calculation. The discussion in this notice with respect to the shortfall is based on the supplemental information. The November 22 submittal meets the completeness criteria for parallel processing therefore EPA is proposing approval based on this information as well as the October 28 submittal. We are also proposing, in the alternative, to approve in part and disapprove in part this demonstration, if EPA concludes that the motor vehicle emissions budget submitted by the State is not consistent with attainment and therefore inadequate, or the State does not fulfill commitments to submit the rules to

achieve additional emission reductions, establish enforceable requirements for nitrogen oxides (NO_X) and volatile organic compound (VOC) reasonably available control technology (RACT) on major sources outside the nonattainment area, and revise Georgia's low sulfur fuel rule to address the enforcement and waiver issues in accordance with EPA guidance. EPA is also proposing to approve revisions Georgia's Rules for Air Quality and to extend the attainment date.

DATES: Written comments must be received on or before February 14, 2000.

ADDRESSES: All comments should be addressed to: Scott M. Martin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

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

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

FOR FURTHER INFORMATION CONTACT: Scott Martin at (404) 562–9036.

SUPPLEMENTARY INFORMATION: This section provides background information on attainment demonstration SIPs for the 1-hour ozone national ambient air quality standard (NAAQS) and an analysis of the 1-hour ozone attainment demonstration SIP submittal for the Atlanta nonattainment area.

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I. Background Information

A. What is the Basis for the State's Attainment Demonstration SIP?

1. CAA Requirements

The Clean Air Act as amended in 1990 (CAA) requires EPA to establish national ambient air quality standards (NAAQS or standards) for certain widespread pollutants that cause or contribute to air pollution that is reasonably anticipated to endanger public health or welfare. CAA sections 108 and 109. In 1979, EPA promulgated the 1-hour 0.12 parts per million (ppm) ground-level ozone standard. 44 FR 8202 (Feb. 8, 1979). Ground-level ozone is not emitted directly by sources. Rather, emissions of nitrogen oxides (NO_X) and volatile organic compounds (VOCs) react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone.

An area exceeds the 1-hour ozone standard each time an ambient air quality monitor records a 1-hour average ozone concentration above 0.124 ppm. An area is violating the standard if, over a consecutive three-year period, more than three exceedances are expected to occur at any one monitor. The CAA, as amended in 1990, required EPA to designate as nonattainment any area that was violating the 1-hour ozone standard, generally based on air quality monitoring data from the three-year period from 1987–1989. CAA section 107(d)(4); 56 FR 56694 (Nov. 6, 1991). The CAA further classified these areas, based on the area's design value, as marginal, moderate, serious, severe or extreme. CAA section 181(a). Marginal areas were suffering the least significant air pollution problems while the areas classified as severe and extreme had the most significant air pollution problems. The design value is the 4th highest ozone value over the relevant 3 year period at the violating monitor with the highest ozone levels.

The control requirements and dates by which attainment needs to be achieved vary with the area's classification. Marginal areas are subject to the fewest mandated control requirements and have the earliest attainment date. Severe and extreme areas are subject to more stringent planning requirements but are provided more time to attain the standard. Serious areas were required to attain the 1-hour standard by November 15, 1999 and severe areas are required to attain by November 15, 2005 or November 15, 2007. The Atlanta ozone nonattainment area is classified as serious and its attainment date was November 15, 1999. The area does not have three years of air quality data with three or less expected exceedances at every monitor. The State has requested an attainment date extension pursuant to the EPA policy discussed in section I.A.3.

Under section 182(c)(2) and (d) of the CAA, serious and severe areas were required to submit by November 15, 1994 demonstrations of how they would attain the 1-hour standard and how they would achieve reductions in VOC emissions of 9 percent for each three-year period until the attainment year (rate-of-progress or ROP). (In some cases, NO_X emission reductions can be substituted for the required VOC emission reductions.) Today, in this proposed rule, EPA is proposing action on the attainment demonstration SIP submitted by the GAEPD for the Atlanta ozone nonattainment area. EPA has already approved the State's 9 Percent ROP plan for reductions from 1996–1999. In addition, elsewhere in this **Federal Register**, EPA is today proposing to take action on nine other serious or severe 1-hour ozone attainment demonstration and, in some cases, ROP SIPs. The additional nine areas are Greater Connecticut (CT), Springfield (Western Massachusetts) (MA), New-York-North New Jersey-Long Island (NY–NJ–CT), Baltimore (MD), Philadelphia-Wilmington-Trenton (PA–NJ–DE–MD), Metropolitan Washington, DC (DC–MD–VA), Milwaukee-Racine (WI), Chicago-Gary-Lake County (IL–IN), and Houston-Galveston-Brazoria (TX).

In general, an attainment demonstration SIP includes a modeling analysis component showing how the area will achieve the standard by its attainment date and the control measures necessary to achieve those reductions. Another component of the attainment demonstration SIP is a motor vehicle emissions budget for transportation conformity purposes. Transportation conformity is a process for ensuring that States consider the effects of emissions associated with new or improved federally-funded or regionally significant roadways on attainment of the standard. As described in section 176(c)(2)(A), attainment demonstrations necessarily include the estimates of motor vehicle emissions that are consistent with attainment, which then act as a budget or ceiling for the purposes of determining whether transportation plans, programs, and projects conform to the attainment SIP.

2. History and Time Frame for the State's Attainment Demonstration SIP

Notwithstanding significant efforts by the States, in 1995 EPA recognized that many States in the eastern half of the United States could not meet the November 1994 time frame for submitting an attainment demonstration SIP because emissions of NO_X and VOCs in upwind States (and the ozone formed by these emissions) affected these nonattainment areas and the full impact of this effect had not yet been determined. This phenomenon is called ozone transport.

On March 2, 1995, Mary D. Nichols, EPA's then Assistant Administrator for Air and Radiation, issued a memorandum to EPA's Regional Administrators acknowledging the efforts made by States but noting the remaining difficulties in making attainment demonstration SIP

submittals.[1] Recognizing the problems created by ozone transport, the March 2, 1995 memorandum called for a collaborative process among the States in the eastern half of the country to evaluate and address transport of ozone and its precursors. This memorandum led to the formation of the Ozone Transport Assessment Group (OTAG)[2] and provided for the States to submit the attainment demonstration SIPs based on the expected time frames for OTAG to complete its evaluation of ozone transport.

In June 1997, the OTAG concluded and provided EPA with recommendations regarding ozone transport. The OTAG generally concluded that transport of ozone and the precursor NO_X is significant and should be reduced regionally to enable States in the eastern half of the country to attain the ozone NAAQS.

In recognition of the length of the OTAG process, in a December 29, 1997 memorandum, Richard Wilson, EPA's then Acting Assistant Administrator for Air and Radiation, provided until April 1998 for States to submit the following elements of their attainment demonstration SIPs for serious and severe nonattainment areas: (1) evidence that the applicable control measures in subpart 2 of part D of title I of the CAA were adopted and implemented or were on an expeditious course to being adopted and implemented; (2) a list of measures needed to meet the remaining ROP emissions reduction requirement and to reach attainment; (3) for severe areas only, a commitment to adopt and submit target calculations for post-1999 ROP and the control measures necessary for attainment and ROP plans through the attainment year by the end of 2000[3]; (4) a commitment to implement the SIP control programs in a timely manner and to meet ROP emissions reductions and attainment; and (5) evidence of a public hearing on the State submittal.[4] This submission is sometimes referred to as the Phase 2 submission. Motor vehicle emissions budgets can be established based on a commitment to adopt the measures needed for attainment and identification of the measures needed. Thus, State submissions due in April 1998 under the Wilson policy should have included a motor vehicle emissions budget.

Building upon the OTAG recommendations and technical analyses, in November 1997, EPA proposed action addressing the ozone transport problem. In its proposal, the EPA found that current SIPs in 22 States and the District of Columbia (23 jurisdictions) were insufficient to provide for attainment and maintenance of the 1-hour standard because they did not regulate NO_X emissions that significantly contribute to ozone transport. 62 FR 60318 (Nov. 7, 1997). The EPA finalized that rule in September 1998, calling on the 23 jurisdictions to revise their SIPs to require NO_X emissions reductions within the State to a level consistent with a NO_X emissions budget identified in the final rule. 63 FR 57356 (Oct. 27, 1998). This final rule is commonly referred to as the NO_X SIP Call.

3. Attainment Date Delays Due to Transport

On July 16, 1998, EPA's then Acting Assistant Administrator, Richard Wilson, issued a guidance memorandum intended to provide further relief to areas affected by ozone transport.[5] The memorandum recognized that many moderate and serious nonattainment areas are affected by transported pollution from either an upwind area in the same State with a higher classification and later attainment date, and/or from an upwind area in another State that is significantly contributing to the downwind area's nonattainment problem. The policy recognized that some downwind areas may be unable to meet their own attainment dates, despite doing all that was required in their local area, because an upwind area may not have adopted and implemented all of the controls that would benefit the downwind area through control of transported ozone before the downwind area's attainment date. Thus, the policy provided that upon a successful demonstration that an upwind area has interfered with attainment and that the downwind area is adopting all measures required for its local area[6] for attainment but for this interference, EPA may grant an extension of the downwind area's attainment date.[7] Once an area receives an extension of its attainment date based on transport, the area would no longer be subject to reclassification to a higher classification and subject to additional requirements for failure to attain by its original attainment date provided it was doing all that was necessary locally.

A request from the State of Georgia for such an extension of the attainment date for the Atlanta ozone nonattainment area to 2003 and EPA's proposed response is discussed in this action.

4. Time Frame for Taking Action on Attainment Demonstration SIPs for 10 Serious and Severe Areas

The States generally submitted the SIPs between April and October of 1998; some States are still submitting additional revisions as described below. Under the CAA, EPA is required to approve or disapprove a State's submission no later than 18 months following submission. (The statute provides up to 6 months for a completeness determination and an additional 12 months for approval or disapproval.) The EPA believes that it is important to keep the process moving forward in evaluating these plans and, as appropriate, approving them. Thus, in today's **Federal Register**, EPA is proposing to take action on the 10

[1] Memorandum, ''Ozone Attainment Demonstrations,'' issued March 2, 1995. A copy of the memorandum may be found on EPA's web site at *http://www.epa.gov/ttn/oarpg/t1pgm.html*.

[2] Letter from Mary A. Gade, Director, State of Illinois Environmental Protection Agency to Environmental Council of States (ECOS) Members, dated April 13, 1995.

[3] [Severe areas only] In general, a commitment for severe areas to adopt by December 2000 the control measures necessary for attainment and ROP plans through the attainment year applies to any additional measures that were not otherwise required to be submitted earlier. (For example, this memorandum was not intended to allow States to delay submission of measures required under the CAA, such as inspection and maintenance (I/M) programs or reasonable available control technology (RACT) regulations, required at an earlier time.) Thus, this commitment applies to any control measures or emission reductions on which the State relied for purposes of the modeled attainment demonstration or for ROP. To the extent [State] has relied on a commitment to submit these measures by December 2000 for the [name] nonattainment area, EPA is proposing a conditional approval of the area's attainment demonstration. Some severe areas submitted the actual adopted control measures and are not relying on a commitment.

[4] Memorandum, ''Guidance for Implementing the 1–Hour Ozone and Pre-Existing PM 10 NAAQS,'' issues December 29, 1997. A copy of this memorandum may be found on EPA's web site at http://www.epa.gov/ttn/oarpg/t1pgm.html.

[5] Memorandum, ''Extension of Attainment Dates for Downwind Transport Areas,'' issued July 16, 1998. This memorandum is applicable to both moderate and serious ozone nonattainment areas. A copy of this policy may be found on EPA's web site at *http://www.epa.gov/ttn/oarpg/t1pgm.html*.

[6] Local area measures would include all of the measures within the local modeling domain that were relied on for purposes of the modeled attainment demonstration.

[7] The policy provides that the area must meet four criteria to receive an attainment date extension. In summary, the area must: (1) be identified as a downwind area affected by transport from either an upwind area in the same State with a later attainment date or an upwind area in another State that significantly contributes to downwind nonattainment; (2) submit an approvable attainment demonstration with any necessary, adopted local measures and with an attainment date that reflects when the upwind reductions will occur; (3) adopt all local measures required under the area's current classification and any additional measures necessary to demonstrate attainment; and (4) provide that it will implement all adopted measures as expeditiously as practicable, but no later than the date by which the upwind reductions needed for attainment will be achieved.

serious and severe 1-hour ozone attainment demonstration SIPs (located in 13 States and the District of Columbia) and intends to take final action on these submissions over the next 6–12 months. The reader is referred to individual dates in this document for specific information on actions leading to EPA's final rulemaking on these plans.

5. Options for Action on a State's Attainment Demonstration SIP

Depending on the circumstances unique to each of the 10 area SIP submissions on which EPA is proposing action today, EPA is proposing one or more of these types of approval or disapproval in the alternative. In addition, these proposals may identify additional action that will be necessary from the State.

The CAA provides for EPA to approve, disapprove, partially approve or conditionally approve a State's plan submission. CAA section 110(k). The EPA must fully approve the submission if it meets the attainment demonstration requirement of the CAA. If the submission is deficient in some way, EPA may disapprove the submission. In the alternative, if portions of the submission are approvable, EPA may partially approve and partially disapprove, or may conditionally approve based on a commitment to correct the deficiency by a date certain, which can be no later than one year from the date of EPA's final conditional approval.

The EPA may partially approve a submission if separable parts of the submission, standing alone, are consistent with the CAA. For example, if a State submits a modeled attainment demonstration, including control measures, but the modeling does not demonstrate attainment, EPA could approve the control measures and disapprove the modeling for failing to demonstrate attainment.

The EPA may issue a conditional approval based on a State's commitment to expeditiously correct a deficiency by a date certain that can be no later than one year following EPA's conditional approval. Such commitments do not need to be independently enforceable because, if the State does not fulfill its commitment, the conditional approval is converted to a disapproval. For example, if a State commits to submit additional control measures and fails to submit them or EPA determines the State's submission of the control measures is incomplete, the EPA will notify the State by letter that the conditional approval has been converted to a disapproval. If the State submits control measures that EPA determines are complete or that are deemed complete, EPA will determine through rulemaking whether the State's attainment demonstration is fully approvable or whether the conditional approval of the attainment demonstration should be converted to a disapproval.

Finally, EPA has recognized that in some limited circumstances, it may be appropriate to issue a full approval for a submission that consists, in part, of an enforceable commitment. Unlike the commitment for conditional approval, such an enforceable commitment can be enforced in court by EPA or citizens. In addition, this type of commitment may extend beyond one year following EPA's approval action. Thus, EPA may accept such an enforceable commitment where it is infeasible for the State to accomplish the necessary action in the short term.

B. What Are the Components of a Modeled Attainment Demonstration?

The EPA provides that States may rely on a modeled attainment demonstration supplemented with additional evidence to demonstrate attainment.[8] In order to have a complete modeling demonstration submission, States should have submitted the required modeling analysis and identified any additional evidence that EPA should consider in evaluating whether the area will attain the standard.

1. Modeling Requirements

For purposes of demonstrating attainment, the CAA requires serious and severe areas to use photochemical grid modeling or an analytical method EPA determines to be as effective. The photochemical grid model is set up using meteorological conditions conducive to the formation of ozone. Emissions for a base year are used to evaluate the model's ability to reproduce actual monitored air quality values and to predict air quality changes in the attainment year due to the emission changes which include growth up to and controls implemented by the attainment year. A modeling domain is chosen that encompasses the nonattainment area. Attainment is demonstrated when all predicted concentrations inside the modeling domain are at or below the NAAQS or at an acceptable upper limit above the NAAQS permitted under certain conditions by EPA's guidance. When the predicted concentrations are above the NAAQS, an optional weight of evidence determination, which incorporates but is not limited to other analyses such as air quality and emissions trends, may be used to address uncertainty inherent in the application of photochemical grid models.

The EPA guidance identifies the features of a modeling analysis that are essential to obtain credible results. First, the State must develop and implement a modeling protocol. The modeling protocol describes the methods and procedures to be used in conducting the modeling analyses and provides for policy oversight and technical review by individuals responsible for developing or assessing the attainment demonstration (State and local agencies, EPA Regional offices, the regulated community, and public interest groups). Second, for purposes of developing the information to put into the model, the State must select air pollution days, *i.e.*, days in the past with bad air quality, that are representative of the ozone pollution problem for the nonattainment area. Third, the State needs to identify the appropriate dimensions of the area to be modeled, *i.e.*, the domain size. The domain should be larger than the designated nonattainment area to reduce uncertainty in the boundary conditions and should include large upwind sources just outside the nonattainment area. In general, the domain is considered the local area where control measures are most beneficial to bring the area into attainment. Fourth, the State needs to determine the grid resolution. The horizontal and vertical resolutions in the model affect the dispersion and transport of emission plumes. Artificially large grid cells (too few vertical layers and horizontal grids) may dilute concentrations and may not properly consider impacts of complex terrain, complex meteorology, and land/water interfaces. Fifth, the State needs to generate meteorological data that describe atmospheric conditions and emissions inputs. Finally, the State needs to verify that the model is properly simulating the chemistry and atmospheric conditions through diagnostic analyses and model performance tests. Once these steps are satisfactorily completed, the model is ready to be used to generate air quality

[8] The EPA issued guidance on the air quality modeling that is used to demonstrate attainment with the 1-hour ozone NAAQS. See U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: ''UAMREG''). See also U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). A copy may be found on EPA's web site at http://www.epa.gov/ttn/scram/ (file name: ''O3TEST'').

estimates to support an attainment demonstration.

The modeled attainment test compares model predicted 1-hour daily maximum concentrations in all grid cells for the attainment year to the level of the NAAQS. A predicted concentration above 0.124 ppm ozone indicates that the area is expected to exceed the standard in the attainment year and a prediction at or below 0.124 ppm indicates that the area is expected to attain the standard. This type of test is often referred to as an exceedance test. The EPA's guidance recommends that States use either of two modeled attainment or exceedance tests for the 1-hour ozone NAAQS: a deterministic test or a statistical test.

The deterministic test requires the State to compare predicted 1-hour daily maximum ozone concentrations for each modeled day[9] to the attainment level of 0.124 ppm. If none of the predictions exceed 0.124 ppm, the test is passed.

The statistical test takes into account the fact that the form of the 1-hour ozone standard allows exceedances. If, over a three-year period, the area has an average of one or fewer exceedances per year, the area is not violating the standard. Thus, if the State models a very extreme day, the statistical test provides that a prediction above 0.124 ppm up to a certain upper limit may be consistent with attainment of the standard. (The form of the 1-hour standard allows for up to three readings above the standard over a three-year period before an area is considered to be in violation.)

The acceptable upper limit above 0.124 ppm is determined by examining the size of exceedances at monitoring sites which meet the 1-hour NAAQS. For example, a monitoring site for which the four highest 1-hour average concentrations over a three-year period are 0.136 ppm, 0.130 ppm, 0.128 ppm and 0.122 ppm is attaining the standard. To identify an acceptable upper limit, the statistical likelihood of observing exceedances of the ozone standard at various concentrations is equated to the severity of the modeled day. The upper limit generally represents the maximum ozone concentration observed at a location on a single day and it would be the only reading above the standard that would be expected to occur no more than an average of once a year over a three-year period. Therefore, if the maximum ozone concentration predicted by the model is below the acceptable upper limit, in this case 0.136 ppm, then EPA might conclude that the modeled attainment test is passed. Generally, exceedances well above 0.124 ppm are very unusual at monitoring sites meeting the NAAQS. Thus, these upper limits are rarely substantially higher than the attainment level of 0.124 ppm.

2. Additional Analyses Where Modeling Fails To Show Attainment

When the modeling does not conclusively demonstrate attainment, additional analyses may be presented to help determine whether the area will attain the standard. As with other predictive tools, there are inherent uncertainties associated with modeling and its results. For example, there are uncertainties in some of the modeling inputs, such as the meteorological and emissions data bases for individual days and in the methodology used to assess the severity of an exceedance at individual sites. The EPA's guidance recognizes these limitations, and provides a means for considering other evidence to help assess whether attainment of the NAAQS is likely. The process by which this is done is called a weight of evidence (WOE) determination.

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

The EPA's 1996 modeling guidance also recognizes a need to perform a mid-course review as a means for addressing uncertainty in the modeling results. Because of the uncertainty in long term projections, EPA believes a viable attainment demonstration that relies on WOE needs to contain provisions for periodic review of monitoring, emissions, and modeling data to assess the extent to which refinements to emission control measures are needed. The mid-course review is discussed in Section C.6.

C. What Is the Frame Work for Proposing Action on the Attainment Demonstration SIPs?

In addition to the modeling analysis and WOE support demonstrating attainment, the EPA has identified the following key elements which must be present in order for EPA to approve or conditionally approve the 1-hour attainment demonstration SIPs. These elements are listed below and then described in detail.

—CAA measures and measures relied on in the modeled attainment demonstration SIP. This includes adopted and submitted rules for all previously required CAA mandated measures for the specific area classification. This also includes measures that may not be required for the area classification but that the State relied on in the SIP submission for attainment and ROP plans on which EPA is proposing to take action today.

—NOx reductions affecting boundary conditions.

—Motor vehicle emissions budget. A motor vehicle emissions budget which can be determined by EPA to be adequate for conformity purposes.

—Tier 2/Sulfur program benefits where needed to demonstrate attainment. Inclusion of reductions expected from EPA's Tier 2 tailpipe and low sulfur-in-fuel standards in the attainment demonstration and the motor vehicle emissions budget.

—In certain areas, additional measures to further reduce emissions to support the attainment test. Additional measures may be measures adopted regionally such as in the Ozone Transport Region (OTR), or locally (intrastate) in individual States.

—Mid-course review. An enforceable commitment to conduct a mid-course review and evaluation based on air quality and emission trends. The mid-course review would show whether the adopted control measures are sufficient to reach attainment by the area's attainment date, or that additional control measures are necessary.

1. CAA Measures and Measures Relied on in the Modeled Attainment Demonstration SIP

The States should have adopted the control measures already required under the CAA for the area classification. Since these 10 serious and severe areas need to achieve substantial reductions

[9] The initial, ''ramp-up'' days for each episode are excluded from this determination.

from their 1990 emissions levels in order to attain, EPA anticipates that these areas need all of the measures required under the CAA to attain the 1-hour ozone NAAQS.

In addition, the State may have included control measures in its attainment strategy that are in addition to measures required in the CAA. (For serious areas, these should have already been identified and adopted, whereas severe areas have until December 2000 to submit measures necessary to achieve ROP through the attainment year and to attain.) For purposes of fully approving the State's SIP, the State will need to adopt and submit all VOC and NOx controls within the local modeling domain that were relied on for purposes of the modeled attainment demonstration.

The following table presents a summary of the CAA requirements that need to be met for each serious nonattainment area for the 1-hour ozone NAAQS. These requirements are specified in section 182 of the CAA. Information on more measures that States may have adopted or relied on in their current SIP submissions is not shown in the table. EPA will need to take final action approving all measures relied on for attainment, including the required ROP control measures and target calculations, before EPA can issue a final full approval of the attainment demonstration as meeting CAA section 182(c)(2) (for serious areas) or (d) (for severe areas). With submittal of the attainment demonstration on October 28, 1999, the State of Georgia has submitted all of the requirements for a serious ozone nonattainment area.

CAA REQUIREMENTS FOR SERIOUS AREAS

—New Source Review (NSR) for VOC and NOx, including an offset ratio of 1.2:1 and a major VOC and NOx source cutoff of 50 tons per year (tpy)
—Reasonable Available Control Technology (RACT) for VOC and NOx [1]
—Enhanced Inspection and Maintenance (I/M) program for vehicles
—15 percent VOC emission reduction plans
—Emissions inventory
—Emission statements rule
—Attainment demonstration
—9 percent ROP plan through 1999
—Clean fuels program or substitute
—Enhanced monitoring Photochemical Assessment Monitoring Stations (PAMS)
—Stage II vapor recovery

[1] Unless the area has in effect a NOx waiver under section 182(f). *Atlanta is not* such an area.

2. NOx Reductions Consistent With the Modeling Demonstration

The EPA completed final rulemaking on the NOx SIP call on October 27, 1998, which required States to address transport of NOx and ozone to other States. To address transport, the NOx SIP call established emissions budgets for NOx that 23 jurisdictions were required to show they would meet through enforceable SIP measures adopted and submitted by September 30, 1999. The NOx SIP call is intended to reduce emissions in upwind States that significantly contribute to nonattainment problems. The EPA did not identify specific sources that the States must regulate nor did EPA limit the States' choices regarding where to achieve the emission reductions. Subsequently, a three-judge panel of the Court of Appeals for the District of Columbia Circuit issued an order staying the portion of the NOx SIP call rule requiring States to submit rules by September 30, 1999.

The NOx SIP call rule establishes budgets for the States in which 9 of the nonattainment areas for which EPA is proposing action today are located. The 9 areas are: Greater Connecticut, Springfield MA, New York-North New Jersey-Long Island (NY-NJ-CT), Baltimore MD, Philadelphia-Wilmington-Trenton (PA-NJ-DE-MD), Metropolitan Washington, D.C. (DC-MD-VA), Atlanta GA, Milwaukee-Racine WI, and Chicago-Gary-Lake County (IL–IN).

Emission reductions that will be achieved through EPA's NOx SIP call will reduce the levels of ozone and ozone precursors entering nonattainment areas at their boundaries. For purposes of developing attainment demonstrations, States define local modeling domains that include both the nonattainment area and nearby surrounding areas. The ozone levels at the boundary of the local modeling domain are reflected in modeled attainment demonstrations and are referred to as boundary conditions. With the exception of Houston, the 1-hour attainment demonstrations on which EPA is proposing action have relied, in part, on the NOx SIP Call reductions for purposes of determining the boundary conditions of the modeling domain. Emission reductions assumed in the attainment demonstrations are modeled to occur both within the State and in upwind States; thus, intrastate reductions as well as reductions in other States impact the boundary conditions. Although the court has indefinitely stayed the SIP submission deadline, the NOx SIP Call rule remains in effect. Therefore, EPA believes it is appropriate to allow States to continue to assume the reductions from the NOx SIP call in areas outside the local 1-hour modeling domains. If States assume control levels and emission reductions other than those of the NOx SIP call within their State but outside of the modeling domain, States must also adopt control measures to achieve those reductions in order to have an approvable plan.

Accordingly, States in which the nonattainment areas are located will not be required to adopt measures outside the modeling domain to achieve the NOx SIP call budgets prior to the time that all States are required to comply with the NOx SIP call. If the reductions from the NOx SIP call do not occur as planned, States will need to revise their SIPs to add additional local measures or obtain interstate reductions, or both, in order to provide sufficient reductions needed for attainment.

As provided in section 1 above, any controls assumed by the State inside the local modeling domain [10] for purposes of the modeled attainment demonstration must be adopted and submitted as part of the State's 1-hour attainment demonstration SIP. It is only for reductions occurring outside the local modeling domain that States may assume implementation of NOx SIP call measures and the resulting boundary conditions.

3. Motor Vehicle Emissions Budget

The EPA believes that attainment demonstration SIPs must necessarily estimate the motor vehicle emissions that will be produced in the attainment year and demonstrate that this emissions level, when considered with emissions from all other sources, is consistent with attainment. The estimate of motor vehicle emissions is used to determine the conformity of transportation plans and programs to the SIP, as described by CAA section 176(c)(2)(A). For transportation conformity purposes, the estimate of motor vehicle emissions is known as the motor vehicle emissions budget. The EPA believes that appropriately identified motor vehicle emissions budgets are a necessary part of an attainment demonstration SIP. A SIP cannot effectively demonstrate attainment unless it identifies the level

[10] For the purposes of this document, ''local modeling domain'' is typically an urban scale domain with horizontal dimensions less than about 300 km on a side, horizontal grid resolution less than or equal to 5 x 5 km or finer. The domain is large enough to ensure that emissions occurring at 8 am in the domain's center are still within the domain at 8 pm the same day. If recirculation of the nonattainment area's previous day's emissions is believed to contribute to an observed problem, the domain is large enough to characterize this.

of motor vehicle emissions that can be produced while still demonstrating attainment.

The EPA has determined that except for the Western MA (Springfield) attainment demonstration SIP, the motor vehicle emission budgets for all areas in today's proposals are inadequate or missing from the attainment demonstration. Therefore, EPA is proposing to disapprove the attainment demonstration SIPs for those nine areas if the States do not submit motor vehicle emissions budgets that EPA can find adequate by May 31, 2000.[11] In order for EPA to complete the adequacy process by the end of May, States should submit a budget no later than December 31, 1999.[12] If an area does not have a motor vehicle emissions budget that EPA can determine adequate for conformity purposes by May 31, 2000, EPA plans to take final action at that time disapproving in full or in part the area's attainment demonstration. The emissions budget should reflect all the motor vehicle control measures contained in the attainment demonstration, i.e., measures already adopted for the nonattainment area as well as those yet to be adopted.

The EPA is currently reviewing the motor vehicle emissions budgets submitted by the GAEPD on October 28, 1999, for adequacy. Therefore EPA is proposing in the alternative to disapprove in part the attainment demonstration for the Atlanta area by May 31, 1999, if the submitted motor vehicle emissions budgets are found to be inadequate by EPA. To be found adequate, the emissions budget should reflect all the motor vehicle control measures contained in the attainment demonstration, i.e., measures already adopted for the nonattainment area as well as those yet to be adopted.

4. Tier 2/Sulfur Program Benefits

The attainment date GAEPD has requested if before the implementation of Tier 2 and therefore Tier 2 is not assumed for attainment.

5. Additional Measures To Further Reduce Emissions

The EPA is proposing to find that the attainment demonstrations for New York-North New Jersey-Long Island; Baltimore; Philadelphia-Wilmington-Trenton; Houston; and Atlanta, even considering the Tier II/Sulfur program reductions and the WOE, will not achieve attainment without the application of additional emission control measures to achieve additional emission reductions. Thus, for each of these areas, EPA has identified specific tons per day emissions of NO_X and/or VOC that must be reduced through additional control measures in order to demonstrate attainment and to enable EPA to approve the demonstration. The need for additional emission reductions is generally based on a lack of sufficient compelling evidence that the demonstration shows attainment at the current level of adopted or planned emission controls. This is discussed in detail below for the Atlanta ozone nonattainment area. The method used by EPA to calculate the amount of additional reductions is described in a technical support document located in the record for this proposed rule. Briefly, the method makes use of the relationship between ozone and its precursors (VOC and NO_X) to identify additional reductions that, at a minimum, would bring the model predicted future ozone concentration to a level at or below the standard. The relationship is derived by comparing changes in either (1) the model predicted ozone to changes in modeled emissions or (2) observed air quality to changes in actual emissions.

The EPA is not requesting that States perform new photochemical grid modeling to assess the full air quality impact of the additional measures that would be adopted. Rather, as described above, one of the factors that EPA can consider as part of the WOE analysis of the attainment demonstration is whether there will be additional emission reductions anticipated that were not modeled. Therefore, EPA will consider the reductions from these additional measures as part of the WOE analysis if the State adopts the measures or, as appropriate, submits an enforceable commitment to adopt the measures.

As an initial matter, for areas that need additional reductions, the State must submit a commitment to adopt additional control measures to meet the level of reductions that EPA has identified as necessary for attainment. For purposes of conformity, if the State submitted a commitment, which has been subject to public hearing, to adopt the control measures necessary for attainment and ROP through the area's attainment date in conformance with the December 1997 Wilson policy, the State will not need an additional commitment at this time. However, the state will need to amend its commitment by letter to provide two things concerning the additional measures.

First, the State will need to identify a list of potential control measures (from which a set of measures could be selected) that when implemented, would be expected to provide sufficient additional emission reductions to meet the level of reductions that EPA has identified as necessary for attainment. States need not commit to adopt any specific measures on their list at this time, but if they do not do so, they must identify sufficient additional emission reductions to attain the standard with the submitted motor vehicle emissions budget. These measures may not involve additional limits on highway construction beyond those that could be imposed under the submitted motor vehicle emissions budget. (See memorandum, ''Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations,'' from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I–VI[13].) States may, of course, select control measures that do impose limits on highway construction, but if they do so, they must revise the budget to reflect the effects of specific, identified measures that were either committed to in the SIP or were actually adopted. Otherwise, EPA could not conclude that the submitted motor vehicle emissions budget would be providing for attainment, and EPA could not find it adequate for conformity purposes.

Second, the letter should provide that the State will recalculate and submit a revised motor vehicle emissions budget that includes the effects, if any, of the measure or measures that are ultimately adopted when those measures are submitted as SIP revisions should any of the measures pertain to motor vehicles.

For purposes of approving the SIP, the State will need an enforceable commitment that identifies the date by which the additional measures will be submitted, identifies the percentage reductions needed of VOC and NO_X,

[11] For severe areas, EPA will determine the adequacy of the emissions budgets associated with the post-1999 ROP plans once the States submit the target calculations, which are due no later than December 2000.

[12] A final budget is preferred; but, if the State public hearing process is not yet complete, then the draft budget for public hearing may be submitted. The adequacy process generally takes at least 90 days. Therefore, in order for EPA to complete the adequacy process no later than the end of May, EPA must have by February 15, 2000, the final budget or a draft that is substantially similar to what the final budget will be. The State must submit the final budget by April 15, 2000.

[13] Memorandum, ''Guidance on Motor Vehicle Emissions Budgets in One-Hour Ozone Attainment Demonstrations'', from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I–VI, issued November 3, 1999. A copy of this memorandum may be found on EPA's web site at http://www.epa.gov/oms/transp/traqconf.htm.

and provides that the State will recalculate and submit a revised motor vehicle emissions budget that includes the effects, if any, of the measure or measures that are ultimately adopted when these measures are submitted as SIP revisions should any of the measures pertain to motor vehicles. To the extent the State's current commitment does not include one of the above items or to the extent that a State plans to revise one of the above items in an existing commitment, the State will need a new public hearing. For Atlanta, Georgia will need to submit their adopted rules to achieve the additional reductions, as well as rules for measures relied on in their demonstration but not yet adopted, to EPA as a SIP revision to their attainment demonstration no later than July 31, 2000 in order to allow EPA to promulgate its approval of the revision by November 2000.

a. *Guidance on Additional Control Measures.* Much progress has been made over the past 25 years to reduce VOC emissions and over the past 9 years to reduce NO_X emissions. Many large sources have been controlled to some extent through RACT rules or other emission standards or limitations, such as maximum achievable control technology (MACT), new source performance standards (NSPS) and the emission control requirements for NSR—lowest achievable emissions rate (LAER) and best achievable control technology (BACT). However, there may be controls available for sources that have not yet been regulated as well as additional means for achieving reductions from sources that have already been regulated. The EPA has prepared a report to assist States in identifying additional measures. This report is called ''Serious and Severe Ozone Nonattainment Areas: Information on Emissions, Control Measures Adopted or Planned and Other Available Control Measures''. The purpose of this report is to provide information to State and local agencies to assist them in identifying additional control measures that can be adopted into their SIPs to support the attainment demonstrations for the serious and severe nonattainment areas under consideration. This report has been added to the record for this proposal.

In summary, the report provides information in four areas. First, the report contains detailed information on ozone precursor emissions of NO_X and VOCs. This inventory data gives an indication of where the major emissions are coming from in a particular geographic area and may indicate where it will be profitable to look for further reductions. Second, the report contains information on control measures for emission sources of NO_X and VOC (including stationary, area and mobile source measures) for which controls may not have been adopted by many jurisdictions. This would include many measures listed among the control measures EPA considered when developing the Regulatory Impact Analysis (RIA) for promulgation of the 8-hour ozone NAAQS. Third, the report includes information on standards EPA has issued for the NSPS and MACT programs as well as information on alternative control techniques (ACT) documents. This may be useful to States who may already specify RACT levels emission limits on existing source categories to which NSPS and MACT for new sources apply, but where the current RACT level of control for these existing sources do not match the level specified in the NSPS or MACT standards for new sources or sources which emit hazardous air pollutants. Finally, the report includes information on the control measures not already covered elsewhere that States have adopted, or have proposed to adopt at the date of the report, into their SIPs. Comparison of information on measures already adopted into other SIPs may help inform States about reductions that may be available from their sources whose emissions are currently not regulated.

Another source of information is the BACT and LAER determinations that States have made for individual new sources. Information on BACT/LAER determinations is available through EPA's RACT/BACT/LAER Clearinghouse (RBLC) which may be accessed on EPA's web site on the internet at the following address: www.epa.gov/ttn/catc/.

The ACT documents for VOC and NO_X are valuable because EPA has not issued control technique guidelines (CTGs) that specify the level of RACT for several categories of sources. For some of these source categories, EPA has prepared ACT documents which describe various control technologies and associated costs for reducing emissions. While States were required to adopt RACT for major sources within these source categories, the ACT documents may identify an additional level of control for regulated sources or may provide control options for non-major sources within these source categories. States are free to evaluate the various options given and use the results to assist in formulating their own regulations. Consider in evaluating where to require additional emission reductions.

The report lists the various sources EPA used to develop the lists of additional measures. These sources include an EPA draft control measure data base, State and Territorial Air Pollution Administrators and the Association of Local Air Pollution Control Official's (STAPPA/ALAPCO's) books ''Controlling Nitrogen Oxides under the Clean Air Act: A Menu of Options'', and ''Meeting the 15-Percent Rate-of-Progress Requirement Under the Clean Air Act: A Menu of Options'', California's ozone SIP for the South Coast and various ACT documents.

There is one control approach which bears special mention because it is broader in application than any one specific control measure. The is the approach of ''cap and trade.'' In this approach, a cap is placed on emissions, and existing sources are given emission allotments. Under a declining cap, emissions would be decreased each year. Sources may over-control and sell part of their allotments to other sources which under-control. Overall, the percentage decrease in emissions is maintained, but the reductions are made where they are most economical. A cap and trade program has been in operation in the South Coast Air Quality Management District in California since about 1992.

The State of Illinois has adopted a declining cap and trade program. The Illinois program will set a cap on future emissions of major sources in the Chicago area that in most cases is 12 percent lower than baseline emissions. Illinois will issue a number of emission allotments corresponding to the cap level and will require each source to have VOC emissions at or below the level for which it holds emission allotments. Trading of emission allotments will be allowed, so that sources that reduce VOC emissions more than 12 percent may sell emission allotments, and sources that reduce VOC emission less than 12 percent must buy emission allotments. The proposed reductions are planned to begin in the next ozone season, May 2000.

In addition, EPA's draft economic incentives program (EIP) guidance was proposed in September 1999. This encourages cost-effective and innovative approaches to achieving air pollution goals through emissions trading. Such an approach has been demonstrated to be successful and cost-effective in reducing air pollution in EPA's acid rain emissions trading program. These and other similar programs should allow cost-effective implementation of additional control measures.

Finally, a reduction in VOC and NO_X emissions can be achieved through a

wide range of control measures. These measures range from technology based actions such as retrofitting diesel trucks and buses, and controlling ground service equipment at airports to activity based controls such as increased use of transit by utilizing existing Federal tax incentives, market and pricing based programs, and ozone action days. States can also achieve emission reductions by implementing programs involving cleaner burning fuels. The State of Texas is also considering a rule to change the times during the day in which construction can occur to reduce ozone precursor emissions during periods when ozone formation is occurring. There are a wide range of new and innovative programs beyond the few examples listed here. These measures, if taken together, can provide for significant emission reductions for attainment purposes. In addition, a variety of mobile source measures could be considered as part of the commitment to meet the need for additional emission reduction measures, without a specific commitment to the measure and associated revision to the motor vehicle emissions budget.

6. Mid-Course Review

A mid-course review (MCR) is a reassessment of modeling analyses and more recent monitored data to determine if a prescribed control strategy is resulting in emission reductions and air quality improvements needed to attain the ambient air quality standard for ozone as expeditiously as practicable but no later than the statutory dates.

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

D. In Summary, What Does EPA Expect To Happen With Respect to Attainment Demonstrations for the Atlanta 1–Hour Ozone Nonattainment Area?

The following table shows a summary of information describing what EPA expects from States to allow EPA to approve the 1-hour ozone attainment demonstration SIPs for Serious areas.

SUMMARY SCHEDULE OF FUTURE ACTIONS RELATED TO ATTAINMENT DEMONSTRATION FOR THE ATLANTA SERIOUS NONATTAINMENT AREA IN GEORGIA

Required no later than:	Action
12/31/99	State submits the following to EPA: —motor vehicle emissions budget [1] —Commitments [2] to do the following: —Submit in July 2000 measures for additional emission reductions as required in the attainment demonstration test. —Submit revised SIP & motor vehicle emissions budget by July 2000 if additional measures (due by July 2000) affect the motor vehicle emissions inventory —Perform an early attainment assessment by November 15, 2003. A list of potential control measures that could provide additional emission reductions needed to attain the standard [3]
4/15/00	State submits in final any submissions made in draft by 12/31/99.
Before EPA final rulemaking	State submits enforceable commitments for any above-mentioned commitments that may not yet have been subjected to public hearing.
7/31/00	—State submits final rules for additional measures for emission reductions as required in the attainment demonstration test. —State revises & submits SIP & motor vehicle emissions budget if the additional measures are for motor vehicle emissions category
11/15/03	State submits early attainment assessment (for attainment date of 2003 or earlier) or mid-course review (for attainment date after 2003)

[1] Final budget preferable; however, if public process is not yet complete, then a ''draft'' budget (the one undergoing public process) may be submitted at this time with a final budget by 4/15/00. However, if a final budget is significantly different from the draft submitted earlier, the final budget must be submitted by 2/15/00 to accommodate the 90 day processing period prior to the 5/31/00 date by which EPA must find the motor vehicle emissions budget adequate. Note that the budget can reflect estimated Tier 2 emission reductions—see memorandum from Lydia Wegman and Merrylin Zaw-Mon, ''1–Hour Ozone Attainment Demonstrations and Tier 2/Sulfur Rulemaking.''

[2] If the public hearing as provided in the preamble text, the State may clarify by letter an existing commitment, which has been subject to public hearing, to submit the control measures needed for attainment. If the State has not yet submitted such a commitment, the State should adopt a commitment after public hearing. If the public hearing process is not yet complete, then draft commitments may be submitted at this time. The final commitment should be submitted no later than 4/15/00.

[3] State is not required to commit to adopt the specific measures identified in the list. However, the list cannot include any measures that place limits on highway construction unless a specific commitment to those measures are made and the motor vehicle emission budget reflects those measures.

E. What Are the Relevant Policy and Guidance Documents?

This proposal has cited several policy and guidance memoranda. The EPA has also developed several technical documents related to the rulemaking action in this proposal. Some of the documents have been referenced above. The documents and their location on EPA's web site are listed below; these documents will also be placed in the docket for this proposal action.

Recent Documents

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

2. ''Serious and Severe Ozone Nonattainment Areas: Information on

Emissions, Control Measures Adopted or Planned and Other Available Control Measures.'' Draft Report. November 3, 1999. Ozone Policy and Strategies Group. U.S. EPA, RTP, NC.

3. Memorandum ''Guidance on Motor Vehicle Emissions Budgets in One-Hour Attainment Demonstrations,'' from Merrylin Zaw-Mon, Office of Mobile Sources, to Air Division Directors, Regions I–VI. November 3, 1999. Web site: http://www.epa.gov/oms/transp/traqconf.htm.

4. Memorandum from Lydia Wegman and Merrylin Zaw-Mon to the Air Division Directors, Regions I–VI, ''1-Hour Ozone Attainment Demonstrations and Tier 2/Sulfur/Sulfur Rulemaking.'' November 8, 1999. Web site: http://www.epa.gov/oms/transp/traqconf.htm.

5. Draft Memorandum, ''1-Hour Ozone NAAQS—Mid-Course Review Guidance.'' From John Seitz, Director, Office of Air Quality Planning and Standards. Web site: *http://www.epa.gov/ttn/scram/.* See file DR6MCR.

6. Memorandum, ''Guidance on Reasonably Available Control Measures (RACM) Requirement and Attainment Demonstration Submissions for Ozone Nonattainment Areas.'' John S. Seitz, Director, Office of Air Quality Planning and Standards. November 30, 1999. Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

Previous Documents

1. U.S. EPA, (1991), Guideline for Regulatory Application of the Urban Airshed Model, EPA–450/4–91–013, (July 1991). Web site: http://www.epa.gov/ttn/scram/ (file name: ''UAMREG'').

2. U.S. EPA, (1996), Guidance on Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS, EPA–454/B–95–007, (June 1996). Web site: http://www.epa.gov/ttn/scram/ (file name: ''O3TEST'').

3. Memorandum, ''Ozone Attainment Demonstrations,'' from Mary D. Nichols, issued March 2, 1995. Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

4. Memorandum, ''Extension of Attainment Dates for Downwind Transport Areas,'' issued July 16, 1998. Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

5. December 29, 1997 Memorandum from Richard Wilson, Acting Assistant Administrator for Air and Radiation ''Guidance for Implementing the 1–Hour Ozone and Pre-Existing PM10 NAAQS.'' Web site: http://www.epa.gov/ttn/oarpg/t1pgm.html.

II. EPA's Review and Technical Information

A. Atlanta Serious 1-hour Ozone Nonattainment Area.

1. Background for Atlanta

a. Atlanta Nonattainment Status. The nonattainment classification status of Atlanta was based on ambient air sampling measurements for ozone made during 1987–1989. The ambient ozone sampling network from which these measurements were gathered consisted of five (5) sites in the Atlanta area. From these three years of data collected from five monitors, it was determined that Atlanta should be classified as a serious ozone nonattainment area based on an ozone design value of 0.162 ppm. This concentration falls in the design value range of 0.160–0.180 ppm for serious nonattainment areas.

The CAA specified that the boundaries for ozone nonattainment areas classified as serious or above would be automatically revised to encompass the entire Metropolitan Statistical Area (MSA) unless the State could demonstrate that such action would not be appropriate. The MSA for Atlanta consisted of eighteen counties at the time designations were made pursuant to the CAA.

In establishing the final boundaries for the nonattainment area, three main criteria were used to determine if certain counties should be included or excluded for nonattainment purposes. These criteria included: (1) Population density, urbanization, commuting patterns, population increases, etc., (2) the ozone precursor emission density of stationary sources and the density of mobile sources expressed as vehicle miles traveled (VMT), and (3) meteorological factors, biogenic vs. anthropogenic ozone precursor emissions and physical boundaries that may influence movement of precursor pollutants. In addition to evaluating these criteria, the State of Georgia also completed an analysis of the Atlanta area using the Urban Airshed Model. Based on the analysis, the State recommended that five counties in the MSA, Barrow, Walton, Newton, Butts, and Spalding, be removed from the nonattainment area. The EPA concurred with the recommendation from the State (see 56 FR 56694).

b. Nonattainment Boundaries. The remaining 13 counties in the MSA were designated as a serious ozone nonattainment area. The Atlanta ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, Dekalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. (See 40 CFR 81.311).

The Atlanta MSA currently consists of the counties listed above, as well as the following seven counties: Barrow, Bartow, Carroll, Newton, Pickens, Spalding, and Walton.

The October 28, 1999, submittal included a modeled attainment demonstration, a weight of evidence analysis, a request to extend the attainment date, a list of control measures previously approved, regulations to implement control measures modeled but not previously submitted, and commitments to achieve additional reductions needed for attainment and to correct deficient regulations.

2. Description of Controls

The following controls are being implemented to satisfy requirements of the CAA for serious areas and to achieve the emission reductions modeled in the attainment strategy.

a. Controls that were in place by May 1, 1999:

—All specific control programs required for serious areas including VOC and NO_X RACT and enhanced I/M have been implemented.

—All elements of the 15 Percent Rate of Progress (ROP) plan, which achieved 117.06 tons per day of VOC reduction by 1996 from the 1990 base. The controls implemented to achieve this reduction included, among other things, the enhanced vehicle inspection and maintenance program (I/M), low reid vapor pressure (RVP) gasoline, Stage II gasoline vapor recovery, a ban on open/slash/prescribed burning, and reliance on Federal rules for architectural and industrial maintenance coatings, auto body repair shops and new vehicle emissions. For further information please see the **Federal Register** Notice taking final approval action on the 15 percent ROP plan which was published on April 26, 1999, (64 FR 20186).

—All elements of the Post-1996 (9 percent) ROP plan, which achieved 50.10 tons per day of NO_X reductions by 1999. The central measures implemented to achieve these reductions included, among other things, NO_X RACT on major sources, and the enhanced vehicle I/M program. For further information please see the **Federal Register** Notice taking final approval action on the 9 percent ROP plan which was published on March 18, 1999, (64 FR 13348).

—A rule lowering the sulfur content of gasoline sold in a 25-county area in

and around metro-Atlanta during the ozone control season (May 1–September 30). Gasoline sold in the 25-county area was regulated by Phase 1 of the regulations beginning in 1999. The area subject to this Georgia gasoline regulation in 1999 consists of the following 25 counties: Barrow, Bartow, Butts, Carroll, Cobb, Coweta, Clayton, Cherokee, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Haralson, Henry, Jackson, Newton, Paulding, Pickens, Rockdale, Spalding and Walton. Emissions of NO_X and VOC were reduced by 11.7 and 17.8 tons per day, respectively, in 1999. To achieve these emission reductions, the volume-weighted average sulfur content of the Phase 1 gasoline is limited to 150 ppm during the ozone control season.

—Modifications at Georgia Power Plants Yates and McDonough (both located within the 13-county nonattainment area), for seasonal application of natural gas technologies, reducing NO_X emissions by an average of 25.90 tons per day in 1999.

—A Partnership For A Smog-Free Georgia (PSG) Program has been put in place to obtain voluntary actions from local businesses, governments, schools, universities and the general public which reduce VOC and NO_X emissions by at least 13.0 and 8.6 tons per day, respectively, during the summer season when ozone concentrations are the highest.

b. Controls that are to be implemented by May 1, 2003: The following control measures have been submitted for approval into the SIP. These measures were included in the attainment modeling. EPA is proposing to approve these regulations. Approval of the fuel and RACT regulations is dependent upon GAEPD following through on the submitted commitments to correct deficiencies in these rules. If not, EPA would, in the alternative, disapprove the regulations.

—A rule further lowering the sulfur content of gasoline sold in a 45-county area in and around metro-Atlanta during the ozone season. Additional (Phase 2) regulation of Georgia gasoline to produce even greater NO_X reductions will require refinery modifications which can not be completed to produce delivery of such gasoline by 1999. Therefore, Phase 2 requirements set to achieve additional reductions in gasoline-powered vehicle exhaust will go into effect in 2003. To achieve the emission reductions, the volume-weighted average sulfur content of this gasoline will be limited to 30 ppm by weight with a 150 ppm per gallon maximum level established. This fuel will be required year-round and is consistent with the recent EPA proposal for a national fuel sulfur control program. The area subject to this Phase 2 Georgia gasoline regulation in 2003 will consist of the 25 counties listed above and the following additional 20 counties: Banks, Chattooga, Clarke, Floyd, Gordon, Heard, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pike, Polk, Putnam, Troup, and Upson. The expected NO_X and VOC reductions from Phase 2 of the gasoline rule will be 23.99 and 30.50 tons per day, respectively, in the 45-county area in 2003.

—Modifications at point sources with large electric utility steam generating units, located in and near the nonattainment area and the area of significant impact, reducing NO_X emissions by about 183.45 tons per episode day in 2003.

—Modifications at three point sources with large NO_X emitting units other than electric utility steam generating units, located in the 13 county area, reducing NO_X emissions by 10.12 tons per day in 2003.

—Revised enhanced I/M requirements for the 13 county nonattainment area providing additional NO_X and VOC emission reductions of 11.34 and 13.17 tons per day, respectively, in 2003. To further reduce mobile source emissions to attain and maintain the ozone standard, GAEPD is revising the enhanced I/M program by implementing the following changes: (1.) Annual rather than biennial testing for covered vehicles; (2.) conversion of the Acceleration Simulation Mode (ASM) test to a more stringent 2-mode ASM 2525/5015 test for older vehicles; and (3.) The addition of an On Board Diagnostic (OBD) test for newer vehicles. In addition, older vehicles are redefined as model years 1975 through 1995; newer vehicles are redefined as model years 1996 and newer. Also, new vehicles up to three years old are exempted from testing.

—New source permitting requirements for sources emitting greater than or equal to 100 tons/year of NO_X and VOC are expanded to applicable point sources located in a 32 county area outside the designated nonattainment area, providing NO_X and VOC emissions reductions of 12.4 and 0.2 tons per day, respectively, in 2003.

—RACT requirements are expanded to applicable point sources located in a 32 county area outside the nonattainment area, providing NO_X and VOC reductions of 55.8 and 14.3 tons per day, respectively, in 2003.

—A new rule to regulate NO_X emissions from medium-sized new boilers and other fuel-burning equipment in the Atlanta ozone nonattainment area and the 32 county area outside the nonattainment area, providing NO_X emission reductions of 0.7 tons per day in 2003.

—A new rule to regulate NO_X emissions from new and existing stationary engines and new stationary gas turbines used to generate electricity (including peaking power). This regulation applies to such facilities located in the Atlanta ozone nonattainment area and the 32 county area outside the designated nonattainment area and provides a NO_X reduction of at least 30 tons per day, within the 45-county area, in 2003.

—National VOC and NO_X control measures on on-road mobile, off-road mobile, and area sources, including the national low emission vehicle (NLEV) program, locomotive engine standards, phase 2 requirements for VOC consumer and commercial products, marine engine standards, and phase 2 and 3 non-road diesel engine standards.

3. Conformity Budget

Based on projected VMT growth and additional control measures identified for the 13-county Atlanta nonattainment area and used in the attainment demonstration, the State submitted motor vehicle emission budgets for 2003 of 224.13 and 132.21 tons per typical summer day NO_X and VOC, respectively.

These mobile budgets of 224.13 tons per day NO_X and 132.12 tons per day VOC were derived from the most accurate model available for predicting 2003 motor vehicle emissions. They represent 2003 VMT growth data projected from a state-of-the-art travel demand model for the 13 counties and emission factors from EPA's MOBILE5b emission factor model. The control measures identified and modeled for mobile emissions used to establish these budgets, along with all other control measures adopted or committed to in this plan, will result in attainment of the 1-hour ozone air quality standard by 2003. The revised conformity budget for NO_X is 10 tons greater than the budget contained in the 9 percent plan. The VOC budget is more stringent than the one contained in the 15 percent plan. The change is due to a model change from MOBILE5A to MOBILE5B

providing more accurate mobile source emissions.

The GAEPD has provided a clearly identified conformity budget for which the Region has initiated a 90 day adequacy review process. The public comment period began on November 3, 1999; however requests for copies of the submittal were received and copies provided to the requestor by November 18. As such, the comment period will continue for 30 days until December 17, 1999. (Memorandum, ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision,'' from Gay MacGregor, Director, Regional and State Programs Division, Office of Mobile Sources, issued May 14, 1999, to Regional Air Division Directors.)

In accordance with EPA policy, because the attainment demonstration identifies additional emission reductions needed for attainment, as described below, the Region cannot find the motor vehicle emissions budgets adequate for conformity purposes unless the State commits to adopt measures that will achieve the necessary additional reductions, and identifies a menu of possible measures (e.g., busses, clean fuels, vehicle inspection and maintenance, stationary source controls) that could achieve the emission reductions without requiring additional limits on highway construction. The GAEPD has stated that if the additional short term reductions necessary for attainment include reductions from onroad mobile source categories, these emission reductions will be achieved without requiring additional limits on highway construction. EPA preliminarily concludes that these budgets are adequate. However, a final decision on adequacy will be made after the close of the public comment period on adequacy.

4. Reductions

The emission reductions assumed in the modeling analysis for the Atlanta nonattainment area are summarized in the following table.

OZONE ATTAINMENT DEMONSTRATION SIP REDUCTIONS

Control measure	1999 NO_X reduction (TPD)	1999 VOC reduction (TPD)	2003 NO_X reduction (TPD)	2003 VOC reduction (TPD)
Georgia gasoline	11.7	17.8	23.54	30.50
Large electric utility steam generators [1]	25.9	0	201.48	0
Partnership for a Smog Free Georgia	0	0	8.56	13.02
Large NO_X units in 13 Co. NAA	0	0	18.83	0
Changes in Enhanced I/M in 13 Co. nonattainment area	.....	.....	11.34	13.17
Expanded new source review rule	0	0	22.67	0.2
Expanded RACT rules	0	0	100.13	14.3
New boilers & fuel burning equip	0	0	0.67	0
Stationary engines & gas turbines	0	0	30.00	0
0.15 lb/MMBtu NO_X SIP Call limit	0	0	195.75	0
National LEV program	0	0	12.73	8.66
Locomotive engine standards	0	0	4.88	0.03
Consumer/commercial products II	0	0	0	13.82
Marine engine standards	0	0	0	1.25
Nonroad diesel eng. stand. II & III	0	0	7.13	12.97
Total	37.6	17.8	637.71	107.92

[1] Reduction estimates are in terms of episode day instead of typical ozone season day emissions.

5. Description of Modeling

The CAA requires that serious and above ozone nonattainment areas perform photochemical grid modeling to help determine the level of emission reductions of VOC and NO_X necessary to attain the 1-hour ozone standard. The GAEPD fulfilled this requirement primarily through the application of the Urban Airshed Model, Variable Grid Version (UAM–V). The UAM–V model is suitable for evaluating the air quality effects of emission control scenarios because it accounts for the spacial and temporal variations in emissions and emission reactivity. The UAM–V model, used in the modeling demonstration for the Atlanta area, is approved for use in the attainment demonstration by the EPA and was applied to the Atlanta area consistent with EPA modeling guidance. Approval for the use of the UAM–V model was granted after GAEPD successfully performed a model comparison of the UAM–IV model, the EPA regulatory model, with UAM–V. The modeling domain for the attainment demonstration consists of two nested grids. The inner grid, or fine grid, is a 40 by 40 grid with each grid being 4 by 4 km. This grid includes approximately 43 counties in the northern part of the State of Georgia. The vertical structure of this domain consists of five layers. The top of the modeling domain is 2200 m agl (above ground level). The outer portion of the nested grids is much larger than the fine grid, and extends approximately 80km in all directions beyond the fine grid into Alabama, Tennessee, and North and South Carolina. Each coarse grid cell size is 8 by 8 km. The overall domain size is approximately 320 x 320 km. By including these additional grid cells, boundary condition information for the nested, urban grid is simulated in the coarse grid rather than estimated by the user. The top of the coarse grid modeling domain is the same as the top of the fine grid modeling domain (2200 m agl).

The GAEPD modeled three ozone episode days, July 31, 1987, August 1, 1987, and July 8, 1988. These episodes were chosen to: (1) Represent the meteorological regimes that were most conducive to the formation of ozone in the Atlanta area, and (2) exhibit pervasive exceedances of the ozone standard in the ozone monitoring network. The three episodes included two days with the highest exceedances that have been monitored in the Atlanta nonattainment area. The modeling inputs were developed in a technically and scientifically sound manner such that acceptable model performance was achieved within prescribed statistical levels recommended by EPA. The same base year meteorological inputs for each episode day were combined with 2003 attainment year projected emission inventories to simulate the benefits of various emission control scenarios to bring the area within the local modeling domain into attainment.

The boundary conditions for the coarse grid domain for the 2003 attainment simulation of the July 1988 episode were derived from OTAG modeling for the Run 5 sensitivity simulation. Run 5 emissions most closely represent the emission budgets in the original NO_X SIP Call final rule. A comparison of ozone concentrations predicted by Run 5 and those predicted using the EPA default values of 40 ppb ozone for all boundary grids produced peak concentrations that differed by only one ppb. Thus, the OTAG Run 5 boundary conditions yield about the same effect as EPA default boundary conditions. Since the 1987 episode is a stagnant episode, the differences in boundary conditions are considered less critical than for the 1988 episode. Therefore, EPA default boundary conditions are used in the control strategy modeling for the 1987 episode. The GAEPD further reduced emissions in the coarse grid by applying emission limits consistent with the NO_X SIP Call to specific power plants.

The 2003 Atlanta control strategy contains regulations that will be implemented both inside the 13-county nonattainment area and in the remaining counties of the fine grid. The UAM–V simulation of the control strategy predicts modeled ozone peaks (ppb) of 164.3 (8/31/87), 132.9 (8/1/87), and 154.2 (7/8/88), each of which exceeds the model exceedance test of 124 ppb. The GAEPD applied the statistical attainment test per the EPA guidance, ''On Use of Modeled Results to Demonstrate Attainment of the Ozone NAAQS (EPA, 1996).'' This test is also not passed. Of the three benchmarks comprising the statistical test, only benchmark three is passed. Benchmark one is failed because more than one exceedance of 124 ppb occurs in a subregion of the fine grid. Benchmark two is failed because the predicted (modeled) daily maximum ozone concentrations for the three episode days exceed the maximum exceedance limit allowed by the statistical test. On July 31, 1987, the allowed maximum exceedance is 130 ppb, which is 34.3 ppb lower than the modeled peak concentration for this day. The two remaining episodes have exceedance limits of 124 ppb. The third benchmark is passed since the combined reduction in grid-cell hours for the three episodes of 85% exceeds the 80% benchmark limit. Since the two attainment tests are failed, a WOE analysis can be used to determine whether the area will, in fact, attain.

The 2003 control strategy simulations indicate that ozone levels in the Atlanta area will be significantly reduced if all currently proposed controls are implemented. Even though the statistical attainment test and the modeling exceedance test are not satisfied, there are several reasons to believe that Atlanta will attain the standard in 2003 through a Weight of Evidence (WOE) analysis. The WOE for the Atlanta SIP includes: (a) An estimate of additional reductions needed for attainment, calculated without the use of additional photochemical grid modeling, (b) EPA's modeling of the NO_X SIP Call reductions; (c) estimates of the future design value using the Relative Reduction Factor (RRF) analysis, and (d) consideration of the additional NO_X reductions from sources or programs that were not modeled in the 2003 control strategy but are either subject to an emission reduction regulation or a voluntary program.

The first WOE analysis involves the use of information from the photochemical grid modeling and ambient air quality monitoring to estimate additional levels of emission reductions needed for attainment of the 1-hour NAAQS for ozone. GAEPD used EPA's Method 1 technique to identify the additional percentage reduction in NO_X and VOC from the 1996 emissions, needed for attainment. This analysis strengthens the weight of evidence and accounts for high modeled peaks by estimating the additional measures that at a minimum bring the model estimated future ozone design value to 124 ppb or below. The method is based on the assumption that the relationship between ozone and its precursors (VOC and NO_X) can be calculated. A detailed discussion of the steps used in Method 1 to calculate the additional emission reductions needed for attainment is provided in the technical support document (TSD) which can be obtained from the Regional Office staff contact. GAEPD's application of this procedure estimates that additional reductions of 3.71 percent NO_X and 3.71 percent VOC are needed. Per EPA guidance, the State has the flexibility to substitute NO_X reductions for VOC and VOC for NO_X. Adequate supporting documentation for the basis of any substitution must be submitted to EPA along with the adopted regulation.

Where modeling demonstrates substantial improvements in model predicted ozone peaks when emission reductions are applied in counties adjacent to the nonattainment area, the area for control may be extended to include these adjacent counties. However, if controls on source emissions from adjacent counties are used to meet the shortfall, the source's emissions must be included in the total emissions for the base case and the percentage emission reductions of NO_X and VOC (i.e., shortfall) need to be recalculated. Before EPA can grant final approval of this SIP and extend the attainment date for the 1-hour ozone NAAQS, the GAEPD must: (1) Provide revised calculations for the shortfall calculations if sources outside of the nonattainment area are being controlled as well as documentation for any substitution, and (2) submit as a revision to the SIP, fully adopted regulations for controlling those sources necessary to achieve the additional emission reductions. The GAEPD has committed to identify and adopt regulations for the sources that will be controlled to address the additional tonnage of NO_X and VOC emission reductions that are needed for attainment estimated in this WOE and to implement these control measures by May 1, 2003. The additional reductions identified by this method, considered along with other weight of evidence presented in the technical analyses for the attainment demonstration, indicate the area will attain the 1-hour ozone standard by 2003. GAEPD submitted a menu of options that include, but is not limited to, expansion of enhanced I/M, open burning, NSR and RACT; on-road mobile controls such as heavy duty I/M, diesel controls, and market based incentives; off-road mobile controls including diesel fuels, locomotive I/M, airport controls, construction equipment and lawn and garden equipment; area sources, and point sources including additional utility controls.

The second WOE analysis involves the use of a regional rollback design value analysis developed by EPA. In July of 1998, EPA recommended the use of a methodology that uses the results from modeling performed to support EPA's NO_X SIP Call Supplemental Notice of Proposed Rulemaking (SNPR). This methodology uses the SNPR modeling results in a manner that better replicates the monitored attainment test. The monitored attainment test requires that the ozone design value recorded at each monitor in the nonattainment area be less than 125 ppb. The design value for a monitor is the fourth highest 1-hour ozone average concentration measured over a period of three years. The highest design value for all of the monitors in a network becomes the design value for the nonattainment area. The SNPR modeling was used by EPA to estimate the amount of ozone reduction achieved after regional NO_X controls are in place. The ozone reduction estimate was determined by examining modeled ozone

concentrations from three episodes (1991, 1993 and 1995) in the 1995–1996 base year period and the 2007 control case and then constructing county-specific reduction factors. Reduction factors were then applied to county-specific design values for the 1994–1996 time period. The resulting ozone concentrations were then compared to the current 1-hour ozone standard (124 ppb) to determine the likelihood of a particular county reaching attainment after the NO_X SIP call controls are in place. Results from this exercise and a summary document containing the adjusted design values resulting from EPA's analysis for all of the counties with ozone monitors in the 22 state area affected by the NO_X SIP Call and a complete description of this procedure can be found in the Region 4 TSD. The results of EPA's rollback analysis indicate attainment of the 1-hour ozone NAAQS for all counties in the Atlanta nonattainment area.

The third WOE analysis uses air quality modeling results to estimate a design value in 2003 at each ozone monitor and EPA's draft 8-hour ozone modeling guidance (''Use of Models and Other Analyses In Attainment Demonstrations for the 8–Hour Ozone NAAQS, EPA–454/R–99–004 (1999)'') to develop a local relative reduction factor (RRF). If the future design value at or below 124 ppb is predicted using this local rollback test, then the results provide further WOE that the Atlanta area will achieve the 1-hour ozone NAAQS by the end of 2003. A 2003 ozone design value that is less than 124 ppb is estimated at every monitor in the Atlanta nonattainment area except the Confederate Avenue monitor and for the design value that is predicted using the daily maximum concentration in the domain, which is 127 ppb. Although progress will be made towards attainment according to this test, the two design values that remain above the standard indicate that additional emission reduction measures are required as indicated in the first WOE analysis.

The fourth WOE analysis involves consideration of the additional NO_X reductions from sources or programs that were not modeled in the 2003 control strategy but are either subject to an emission reduction regulation or a voluntary program. Specifically, a rule has been adopted and submitted to EPA that regulates the use of stationary gas turbines and stationary engines for electricity generation. The rule significantly curtails the use of such units. These sources were not specifically modeled because their emissions are episodic. The emissions from these units occur during the summer when the potential for ozone formation is high. The NO_X reductions from this rule are expected to be 30 tpd. A sensitivity analysis of these low-level source emissions indicates that NO_X reductions of 30 tpd will reduce ozone concentrations by approximately 10 ppb.

A voluntary program that was not fully modeled is the Partnership for a Smog-Free Georgia (PSG) which is a proactive and innovative approach to reducing ozone in the metro-Atlanta area. It is specifically aimed at reducing the number of days when ozone levels are high, thus reducing the health and environmental risks associated with such high levels. PSG focuses on collective and individual actions to change or reduce emissions from the mobile and area source categories. These include changes in vehicle volumes and traffic patterns by promoting alternative commuting options, and other actions that involve operational and maintenance activities. The model assumed the reductions from the PSG program to be only 3 percent of the baseline emissions reductions needed for attainment in the 13 county nonattainment area as allowed by EPA guidance. Pursuant to that guidance, SIPs may not include for emission reduction credit more than 3 percent of the baseline reductions from voluntary measures. However, GAEPD expects larger emission reductions. GAEPD estimates that as much as a 20 percent reduction in vehicle miles traveled can be achieved through the program, which would result in a 35 tons/day decrease in on-road mobile source NO_X emissions in the 13 county nonattainment area. Based on results from sensitivity runs on mobile sources in the 13 counties, a NO_X reduction of 11.6 tons/day results in a 4 ppb decrease in the peak ozone concentration for the July 31, 1987 episode. Assuming a linear relationship, the 29.75 tons/day (85 percent of the 35 tpd, since 3 percent of the reduction in VMT has already been modeled) mobile source decrease from the PSG program would result in a 10.3 ppm decrease in ozone. Since this emission reduction would be achieved throughout the 13 county area, it is expected that both the Confederate Avenue monitoring Site and the Peak Area would be at or below the ozone standard with the highest being the Confederate Avenue Site with a design value of 124 ppb ozone. Finally, the benefit of the PSG does not occur only within the 13 county ozone nonattainment area boundaries. The effect of the program will be to reduce VMT for motorists outside the area through car pooling and other alternate means of travel and work practices. Therefore, this program will achieve emission reductions that will reduce ozone concentrations beyond that predicted by the modeled 2003 control scenario. However, these additional reductions may not receive emission reduction credit towards demonstrating attainment in the SIP.

6. Rule Revisions

a. Description of Major Revisions to Rules for Air Quality: The October 28, 1999, attainment demonstration submittal included several regulations that will reduce emissions of NO_X and VOC in the Atlanta modeling domain. EPA is proposing to approve the revisions to Georgia's Rules for Air Quality Control Chapter 391–3–1 described below:

Rule 391–3–1–.01 subsection (nnnn), relating to the definition of ''Procedures For Testing and Monitoring Sources of Air Pollutants'' is being amended.

As of August 1, 1999, the definition of the GAEPD's Procedures For Testing and Monitoring Sources of Air Pollutants has been updated to incorporate certain changes and additions. Procedures for testing and for certain monitoring relating to new rules for NO_X from fuel burning equipment and for gas turbines and engines have been added to the manual. Other revisions include the addition of procedures for determining compliance with Rule 391–3–1.02(2)(kkk) relating to VOC emissions from aerospace manufacturing and rework facilities, changes to rules for gasoline marketing relating to testing and reporting procedures to clarify the time frames for certain requirements, addition of the requirements under the Federal New Source Performance Standards for Boilers and Industrial Furnaces (40 CFR 60, subpart Db) pertaining to reporting and record keeping, and typographical corrections. Additionally, appendix H is added to provide procedures for calculating VOC emissions from fiber-reinforced plastics manufacturing processes.

Rule 391–3–1–.02, subparagraph (2)(ii) relating to ''VOC Emissions from Surface Coating of Miscellaneous Metal Parts and Products'' is being amended. This rule is amended to exempt aerospace manufacturing and rework facilities from the rule. The rule is also being modified in order to keep Rule (ii) consistent with the most current Architectural Aluminum Manufacture's Association (AAMA) standard in place.

The current rule only exempts the surface coating of airplane exteriors.

Rule (ii) is no longer applicable to aerospace sources because the State has previously submitted a new rule limiting VOC emissions from aerospace manufacturing and rework facilities that meets EPA requirements. In order to keep Rule (ii) consistent with the current AAMA standard, subparagraph 5.(xiii) has been modified to state that the coatings must satisfy the requirements of the most recent AAMA publication (number AAMA 605.2). This will prevent the standard that is stated in Rule (ii) from becoming out dated.

Rule 391–3–1–.02 subsection (2)(tt), relating to ''VOC Emissions from Major Sources,'' is being amended. The coverage of the rule is being expanded beyond the existing 13 counties to include affected VOC sources located in the additional counties of Banks, Barrow, Bartow, Butts, Carroll, Chattooga, Clarke, Dawson, Floyd, Gordon, Hall, Haralson, Heard, Jackson, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Newton, Oconee, Pickens, Pike, Polk, Putnam, Spalding, Troup, Upson, and Walton (additional 32 counties). Emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, RACT will be required on all VOC sources with VOC emissions in excess of 100 tons per year, that are located in the 32 additional counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to submit a demonstration of appropriate RACT for controlling their VOC emissions. The GAEPD has committed to revise the rule to meet all EPA requirements prior to final approval. See discussion under commitments for full approval below.

Rule 391–3–1–.02 subsection (2)(vv), relating to ''Volatile Organic Liquid Handling and Storage'' is being amended to expand the coverage of the rule to include affected VOC sources located in the 32 additional counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, the RACT under this regulation will be required on all volatile organic liquid handling and storage facilities with VOC emissions in excess of 100 tons per year, that are located in the additional 32 counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to comply by May 1, 2003 and sources that began operation after October 1, 1999, will be required to comply upon startup.

Rule 391–3–1–.02 subsection (2)(yy) relating to ''Nitrogen Oxide Emissions from Major Sources'' is being amended. The coverage of the rule is being expanded to include affected sources of NO_X located in the 32 additional counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, RACT will be required on all NO_X sources with emissions in excess of 100 tons per year, that are located in the 32 additional counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to submit a demonstration of appropriate RACT for controlling their NO_X emissions. The GAEPD has committed to revise the rule to meet all EPA requirements prior to EPA's final approval of the attainment demonstration. See discussion under commitments for full approval below.

Rule 391–3–1–.02 subsection (2)(bbb) relating to Gasoline Marketing is being amended to make several changes which include addition, clarification, and deletion. Product documentation must clearly indicate gasoline which complies with the requirements of the fuel rule. Effective April 1, 2003, twenty counties (Banks, Chattooga, Clarke, Floyd, Gordon, Heard, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pike, Polk, Putnam, Troup, and Upson) will be added to the area covered by the fuel rule. Subsection 2.(iii), covering the 1998 RVP period, is deleted in its entirety because the rule is revised to clarify that calendar year pool averaging for sulfur content is for the RVP period, i.e., June 1 to September 15 of each year. Beginning April 1, 2003, the 30 ppm sulfur standard is applied year-round with a 150 ppm sulfur per gallon cap; for purposes of compliance with this annual averaging requirement, the program year is April 1 through March 31. The limits on olefins and aromatic hydrocarbons are deleted because for compliance purposes, importers will report based on the sampling and testing conducted at the refinery level only. Clarification is provided to carriers regarding the area of coverage. Subsection 9 relating to future rule evaluation and recommendations is deleted due to the completion of the required evaluation and recommendations.

Rule 391–3–1–.02 subsection (2)(ccc) relating to ''VOC Emissions from Bulk Mixing Tanks'' is being amended to expand the coverage of the rule to the additional 32 counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, Reasonably Available Control Technology (RACT) will be required on all VOC facilities with VOC emissions in excess of 100 tons per year from bulk mixing tanks located in the additional 32 counties. This rule change sets the level for RACT for bulk mixing tanks at facilities in these additional counties at the same level as for the existing nonattainment counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to comply by May 1, 2003 and sources that began operation after October 1, 1999, will be required to comply upon startup.

Rule 391–3–1–.02 subsection (2)(ddd) relating to ''VOC Emissions from Offset Lithography'' is being amended to expand the coverage of the rule to include affected VOC sources located in the additional 32 counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, RACT will be required on all offset lithography operations with VOC emissions in excess of 100 tons per year, that are located in the additional 32 counties. This rule revision sets the level for RACT for offset lithography operations at facilities in these additional counties at the same level as for the existing nonattainment counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to comply by May 1, 2003 and sources that began operation after October 1, 1999, will be required to comply upon startup.

Rule 391–3–1–.02 subsection (2)(eee) relating to ''VOC Emissions from Expanded Polystyrene Products Manufacturing'' is being amended to expand the coverage of the rule to include affected VOC sources located in the additional 32 counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, RACT will be required on all expanded polystyrene products manufacturing facilities with VOC emissions in excess of 100 tons per year, that are located in the additional 32 counties. This rule change sets the level for RACT for expanded polystyrene products manufacturing operations at facilities in these additional counties at the same level as for the existing nonattainment counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to comply by May 1, 2003 and sources that began operation

after October 1, 1999, will be required to comply upon startup.

Rule 391–3–1–.02 subsection (2)(hhh) relating to ''Wood Furniture Finishing and Cleaning Operations'' is being amended to expand the coverage of the rule to include affected VOC sources located in the additional 32 counties because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

By May 1, 2003, RACT will be required on all wood furniture finishing and cleaning operations with VOC emissions in excess of 100 tons per year, that are located in the 32 additional counties listed above. This rule change sets the level for RACT for wood finishing and cleaning operations at facilities in these additional counties at the same level as for the existing nonattainment counties. Sources in these counties that were in operation on or before October 1, 1999, will be required to comply by May 1, 2003 and sources that began operation after October 1, 1999, will be required to comply upon startup.

Rule 391–3–1–.02 subsection (2)(jjj) relating to ''NO_X Emissions from Electric Utility Steam Generating Units'' is being amended to expand the coverage of the rule to include affected coal-fired electric utility steam generating units in the counties of Bartow, Heard and Floyd and to include a lower average NO_X emissions limit for all affected units. The emissions from these sources have been determined to affect ozone formation in the metro-Atlanta area.

Effective May 1, 2003, the NO_X emissions from all affected units will be limited to the equivalent of 0.15 lb/million Btu. Compliance with this emission level will be determined in the following manner. Each source has been assigned a specific emission limit. If the actual emission rate from each source is less than its limit, then all affected sources will be deemed in compliance. If the actual emission rate from any source is greater than its limit, then compliance would be demonstrated by showing that the actual Btu-weighted average emission rate for all affected sources is less than the limit in subsection 3(ii) of the rule. The unit specific emission limits have been determined such that their potential Btu-weighted average does not exceed the limit in subsection 3(ii). The compliance period will be based on a 30-day rolling average beginning May 1 and ending September 30 of each year.

Rule 391–3–1–.02, subparagraph (2)(kkk) relating to the ''VOC Emissions from Aerospace Manufacturing and Rework Facilities'' is being added to be consistent with federal requirements that will limit VOC emissions from aerospace manufacturing and rework facilities. This rule is based on the Aerospace Control Techniques Guidelines (CTG) Document which was published by the US EPA on March 24, 1998. This CTG is intended to supersede potential applicability of the Miscellaneous Metal Parts CTG RACT requirements for manufacturing and rework operations of aerospace vehicles and components.

This rule establishes separate VOC limitations for primers, topcoats, various specialty coatings, type I maskants, and type II maskants. The rule also requires that all affected aerospace facilities utilize coating application techniques and work practice standards that will lower VOC emissions. This rule will apply to all aerospace manufacturing and rework facilities that have potential VOC emissions greater than 25 tons per year, that are in the metro-Atlanta nonattainment area, and 100 tons per year, that are in the additional 32 counties.

Rule 391–3–1–.02 is being amended by adding a new subsection (2)(lll) relating to ''NO_X Emissions from Fuel-burning Equipment.'' This rule will regulate NO_X emissions from new boilers and other fuel-burning equipment whose heat input capacity is equal to or greater than 10 million Btu/hr and less than or equal to 250 million Btu/hr in a 45 county area in and around Atlanta including the 13 county ozone nonattainment area and the additional 32 counties. This rule is effective in all 45 counties because these emissions have been determined to affect ozone formation in the metro-Atlanta area.

NO_X emissions from affected boilers installed or modified in the 45 county area on and after May 1, 1999 will be limited to 30 parts per million at 3 percent oxygen. The limit will apply during the period from May 1 through September 30 of each year. The compliance date for this rule is May 1, 2000.

Rule 391–3–1–.02 is being amended by adding a new subsection (2)(mmm) relating to ''NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity.'' This rule will regulate NO_X emissions from new stationary gas turbines and new and existing stationary engines that are located in a 45 county area in and around Atlanta, including the 13 county ozone nonattainment area and the 32 additional counties. This rule is effective in all 45 counties because these emissions have been determined to affect ozone formation in the metro-Atlanta area.

NO_X emissions from affected stationary gas turbines installed or modified in the 45 county area on or after January 1, 1999 and before October 1, 1999 will be limited to 42 parts per million at 15 percent oxygen, with a compliance date of May 1, 2000. NO_X emissions from affected stationary gas turbines installed or modified in the 45 county area on or after October 1, 1999 will be limited to 30 parts per million at 15 percent oxygen, with compliance required upon startup. NO_X emissions from affected stationary engines installed or modified in the 45 county area on or after April 1, 2000 will be limited to 80 parts per million at 15 percent oxygen and compliance will be required upon startup. Affected stationary engines in the 45 county area that are in operation before April 1, 2000 will have to comply with a NO_X emissions limit of 160 parts per million at 15 percent oxygen by no later than May 1, 2003. The limits in this rule will apply during the period from May 1 through September 30 of each year.

Rule 391–3–1–.02 subsection (6) relating to ''Specific Monitoring'' is being amended by adding a new subsection (a)2.(xii) which requires affected sources to install and operate continuous emissions monitoring systems for NO_X and for oxygen or an approved alternative. The affected sources are those subject to the new rules for boilers (rule 391–3–1.02(2)(III)).

A requirement to install and operate monitors in order to determine initial compliance and track on going compliance with the above rule for boilers with a maximum design heat input capacity equal to or greater than 100 million BTU has been added. The rule allows, as an alternative, the use of predictive emissions monitoring systems for certain fuels.

Rule 391–3–1–.03 subsection (6)(b)11 relating to ''Stationary Engines'' is being amended to narrow the group of stationary engines that are not required to obtain air quality permits.

Stationary engines with a rated capacity of 300 kilowatts or greater that are used for emergency and/or peaking power and that are located in a 45 county area in and around Atlanta would no longer be exempt from air quality permitting.

Rule 391–3–1–.03, paragraph (8)(c)(9) relating to ''Permit Requirements'' is being amended to correct a typographical error.

Federal regulation 40 CFR, Part 52, Appendix S is referenced in this

regulation. It was incorrectly listed as Part 51.

Rule 391–3–1–.03, paragraph (8)(c)(13) relating to ''Permit Requirements'' is being amended to remove obsolete requirements.

This paragraph, relating to specific nonattainment New Source Review, contains requirements relating to internal offsets. Internal offsets are only germain to states which have a ''dual source'' definition of stationary source. Georgia has a ''plantwide'' definition of stationary source. Therefore, requirements related to internal offsets have been removed.

Rule 391–3–1–.03, subsection (8)(c) is being amended by adding a new section (14) relating to ''Additional Provisions for Areas Contributing to the Ambient Air Level of Ozone in the Metropolitan Atlanta Ozone Nonattainment Area.'' The purpose of this section is to clarify the specific nonattainment new source review (NSR) requirements that will apply to sources locating in the 32 additional counties.

New ''major'' sources (any source with the potential to emit at least 100 tons per year of VOC or NO_X) or any source undergoing physical change or change in the method of operation which results in a net increase of 40 tons or more of VOC or NO_X (major modification) and located in one of the 32 additional counties is subject to modified nonattainment NSR requirements. Sources subject to these provisions in the 32 additional counties are required to meet control requirements consistent with Best Available Control Technology (BACT) instead of Lowest Achievable Emission Rate (LAER) which is required in the 13 county nonattainment area. The installation of air pollution control equipment or other emission reduction technologies are not considered modifications if they are determined to be environmentally beneficial and do not increase capacity, and a 1 to 1 emission offset is obtained. Projects outside the nonattainment for which complete applications were received prior to the proposal of the NSR program area are exempt from the NSR provisions.

Rule 391–3–1–.03 subsection (8)(e) relating to ''Permit Requirements'' is being amended to require those sources in the additional 32 counties to comply with new source permitting requirements because the emissions from these counties have been determined to affect ozone formation in the metro-Atlanta area.

This rule identifies the 32 additional counties where the rule will apply and requires new or modified stationary sources in the counties to comply with the requirements of section (c). This rule will apply to new or modified stationary sources emitting 100 tons per year or more of volatile organic compounds or nitrogen oxides.

b. Description of Major Revisions to the Inspection and Maintenance Rules. The EPA is proposing to approve the revisions to Georgia's Rules for Enhanced Inspection and Maintenance Chapter 391–3–20 described below:

Rule 391–3–20–.01 relating to ''Definitions'' is being amended to change or delete definitions related to biennial testing, to modify the definition of ASM to include a dual-mode ASM test for older vehicles, to update the reference to the Federal I/M regulations, to define the term ''Waiver,'' and to renumber the definitions.

The ASM test requirement is modified to require a dual-mode ASM 2525/5015 test, effective January 1, 2002. The definitions of ''Off-Year Inspection'' and ''Regular Inspection'' are deleted since they are not relevant after the change to an annual program. The term ''Waiver'' is defined. The Federal I/M regulations, as of July 1, 1999, are referenced. Other clarifications are made.

Rule 391–3–20–.03 paragraph (4) relating to ''Covered Vehicles; Exemptions'' is being amended to extend the exemption period for new vehicles.

Effective January 1, 2001, new vehicles are exempt from testing until the test year three years following the model year of the vehicle.

7. Commitments for Full Approval

The GAEPD has submitted the following commitments which must be met in order for final action to be taken to approve the attainment demonstration and grant the attainment date extension request.

a. NO_X and VOC RACT. The GAEPD has committed to submit rules requiring the implementation of NO_X and VOC RACT in the 32 additional counties for sources with emissions in excess of 100 tons per year. The GAEPD commits that it will address all EPA concerns regarding NO_X and VOC RACT on a time frame consistent with final SIP approval by November 2000.

b. Early Assessment. The GAEPD has committed to complete an early assessment as discussed under Midcourse Review, item 6 above.

c. Georgia Fuel Rule. EPA's Office of Enforcement and Compliance Assurance (OECA) has raised numerous enforceability issues regarding the current Georgia Fuel Rule. The GAEPD has committed to revise its rule, as necessary, to satisfactorily address the monitoring and enforceability issues prior to the calendar year 2000 ozone season but not later than May 1, 2000.

d. Additional Reductions. The GAEPD has committed to identify and adopt regulations for sources that will be controlled to achieve the additional tonnage of NO_X and VOC emission reductions that are needed for attainment. Georgia has committed to submit these control measures to EPA before July 2000, and to implement them by May 1, 2003. The GAEPD and EPA have used EPA's Method 1 to calculate the level of additional reductions needed for attainment as discussed in the description of modeling (above).

8. Attainment Date Extension Request

The GAEPD October 28, 1999, submittal includes a request to extend the attainment date for the Atlanta ozone nonattainment area pursuant to guidance issued by EPA on March 23, 1999. The State is requesting that the attainment date be extended to 2003. For EPA to grant such an extension the GAEPD must meet the criteria as describe in Section I.A.3. Attainment Date Delays due to Transport of this notice. The GAEPD will have satisfied all these requirements once they have met all the commitments outlined above. Therefore, the EPA is proposing to extend the attainment date for the Atlanta nonattainment area to November 15, 2003, on the condition that all the commitments are met.

9. What Are the Consequences of State Failure?

This section explains the CAA consequences of State failure to meet the time frames and terms described generally in this notice. The CAA provides for the imposition of sanctions and the promulgation of a federal implementation plan if States fail to submit a required plan, submit a plan that is determined to be incomplete or if EPA disapproves a plan submitted by the State. (We are using the phrase ''failure to submit'' to cover both the situation where a State makes no submission and the situation where the State makes a submission that we find is incomplete in accordance with section 110(k)(1)(B) and 40 CFR part 51, Appendix V.) For purposes of sanctions, there are no sanctions clocks in place based on a failure to submit. Thus, the description of the timing of sanctions, below, is linked to a potential disapproval of the State's submission.

a. What are the CAA's provisions for sanctions? If EPA disapproves a required SIP, such as the attainment demonstration SIPs, section 179(a)

provides for the imposition of two sanctions. The first sanction would apply 18 months after EPA disapproves the SIP if the State fails to make the required submittal which EPA proposes to fully or conditionally approve within that time. Under EPA's sanctions regulations, 40 CFR 52.31, the first sanction would be 2:1 offsets for sources subject to the new source review requirements under section 173 of the CAA. If the State has still failed to submit a SIP for which EPA proposes full or conditional approval 6 months after the first sanction is imposed, the second sanction will apply. The second sanction is a limitation on the receipt of Federal highway funds. EPA also has authority under section 110(m) to a broader area, but is not proposing to take such action today.

b. What are the CAA's FIP provisions if a State fails to submit a plan? In addition to sanctions, if EPA finds that a State failed to submit the required SIP revision or disapproves the required SIP revision EPA must promulgate a FIP no later than 2 years from the date of the finding if the deficiency has not been corrected. The attainment demonstration SIPs on which EPA is taking action today were originally due in November 1994. However, through a series of policy memoranda, EPA recognized that States had not submitted attainment demonstrations and were constrained to do so until ozone transport had been further analyzed. As provided in the Background, above, EPA provided for States to submit the attainment demonstration SIPs in two phases. In June 1996, EPA made findings that ten States and the District of Columbia had failed to submit the phase I SIPs for nine nonattainment areas. 61 FR 36292 (July 10, 1996). In addition on May 19, 1997, EPA made a similar finding for Pennsylvania for the Philadelphia area. 62 FR 27201.

In July 1998, several environmental groups filed a notice of citizen suit, alleging that EPA had outstanding sanctions and FIP obligations for the serious and severe nonattainment areas on which EPA is proposing action today. These groups filed a lawsuit in the Federal District Court for the District of Columbia on November 8, 1999.

III. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from review under Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 13045

Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under Executive Order 12866, and (2) the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health and safety risks.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.'' Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13132

Executive Order 13132, Federalism (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that 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.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will 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), because it 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. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of

the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing State requirements applicable to small entities. Federal disapproval of the State submittal does not affect State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new requirements. Therefore, I certify that such a disapproval action will not have a significant economic impact on a substantial number of small entities because it would not remove existing requirements nor would it substitute a new Federal requirement.

The EPA's alternative proposed disapproval of the State request under section 110 and subchapter I, part D of the Act would not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements would remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover EPA's disapproval of the submittal would not impose any new Federal requirements. Therefore, I certify that the proposed disapproval would not have a significant impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed approval action does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Sections 202 and 205 do not apply to the proposed disapproval because the proposed disapproval of the SIP submittal would not, in and of itself, constitute a Federal mandate because it would not impose an enforceable duty on any entity. In addition, the Act does not permit EPA to consider the types of analyses described in section 202 in determining whether a SIP submittal meets the CAA. Finally, section 203 does not apply to the proposed disapproval because it would affect only the State of Georgia, which is not a small government.

G. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 52

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

Dated: November 29, 1999.

John H. Hankinson, Jr.,

Regional Administrator, Region 4.

[FR Doc. 99–31719 Filed 12–15–99; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IL70–1; FRL–6503–1]

Approval and Promulgation of Implementation Plans; Illinois; Ozone

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to conditionally approve the 1-hour ozone attainment demonstration State Implementation Plan (SIP or plan) for the Chicago-Gary-Lake County severe ozone nonattainment area submitted by the Illinois Environmental Protection Agency (IEPA) on April 30, 1998. This proposed conditional approval is based on the submitted modeling analysis and on the State's commitments to adopt and submit a final ozone attainment demonstration SIP and a post-1999 Rate of Progress (ROP) plan, including the necessary State air pollution control regulations to complete the attainment demonstration and ROP plans, by December 31, 2000. The EPA is also proposing, in the alternative, to disapprove this attainment demonstration plan if, by December 31, 1999, the State does not select a control strategy associated with its submitted modeling analysis and submits adequate motor vehicle emissions budgets for Volatile Organic Compounds (VOC) and Oxides of Nitrogen (NO_X) for the ozone nonattainment area that comply with EPA's conformity regulations and that are derived from the selected emissions control strategy that supports attainment of the 1-hour ozone standard. In addition, the State must, by December 31, 1999, submit an enforceable commitment to conduct a mid-course review of the ozone attainment plan in 2003.

DATES: Written comments must be received on or before February 14, 2000.

ADDRESSES: Written comments should be sent to: Jay Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours at the following address: United States Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Mark Palermo at (312)