

governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and

the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 15, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 27, 2005.

**Laura Yoshii,**

*Acting Regional Administrator, Region IX.*

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

#### PART 52—[AMENDED]

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

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

#### Subpart D—Arizona

■ 2. Section 52.120 is amended by adding paragraph (c)(121) to read as follows:

##### § 52.120 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(121) A plan revision was submitted on April 20, 2005 by the Governor's designee.

(i) Incorporation by reference.

(A) Maricopa County Environmental Services Department.

(1) Permit V98-004, condition 23, W.R. Meadows of Arizona, Inc., Goodyear, AZ, adopted on February 17, 2005.

\* \* \* \* \*

[FR Doc. 05-11160 Filed 6-13-05; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[RO4-OAR-2005-GA-0002; RO4-OAR-2005-GA-0003; R04-OAR-2004-GA-0003-200517; FRL-7924-2-]

### Approval and Promulgation of Implementation Plans; Georgia, Determination of Attainment for Atlanta 1-Hour Severe Ozone Nonattainment Area and Severe Area Vehicle Miles Traveled

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

**ACTION:** Final rule.

**SUMMARY:** EPA is determining that the Atlanta area has attained the 1-hour ozone National Ambient Air Quality Standard (NAAQS). This determination is based on three years of complete, quality-assured ambient air quality monitoring data for the 2002 through 2004 ozone seasons. Based on this determination, EPA is also determining that certain attainment demonstration and reasonable further progress requirements, along with other related requirements of part D of title I of the Clean Air Act (CAA or Act), are not applicable to the Atlanta area for so long as the area continues to attain the 1-hour ozone standard. The current Atlanta 1-hour severe ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale (Atlanta area).

Additionally, EPA is granting final approval to Georgia's Severe Area Vehicle Miles Traveled (VMT) State Implementation Plan (SIP) submittal.

**DATES:** *Effective Date:* This rule is effective June 14, 2005.

**ADDRESSES:** EPA has established a docket for this action under Regional Material in EDocket (RME) ID No. RO4-OAR-2005-GA-0002; RO4-OAR-2005-GA-0003; R04-OAR-2004-GA-0003. All documents in the docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Although listed in the index, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either

electronically in RME or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

**FOR FURTHER INFORMATION CONTACT:**

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

**SUPPLEMENTARY INFORMATION:** The use of "we," "us," or "our" in this document refers to EPA.

**Table of Contents**

- I. What Is the Background for This Action?
- II. What Actions Are We Taking and When Are They Effective?
- III. What Comments Did We Receive and What Are Our Responses?
- IV. Statutory and Executive Order Reviews

**I. What Is the Background for This Action?**

On June 30, 2004, the Georgia Environmental Protection Division (EPD) submitted a SIP revision addressing the Severe Area VMT requirement (section 182(d)(1)(A) of the Act) for the Atlanta 1-hour ozone nonattainment area. Section 182(d)(1)(A) requires severe ozone nonattainment areas to submit a SIP revision that identifies whether it is necessary to adopt transportation control measures (TCMs) to offset growth in emissions attributable to growth in VMT. On April 12, 2005, (70 FR 19031), EPA published a proposed rule proposing to approve Georgia's VMT SIP submittal because the State had demonstrated that emissions increases from increases in VMT, or the numbers of vehicle trips, within the Atlanta area did not rise above an established ceiling by 2004, the year the area attained the 1-hour ozone NAAQS. Please see the proposed rule for a detailed discussion of the VMT submittal and of EPA's rationale for its proposed approval.

In addition, on February 1, 2005, EPD submitted a request to redesignate the 1-hour ozone NAAQS nonattainment area

of Atlanta, Georgia, to attainment, and a request for EPA approval of a Georgia SIP revision containing a 10-year maintenance plan for the 13-county Atlanta area. The 10-year maintenance plan includes new motor vehicle emissions budgets (MVEB) for the year 2015. Georgia EPD also requested that EPA make a determination that certain SIP submittal requirements related to attainment demonstrations, contingency measures, and reasonable further progress are not applicable requirements because the Atlanta area has attained the 1-hour ozone NAAQS based on ambient air monitoring data for the 3-year period including the years 2002, 2003, and 2004.

On April 20, 2005, (70 FR 20495), EPA published a proposed rule proposing four actions: To find that the Atlanta area has attained the 1-hour ozone NAAQS; to find that certain attainment demonstration and reasonable further progress requirements, along with other related requirements of part D of title I of the CAA, are not applicable to the Atlanta area for so long as it continues to attain the 1-hour ozone standard; to approve the 10-year maintenance plan, including the 2015 MVEBs; and to approve the 1-hour ozone redesignation request for the Atlanta area. Please see the proposed rule for a detailed discussion of EPD's submittals and of EPA's rationale for its proposed actions.

**II. What Actions Are We Taking and When Are They Effective?**

Today, EPA is granting final approval of two of the four actions proposed by EPA on April 20, 2005, (70 FR 20495), and granting final approval of EPD's VMT submittal which was proposed by EPA on April 12, 2005, (70 FR 19031). First, EPA is determining that the Atlanta area has attained the 1-hour ozone NAAQS based on air quality monitoring data for the 2002 through 2004 ozone season. Based on this determination, EPA is also determining that certain CAA SIP submittal requirements related to attainment demonstrations and reasonable further progress, along with other related requirements of part D of title I of the CAA, are not currently applicable to the Atlanta area because the area is attaining the 1-hour ozone standard. If an area has in fact attained the 1-hour ozone standard, the stated purpose of CAA SIP submissions relating to attainment demonstrations and reasonable further progress (*i.e.* to ensure timely attainment of the 1-hour ozone standard) has already been fulfilled and there is no need for an area to make further submissions containing

additional measures to achieve attainment, so long as the area remains in attainment. See Memorandum from John S. Seitz, Office of Air Quality Planning and Standards, entitled, "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," dated May 10, 1995 (Seitz Memorandum).

Second, EPA is granting final approval to Georgia's Severe Area VMT SIP submittal which satisfies the requirements of section 182(d)(1)(A) of the Act.

In this rulemaking, EPA is not taking action on its April 20, 2005, proposed approval of the redesignation request and 10-year maintenance plan for the Atlanta area. Final action on the redesignation request and 10-year maintenance plan will be taken in a separate rulemaking.

*A. Determination of Attainment and Nonapplicable Requirements*

EPA interprets the CAA's general nonattainment provisions of subpart 1 of part D of title I (sections 171 and 172) and the more specific attainment demonstration and related provisions of subpart 2 (section 182), relating to SIP requirements for ozone nonattainment areas to not require the submission of SIP revisions concerning reasonable further progress (RFP), attainment demonstrations, or contingency measures for areas where the monitoring data show that the area is attaining the 1-hour ozone standard. See *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996). The rationale behind this interpretation is discussed in the Seitz Memorandum.

EPA believes it is reasonable to interpret the provisions regarding RFP and attainment demonstrations, along with other certain related provisions, not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (*i.e.*, attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA believes this interpretation is reasonable because the stated purpose of CAA provisions addressing or relating to RFP and attainment demonstrations is to ensure attainment of the standard by the applicable attainment date. If an area has in fact attained the standard, the stated purpose of the requirement will have been fulfilled and there will be no need for an area to make a further submission containing additional measures to achieve attainment. EPA has explained at length in other actions

its rationale for the reasonableness of this interpretation of the CAA and incorporates those explanations by reference. See (68 FR 25418) (St. Louis, MO., May 12, 2003); (68 FR 4847, 4848) (St. Louis, MO., January 30, 2003); (66 FR 27483, 27486) (Louisville, Kentucky, May 17, 2001); (67 FR 49600) (Cincinnati-Hamilton, Kentucky, July 31, 2002); (66 FR 53095) (Pittsburgh-Beaver Valley, Pennsylvania, October 19, 2001); (65 FR 37879) (Cincinnati-Hamilton, Ohio and Kentucky, June 19, 2000); (61 FR 20458) (Cleveland-Akron-Lorain, Ohio, May 7, 1996); (60 FR 36723) (Salt Lake and Davis Counties, Utah, July 18, 1995); (60 FR 37366) (July 20, 1995); (61 FR 31832–31833) (June 21, 1996) (Grand Rapids, MI). The United States Court of Appeals for the Tenth Circuit has upheld EPA's interpretation. See *Sierra Club v. EPA*, 99 F.3d 1551 (10th Cir. 1996); see also *Sierra Club v. EPA*, 375 F.3d 537 (7th Cir. 2004) (rejecting a challenge to the interpretation).

EPA has reviewed the ambient air monitoring data for 1-hour ozone (consistent with the requirements contained in 40 CFR part 58 and recorded in EPA's Aerometric Information Retrieval System (AIRS)) for the Atlanta ozone nonattainment area from the 2002 through 2004 ozone seasons. On the basis of this review, EPA is making its final determination that the area has attained the 1-hour ozone standard during the 2002 through 2004 period and continues to attain the standard. On the basis of this final determination of 1-hour ozone attainment, the State of Georgia is not required to make the following submittals for the Atlanta area: section 172(c)(2) reasonable further progress requirements, section 172(c)(9) and section 182(c)(9) contingency measures, sections 182(b)(1)(A) and 182(c)(2)(B) reasonable further progress requirements, sections 172(c)(1), 182(c)(2)(A), and section 182(j) attainment demonstration and reasonably available control measures requirements, section 182(c)(5) demonstrations, and section 182(g) milestones. See 70 FR 20500–20501 (April 20, 2005). The Atlanta area does not need any other measures to attain the 1-hour ozone standard, so long as the area continues to monitor attainment of the 1-hour standard. When and if a violation occurs, the requirements referenced above would need to be addressed.

The State of Georgia must continue to operate an appropriate network, in accordance with 40 CFR part 58, to verify the attainment status of the Atlanta area. The air quality data relied

upon to determine that the area is attaining the 1-hour ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's AIRS.

#### *B. Severe Area Vehicle Miles Traveled*

On April 12, 2005, (70 FR 19031), EPA published a proposed rule proposing to find that Georgia's Severe Area VMT SIP revision had addressed the requirement of section 182(d)(1)(A) of the Act that severe ozone nonattainment areas submit a SIP revision that identifies whether it is necessary to adopt TCMs to offset growth in emissions attributable to growth in VMT. EPA's longstanding policy is that the purpose of the VMT SIP requirement is to prevent a growth in motor vehicle emissions from canceling out the emissions reduction benefits of the federally mandated programs of the CAA. See 60 FR 48,896, 48,897 (Sept. 21, 1995) (EPA final approval of Illinois' VMT SIP). EPA interprets this provision to require that sufficient measures be adopted so that projected motor vehicle volatile organic compound (VOC) emissions will never be higher during the ozone season in one year than during the ozone season in the year before. When growth in VMT and vehicle trips would otherwise cause a motor vehicle emissions upturn, this upturn must be prevented. The emissions level at the point of upturn becomes a ceiling on motor vehicle emissions. This requirement applies to projected emissions in the years between the submission of the SIP revision and the attainment deadline, and is above and beyond the separate requirements for the RFP and the attainment demonstrations. The ceiling line is defined, therefore, up to the point of upturn, as motor vehicle emissions that would occur in the ozone season of that year, with VMT growth, if all measures for that area in that year were implemented as required by the CAA. When this curve begins to turn up due to growth in VMT or vehicle trips, the ceiling becomes a fixed value. The ceiling line would include the effects of federal measures such as new motor vehicle standards, phase II Reid vapor pressure (RVP) controls, and reformulated gasoline, as well as the CAA-mandated SIP requirements.

For each year from 1999 to 2004, typical summer day highway mobile source emissions inventories were estimated for the Atlanta 13-county 1-hour ozone nonattainment area. These inventories, which reflect the most recent planning assumptions available and include all federal and State mobile source control rules, demonstrate that

motor vehicle emissions of both VOC and nitrogen oxide (NO<sub>x</sub>) decreased each year, for a six-year period, through the 2004 attainment year for the Atlanta severe 1-hour ozone nonattainment area. Therefore, pursuant to the Act and EPA policy, the adoption of additional TCMs is not required for Atlanta to demonstrate attainment of the 1-hour NAAQS standard for ozone or to satisfy the requirements of section 182(d)(1)(A). EPA is granting final approval to Georgia's Severe Area VMT SIP revision in this action.

#### *C. Effective Date of This Action*

EPA finds that there is good cause for the determination of attainment and the determination of non-applicability of certain CAA SIP submittal requirements to become effective June 14, 2005, because a delayed effective date is unnecessary due to the nature of the determinations, which relieve the Atlanta area from certain CAA requirements that would otherwise apply to it for so long as the area remains in attainment of the 1-hour ozone standard. The expedited effective date for these actions is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule "grants or recognizes an exemption or relieves a restriction" and section 553(d)(3), which allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule."

As indicated above, EPA's September 26, 2003, final rule reclassified the Atlanta area to a "severe" nonattainment area and established a schedule for submission of SIP revisions fulfilling the requirements for severe ozone nonattainment areas. Upon the effective date of this rule, the State of Georgia will be relieved of the obligation to develop and submit several of these SIP revisions, which are specifically identified above, for so long as the area remains in attainment of the 1-hour ozone standard. The relief from these obligations is sufficient reason to allow an expedited effective date of this rule under 5 U.S.C. 553(d)(1). In addition, Georgia's relief from these SIP submittal obligations provides good cause to make this rule effective June 14, 2005, pursuant to 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in 5 U.S.C. 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Where, as here, the final rule relieves obligations rather than imposes obligations, affected parties such as the

State of Georgia do not need time to adjust and prepare before the rule takes effect.

For these same reasons, EPA also finds that there is good cause for the final approval of Georgia's Severe Area VMT SIP to become effective June 14, 2005. The final approval relieves Georgia from adopting additional TCMs to offset growth in emissions attributable to growth in VMT. This relief is sufficient reason to allow an expedited effective date of this rulemaking under 5 U.S.C. 553(d)(1) and 553(d)(3).

### III. What Comments Did We Receive and What Are Our Responses?

#### *Severe Area Vehicles Miles Traveled*

On April 12, 2005, (70 FR 19031), EPA published a proposed approval of Georgia's submittal regarding severe area VMT for the Atlanta 1-hour severe ozone nonattainment area. The comment period ended on May 12, 2005. EPA received no adverse comment.

#### *Proposed Redesignation of the Atlanta 1-Hour Severe Nonattainment Area to Attainment for Ozone*

On April 20, 2005, (70 FR 20495), EPA published a proposed rule proposing four actions: To find that the Atlanta area has attained the 1-hour ozone NAAQS; to find that certain attainment demonstration and reasonable further progress requirements, along with other related requirements of part D of title I of the CAA, are not applicable to the Atlanta area for so long as it continues to attain the 1-hour ozone standard; to approve the 10-year maintenance plan; and to approve the 1-hour ozone redesignation request for the Atlanta area. The comment period ended on May 20, 2005. One comment, discussed below, was received regarding the maintenance plan portion of EPA's April 20, 2005, proposed rule. The comment, however, contained a footnote addressing emissions increases and a monitoring violation of the 1-hour ozone standard. While EPA does not believe that the footnote was directly submitted as a comment on the attainment determination, we are providing the following clarification on this footnote in this rulemaking.

The Renewable Fuels Association submitted comments with respect to the showing of maintenance which will be addressed by EPA in a separate rulemaking action on the redesignation request and maintenance plan. The comments included a footnote (footnote 3) asserting that "Georgia submitted

data related to only 11 monitors in ten of the thirteen counties. In 2002, however, there was a twelfth monitor located within the 13-county area—Waleska in Cherokee County \* \* \* The monitoring data show that the ozone levels at this monitor were steadily increasing from 2000 to 2002, resulting in a violation in 2002."

In response, EPA notes that there was a special purpose monitor (SPM) in Cherokee County, Georgia, (Waleska site) that operated from 1999–2002.<sup>1</sup> This monitor recorded only one exceedance of the 1-hour ozone standard during this period that occurred in 2002. This one exceedance does not constitute a violation of the 1-hour ozone standard.<sup>2</sup> The monitor at the Waleska site was terminated by the State due to siting issues (potential interference by trees and a school's chemistry laboratory). The Waleska site was designated a SPM, and for this type of monitor the states are not required to obtain EPA concurrence for its termination.

Georgia's request for redesignation and a determination of attainment did include data from all ozone monitors in the Atlanta area with complete data for the period of 2002–2004, showing no violations of the 1-hour ozone standard. Thus, there were no recorded violations of the 1-hour ozone standard omitted from Georgia's redesignation request as implied by the commentator.

### IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule

<sup>1</sup> A special purpose monitor is a generic term used for all monitors other than State and Local Air Monitoring Stations (SLAMS), National Air Monitoring Stations (NAMS), Photochemical Assessment Monitoring Stations (PAMS), and Prevention of Significant Deterioration (PSD) monitors included in an agency's monitoring network for monitors used in a special study whose data area officially reported to EPA.

<sup>2</sup> A violation of this standard occurs when the daily maximum 1-hour average concentration measured by a continuous ambient air monitor exceeds 0.12 parts per million more than once per year, averaged over three consecutive years.

will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the

agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to June 14, 2005. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 15, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the

purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

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

Dated: June 7, 2005.

**J.I. Palmer, Jr.**,  
Regional Administrator, Region 4.

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

**PART 52—[AMENDED]**

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

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

■ 2. Section 52.570(e) is amended by adding a new entry in numerical order for "20. Severe Area Vehicle Miles Traveled (VMT SIP) for the Atlanta 1-hour severe ozone nonattainment area." to read as follows:

**§ 52.570 Identification of Plan.**

\* \* \* \* \*

(e) EPA Approved Georgia Nonregulatory Provisions.

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
20. Severe Area Vehicle Miles Traveled (VMT SIP) for the Atlanta 1-hour severe ozone nonattainment area.	Atlanta 1-hour ozone severe non-attainment area.	June 30, 2004	June 14, 2005. [Insert first page number of publication].

[FR Doc. 05-11719 Filed 6-13-05; 8:45 am]  
BILLING CODE 6560-50-U

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 52 and 81**

[AZ131-0088; FRL-7901-6]

**Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Arizona; Redesignation of Phoenix to Attainment for the 1-Hour Ozone Standard**

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

**ACTION:** Final rule.

**SUMMARY:** EPA is approving the Arizona Department of Environmental Quality's submittals of revisions to the Arizona state implementation plan that include substitution of the clean fuel fleet program requirement with the cleaner burning gasoline program, adoption of the 1-hour serious area ozone plan and adoption of the 1-hour ozone maintenance plan for the Phoenix metropolitan 1-hour ozone nonattainment area. We are also approving Arizona's request to redesignate the Phoenix metropolitan 1-

hour ozone nonattainment area from nonattainment to attainment. EPA is taking these actions pursuant to those provisions of the Clean Air Act that obligate the agency to take action on submittals of revisions to state implementation plans and requests for redesignation.

**DATES:** *Effective Date:* This rule is effective on June 14, 2005.

**ADDRESSES:** Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA Region 9's Air Planning Office (AIR-2), 75 Hawthorne Street, San Francisco, CA 94105-3901. Due to increased security, we suggest that you call at least 24 hours prior to visiting the Regional Office so that we can make arrangements to have someone meet you.

**Electronic Availability**

This document and our proposed rule which was published in the **Federal Register** on March 21, 2005 are also available as electronic files on EPA's Region 9 Web Page at <http://www.epa.gov/region09/air/phoenixoz/index.html>.

**FOR FURTHER INFORMATION CONTACT:** Wienke Tax, Office of Air Planning, U.S. Environmental Protection Agency, Region 9, (520) 622-1622, e-mail:

[tax.wienke@epa.gov](mailto:tax.wienke@epa.gov), or refer to <http://www.epa.gov/region09/air/phoenixoz/index.html>.

**SUPPLEMENTARY INFORMATION:**

Throughout this document, the terms "we," "us," and "our" mean U.S. EPA.

**Table of Contents**

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

**I. Background**

On March 21, 2005 (70 FR 13425), we published a notice of proposed rulemaking for the State of Arizona. The notice proposed approval of the State's submittals of revisions to the Arizona state implementation plan (SIP) for the Phoenix metropolitan 1-hour ozone nonattainment area and the State's redesignation request for this area from "nonattainment" to "attainment".

Specifically, we proposed approval of three sets of SIP revisions adopted and submitted to us by the Arizona Department of Environmental Quality (ADEQ). First, under sections 182(c)(4)(B) and 110(k)(3) of the Clean Air Act (CAA or "the Act"), we proposed to approve the State of Arizona's 1998 request to "opt-out" of the clean fuel fleet (CFF) program and to approve the cleaner burning gasoline