nonqualified deferred compensation plan constitutes transition benefits, then, for purposes of determining the portion of each benefit payment that constitutes transition benefits, the employer must treat each benefit payment as consisting of transition benefits in the same proportion as the transition benefits that have not been paid (as of January 1, 2000) bear to total benefits that have not been paid (as of January 1, 2000), unless such allocation is inconsistent with the terms of the plan. However, for a benefit payment made before January 1, 2000, the employer may use any reasonable allocation method to determine the portion of a payment that consists of transition benefits, provided that the allocation method is consistent with the terms of the plan.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. In § 602.101, paragraph (c) is amended by adding the following entry in the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(c) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
31.3121(v)(2)–1	1545–1643
* * * * *	

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: December 23, 1998.

Donald C. Lubick,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 99–1663 Filed 1–28–99; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA 34–2–9902a; FRL–6227–7]

Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to Georgia State Implementation Plan; Vehicle Inspection/Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim rule.

SUMMARY: EPA is approving the enhanced Inspection/Maintenance (I/M) program for the State of Georgia. The program had initially been given conditional interim approval under the terms of section 110 of the Clean Air Act (CAA) and section 348 of the National Highway Systems Designation Act (NHSDA), as noted in EPA's final conditional interim rule action in the August 11, 1997, **Federal Register**. Due to delays in implementing Phase 2 of the program, the Georgia enhanced I/M program had been disapproved on March 11, 1998, which triggered an eighteen month clock prior to the imposition of sanctions. This approval action also serves to stop the sanctions clock.

DATES: This final interim rule is effective March 30, 1999 without further notice, unless EPA receives adverse comment by March 1, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the final interim rule in the **Federal Register** and inform the public that the rule will not take effect.

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(s) 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. Contact Scott Martin 404–562–9036. Reference file Georgia 34–2–9902.

Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Scott M. Martin at 404–562–9036 or for information regarding the I/M program contact Dale Aspy at 404–562–9041.

SUPPLEMENTARY INFORMATION:

I. Background

On December 13, 1996 (61 FR 65496), EPA published a notice of proposed rulemaking (NPR) for the State of Georgia. The NPR proposed conditional interim approval of Georgia's enhanced I/M program, for the Atlanta ozone nonattainment area, submitted to satisfy the applicable requirements of both the CAA and the NHSDA. The formal SIP revision, which was submitted by the Georgia Environmental Protection Division (EPD) on March 27, 1996, contained plans to implement the program in two phases. The plan for Phase 1 described how the program would be expanded from the four counties in the previous program to the 13 ozone nonattainment counties. Phase 1 also implemented a two speed idle (TSI) test and a gas cap pressure check for all vehicles that were subject to an emissions inspection. The implementation of Phase 2 requires an acceleration simulation mode (ASM) test for vehicles older than six model years, while newer vehicles continue to be subject to the TSI test. Phase 2 also implements minor changes in emission testing software. It was proposed the program be conditionally approved because it lacked ASM test method specifications and a requirement to implement the program in a timely manner. Subsequently, on January 31, 1997, the Georgia EPD submitted the necessary ASM test method, satisfying one of the conditions for program approval. These specifications were largely based upon EPA's specifications for the ASM test. Therefore, on August 11, 1997 (62 FR 42916) EPA noted the test specifications condition of the December 13, 1996, proposal was met and removed, and final conditional interim approval was given to the program, contingent upon a timely start-up. The Georgia EPD began implementation of the I/M program as scheduled and had met all program milestones at the time the final conditional interim approval was published on August 11, 1997. However, problems were encountered when mandatory ASM testing began as scheduled on October 1, 1997. There were an insufficient number of stations capable of performing ASM testing due to a lack of test equipment and also other hardware and software problems. Due to the continued inability of equipment vendors to supply a sufficient number of stations with approved ASM equipment and Phase 2 software, the State passed an emergency rule on November 15, 1997, effective on the same day, that temporarily

suspended mandatory ASM testing, but encouraged it as an option through an incentive program for testing stations. The two speed idle test continued to be the emissions test used to ultimately pass or fail a vehicle in the program. Because numerous problems were indicated by preliminary software testing, and additional time was required to resolve these problems, on March 25, 1998, the State adopted a rule which extended the use of the two speed idle test until as late as January 1, 1999. This rule became effective on April 15, 1998. However, the State indicated to EPA that it would resume ASM testing earlier, if sufficient capability existed to minimize testing waiting times. As a result of this delay in fully implementing the program, EPA sent a letter to the State on March 11, 1998, indicating that the conditional approval had converted to a disapproval pursuant to the terms of the conditional approval, with respect to the full start-up of the program. This letter had the effect of staying the 18 month evaluation clock under the NHSDA during the disapproval time period. The Georgia EPD subsequently determined there would be sufficient testing capability to minimize waiting times before the January 1, 1999 date. Therefore, on August 26, 1998, the State adopted rules, which became effective on October 1, 1998, that moved the resumption of mandatory ASM testing to October 1, 1998. Subsequently, on October 1, 1998, mandatory ASM testing of vehicles older than six model years resumed. EPA was notified of this occurrence via letter on November 4, 1998.

EPA has the authority to reapprove the SIP based on the letter from the State of Georgia without further SIP submission as the SIP has not been changed. The program, as described in the above referenced **Federal Register** documents, has been implemented.

As noted in the August 11, 1997 **Federal Register** document referenced above, the term of the interim approval of the Georgia I/M program was set to expire on February 11, 1999 as per the NHSDA requirements. However, the March 11, 1998 letter stayed that clock until the program was reapproved. Therefore, interim rulemaking will now expire on November 11, 1999. A full approval of Georgia's final I/M SIP revision is still necessary under section 110 and under section 182, 184 or 187 of the CAA. After EPA reviews Georgia's submitted enhanced I/M program evaluation and regulations, final rulemaking on the State's full SIP revision will occur.

Additional detailed discussion of the Georgia enhanced I/M SIP and the rationale for EPA's action are explained in the proposal notice published December 13, 1996, at 61 CFR 65496–65504 and in the final conditional interim approval notice published on August 11, 1997, at 62 FR 42916–42918 and will not be restated here.

II. Final Action

EPA is giving final interim approval to the Georgia I/M program because it is consistent with the CAA and Agency requirements.

The EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective March 30, 1999 without further notice unless the Agency receives adverse comments by March 1, 1999.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on March 30, 1999 and no further action will be taken on the proposed rule.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly 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, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to 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 officials 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 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically

significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have 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 rule is not subject to E.O. 13045 because it is not economically significant under E.O. 12866 and it does not involve decisions intended to mitigate environmental health or safety risks.

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 final 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 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).

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 approval action promulgated 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.

G. Submission to Congress and the Comptroller General

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**. This rule is not a ''major'' rule as defined by 5 U.S.C. 804(2).

H. Petitions for Judicial Review

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 March 30, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: January 13, 1999.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

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

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.582 is amended by adding paragraph (c) to read as follows:

§ 52.582 Control Strategy: Ozone.

* * * * *

(c) EPA is giving final interim approval to the Georgia Inspection and Maintenance (I/M) Program submitted on March 27, 1996, with supplemental information submitted on January 31, 1997, until November 11, 1999.

* * * * *

[FR Doc. 99–2194 Filed 1–28–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6227–5]

RIN 2060–AE04

National Emission Standards for Hazardous Air Pollutants From Secondary Lead Smelting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This action corrects the national emission standards for hazardous air pollutants (NESHAP) for new and existing secondary lead smelters. Specifically, the compliance date is corrected to December 23, 1997, and a 5-year Title V permitting deferral for non-major sources is reinstated.

DATES: *Effective Date:* January 29, 1999.

Judicial Review. Under section 307(b)(1) of the Act, judicial review of a NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of the publication of this final rule. Under section 307(b)(2) of the Act, the requirements that are the subject of this document may not be challenged later in civil or criminal proceedings brought by the EPA to enforce these requirements.