

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. Section 804, however, exempts from section 801 the following types of rules: rules of particular applicability; rules relating to

agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. § 804(3). EPA is not required to submit a rule report regarding this rulemaking action under section 801 because this is a rule of particular applicability.

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 May 17, 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, Incorporation by reference, Reporting and recordkeeping requirements.

Dated: February 25, 1999.

David A. Ullrich,

Acting Regional Administrator, Region 5.

For the reasons stated in the preamble, 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 O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(148) to read as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(148) On October 13, 1998, the State of Illinois submitted a site-specific State Implementation Plan (SIP) revision affecting Volatile Organic Material controls at Central Can Company (CCC), located in Chicago, Illinois. The SIP revision allows CCC to apply can coating control rules to pail coating operations limited to certain conditions.

(i) *Incorporation by reference.*

August 6, 1998, Opinion and Order of the Illinois Pollution Control Board, AS 94-18, effective July 1, 1991.

[FR Doc. 99-6496 Filed 3-17-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-34-3-9819a; FRL-6306-2]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On August 25, 1998, EPA published a direct final rule (63 FR 45172) approving and an accompanying proposed rule (63 FR 45208) proposing to approve the Georgia Post 1996 Rate of Progress Plan (9 percent plan) which was submitted on November 15, 1993, and amended on June 17, 1996. As stated in the **Federal Register** document, if adverse or critical comments were received by September 24, 1998, the effective date would be delayed and timely notice would be published in the **Federal Register**. Therefore, due to receipt of an adverse comment within the comment period, EPA withdrew the direct final rule (63 FR 52983) in order to address all public comments received in a subsequent final rule.

This action addresses the adverse comment and grants final approval of Georgia's 9 percent plan. EPA will not institute a second comment period on this document.

EFFECTIVE DATE: This final rule is effective April 19, 1999.

ADDRESSES: Copies of the documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.
Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303-3104.

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, Regulatory Planning
Section, Air Planning Branch, Air,
Pesticides & Toxics Management
Division, Region 4, Environmental
Protection Agency, 61 Forsyth Street,
SW, Atlanta, Georgia 30303-3104. The
telephone number is 404/562-9036.

SUPPLEMENTARY INFORMATION: On August
25, 1998, EPA published a direct final
rule (63 FR 45172) approving and an
accompanying proposed rule (63 FR
45208) proposing to approve the 9
percent plan which was submitted on
November 15, 1993 and amended on
June 17, 1996. EPA received an adverse
comment during the comment period.
Subsequently, the direct final rule was
withdrawn on October 2, 1998, (63 FR
52983). The comment and the response
are summarized below.

Comment: The Atlanta Regional
Commission (ARC) submitted a letter on
September 9, 1998, providing comment
on the 9 percent plan. The comment
concerned the use of vehicle miles
traveled (VMT) estimates. ARC updated
the VMT estimates in 1996. The 9
percent plan used the VMT estimates
previously provided to the Georgia
Environmental Protection Division
(GAEPD) by ARC rather than the 1996
updated VMT estimates. ARC
recalculated the transportation
emissions budget using the updated
VMT and requested in the September 9,
1998, letter that this higher emissions
budget be used as the applicable
transportation conformity budget.

Response: EPA has reviewed ARC's
comment and determined that the
relevant issue is which VMT estimate
should have been used by GAEPD in the
development of the 9 percent plan.
ARC's comments indicate concern that
failure to use the most recent VMT
affects the attainment demonstration
state implementation plan (SIP) revision
submitted by the State in April 1998.
The appropriateness of the VMT used to
model mobile source emissions and
ultimately to establish the mobile
budget for conformity purposes in the
attainment demonstration will be
addressed in the Region's action on the
attainment demonstration, which will
occur in a future separate **Federal**

Register notice.

The EPA cannot dispute ARC's
updated VMT projections. However,
these updates were provided to GAEPD
just prior to the State's submittal of

supplemental information to the 9
percent plan in 1996. The timing and
use of the updated VMT is the main
issue. The Agency believes that at the
time the GAEPD was developing the 9
percent plan, it used the most current
VMT estimates provided by ARC. Since
ARC updated the VMT estimates just
prior to the State's submittal of the
supplemental information to the 9
percent plan, EPA believes it was
reasonable for the State, that was
already more than three quarters of the
way through its SIP process, to continue
using the less recent VMT projections
for this SIP revision. Therefore, it is
unnecessary to address concerns with,
or the appropriateness of, the ARC's
recalculated mobile emissions budget.
However, EPA believes that all SIP
revisions developed after the new VMT
projections were available must use the
most recently updated VMT projections.
This would require the most recent
VMT projections to be used in the April
1998 attainment demonstration since
the new data were available early in the
planning process. Any revisions to the
attainment demonstration must use the
most recent VMT projections available
at the time the revision is being
developed.

NO_x RACT Permits

On March 19, 1998, the EPD
submitted revisions to NO_x RACT
permits for Georgia Power plants
McDonough and Yates. The purpose of
these revisions is to establish NO_x
emission limits to meet the NO_x RACT
requirements for serious ozone
nonattainment areas. Compliance with
the NO_x emission limits is based on a
30 day rolling average during the ozone
season. See 63 FR 45172 for further
detail.

Final Action

The EPA approves the revisions to the
Georgia SIP to implement the 9 percent
plan because they are consistent with
Clean Air Act and Agency requirements.

Nothing in this action should be
construed as permitting or allowing or
establishing a precedent for any future
request for revision to any state
implementation plan. Each request for
revision to the state implementation
plan shall be considered separately in
light of specific technical, economic,
and environmental factors and in
relation to relevant statutory and
regulatory requirements.

I. 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.

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. 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 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).

G. 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.

H. 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).

I. 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 May 17, 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, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 19, 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 52.570, is amended by adding paragraph (c) (49) to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

(49) Addition of NO_x RACT permits to specify RACT for specific sources, submitted on November 15, 1994, and March 19, 1998.

(i) Incorporation by reference.

(A) The following source specific NO_x RACT permits of the Georgia Department of Natural Resources, Chapter 391-3-1, Air Quality Control, effective on December 27, 1995.

NO_x RACT Permits:

- (1) Permit 4911-033-5037-0 Plant McDonough conditions 10 through 22;
- (2) Permit 4911-038-4838-0 Plant Yates conditions 19 through 32;
- (3) Permit 4911-038-4839-0 Plant Yates conditions 16 through 29;
- (4) Permit 4911-038-4840-0 Plant Yates conditions 16 through 29; and
- (5) Permit 4911-038-4841-0 Plant Yates conditions 16 through 29.

(B) The following source specific NO_x RACT permits of the Georgia Department of Natural Resources, Chapter 391-3-1, Air Quality Control, effective on November 15, 1994.

NO_x RACT Permits:

- (1) Permit 4911-033-1321-0 Plant Atkinson conditions 8 through 13.
- (2) Permit 4911-033-1322-0 Plant Atkinson conditions 8 through 13.
- (3) Permit 4911-033-6949 Plant Atkinson conditions 5 through 10.
- (4) Permit 4911-033-1320-0 Plant Atkinson conditions 8 through 13.

- (5) Permit 4911-033-1319-0 Plant Atkinson conditions 8 through 13.
- (6) Permit 4911-033-6951 Plant McDonough conditions 5 through 10.
- (7) Permit 4922-028-10902 Atlanta Gas Light Company conditions 20 and 21.
- (8) Permit 4922-031-10912 Atlanta Gas Light Company conditions 27 and 28.
- (9) Permit 2631-033-11436 Austell Box Board Corp. conditions 1 through 5.
- (10) Permit 8922-044-10094 Emory University conditions 19 through 26.
- (11) Permit 3711-044-11453 General Motors Corporation conditions 1 through 6 and Attachment A.
- (12) Permit 2077-058-11226 Georgia Proteins Company conditions 16 through 23 and Attachment A.
- (13) Permit 3221-060-10576 Owens-Brockway Glass Container, Inc. conditions 26 through 28 and Attachment A.
- (14) Permit 3296-060-10079 Owens-Corning Fiberglass Corporation conditions 25 through 29.
- (15) Permit 3354-038-6686-0 William L. Bonnell Co. conditions 17 through 30.
- (16) Permit 4922-075-10217 Transcontinental Gas Pipe Line Corporation conditions 21 through 24.
- (17) Permit 9711-033-11456 Lockheed-Georgia Company conditions 1 through 11.
- (18) Permit 3241-060-8670 Blue Circle Incorporated conditions 48 through 54.
- (ii) Other material. None.

[FR Doc. 99-6505 Filed 3-17-99; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 211-0126 EC; FRL-6235-5]

Approval and Promulgation of Implementation Plans; Arizona and California State Implementation Plan Revision; Maricopa County, Arizona, Antelope Valley Air Pollution Control District, San Diego County Air Pollution Control District, San Joaquin Valley Unified Air Pollution Control District, and Ventura County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Arizona and California State Implementation Plans (SIP). The

revisions concern rules from the following districts: Maricopa County, Arizona; Antelope Valley Air Pollution Control District, California; San Diego County Air Pollution Control District, California; San Joaquin Valley Unified Air Pollution Control District, California, and Ventura County Air Pollution Control District, California. These revisions concern the adoption of emergency episode plans within federal guidelines. This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emergency preparedness in accordance with the requirements of the Clean Air Act (CAA or the Act). Thus, EPA is finalizing the approval of these revisions into the Arizona and California SIPs under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

DATES: This rule is effective on May 17, 1999 without further notice, unless EPA receives adverse comments by April 19, 1999. If EPA receives such comment, it will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments must be submitted to Andrew Steckel at the Region IX office listed below. Copies of the rule revision and EPA's evaluation report of each rule are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460 California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Maricopa County Environmental Services Department, Air Quality Division, 1001 North Central Avenue, Ste. 201, Phoenix, Arizona 85004-1942;

Antelope Valley Air Pollution Control District, 315 West Pondera Street, Lancaster, California, 93534;

San Diego County Air Pollution Control District, 9150 Chesapeake Drive, San Diego, California 92123-1096; San Joaquin Valley Unified Air Pollution Control District, 1999

Tuolumne Street, Suite 200, Fresno, California, 93721, and Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, California, 93003.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office (AIR-4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the Arizona and California SIP include: Maricopa County, Arizona, Regulation VI, Rule 600—Emergency Episode; Antelope Valley APCD, Rule 701—Air Pollution Emergency Contingency Action; San Diego County APCD, Rule 127—Episode Criteria Levels, Rule 128—Episode Declaration, and Rule 130—Episode Actions; San Joaquin Valley Unified APCD, Rule 6010—General Statement, Rule 6020—Applicable Areas, Rule 6030—Episode Criteria Levels, Rule 6040—Episode Stages, Rule 6050—Division of Responsibility, Rule 6060—Administration of Emergency Program, Rule 6070—Advisory of High Air Pollution Potential, Rule 6080—Declaration of Episode, Rule 6081—Episode Action—Health Advisory, Rule 6090—Episode Action Stage 1: (Health Advisory-Alert), Rule 6100—Episode Action Stage 2: (Warning), Rule 6110—Episode Action Stage 3: (Emergency), Rule 6120—Episode Termination, Rule 6130—Stationary Source Curtailment Plans and Traffic Abatement Plans, Rule 6140—Episode Abatement Plan, and Rule 6150—Enforcement; and Ventura County Air Pollution Control District, Rule 150—General, Rule 151—Episode Criteria, Rule 152—Episode Notification Procedures, Rule 153—Health Advisory Episode Actions, Rule 154—Stage 1 Episode Actions, Rule 155—Stage 2 Episode Actions, Rule 156—Stage 3 Episode Actions, Rule 157—Air Pollution Disaster, Rule 158—Source Abatement Plans, and Rule 159—Traffic Abatement Procedures.

These rules were submitted by the Arizona DEP to EPA on January 4, 1990 and by the California Air Resources Board on March 10, 1998 (Antelope Valley); January 28, 1992 (San Diego), March 3, 1997 (San Joaquin), and January 28, 1992 (Ventura).

II. Background

The Clean Air Act of 1970 (42 USC s. 7401 *et seq.*; CAA or the Act) required states to develop plans to prevent and