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 proposed 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.*).

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

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

Dated: November 30, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01–30587 Filed 12–10–01; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[GA–47 –2; GA–55–2; GA–58–2–200208; FRL–7116–2]**

## Approval and Promulgation of Air Quality State Implementation Plans; Georgia: Control of Gasoline Sulfur and Volatility

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to fully approve a State Implementation Plan (SIP) revision, submitted by the State of Georgia through the Georgia Environmental Protection Division (GAEPD), establishing low-sulfur and low-Reid Vapor Pressure (RVP) requirements for gasoline distributed in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Georgia developed these fuel requirements to reduce emissions of nitrogen oxides ( $NO_X$) and volatile organic compounds (VOC) as part of the State's strategy to achieve the National Ambient Air Quality Standard (NAAQS) for ozone in the Atlanta nonattainment area. EPA is approving Georgia's fuel requirements into the SIP because these fuel requirements are in accordance with the requirements of the Clean Air Act (the Act), and are necessary for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS in a timely manner.

**DATES:** Comments should be received on or before January 25, 2002.

**ADDRESSES:** All comments should be addressed to: Lynorae Benjamin at the EPA, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960.

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. Lynorae Benjamin, (404) 562–9040. 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:** Lynorae Benjamin, Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, Region 4, Environmental Protection Agency, Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9040. Ms. Benjamin can also be reached via electronic mail at *benjamin.lynorae@epa.gov.*

**SUPPLEMENTARY INFORMATION:** The following section provides the rationale for EPA's approval of the Georgia fuel requirements into the SIP, as provided in section 211(c)(4)(C) of the Act. Georgia's fuel requirements are being implemented in two phases. The initial phase requires the low-sulfur/low-RVP gasoline sold in the 13-county Atlanta nonattainment area and 12 surrounding attainment counties during the regulatory control period (June 1 through September 15) each year through 2002. The second phase of the Georgia fuel program expands the low-sulfur/low-RVP requirements to an additional 20 attainment counties. The program becomes a year-round program in 2003, except that the RVP requirement applies only during the June 1 through September 15 control period.

### I. Analysis of State's Submittal

*What Did the State Submit?*

On October 28, 1999, the State of Georgia, through the GAEPD, submitted an attainment demonstration for the 1-hour ozone NAAQS for the Atlanta nonattainment area for inclusion into the Georgia SIP. This submittal included a version of the low-sulfur/low-RVP fuel regulations that has subsequently been amended by the State, and submitted by the State to EPA in revised form in subsequent SIP revisions dated July 31, 2000, and August 21, 2001. The version submitted on August 21, 2001, which is the subject of this proposed rulemaking, is the ''Gasoline Marketing Rule,'' provided in Georgia's Rules for Air Quality Control, Chapter 391–3–1.02(2)(bbb).

On May 31, 2000, in support of its request for SIP approval of the State fuel regulations, GAEPD also submitted a demonstration that, in accordance with section 211(c)(4)(C) of the Act, the fuel control is necessary to achieve a NAAQS. On November 9, 2001, GAEPD submitted an updated ''necessity'' demonstration which reflected the revised motor vehicle emissions budget, the request for an attainment date extension from 2003 to 2004, and the revised Partnership for a Smog Free Georgia emissions calculations.

*Does the State Submittal Meet the SIP Approval Requirements Under Section 110?*

The SIP submittals, including the rule for Georgia's low-sulfur/low-RVP fuel control program, meet the requirements outlined in section 110 and Part D of Title I of the CAA amendments and 40 CFR part 51 (Requirements for Preparation, Adoption and Submittal of Implementation Plans). The current version of the fuel rule was formally adopted by the GAEPD Board on June 27, 2001, and became effective July 18, 2001.

*How Does the Low-Sulfur/Low-RVP Proposal Relate to Other SIP Activities in the State?*

As noted above, on October 28, 1999, GAEPD submitted for EPA approval an ozone attainment demonstration for the Atlanta nonattainment area, which relies upon a number of control measures, including the low-sulfur/low RVP fuel program, to support the demonstration. On December 16, 1999, EPA proposed to approve the October 28, 1999, attainment demonstration for the Atlanta nonattainment area, as well as the underlying rule revisions with the exception of the Georgia fuel rule (the subject of this proposed rulemaking) (see 64 FR 70478). EPA's proposed approval was based on the condition that the GAEPD satisfy certain requirements.

Subsequently, the GAEPD submitted revisions to the Atlanta attainment demonstration on January 31, 2000, and July 31, 2000, along with revisions to State rules supporting the attainment demonstrations. Those rule revisions were proposed for approval on December 18, 2000 (see 65 FR 79034). No adverse comments were received pertaining to any rule revisions.

On July 10, 2001, EPA granted final approval to the rule revisions contained

in the December 16, 1999, and December 18, 2000, proposals (see 66 FR 35906). The final rule noted that EPA action for the Atlanta attainment demonstration would be taken in a separate notice.

On July 17, 2001, GAEPD submitted another revised attainment demonstration. The attainment demonstration continues to rely in part on the expected emissions reductions that will be achieved by the low-sulfur/low-RVP fuel control being proposed for SIP approval in this action. Based on the revised Atlanta attainment demonstration, submitted on July 17, 2001, EPA is currently proposing approval for the Atlanta attainment demonstration in a separate notice.

*What are the Clean Air Act Requirements?*

This approval action is being taken pursuant to section 110 of the Act. The approval of the State's fuel control measure must also meet the requirements of section 211(c)(4)(C). Under this section of the Act, EPA may approve a state fuel control into a SIP if it is found that the control is ''necessary'' to achieve a NAAQS.

EPA's August 21, 1997, Guidance on Use of Opt-in to RFG and Low-RVP Requirements in Ozone SIPs gives further guidance on what EPA is likely to consider in making a finding of necessity. The guidance sets out four issues to be analyzed:

1. The quantity of emission reductions needed to achieve the NAAQS;
2. Other possible control measures and the reductions each would achieve;
3. The explanation for rejecting alternatives as unreasonable or impracticable;
4. A demonstration that reductions are needed even after implementation of reasonable and practicable alternatives, and that the fuel control will provide some or all of the needed reductions.

In this notice of proposed rulemaking and associated Technical Support Document (TSD), EPA addresses these issues.

*What Does the State's Low-Sulfur/Low-RVP Regulation Include?*

The State's low-sulfur/low-RVP regulation includes two phases of fuel controls that will eventually apply in the 13-county Atlanta nonattainment area and 32 surrounding attainment counties. Described below are the primary features of these phases of control. The first phase of fuel controls apply to the 13-county Atlanta nonattainment area (highlighted in bold) and 12 surrounding attainment counties which include the following: Barrow, Bartow, Butts, Carroll, Cherokee, Clayton, Cobb, Coweta, Dawson, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Haralson, Henry, Jackson, Newton, Paulding, Pickens, Rockdale, Spalding, and Walton. The controls for the first phase of the State's program, effective through 2002, require that all gasoline sold during the control period (June 1 through September 15) in these counties contain a maximum RVP of 7.0 pounds per square inch (psi) and maximum volume-weighted seasonal average sulfur level of 150 parts per million (ppm) (by weight) and, effective April 1, 2001, a maximum per-gallon volume-weighted sulfur level of 500 ppm (by weight). For ethanol blends meeting specified conditions, Georgia's regulations limit RVP to a maximum of 8.0 psi.

The second phase of fuel controls apply to the aforementioned counties and 20 additional attainment counties surrounding the Atlanta nonattainment area. These additional counties include: Banks, Chattooga, Clarke, Floyd, Gordon, Heard, Jasper, Jones, Lamar, Lumpkin, Madison, Meriwether, Monroe, Morgan, Oconee, Pike, Polk, Putnam, Troup, and Upson. The fuel controls for the second phase of the State's program are effective April 1, 2003. Under this phase of the State's program, the RVP requirement is maintained and extended to the additional counties but otherwise does not change. The sulfur requirements, however, become more stringent annual averages. The maximum annual average sulfur level allowed in gasoline is reduced to 30 ppm (by weight); the per-gallon limit is reduced to 150 ppm (by weight). Effective June 1, 2004, the seasonal per-gallon sulfur limit is reduced to 80 ppm (by weight) during the June 1 through September 15 control period.

*How Will the Program be Enforced?*

EPA finds that the fuel rule contains adequate enforcement provisions. GAEPD will enforce the low-sulfur/low-RVP rule. Producers, importers, terminals, pipelines, truckers, rail carriers, and retail dispensing outlets are subject to provisions of this rule. Registration, recordkeeping, reporting, and certification requirements are included. GAEPD will conduct sampling for the fuel program in accordance with the ''Methodology for Randomized Sampling to Estimate Mean Sulfur in Gasoline During a Specified Ozone Season'' (contained in Appendix XXX of the attainment demonstration) or by some EPA-approved modification of this sampling plan. Samples, the number to be determined in coordination with GAEPD and EPA, will be collected and analyzed for RVP and sulfur throughout the control period. Any sample that exceeds the limits specified in the fuel rule will be considered a violation and may require an enforcement action. If an enforcement action is warranted, GAEPD would use one of two approaches. Upon learning of a violation, the GAEPD will issue a notice of violation and negotiate a consent order. If a consent order cannot be negotiated, GAEPD will issue an administrative order. Another provision of the fuel rule provides that the seasonal sulfur average will not exceed 140 ppm when the sulfur limit is 150 ppm. If the seasonal sulfur average exceeds 140 ppm, GAEPD will require 100 percent terminal testing in lieu of testing at the retail level for future control periods. Also, when Georgia's sulfur requirement is reduced to 30 ppm, 30 ppm is the ''trigger'' that will require 100 percent terminal testing in lieu of testing at the retail level for future control periods. Additional commitments related to the enforcement and implementation of the Georgia fuel program are provided in the transmittal letter for the November 9, 2001, fuel control supplemental ''necessity'' demonstration.

*Will the Low-Sulfur/Low-RVP Fuel Control Program Provide Needed Emission Reductions?*

The State's modeling for this attainment demonstration shows that, even with implementation of all reasonable and practicable measures, including the low-sulfur/low-RVP fuel program, the design value for the nonattainment area will just barely meet the 1-hour ozone standard. Please refer to the accompanying TSD for more information about the photochemical modeling and the weight-of-evidence (WOE) analysis. Once fully implemented, the low-sulfur/low-RVP fuel program will provide 42.93 tons per day (TPD) of $NO_X$ and 24.16 TPD of VOC emission reductions. Thus, the low-sulfur/low-RVP fuel program will provide emissions reductions needed for the Atlanta nonattainment area to achieve the 1-hour ozone NAAQS.

On May 1, 1998, EPA released a staff paper presenting EPA's understanding of the impact of gasoline sulfur on emissions from motor vehicles and exploring what gasoline producers and automobile manufacturers could do to reduce sulfur's impact on emissions. The staff paper noted that gasoline sulfur degrades the effectiveness of

catalytic converters and that high sulfur levels in commercial gasoline could affect the ability of future automobiles—especially those designed for very low emissions—to meet more stringent $NO_X$ and VOC standards that are in use. The paper also pointed out that sulfur control will provide additional $NO_X$ benefits by lowering emissions from the current fleet of vehicles.

Lowering the RVP in gasoline reduces VOC emissions, primarily through reducing evaporative losses from vehicle fuel tanks, lines, and carburetors as well as losses from gasoline storage and transfer facilities. To a lesser degree, lowering RVP can also reduce VOCs in vehicle exhaust.

Reducing these emissions in both the nonattainment area and the surrounding attainment areas will help address the ozone problem in the Atlanta nonattainment area. Specifically, lowering $NO_X$ and VOC emissions through the Atlanta low-sulfur/low-RVP program will benefit the Atlanta nonattainment area by reducing $NO_X$ and VOCs emitted within the 13-county nonattainment area, and by vehicles that originate in the 32-county attainment area and drive into the nonattainment area. Please refer to the TSD for more information on the commuting patterns for the area.

*Are There Any Reasonable and Practicable Alternatives to Georgia's Fuel Program?*

The State conducted thorough analyses of potential non-fuel control measures available for the Atlanta nonattainment area. The attainment demonstration for the Atlanta nonattainment area contains a detailed discussion of point and other source controls that are required to help achieve attainment of the 1-hour ozone NAAQS in the Atlanta nonattainment area. Many of these control measures were analyzed in a study, ''The Direct Cost of Controlling $NO_X$ and VOC emissions in Atlanta,'' completed by the Georgia State University on November 1, 1997. Following the completion of this study, the State made its own review of possible control measures, including its review of ''reasonably available control measures'' (RACM) as required under the Act. The State's summary of its review of non-fuel control measures is contained in Attachment 3 to the November 9, 2001 ''necessity'' demonstration, which is available in the docket for this rulemaking. The discussion below briefly describes the State's evaluation of the reasonableness and practicability of the non-fuel alternatives that are potentially available after adopting those control measures already included in the revised attainment demonstration. For more detail on the control measures that have already been included in the revised attainment demonstration, and on the State's evaluation of remaining potential alternatives, see the TSD for this rulemaking.

Each potential control option was evaluated according to: (1) The State's authority to implement controls; (2) the amount of $NO_X$ reductions; (3) the amount of VOC reductions; (4) whether a similar control measure is already being implemented; (5) the cost-effectiveness of the controls; (6) whether SIP credit has already been taken for the measure; and (7) whether the measure can be implemented by May 1, 2003 (since measures implemented after this date cannot advance the 2004 attainment date).

GAEPD considered the following source categories for additional VOC and $NO_X$ control measures for the purposes of evaluating the ''necessity'' of the fuel control measure: (for point sources) furniture and fixtures manufacturing facilities, food and kindred products facilities, commercial printing facilities, chemical products facilities, rubber and plastic facilities, paper and allied products facilities, primary metal facilities, fabricated metal products facilities, non-electrical machinery facilities, electrical equipment facilities, petroleum refining facilities, asphalt and coating facilities, air transportation facilities, transportation equipment facilities, stone, clay, and glass products facilities, hydraulic cement facilities, and sewage plants; (for area sources) auto refinishing operations, surface cleaning and preparation operations, solvent degreasing operations, new residential natural gas water heaters, certain commercial and/or industrial watertube and firetube boilers and pesticide application; (for on-road mobile) elimination of vehicle I/M waivers and exemptions, transportation demand management and vehicle usage disincentives; (for nonroad mobile) railroad switcher engines, specific recreational vehicle types and/or pleasure craft, and lawn and garden equipment.

After further analysis of potential controls on each of the above sources, GAEPD concluded that it was not reasonable or practicable to further control these sources. Specifically, for many of the sources listed above GAEPD stated that the time required to implement controls is unpredictable because legislative action authorizing such regulation by GAEPD would be required, or the number of facilities and potential discharge points affected by these control measures would require a tremendous increase in GAEPD resources to implement and ensure compliance.

Based on the State's analysis of the potentially available alternatives, we agree that there are no reasonable or practicable non-fuel control measures available to the State to achieve the 1-hour ozone NAAQS in a timely manner. Individually, none of these controls would supply enough emissions reductions to displace the need for the fuel measure. In order to replace the needed VOC reductions provided by the fuel measure, the State would need to implement nearly all of the potential controls which would require substantial resources and may not be possible in the time allowed, *i.e.,* by 2004. Even if the State did adopt and implement all of the potentially available $NO_X$ control measures, the State would not be able to replace the needed $NO_X$ reductions provided by the fuel measure. Compared to all of the potentially available measures outlined in the TSD, the low-sulfur/low-RVP fuel, which has already been implemented in its first phase, is the most reasonable and practicable measure available to reduce the emissions from ozone precursors for the Atlanta nonattainment area. Low-sulfur/low-RVP fuel is readily available to the State because it is also being provided to the Birmingham, Alabama nonattainment area. The benefits of this fuel program are already being felt in the Atlanta nonattainment area.

*Proposed Action by EPA*

EPA is proposing to approve Georgia's low-sulfur/low-RVP fuel program into the SIP. The State has demonstrated necessity as required by section 211(c)(4)(C) of the Act. Without the fuel control program in both the nonattainment area and in the surrounding attainment areas, the design values for the nonattainment area will continue to exceed the 1-hour ozone NAAQS. In the Atlanta attainment demonstration, the State examined control measures, not previously implemented, and concluded that, even with adoption of all reasonable and practicable non-fuel control measures, additional VOC and $NO_X$ reductions in the area are necessary to achieve the 1-hour ozone NAAQS. The State further demonstrated that the fuel control satisfies the requirements of section 110 and will supply reductions needed to achieve the ozone NAAQS.

## II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed 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 proposed rule 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 proposes to approve 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 proposed rule also does 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), nor will it 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 proposes to approve 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 proposed rule also is not subject to Executive Order 13045 (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 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this proposed rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings' issued under the executive order.

This proposed approval of the Georgia fuel control necessity demonstration does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### List of Subjects in 40 CFR Part 52

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

Dated: November 30, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01–30588 Filed 12–10–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 62

**[VT 022–1225b; FRL–7116–5]**

## Approval and Promulgation of State Plans for Designated Facilities and Pollutants: Vermont; Negative Declaration

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve the Sections 111(d)/129 negative declaration submitted by the Vermont Agency of Natural Resources (ANR) on June 5, 2001. This negative declaration adequately certifies that there are no existing commercial and industrial solid waste incineration units (CISWIs) located within the boundaries of the state of Vermont.

**DATES:** EPA must receive comments in writing by January 10, 2002.

**ADDRESSES:** You should address your written comments to: Mr. Steven Rapp, Chief, Air Permits Program Unit, Office of Ecosystem Protection, U.S. EPA, One Congress Street, Suite 1100 (CAP), Boston, Massachusetts 02114–2023.

Copies of documents relating to this proposed rule are available for public inspection during normal business hours at the following location. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the day of the visit.

Environmental Protection Agency, Air Permits Program Unit, Office of Ecosystem Protection, Suite 1100 (CAP), One Congress Street, Boston, Massachusetts 02114–2023.

**FOR FURTHER INFORMATION CONTACT:** John Courcier, Office of Ecosystem Protection (CAP), EPA-New England, Region 1, Boston, Massachusetts 02203, (617) 918–1659, or by e-mail at *courcier.john@epa.gov.* While the public may forward questions to EPA via e-mail, it must submit comments on this proposed rule according to the procedures outlined above.

**SUPPLEMENTARY INFORMATION:** Under Section 111(d) of the Clean Air Act, EPA published regulations at 40 CFR part 60, subpart B which require states to submit control plans to control emissions of designated pollutants from designated facilities. In the event that a state does not have a particular designated facility located within its boundaries, EPA requires that a negative declaration be submitted in lieu of a control plan.

The Vermont ANR submitted the negative declaration to satisfy the requirements of 40 CFR part 60, subpart B. In the Final Rules Section of this **Federal Register**, EPA is approving the Vermont negative declaration as a direct final rule without a prior proposal. EPA is doing this because the Agency views this action as a noncontroversial submittal and anticipates that it will not receive any significant, material, and adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA does not receive any significant, material, and adverse comments to this action, then the approval will become final without further proceedings. If EPA receives adverse comments, the direct final rule will be withdrawn and EPA will address all public comments received in a subsequent final rule based on this proposed rule. EPA will not begin a second comment period.