

or rejection of the proposed settlement. If Treasury does not issue a response within 30 days after Treasury's receipt of a complete notice, unless extended in writing by Treasury, the request for advance approval is deemed approved by Treasury. Any settlement is still subject to review under the claim procedures pursuant to § 50.50.

(d) *Notice Format.* A notice of a proposed settlement should be entitled, "Notice of Proposed Settlement—Request for Approval," and should provide the full name and address of the submitting insurer and the name, title, address, and telephone number of the designated contact person. An insurer must provide all relevant information, including the following, as applicable:

(1) A brief description of the insured's underlying claim, the insured's loss, the amount of the claim, the operative policy terms, defenses to coverage, and all damages sustained;

(2) An itemized statement of all damages by category (*i.e.*, actual, economic and non-economic loss, punitive damages, *etc.*);

(3) A statement from the insurer or its attorney recommending the settlement and the basis for the recommendation;

(4) The total dollar amount of the proposed settlement;

(5) Indication as to whether the settlement was negotiated by counsel;

(6) The net amount to be paid to the insured and/or third party;

(7) The amount to be paid that will compensate attorneys for their services and expenses and an explanation as to why the amount is not unreasonable;

(8) The amount received from the United States pursuant to any other Federal program for compensation of insured losses related to an act of terrorism;

(9) The proposed terms of the written settlement agreement, including release language and subrogation terms;

(10) Other relevant agreements, including:

(i) Admissions of liability or insurance coverage;

(ii) Determinations of the number of occurrences under a commercial property and casualty insurance policy;

(iii) The allocation of paid amounts or amounts to be paid to certain policies, or to specific policy, coverage and/or aggregate limits; and

(iv) Any other agreement that may affect the payment or amount of the Federal share of compensation to be paid to the insurer;

(11) A statement indicating whether the proposed settlement has been approved by the Federal court or is subject to such approval and whether such approval is expected or likely; and

(12) Such other information as may be requested by Treasury or its designee.

§ 50.84 Subrogation.

An insurer shall not waive its rights of subrogation under its insurance policy and shall take all steps necessary to preserve the subrogation right of the United States as provided by section 107(c) of the Act.

Dated: April 29, 2004.

Wayne A. Abernathy,

Assistant Secretary of the Treasury.

[FR Doc. 04-10205 Filed 5-5-04; 8:45 am]

BILLING CODE 4811-15-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[R04-OAR-2004-GA-0001-200411; FRL-7656-8]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to the Georgia State Implementation Plan (SIP) submitted by the Georgia Environmental Protection Division (GAEPD) on December 24, 2003. The revision pertains to the Post-1999 Rate-of-Progress Plan (Post-1999 ROP Plan). This submittal was made to meet the reasonable further progress requirements of section 182 of the Clean Air Act, as amended in 1990 (CAA). The SIP revision also establishes a motor vehicle emissions budget (MVEB) for transportation conformity purposes of 160.8 tons per day (tpd) of volatile organic compounds (VOC) and 318.24 tpd of nitrogen oxides (NO_x) for 2004. Today, EPA is proposing to approve Georgia's Post-1999 ROP plan, including the 2004 MVEBs contained therein. In addition, in this proposed rulemaking EPA is providing information on the status of its transportation conformity adequacy determination for the 2004 MVEBs that are contained in the Post-1999 ROP SIP submittal.

DATES: Written comments must be received on or before June 7, 2004.

ADDRESSES: Comments may be submitted by mail to: Scott M. Martin, 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.

Comments may also be submitted electronically, or through hand delivery/courier. Please follow the detailed instructions described in sections IV.B.1 through 3. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mr. Scott M. Martin, 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. The telephone number is (404) 562-9036. Mr. Martin can also be reached via electronic mail at martin.scott@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182 of the CAA requires ozone nonattainment areas with air quality classified as "moderate" or worse to submit plans showing reasonable further progress towards attainment of the national ambient air quality standards (NAAQS). Because Atlanta was classified as a "serious" nonattainment area for ozone, the CAA required Georgia to develop a SIP to reduce emissions of VOCs in the 13-county Atlanta 1-hour ozone nonattainment area by 15 percent from 1990 to 1996. The most recent revision to Georgia's 15% Rate-of-Progress (ROP) SIP (*i.e.*, the 15% Plan) was submitted by the GAEPD on June 17, 1996, and was approved by the EPA effective May 26, 1999, (64 FR 20186).

The CAA also requires Post-1996 emission reductions of VOCs and/or NO_x totaling 3 percent per year, averaged over each consecutive three-year period beginning in 1996 and continuing through the attainment date. Georgia chose to rely solely on NO_x emission reductions in its Post-1996 ROP SIP (*i.e.*, the 9% Plan). This plan was required to describe how Georgia would achieve reasonable further progress towards attaining the ozone NAAQS between 1996 and 1999, the attainment deadline for serious nonattainment areas. The most recent revision to Georgia's 9% Plan was submitted June 17, 1996, and was approved by EPA effective April 19, 1999, (64 FR 13348).

On July 17, 2001, GAEPD submitted the Atlanta 1-hour ozone attainment SIP to EPA which included a demonstration that Atlanta would attain the 1-hour ozone NAAQS by November 15, 2004. That attainment demonstration, including the extension of the attainment date, was approved by the EPA in a notice published in the

Federal Register on May 7, 2002, (67 FR 30574), which cited EPA's policy to grant attainment date extensions for areas dependent upon upwind States' emission reductions mandated by the regional NO_x SIP Call as a basis for approval. Subsequently, in challenges to other attainment date extensions, several Federal appeals courts ruled that EPA lacked the authority to grant such attainment date extensions. On February 20, 2003, EPA filed a motion for voluntary vacatur of Atlanta's attainment date extension and approval of Atlanta's ozone attainment demonstration. On June 16, 2003, the United States Court of Appeals for the Eleventh Circuit issued an order granting EPA's motion, thereby vacating approval of the July 17, 2001, attainment demonstration.

In response to these court rulings, EPA issued a final rulemaking action in the September 26, 2003, **Federal Register** (68 FR 55469). It included a determination that the Atlanta area had failed to attain the 1-hour ozone standard by the statutory deadline of November 1, 1999, and that by operation of law, the Atlanta area was being reclassified as a "severe" ozone nonattainment area effective January 1, 2004. Under section 181(a)(1) of the CAA, the attainment deadline for Atlanta as a new "severe" nonattainment area is "as expeditiously as practicable," but not later than November 15, 2005.

GAEPD has recently conducted an Early Attainment Assessment to review the progress made to date in implementing the July 17, 2001, ozone attainment SIP. The Early Attainment Assessment indicates that the emission reductions achieved to date from the 1-hour ozone attainment SIP control measures have been effective in reducing monitored levels of ozone and that the area appears to be on track to attain by the end of the 2004 ozone season.

EPA's September 26, 2003, action requires submission of a severe area Post-1999 ROP SIP. The severe area Post-1999 SIP must describe how at least a 3 percent per year reduction in emissions of ozone precursors (VOCs or NO_x) will be achieved, from the time of failure to meet the "serious" area attainment date (November 15, 1999) until the "severe" area attainment date.

This Atlanta severe area Post-1999 ROP SIP contains a description of how the 3 percent per year reductions in ozone precursor emissions, required over the period from November 15, 1999, through November 15, 2004, will be achieved. It also contains MVEBs for the Atlanta 1-hour ozone nonattainment

area. Submission only through 2004 is based on the State's Early Attainment Assessment discussed above. GAEPD requests that EPA review and approve the Post-1999 ROP SIP and MVEB.

II. Analysis of State's Submittal

Plan Requirements: This plan was prepared in accordance with the SIP requirements established in 40 CFR part 51, and EPA guidance. The plan contains all of the required elements of a rate-of-progress plan, and is consistent with existing guidelines for implementation plans. The rate-of-progress plan contains a detailed analysis of each of the following elements: Base Year Emissions Inventories; Target Level Calculations; Control Measures; Projected Emissions; MVEB; Milestone Failure Contingencies; and Reporting Requirements.

This Post-1999 ROP is not required, nor intended, to demonstrate attainment of the 1-hour ozone NAAQS. The ROP Plan is a description of how emissions reductions of 3 percent per year in the Atlanta area will be achieved. Consistent with Georgia's 9% plan; this Post-1999 ROP will rely solely on reductions of NO_x emissions.

In order to develop the Post-1999 ROP Plan in accordance with EPA guidance, GAEPD updated the 1990 NO_x emissions in inventory and adjusted the inventory by removing NO_x already scheduled for control by previous Federal regulations on motor vehicles and gasoline volatility. The required NO_x reductions and the resulting target levels of future NO_x emissions were calculated, growth in NO_x emissions was estimated, and the effects on projected emissions of various emissions control rules already adopted and implemented, or scheduled for implementation prior to the end of 2004, were calculated. These controls were found to be more than sufficient to reduce overall NO_x emissions by 3 percent per year while also offsetting all of the growth in NO_x emissions projected to occur between 1999 and 2002, and between 2002 and 2004.

Calculation of Post-1999 Emission Target Levels: The Post-1999 ROP SIP was prepared following the guidance in:—Section 4.2 of EPA's Guidance on the Post-1996 Rate-of-Progress Plan and the Attainment Demonstration ("the ROP guidance");—The December 23, 1997, guidance memo from Richard D. Wilson, EPA's Acting Assistant Administrator for Air and Radiation, Guidance for Implementing the 1-Hour Ozone and Pre-Existing PM₁₀ NAAQS ("the guidance memo"); and

—EPA's Policy guidance on the Use of MOBILE6 for SIP Development and Transportation Conformity (the "MOBILE6 policy guidance").

The ROP guidance provides step-by-step procedures for calculating the Post-1999 target level emissions. The projected inventory for an ROP milestone year with all control measures in place and reflecting any growth in activity projected to occur by the milestone year must be equal to or less than the target level of emissions for that milestone year.

The Rate-of-Progress Inventory is the base inventory from which the target levels of emissions for the milestone years must be calculated. These target levels reflect the required percent reductions, net of growth, from base year emissions that must be achieved to meet the requirements of the CAA. Therefore this plan starts with the 1990 Rate-of-Progress Base Year Inventory.

1990 Rate-of-Progress Base Year Inventory: The 1990 Rate-of-Progress Base Year inventory is comprised of the anthropogenic point, area, nonroad, and mobile sources in the 13-county 1-hour ozone nonattainment area. The 1990 Rate-of-Progress Base Year Inventory, as defined in section 4.2 of the ROP guidance document, has changed since submittal in November 1993. Emissions from the mobile and the nonroad sectors have been updated using the latest models and, for mobile sources, revised 1990 speeds. The updated 13-county 1990 Rate-of-Progress Base Year Inventory totals 625.9 NO_x tpd (see Table 1 below). The Adjusted Base Year mobile source emissions inventories, described below, also reflect an updated registration distribution by age.

The December 23, 1997, EPA guidance memo also allows emission reductions from sources outside the nonattainment area to count towards Post-1999 ROP requirements. Section 5 of the guidance memo states that areas in nonattainment for the 1-hour ozone standard can "take credit for emissions reductions obtained from sources outside the designated nonattainment area for the Post-1999 ROP requirements as long as the sources are no farther than 100 km (for VOC sources) or 200 km (for NO_x sources) away from the nonattainment area * * * [E]missions from the source(s) outside the nonattainment area * * * must be included in the baseline ROP emissions and target ROP reduction calculation. Emissions from source(s) outside the nonattainment area that are not involved in the substitution would not have to be inventoried or included in

the baseline ROP emissions and target ROP calculation.”

For this Post-1999 ROP SIP, GAEPD is including reductions of NO_x emissions at five coal-fired electrical power plants. These Georgia Power Company plants impact the nonattainment area but are located in neighboring counties designated as attainment for the 1-hour

ozone standard. As a control strategy to attain the 1-hour ozone standard in Atlanta, stricter controls have been placed on these power plants. The 1990 NO_x emissions from these five power plants are shown below in Table 2. All five of these power plants are located within 200 kilometers of the Atlanta 1-hour ozone nonattainment area.

The sum of the updated 1990 Rate-of-Progress NO_x emissions inventory for the Atlanta 1-hour ozone nonattainment area plus the 1990 base year NO_x emissions from these five power plants is approximately 1262.4 tpd (See Table 1 below).

TABLE 1.—1990 RATE-OF-PROGRESS BASE YEAR INVENTORY

	1990 NO _x emissions (tpd)				
	Point	Area	Nonroad	Mobile	Total
1990 ROP Base Year Inventory	121.3	25.7	85.0	393.9	625.9
Five Power Plants Inventory	636.5	.....	.....	.....	636.5
Total	757.8	25.7	85.0	393.9	1262.4

TABLE 2.—1990 NO_x EMISSIONS FROM FIVE POWER PLANTS

Power plant	County	1990 NO _x emissions (tpd)
Plant Bowen	Bartow	200.3
Plant Branch	Putnam	160.1
Plant Hammond	Floyd	78.9
Plant Scherer	Monroe	87.1
Plant Wansley	Heard	110.1
Total .....	.....	636.5

Adjusted Base Year Inventories: As explained in section 4.2 of the ROP guidance, “The 1990 adjusted base year inventories must be calculated relative to each milestone * * * year. * * * The only adjustment that must be made to the inventories * * * is to recalculate mobile source emissions. * * *” The development of the Adjusted Base Year Inventories requires excluding from those inventories, the emission reductions that would occur by the milestone years as a result of Federal

programs already mandated prior to the 1990 CAA.

The adjustments exclude:
 —Emissions reductions that would occur by the milestone years as a result of the Federal Motor Vehicle Control Program (FMVCP) promulgated prior to the 1990 CAA; and
 —Reductions that would result by the milestone years from the Reid Vapor Pressure (RVP) regulations promulgated under the Act.

These adjustments are made because states are not allowed to take credit for emissions reductions that would have occurred due to fleet turnover from vehicles meeting pre-1990 standards to newer cars and trucks, or from previously existing Federal fuel regulations. These non-creditable reductions are called the FMVCP/RVP reductions. Table 3 below shows the FMVCP/RVP reductions.

TABLE 3.—FMVCP/RVP REDUCTIONS

	Mobile source NO _x emissions (tpd)	FMVCP/RVP reductions (tpd)
1990 Base Year	393.9	.....
1990 Adjusted to 1999	309.1	84.8
1990 Adjusted to 2002	281.6	112.3
1990 Adjusted to 2004	263.6	130.3

The 1990 Adjusted Base Year Inventories were prepared using MOBILE6.2 emission factors; 1990 speeds extrapolated from the Atlanta Regional Commission’s (ARC) travel demand model networks for 2000, 2002, 2004, and 2005; 1990 vehicle miles

traveled (VMT) data provided by Georgia Department of Transportation; and an updated fleet age distribution. The adjusted base year inventory calculation procedure described in the ROP guidance, section 4.2, Step 3, was used. The 13-county 1990 Base Year

NO_x Inventory Adjusted to 2002 totals 513.6 tpd, as shown in Table 4. The 13-county 1990 Base Year NO_x Inventory Adjusted to 2004 totals 495.6 tpd, as shown in Table 5.

TABLE 4.—1990 ADJUSTED TO 2002 BASE YEAR NO_x INVENTORY

	NO _x emissions (tpd)				
	Point	Area	Nonroad	Mobile	Total
1990 Adjusted to 2002	121.3	25.7	85.0	281.6	513.6
Five Power Plants	636.5	.....	.....	.....	636.5
Total	757.8	25.7	85.0	281.6	1150.1

TABLE 5.—1990 ADJUSTED TO 2004 BASE YEAR NO_x INVENTORY

	NO _x emissions (tpd)				
	Point	Area	Nonroad	Mobile	Total
1990 Adjusted to 2004	121.3	25.7	85.0	263.6	495.6
Five Power Plants	636.5	.....	.....	.....	636.5
Total	757.8	25.7	85.0	263.6	1132.1

Required Emission Reductions: To calculate the required emissions reduction in tpd, the adjusted base year inventory adjusted to each ROP target year is added to the 1990 NO_x emissions from the five power plants, then multiplied by 3 percent for each year between the previous target year (1999 or 2002) and the current target year (2002 or 2004). The required NO_x reductions for 2002 and 2004 are presented in Tables 6 and 7, respectively.

TABLE 6.—REQUIRED NO_x REDUCTIONS FOR 2002

Adjusted Base Year Inventory	513.6 tpd
Plus Power Plant Emissions	+636.5 tpd
Times Factor (3% × 3 years)	1150.1 tpd ×0.09
Emissions Reductions Needed	103.5 tpd

TABLE 7.—REQUIRED NO_x REDUCTIONS FOR 2004

Adjusted Base Year Inventory	495.6 tpd
Plus Power Plant Emissions	+636.5 tpd
Times Factor (3% × 2 years)	1132.1 ×0.06
Emissions Reductions Needed	67.9 tpd

The target level for the previous target year (1999 or 2002) is needed for calculating emissions target levels for the current target year, 2002 or 2004. The 1999 target level from the 9% Plan was recalculated using the results of the updated 1990 Base Year mobile source and nonroad modeling. To calculate the updated 1999 target emissions level, the reductions necessary to meet the 9 percent emissions reduction requirement and the FMVCP/RVP reductions were subtracted from the sum of the 1990 ROP inventory and the 1990 NO_x emissions from the five power plants. The results, in NO_x tpd, are shown in Table 8 below:

TABLE 8.—UPDATED NO_x EMISSIONS TARGET LEVEL FOR 1999

1990 NO _x ROP Inventory plus 5 GA Power Plants ...	1262.4 tpd
FMVCP Reductions (1990–1999)	– 84.8 tpd
Adjusted Base Inventory	1177.6 tpd
Required Reductions (9% of Adjusted Base)	– 106.0 tpd
NO _x Target Level for 1999 ..	1071.6 tpd

Target levels for the ROP milestone years are calculated by subtracting the required milestone year reduction and the fleet turnover correction from the previous milestone year's emissions target level. The fleet turnover correction is the difference between an Adjusted Base Year mobile source emissions inventory adjusted to the previous target year (1999 or 2002) and an Adjusted Base Year mobile source inventory adjusted to the current target year (2002 or 2004). Table 9 below shows the fleet turnover correction.

TABLE 9.—FLEET TURNOVER CORRECTION

	Mobile source NO _x emissions (tpd)	Fleet turnover correction (tpd)
1990 Adjusted to 1999	309.1	.....
1990 Adjusted to 2002	281.6	27.5
1990 Adjusted to 2004	263.6	18.0

Tables 10 and 11 show NO_x Target Level Calculations for 2002 and 2004, respectively.

TABLE 10.—NO_x EMISSIONS TARGET LEVEL FOR 2002

Updated NO _x Target Level for 1999	1071.6 tpd
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TABLE 10.—NO_x EMISSIONS TARGET LEVEL FOR 2002—Continued

Required Reduction (9% of Adjusted Base)	– 103.5 tpd
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TABLE 10.—NO_x EMISSIONS TARGET LEVEL FOR 2002—Continued

Fleet Turnover Correction, 1999 to 2002	– 27.5 tpd
NO _x Target Level for 2002 ..	940.6 tpd

TABLE 11.—NO_x EMISSIONS TARGET LEVEL FOR 2004

NO _x Target Level for 2002 ..	940.6 tpd
Required Reduction (6% of Adjusted Base)	– 67.9 tpd
Fleet Turnover Correction, 2002 to 2004	– 18.0 tpd
NO _x Target Level for 2004 ..	854.7 tpd

Control Measures: This section describes the control measures being relied upon for this Post-1999 ROP Plan. Note that the projected emissions described below do not reflect any effects of maximum achievable control technology (MACT) and reasonably available control technology (RACT) on major sources and are therefore conservatively high. The projected emissions reflect Federal and/or State emission controls on all emission source sectors. All non-Federal control measures being relied upon for this Post-1999 ROP SIP have been

implemented and have been codified in Georgia's State regulations.

Point Source Control Measures: The point source control measures included in this Post-1999 ROP SIP are required by State regulation and consist of selective catalytic reduction (SCR), overfire air (OFA), and/or low NO_x burners with overfire air (LNBOFA) at the five Georgia Power plants. Controls at two power plants within the 13-county 1-hour ozone nonattainment area, Plant McDonough and Plant Yates, are also reflected in the projected emissions. The controls at these two plants are natural gas technologies required during the ozone season.

Area Source Control Measures: The projected area source emissions reflect Georgia's ban on open burning in the nonattainment area during ozone season. This rule was instituted for the 15% and 9% Plans.

Nonroad Mobile Source Control Measures: The projected 2002 and 2004 nonroad emissions reflect all applicable Federal controls on nonroad mobile sources, as well Georgia's controls on gasoline in the 1-hour ozone nonattainment area.

Mobile Source Control Measures: The projected mobile source emissions inventories described below reflect all

Federal and State mobile source control rules, including annual enhanced vehicle inspection and maintenance (I/M) with onboard diagnostics systems checks on 1996 and newer model year cars and light trucks; 2-mode ASM tests on 25-year-old through 1995 model year vehicles; a check for catalytic converter tampering and a gas cap pressure test on all subject vehicles; low-sulfur and low (7.0 pounds per square inch) Reid Vapor Pressures gasoline; Stage II gasoline vapor recovery; the Federal Motor Vehicle Control Program, including Tier 1 and (beginning with 2004 models) Tier 2 tailpipe standards; the National Low Emission Vehicle (NLEV) program; and technician training and certification.

Projected Emissions Overview: With the exception of mobile sources and nonroad sources, which were explicitly modeled for each target year, 2002 and 2004 emissions were projected by applying projection factors to 1999 emissions inventories. The projection factors were produced using EPA's Economic Growth Analysis System (EGAS) software, Version 4.0.

Projected 2002 Emissions Summary: Projected 2002 emissions reflecting the control measures described above are summarized in Table 12:

TABLE 12.—2002 PROJECTED NO_x EMISSIONS

	NO _x emissions (tpd)				
	Point	Area	Nonroad	Mobile	Total
2002 Projected Inventory	68.1	49.8	105.7	364.5	588.1
Fiver Power Plants	321.6	.....	.....	.....	321.6
Total	389.7	49.8	105.7	364.5	909.7

The projected 2002 NO_x emissions of 909.7 tpd are below the 2002 Target Level Emissions of 940.6 tons of NO_x per day. "Excess" NO_x reductions, the amount by which the projected

emissions are below the target level, total 30.9 tpd in 2002.

Projected 2004 Emissions Summary: The projected 2004 NO_x emissions reflecting the control measures

described above are summarized in Table 13:

TABLE 13.—2004 PROJECTED NO_x EMISSIONS

	NO _x emissions (tpd)				
	Point	Area	Nonroad	Mobile	Total
2004 Projected Inventory	85.5	50.8	105.0	318.2	559.5
Five Power Plants	176.7	.....	.....	.....	176.8
Total	262.2	50.8	105.0	318.2	736.2

The projected 2004 NO_x emissions of 736.2 tpd are below the 2004 Target Level Emissions of 854.7 tons of NO_x per day. There are 118.5 tpd of excess NO_x reductions in 2004.

Emissions Projection Methodology by Source Category

Point Source Emissions Projections: There are two major types of point sources: electric generating unit (EGU)

point sources and all other (non-EGU) point sources. For the 2002 Projected Inventory, emissions from EGU point sources were obtained from actual emissions data reported by Georgia

Power Company to EPA's Continuous Emissions Monitoring System (CEMS) database. Note that these actual EGU data for 2002 reflect the effects of controls in operation on several units at Georgia Power's Plants Bowen and Hammond during the 2002 ozone season. Non-EGU point source emissions projections for 2002 were developed by applying projection factors to 1999 point source emissions from the 13-county Atlanta 1-hour

ozone nonattainment area. The nonattainment area point source emissions were from GAEPD's 1999 Periodic Emissions Inventory (PEI). The projection factors used to develop non-EGU point source emissions for 2002 were from EGAS.

Point source emissions inventories for 2004 were developed by applying EGAS projection factors to 1999 point source emissions from the 13-county Atlanta 1-hour ozone nonattainment area and

from the five power plants outside the 1-hour ozone nonattainment area. The non-EGU point source emissions were from the 1999 PEI. The 1999 EGU point source emission, including those for the five power plants were from the CEMS database.

The 2002 and 2004 point source emissions from the 13-county 1-hour ozone nonattainment area and from the five power plants outside that area are shown in Table 14.

TABLE 14.—PROJECTED POINT SOURCE NO_x EMISSIONS

	Point source NO _x emissions (tpd)	
	2002	2004
13-County Point Source Totals	68.1	85.5
Plant Bowen	88.1	21.7
Plant Branch	71.9	53.7
Plant Hammond	22.2	13.7
Plant Scherer	79.8	76.8
Plant Wansley	59.7	10.8
Grand Total	389.7	262.2

Area Source Emissions Projections: Area source emissions inventories for 2002 and 2004 were developed by applying EGAS projection factors to area source emissions for the 13-county Atlanta 1-hour ozone nonattainment area from the 1999 PEI.

Nonroad Mobile Source Emissions Projections: Nonroad mobile source emissions, with the exception of those from aircraft and locomotives, were calculated using EPA's NONROAD Draft 2002 emissions model (Version 2.2.0). The NONROAD model reflects the effects of all federal controls, and of Georgia gasoline, on nonroad sources of emissions.

Growth in emissions from aircraft and locomotives was projected by applying EGAS projection factors to 1999 PEI emissions from these sources.

Mobile Source Emissions: The highway mobile emissions for the 13-county 1-hour ozone nonattainment area were developed using the MOBILE6.2 emission factor model and Atlanta Regional Commission's (ARC) link-based emissions estimation procedure. The projected mobile source emissions inventories reflect all Federal and State mobile source control rules, including enhanced I/M, Stage II vapor recovery, and Federal tailpipe standards.

One adjustment had to be made to the calculated tpd emissions inventories to arrive at the final motor vehicle emissions inventories. This adjustment accounts for the loss of credit from a

State rule allowing exemption from vehicle inspection and maintenance for cars 10 years old or older driven fewer than 5,000 miles per year and owned by persons 65 years old or older. It was estimated that this senior I/M exemption increased VOC and NO_x emissions by 0.39 and 0.11 tpd, respectively, in 2002. The exemption is predicted to increase VOC and NO_x emissions by 0.24 and 0.09 tpd, respectively in 2004.

MVEB: ROP plans are control strategy SIP revisions. As such, they establish MVEB. A motor vehicle emissions budget is described in EPA's transportation conformity rule as “* * * the implementation plan's estimate of future [motor vehicle] emissions.” Such budgets establish caps on motor vehicle emissions; projected emissions from transportation plans and programs must be equal to or less than these caps for a positive conformity determination to be made.

Section 93.118(e)(4)(iv) of the transportation conformity rule requires that the “motor vehicle emissions budget(s), when considered together with all other emissions sources, is consistent with applicable requirements for reasonable further progress, attainment, or maintenance. * * *”

Section 93.118(e)(4)(v) of the transportation conformity rule requires that “the motor vehicle emission budget(s) is consistent with and clearly related to the emissions inventory and the control measures in the submitted

control strategy implementation plan revision or maintenance plan. * * *”

Establishment of Updated 2004 MVEB for the Atlanta 1-hour Ozone Nonattainment Area: In preparation for this Post-1999 ROP Plan, GAEPD has been working closely with the ARC over the past year to develop the best possible estimates of mobile source emissions for the 13-county Atlanta nonattainment area. Mobile source inventories for 2004 were developed using the latest available planning assumptions, the most recent recalibrated travel demand model, and EPA's latest motor vehicle emission factor model, MOBILE6.2. The 2004 mobile source emissions inventories developed for this Post-1999 ROP Plan are the basis for new NO_x and VOC budgets for 2004, ensuring that these new MVEB are “consistent with applicable requirements for reasonable further progress” and “consistent with and clearly related to the emissions inventory and the control measures in the submitted control strategy implementation plan revision.”

Although the emissions reductions being relied upon for this Post-1999 ROP Plan are from NO_x controls alone, a 2004 inventory of mobile source VOC emissions was also developed to provide an updated VOC budget that is consistent with this reasonable-further-progress plan and that reflects all latest planning assumptions. GAEPD worked with ARC to develop a VOC emissions inventory for mobile sources using the

ARC's link-based emissions estimation procedure. This mobile source VOC inventory reflects the most recent planning assumptions available and the use of updated travel demand, emissions, and emission factor models. Updating the VOC budget prevents a situation in which a transportation conformity determination must be made against an updated NO_x budget established in this Post-1999 ROP Plan, and against a VOC budget established in the 15% Plan using outdated planning assumptions. The updated VOC emissions inventory is also more conservative (*i.e.*, sets a lower budget) than the previously established VOC budget from the 15% Plan (183.12 tons of VOC per day) and therefore does not interfere with that reasonable-further-progress plan.

The methodology used to calculate the highway mobile source emissions on which the updated 2004 MVEB are based is discussed below.

The MOBILE6.2 motor vehicle emission factor model was used to calculate 2004 VOC and NO_x emission factors with all proposed 2004 mobile

source control rules in place. These controls include: annual enhanced I/M and onboard diagnostics system checks on 1996 and newer model year vehicles; 2-mode ASM tests on 25-model-year-old through 1995 vehicles; a check for catalytic converter tampering on all subject vehicles; low-sulfur and low (7.0 pounds per square inch) Reid Vapor Pressure gasoline; Stage II gasoline vapor recovery; the Federal Motor Vehicle Control Program, including Tier 1 and (beginning with 2004 models) Tier 2 tailpipe standards; the National Low Emission Vehicle (NLEV) program; and technician training and certification. The emission factors resulting from the MOBILE6.2 runs were used with ARC's link-based emissions estimation procedure to calculate 2004 tpd emissions in the following manner:

—For each of four times of day (a.m. peak, midday, p.m. peak, and night), the HPMS-adjusted and summer-adjusted 2004 VMT from each link in ARC's travel demand model were multiplied by the 2004 MOBILE6.2 emission factor at the average speed closest to the speed of that link.

—Emissions from all the links and all four time periods were summed together to get grams per day inventories, which were divided by 907,180 to convert from grams per day to tpd.

These mobile source inventories reflect the most up-to-date mobile modeling assumptions, including 2004 VMT projected from a state-of-the-art travel demand model for the 13 counties and July 2004 emission factors from EPA's latest mobile source emission factor model, MOBILE6.2. The same mobile source control rules reflected in Georgia's attainment demonstration were modeled for this Post-1999 ROP Plan. Note that although the attainment demonstration also relied on estimated emissions reductions attributable to the Partnership for a Smog-free Georgia (PSG), a voluntary mobile source emission reduction program, no PSG reductions are being relied upon for this Post-1999 ROP Plan.

Table 15 sums the calculated emissions inventories and the senior exemption emissions increases.

TABLE 15.—TOTAL 2004 MVEB

	VOC (tpd)	NO _x (tpd)
2004 Mobile Emissions Subtotal (MOBILE6.2 results)	160.56	318.15
Senior I/M Exemption Increases	+0.24	+0.09
Total 2004 MVEB	160.80	318.24

This Post-1999 ROP SIP establishes 2004 MVEBs of 160.80 and 318.24 tpd, VOC and NO_x, respectively, for the 13-county Atlanta 1-hour ozone nonattainment area. Interagency consultation among the relevant agencies occurred during the development of these MVEB and prior to the submittal of this Post-1999 ROP SIP.

The MVEBs established by this Post-1999 ROP SIP are based on new estimates of VMT and speeds from updated, state-of-the-art travel demand and link-level emissions estimation models; on a newer and more accurate motor vehicle emission factor model (MOBILE6.2 instead of MOBILE5); and on an updated registration distribution by age developed using registration data obtained from R.L. Polk & Company. These MVEBs are the most accurate estimates of motor vehicle emissions developed, to date, for the Atlanta ozone nonattainment area.

Implementation Schedule: All control measures being relied on for this plan were implemented no later than May 1,

2003, with the exception of the final phase of Georgia's low-sulfur gasoline marketing rule, implemented September 16, 2003.

Milestone Failure Contingencies: As part of this Post-1999 ROP Plan, Georgia is required to include a contingency plan identifying additional controls to be implemented in the event of a milestone failure. Contingency measures must be fully adopted rules or measures that will take effect without further action by the State or EPA if an area fails to make reasonable further progress by the applicable date. As discussed above, and consistent with Georgia's 9% Plan, this Post-1999 ROP SIP relies solely on reduction in NO_x emissions. The contingency plan is also for NO_x only.

EPA guidance suggests that a contingency plan should include 3 percent of the 1990 Adjusted Baseline Inventory's emissions. The 1990 Adjusted-to-2004 Baseline NO_x Inventory is 1132.1 tpd (see Table 5); a 3 percent contingency would be 34.0 NO_x tpd:

$$1132.1 \times 0.03 = 34.0$$

This Post-1999 ROP Plan identifies excess 2004 NO_x reductions of 118.5 tpd. The 3 percent contingency, if needed, can be met with these excess NO_x reductions.

Reporting Requirements: All of the control measures being relied upon for the success of this Post-1999 ROP SIP are already in place. Georgia Power's compliance with the State rule regulating NO_x emissions from large EGU point sources is reflected in the emissions data they report to EPA's CEMS clearinghouse. This information can be retrieved here:

2002 data:

<http://www.epa.gov/airmarkets/emissions/prelimarp/02q4/ozone02x.zip>.

1999 data:

<http://cfpub.epa.gov/gdm/index.cfm?fuseaction=prepackaged.select&CFID=15438597&CFTOKEN=63777112>.

Conclusions: The emission controls being relied upon for this Post-1999

ROP SIP were found to be more than sufficient to reduce overall NO_x emissions by the required amounts and also to offset all of the growth in NO_x emissions projected to occur between

1999 and 2002, and between 2002 and 2004. Projected emissions for 2002 and 2004 are below the respective target levels, as shown in Table 16. "Excess" NO_x reductions, the amount by which

the projected emissions are below the target level, total 30.9 tpd in 2002 and 118.5 tpd in 2004.

TABLE 16.— NO_x TARGET LEVELS AND PROJECTED EMISSIONS FOR THE POST-1999 ROP

Year	NO _x emissions (tpd)		
	Target NO _x level	Projected NO _x inventory	Excess NO _x reductions
2002	940.6	909.7	30.9
2004	854.7	736.2	118.5

III. Proposed Action

Today, EPA is proposing to approve Georgia's Post-1999 ROP Plan because the Plan meets the requirements of the CAA. As part of this approval, EPA is approving the 2004 VOC MVEB of 160.8 tpd and the 2004 NO_x MVEB of 318.24 tpd. For transportation conformity purposes these 2004 MVEBs will be applicable on the date of final rulemaking of this Post-1999 ROP SIP.

IV. Status of EPA's Transportation Conformity Adequacy Determination

Under the CAA, States are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs (e.g., reasonable further progress SIPs such as Rate of Progress SIPs) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEBs are the portion of the total allowable emissions allocated to highway and transit vehicle use and emissions. The MVEBs serve as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, transportation conformity rule (58 FR 62188). The preamble also describes how to establish and revise MVEBs in the SIP.

Under Section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must "conform" to (e.g., be consistent with) the part of the State's air quality plan that addresses pollution from cars and trucks. "Conformity" to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. Under the transportation conformity rule, at 40 CFR part 93, projected emissions from transportation plans and programs must be equal to or less than the MVEBs for the area. If a transportation plan does

not "conform," most projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP.

Until an MVEB in a SIP submittal is approved by EPA, it cannot be used for transportation conformity purposes unless EPA makes an affirmative finding that the MVEBs contained therein are "adequate." Once EPA affirmatively finds the submitted MVEBs adequate for transportation conformity purposes, those MVEBs can be used by the State and Federal agencies in determining whether proposed transportation projects "conform" to the SIP even though EPA approval of the SIP revision containing those MVEBs has not yet been finalized. EPA's substantive criteria for determining "adequacy" of MVEBs in submitted SIPs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining "adequacy" of MVEBs in submitted SIPs, consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy finding. This process for determining the adequacy of submitted SIP MVEBs is set out in EPA's May 1999 guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." This guidance is incorporated into EPA's June 30, 2003, EPA proposed rulemaking entitled "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes" (68 FR 38974). EPA follows this guidance in making its adequacy determinations.

Georgia's Post-1999 Rate-of-Progress SIP for the Atlanta 1-hour ozone nonattainment area VOC and NO_x MVEBs for the year 2004. The availability of this SIP submission with these 2004 MVEBs was announced for public comment on EPA's adequacy Web page at: <http://www.epa.gov/otaq/>

[transp/conform/currsips.htm](http://www.epa.gov/otaq/transp/conform/currsips.htm). The EPA public comment period on adequacy of the 2004 MVEBs for the Atlanta 1-hour ozone nonattainment area closed on February 5, 2004. Following a thorough review of all public comments received and an evaluation of whether the adequacy criteria have been met, EPA will make its adequacy determination. If EPA makes its adequacy determination in the final rulemaking on this ROP SIP revision, and if EPA concludes, after reviewing any comments submitted, that Georgia's proposed new 2004 NO_x and VOC MVEBs are adequate, then the new 2004 MVEBs will be applicable for transportation conformity determinations on the date of final rulemaking of an EPA approval of Georgia's ROP SIP revision.

V. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. The Regional Office has established an official public rulemaking file available for inspection at the Regional Office. EPA has established an official public rulemaking file for this action under R04-OAR-2004-GA-0001. The official public file consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public rulemaking file does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public rulemaking file is the collection of materials that is available for public viewing 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 contact listed in the **FOR FURTHER INFORMATION CONTACT** section to

schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

2. **Electronic Access.** An electronic version of the public docket is available through EPA's Regional Material EDocket (RME) system, a part of EPA's electronic docket and comment system. You may access RME at <http://docket.epa.gov/rmepub/index.jsp> to review associated documents and submit comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number.

You may also access this **Federal Register** document electronically through the Regulations.gov, Web site located at <http://www.regulations.gov> where you can find, review, and submit comments on Federal rules that have been published in the **Federal Register**, the Government's legal newspaper, and are open for comment.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at the EPA Regional Office, as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in the official public rulemaking file. The entire printed comment, including the copyrighted material, will be available at the Regional Office for public inspection.

3. Copies of the State submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency: Air Protection Branch, Georgia Environmental Protection Division, Georgia Department of Natural Resources, 4244 International Parkway, Suite 120, Atlanta, Georgia 30354. Telephone: (404) 363-7000.

B. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate rulemaking identification number by including the text "Public comment on proposed rulemaking R04-OA-2004-GA-0001" in the subject line on the first page of your comment. Please ensure that your comments are submitted

within the specified comment period. Comments received after the close of the comment period will be marked "late." EPA is not required to consider these late comments.

1. **Electronically.** If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in Regional Material EDocket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. **Regional Material EDocket (RME).** Your use of EPA's RME to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to RME at <http://docket.epa.gov/rmepub/index.jsp>, and follow the online instructions for submitting comments. To access EPA's RME from the EPA Internet Home Page, select "Information Sources," "Dockets," "EPA Dockets," "Regional Material EDocket." Once in the system, select "quick search," and then key in RME Docket ID No. R04-OAR-2004-GA-0001. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. **E-mail.** Comments may be sent by electronic mail (e-mail) to martin.scott@epa.gov, please include the text "Public comment on proposed rulemaking R04-OAR-2004-GA-0001" in the subject line. EPA's e-mail system is not an "anonymous access" system. If you send an e-mail comment directly without going through Regulations.gov, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. **Regulations.gov. Regulation.gov.** Your use of Regulation.gov is an alternative method of submitting electronic comments to EPA. Go directly to Regulations.gov at <http://www.regulations.gov>, then select Environmental Protection Agency at the top of the page and use the go button. The list of current EPA actions available for comment will be listed. Please follow the online instructions for submitting comments. The system is an "anonymous access" system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

iv. **Disk or CD ROM.** You may submit comments on a disk or CD ROM that you mail to the mailing address identified in section 2, directly below. These electronic submissions will be accepted in WordPerfect, Word or ASCII file format. Avoid the use of special characters and any form of encryption.

2. **By Mail.** Send your comments to: Mr. Scott M. Martin, 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. Please include the text "Public comment on proposed rulemaking R04-OAR-2004-GA-0001" in the subject line on the first page of your comment.

3. Deliver your comments to: Mr. Scott M. Martin, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division 12th floor, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 9 to 3:30, excluding Federal holidays.

C. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically to EPA. You may claim information that you submit to EPA as CBI by marking any part of or all of that information as CBI (if your submit CBI or CD ROM mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any

information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the official public region rulemaking file. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public file and available for public inspection without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

D. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline identified.
8. To ensure proper receipt by EPA, identify the appropriate regional file/rulemaking identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

VI. Statutory and Executive Order Reviews

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 proposes to approve 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 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 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 Clean Air Act. This proposed 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 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, Nitrogen dioxide, Ozone, Particulate

matter, Reporting and recordkeeping requirements.

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

Dated: April 26, 2004.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. 04-10101 Filed 5-5-04; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 040421127-4127-01; I.D. 051403A]

RIN 0648-AR10

Atlantic Highly Migratory Species; Atlantic Trade Restrictive Measures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments, notice of public hearing.

SUMMARY: NMFS proposes to adjust the regulations governing the trade of tuna and tuna-like species in the North and South Atlantic Ocean to implement recommendations adopted at the 2002 and 2003 meetings of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The proposed rule would lift or implement import prohibitions on Honduras, St. Vincent and the Grenadines, Belize, Sierra Leone, Bolivia, and Georgia for bigeye tuna, bluefin tuna, and swordfish. The proposed rule would also prohibit imports from vessels on the ICCAT illegal, unreported, and unregulated fishing list and from vessels which are not listed on ICCAT's record of vessels larger than 24 meters in length that are authorized to fish in the Convention Area. Additionally, the proposed rule would require issuance of a chartering permit before a vessel begins fishing under a chartering arrangement.

DATES: Written comments on the proposed rule must be received by 5 p.m. on June 21, 2004.

The hearing date is: May 19, 2004, from 2 to 4 p.m., Silver Spring, MD.

ADDRESSES: The meeting location is: NOAA Science Center, Building 4, Silver Spring, MD 20910

Comments should be sent to, and copies of the Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) may be obtained from