

action does not require the public to perform activities conducive to the use of VCS.

*J. Congressional Review Act*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

*K. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *June 25, 2012*. 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, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 11, 2012.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

40 CFR part 52 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 RR—Tennessee**

■ 2. Section 52.2220, the table in paragraph (e) is amended by adding an entry for Regional Haze Plan at the end of the table to read as follows:

**§ 52.2220 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED TENNESSEE NON-REGULATORY PROVISIONS**

| Name of nonregulatory SIP provision  | Applicable geographic or nonattainment area | State effective date     | EPA approval date                                | Explanation   |
|--|---|--------------------------|--|---|
| *<br>Regional Haze Plan (excluding Eastman Chemical Company BART determination). | *<br>Statewide .....                        | *<br>April 4, 2008 ..... | *<br>4/24/2012 [Insert citation of publication]. | *<br>BART emissions limits are listed in Section 7.5.3. |

■ 3. Section 52.2234 is added to read as follows:

**§ 52.2234 Visibility protection.**

(a) The requirements of section 169A of the Clean Air Act are not met because the plan does not include approvable measures for meeting the requirements of 40 CFR 51.308 for protection of visibility in mandatory Class I federal areas.

(b) No action has been taken on the BART determination for Eastman Chemical Company.

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2012-0136-201162; FRL-9662-8]

**Approval and Promulgation of Implementation Plans: Georgia; Approval of Substitution for Transportation Control Measures**

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

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is making an administrative change to update the Code of Federal Regulations (CFR) to reflect a change made to the Georgia State Implementation Plan (SIP) on November 5, 2009, as a result of EPA’s concurrence on a substitute transportation control measure (TCM) for the Atlanta portion of the Georgia SIP. On February 5, 2010, the State of Georgia, through the Environmental Protection Division (EPD), submitted a revision to the Georgia SIP requesting that EPA update its SIP to reflect a

substitution of a TCM. The substitution was made pursuant to the TCM substitution provisions contained in Clean Air Act (CAA). EPA concurred on this substitution on November 5, 2009. In this administrative action, EPA is updating the non-regulatory provisions of the Georgia SIP to reflect the substitution. In summary, the substitution that EPA concurred on was a conversion of high occupancy vehicle (HOV) lanes to high occupancy toll lanes (HOT). EPA has determined that this action falls under the “good cause” exemption in the Administrative Procedures Act (APA) which, upon finding “good cause,” authorizes agencies to dispense with public participation which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA).

**DATES:** This action is effective April 24, 2012.

**ADDRESSES:** SIP materials which are incorporated by reference into 40 Code of Federal Regulations (CFR) part 52 are available for inspection at the following location: Environmental Protection

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

**FOR FURTHER INFORMATION CONTACT:** Ms. Dianna B. Smith at the above Region 4 address or at (404) 562-9207. Ms. Smith may also be contacted via electronic mail at: [smith.dianna@epa.gov](mailto:smith.dianna@epa.gov).

**SUPPLEMENTARY INFORMATION:** On November 5, 2009, EPA issued a concurrence letter to Georgia stating that the substitution of a HOT lane TCM for an existing HOV lane TCM met the CAA

section 176(c)(8) requirements for substituting TCMs in an area's approved SIP. *See also* EPA's Guidance for Implementing the CAA section 176(c)(8) Transportation Control Measure Substitution and Addition Provision contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users which was signed into law on August 10, 2005, dated January 2009. This substitution was an update to TCMs previously approved on March 18, 1999, and April 26, 1999. As a part of the concurrence process, the public was provided an opportunity to comment on proposed TCM substitution. Public notice and comment was provided by the Atlanta metropolitan planning organization, Atlanta Regional Commission (ARC), during the revision to the transportation improvement program to incorporate the HOT lane substitution project. The public notice was published in the Daily Report and on the ARC Web page at: [www.atlantaregional.com](http://www.atlantaregional.com). Through this concurrence process, EPA determined that the requirements of CAA section

176(c)(8) were met, including the requirement that the substitute measures achieve equivalent or greater emissions reductions than the control measure to be replaced. Upon EPA's concurrence, the HOT lane substitution took effect as a matter of federal law. A copy of EPA's concurrence letter is included in the Docket for this action. This letter can be accessed at [www.regulations.gov](http://www.regulations.gov) using Docket ID No. EPA-R04-OAR-2012-0136. In accordance with the requirements for TCM substitution, on February 5, 2010, EPD submitted a request for EPA to update the Atlanta portion of the Georgia SIP to reflect EPA's previous approval of the TCM substitution of the HOV lane with the HOT lane conversion TCM in its SIP (the subject of this administrative change). Today, EPA is taking administrative action to update the non-regulatory provisions of the Georgia SIP in 40 CFR 52.570(e) to reflect EPA's concurrence on the substitution of a TCM for the conversion of HOV lanes to HOT lanes:

| Name of nonregulatory SIP provision  | Applicable geographic or nonattainment area | State submittal date/effective date         |
|--|---|---|
| 1. High Occupancy Vehicle (HOV) lane on I-85 from Chamblee-Tucker Road to State Road 316 High Occupancy Toll (HOT) lane on I-85 from Chamblee-Tucker Road to State Road 316. | Atlanta Metropolitan Area .....             | 11/15/93 and amended on 6/17/96 and 2/5/10. |

EPA has determined that today's action falls under the "good cause" exemption in the section 553(b)(3)(B) of the APA which, upon finding "good cause," authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make an action effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's administrative action simply codifies provisions which are already in effect as a matter of law in Federal and approved state programs.

Under section 553 of the APA, an agency may find good cause where procedures are "impractical, unnecessary, or contrary to the public interest." Public comment for this administrative action is "unnecessary" because the substitution was made through the process included in CAA section 176(c)(8) and because the public already had an opportunity to comment on this substitution during the public comment period prior to approval of the substitution. Immediate notice of this action in the **Federal Register** benefits the public by providing the public notice of the updated Georgia SIP

Compilation and "Identification of Plan" portion of the **Federal Register**.

**Statutory and Executive Order Reviews**

*A. General Requirements*

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this administrative action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the Agency has made a "good cause" finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104-4). In addition, this action

does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This administrative action 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).

This administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This administrative action does not involve technical standards; 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. The administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**B. Submission to Congress and the Comptroller General**

The Congressional Review Act (CRA) (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 808 allows the issuing agency to make a rule effective sooner than otherwise

provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's administrative action simply codifies a provision which is already in effect as a matter of law in Federal and approved state programs. 5 U.S.C. 808(2). These announced actions were effective upon EPA's concurrence. EPA will submit a report containing this action 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 this action in the **Federal Register**. This update to Georgia's SIP Compilation is not a "major rule" as defined by 5 U.S.C. 804(2).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping

requirements, Sulfur oxides, Volatile organic compounds.

Dated: March 29, 2012.

**A. Stanley Meiburg,**  
*Acting Regional Administrator, Region 4.*

40 CFR part 52, is amended as follows:

**PART 52—[AMENDED]**

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

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

**Subpart L—Georgia**

■ 2. Section 52.570(e), is amended by revising the first entry "1. High Occupancy Vehicle (HOV) lane on I-85 from Chamblee-Tucker Road to State Road 316" to read as follows:

**§ 52.570 Identification of plan.**

\* \* \* \* \*  
(e) \* \* \*

**EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS**

| Name of nonregulatory SIP provision   | Applicable geographic or nonattainment area | State submittal date/effective date         | EPA approval date             |
|---|---|---|-------------------------------|
| 1. High Occupancy Vehicle (HOV) lane on I-85 from Chamblee-Tucker Road to State Road 316. High Occupancy Toll (HOT) lane on I-85 from Chamblee-Tucker Road to State Road 316. | Atlanta Metropolitan Area .....             | 11/15/93 and amended on 6/17/96 and 2/5/10. | 3/18/99, 4/26/99 and 11/5/09. |
| *   | *   | *   | *                             |

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**BILLING CODE P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

[EPA-R04-OAR-2010-0021(a); FRL-9662-1]

**Approval and Promulgation of Implementation Plans; Georgia; Atlanta; Ozone 2002 Base Year Emissions Inventory**

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

**ACTION:** Direct final rule.

**SUMMARY:** EPA is taking direct final action to approve the ozone 2002 base year emissions inventory, portion of the state implementation plan (SIP) revision submitted by the State of Georgia on October 21, 2009. The emissions

inventory is part of the Atlanta, Georgia (hereafter referred to as "the Atlanta Area" or "Area"), ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in their entirety. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

**DATES:** This direct final rule is effective June 25, 2012 without further notice, unless EPA receives adverse comment by May 24, 2012. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-

OAR-2010-0021, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *Email:* [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).
3. *Fax:* (404) 562-9019.
4. *Mail:* "EPA-R04-OAR-2010-0021," 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.
5. *Hand Delivery or Courier:* Lynorae Benjamin, 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. 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