TABLE 52.1031.—EPA-APPROVED RULES AND REGULATIONS

State citation	Title/subject	Date adopted by state	Date approved by EPA	**Federal Register** citation	52.1020	
*	*	*	*	*	*	*
141	Conformity of General Federal Actions.	4/19/07	2/20/08	[Insert **Federal Register** page number where the document begins].	(c)(63)	Amendment to incorporate new fine particulate matter provisions.
*	*	*	*	*	*	*

Note.—1. The regulations are effective statewide unless stated otherwise in comments section.

[FR Doc. E8–2884 Filed 2–19–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[EPA–R04–OAR–2007–0150–200711(a); FRL–8528–8]

Approval and Promulgation of Implementation Plans for Air Quality Planning Purposes; Georgia: Early Progress Plan for the Atlanta 8-Hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: On December 31, 2006, the State of Georgia, through the Environmental Protection Division (EPD) of the Georgia Department of Natural Resources, submitted a voluntary State Implementation Plan (SIP) revision requesting approval of an Early Progress Plan for the sole purpose of establishing motor vehicle emission budgets (MVEBs) for the Atlanta 8-hour ozone nonattainment area. The Atlanta 8-hour ozone nonattainment area is comprised of the following twenty counties: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton counties in their entireties (hereafter referred to as the ''Atlanta 8-Hour Ozone Area''). EPA is approving Atlanta's Early Progress Plan, including the new regional MVEBs for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for 2006. This approval of the Early Progress Plan for the Atlanta 8-Hour Ozone Area is based on EPA's determination that Georgia has demonstrated that the SIP revision containing these MVEBs, when considered with the emissions from all sources, shows some progress toward attainment from the base year (i.e., 2002) through an interim target year (i.e., 2006).

DATES: This direct final rule is effective April 21, 2008 without further notice, unless EPA receives adverse comment by March 21, 2008. 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–2007–0150, by one of the following methods:

a. *www.regulations.gov*: Follow the on-line instructions for submitting comments.

b. *E-mail: Benjamin.Lynorae@epa.gov.*

c. *Fax:* (404) 562–9019.

d. *Mail:* EPA–R04–OAR–2007–0150, Air Quality Modeling and Transportation 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.

e. *Hand Delivery or Courier:* Lynorae Benjamin, Air Quality Modeling and Transportation 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 Friday, 8:30 to 4:30, excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2007–0150. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Quality Modeling and Transportation 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. Lynorae Benjamin of the Air Quality Modeling and Transportation Section at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Ms. Benjamin's telephone number is (404) 562–9040. She can also be reached via electronic mail at *Benjamin.Lynorae@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. What Action Is EPA Taking?

EPA is approving Atlanta's Early Progress Plan, including the new regional MVEBs for NO_X and VOC for 2006. This approval of the Early Progress Plan for the Atlanta 8-Hour Ozone Area is based on EPA's determination that Georgia has demonstrated that the MVEBs are consistent with emissions from all sources in the nonattainment area (when projected from the base to a future year) and are included in a SIP revision showing some progress toward attainment. These regional MVEBs apply to the entire Atlanta 8-Hour Ozone Area.

This direct final rulemaking is in response to Georgia's January 12, 2007, SIP submittal, which supersedes Georgia's October 26, 2006, submittal that included a request for parallel processing.[1] This revision is a voluntary SIP revision provided by Georgia for the sole purpose of establishing MVEBs for the purpose of implementing transportation conformity in the Atlanta 8-Hour Ozone Area. This submission is not being evaluated in terms of meeting SIP requirements for an attainment demonstration or rate-of-progress plan which may be required for the Atlanta 8-Hour Ozone Area.

II. What Is the Background for EPA's Action?

Ground-level ozone is not emitted directly by sources. Rather, emissions of NO_X and VOC from sources react in the presence of sunlight to form ground-level ozone. NO_X and VOC are referred to as precursors of ozone. The Clean Air Act (CAA) establishes a process for air quality management through the setting of the national ambient air quality standards (NAAQS) to protect public health and welfare. Transportation conformity is a component of the air quality management process that must be implemented in areas that are designated nonattainment or were previously designated nonattainment and are required to develop a CAA section 175A maintenance plan for a NAAQS affected by emissions from motor vehicles. Ozone is one such NAAQS.

On April 30, 2004, EPA designated the 20-county Atlanta 8-Hour Ozone Area as a ''marginal'' 8-hour ozone nonattainment area (see, 69 FR 23857, April 30, 2004). Thirteen counties[2] in the Atlanta 8-Hour Ozone Area were previously designated nonattainment for the 1-hour ozone standard and have 1-hour MVEBs for NO_X and VOC established in the Georgia SIP. The remaining seven counties[3] of the 20-county Atlanta 8-Hour Ozone Area were designated attainment for the 1-hour ozone standard and as such did not have 1-hour MVEBs for NO_X and VOC. Consequently, the transportation partners in this Area used a combination of the budget test and the interim 2002 baseline test to demonstrate transportation conformity for the 8-hour ozone standard, as required by the transportation conformity rule at 40 CFR 93.109(e)(2)(iii). Specifically, for the 13-county 1-hour ozone area, the MVEBs in the Georgia SIP for the 1-hour ozone standard were used to demonstrate transportation conformity for the 8-hour ozone standard. For the remaining seven counties, the 2002 baseline test, as agreed to through interagency consultation, was used to demonstrate transportation conformity for the 8-hour ozone standard. Thirteen counties of the Atlanta 8-Hour Ozone Area were within a 1-hour ozone attainment area subject to a CAA section 175A maintenance plan for the 1-hour ozone standard.

On June 8, 2007, the U.S. Court of Appeals for the D.C. Circuit (D.C. Circuit) issued a decision vacating portions of EPA's Phase I 8-Hour Ozone Implementation Rule. This decision does not impact Georgia's request for approval of the voluntary Early Progress Plan. In its June 8th decision, the Court clarified that for areas with 1-hour MVEBs, the transportation conformity rule's requirement to use 1-hour MVEBs for 8-hour conformity determinations until they are replaced by 8-hour budgets fulfills the CAA's anti-backsliding requirements. Consistent with EPA's conformity regulations at 40 CFR Part 93 and prior to EPA's adequacy finding for the 8-hour ozone MVEBs in Atlanta's Early Progress Plan, the Atlanta Regional Commission and the Gainesville-Hall Metropolitan Planning Organization were meeting the requirement to use the 1-hour ozone MVEBs as an interim test for conformity determinations.

III. What Are the Regional MVEBs for the Atlanta 8-Hour Ozone Area?

Pursuant to the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for ozone nonattainment areas. These control strategy SIPs (e.g., reasonable further progress SIPs and attainment demonstration SIPs) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Pursuant to 40 CFR part 93, an MVEB is required to be established for: (1) The attainment year for an attainment plan; (2) the last year of the maintenance plan; or (3) the target year for a reasonable further progress plan. Additionally, through an Early Progress Plan, a state may voluntarily establish MVEBs for an area so long as these MVEBs are consistent with a demonstration that shows some progress, between a base and future year, towards attainment. The MVEB is the portion of the total allowable emissions in a SIP that is allocated to highway and transit vehicle use and emissions. See, 40 CFR 93.101. The MVEB serves 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

[1] Georgia's January 12, 2007, submittal was sent to EPA for approval with a December 31, 2006, cover letter but the SIP submittal is actually dated for January 12, 2007, and thus will be referred to throughout this rulemaking as Georgia's January 12, 2007, SIP submittal.

[2] The Atlanta 1-hour ozone area was comprised of the following thirteen counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties in their entireties.

[3] The seven additional counties that are included in the 8-hour ozone nonattainment for Atlanta are: Barrow, Bartow, Carroll, Hall, Newton, Spalding and Walton counties in their entireties.

conformity rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and revise the MVEB.

The State of Georgia, after interagency consultation with the transportation partners for the Atlanta 8-Hour Ozone Area, elected to develop regional MVEBs for NO_X and VOC for this entire area through an Early Progress Plan. The regional MVEBs for the Atlanta 8-Hour Ozone Nonattainment Area are established for the year 2006, and are defined in the table below.

TABLE 1.—ATLANTA 8-HOUR OZONE AREA MVEBS

[Tons per day]

	2006
NO_X	306.75
VOC	172.27

Through this rulemaking, EPA is approving the 2006 regional MVEBs for NO_X and VOC for the Atlanta 8-Hour Ozone Area because EPA has determined that the MVEBs contained in the Early Progress SIP revision are consistent with emissions from all sources within the nonattainment area (when projected from the base to a future year) in showing some progress toward attainment. In a previous action, EPA has already found these MVEBs adequate, so they must be used for future conformity determinations.

IV. What Are the Criteria for Early Progress Plans?

EPA allows for the establishment of MVEBs for the 8-hour ozone standard prior to a state submitting its first required 8-hour ozone SIP that would include new MVEBs. Although voluntary, these ''early'' MVEBs must be established through a plan that meets all the requirements of a SIP submittal. This plan is known as the ''Early Progress Plan.'' Specifically and in reference to Early Progress Plans, the preamble of the July 1, 2004, final transportation conformity rule (see, 69 FR 40019) reads as follows:

''The first 8-hour ozone SIP could be a control strategy SIP required by the Clean Air Act (e.g., rate-of-progress SIP or attainment demonstration) or a maintenance plan. However, 8-hour ozone nonattainment areas 'are free to establish, through the SIP process, a motor vehicle emissions budget or budgets that addresses the new NAAQS in advance of a complete SIP attainment demonstration. That is, a state could submit a motor vehicle emission budget that does not demonstrate attainment but is consistent with projections and commitments to control measures and achieves some progress toward attainment' (August 15, 1997, 62 FR 43799). A SIP submitted earlier than otherwise required can demonstrate a significant level of emissions reductions from current level of emissions, instead of a specific percentage required by the Clean Air Act for moderate and above ozone areas.''

The Early Progress Plan must demonstrate that the SIP revision containing the MVEBs, when considered with emissions from all sources, and when projected from the base year to a future year, show some progress toward attainment. EPA has previously indicated that a 5 percent to 10 percent reduction in emissions from all sources could represent a significant level of emissions reductions from current levels (69 FR 40019). This allowance is provided so that areas have an opportunity to use the budget test to demonstrate conformity as opposed to the interim conformity tests (i.e., 2002 baseline test and/or ''build-no greater-than-no build test'') [4]. The budget test with an adequate or approved SIP budget is generally more protective of air quality and provides a more relevant basis for conformity determinations than the interim emissions test. (69 FR 40026).

It should also be noted that the Early Progress Plan is not a required plan and does not substitute for required submissions such as an attainment demonstration or rate-of-progress plan, if such plans become required for the Atlanta 8-Hour Ozone Area.

V. Why Is EPA Taking This Action?

On January 16, 2007, EPA received a request to approve the Early Progress Plan for the Atlanta 8-Hour Ozone Area for the sole purpose of establishing 8-hour ozone MVEBs for the entire 20-county 8-hour ozone nonattainment area. EPA's evaluation indicates that Georgia has demonstrated that the MVEBs in the Early Progress Plan are consistent with a demonstration that shows some progress towards attainment of the 8-hour ozone standard.

VI. What Is the Effect of EPA's Action?

Approval of Atlanta's Early Progress Plan into the Georgia SIP would establish regional 8-hour ozone MVEBs for NO_X and VOC for the Atlanta 8-Hour Ozone Area. The regional MVEBs for the year 2006 are 306.75 tons per day (tpd) for NO_X and 172.27 tpd for VOC. As of April 24, 2007, the effective date of EPA's adequacy finding for these MVEBs, conformity determinations in Atlanta must meet the budget test using these 8-hour MVEBs, instead of the 1-hour ozone MVEBs and 2002 baseline year test. The CAA requires that conformity of the transportation plans and transportation improvement programs be determined within two years of EPA's adequacy finding for MVEBs, or within two years of EPA's approval of the SIP that includes them if the MVEBs have not already been found adequate (see, CAA section 176(c)(2)(E)).

Submittal (and consequently approval) of Atlanta's Early Progress Plan does not satisfy the requirement for Georgia to provide a full 8-hour ozone attainment demonstration or rate-of-progress plan, when these SIP revisions become required for the Atlanta 8-Hour Ozone Area. In its revision, Georgia indicated that they have included reductions from outside the nonattainment area towards the progress demonstration for the Atlanta Early Progress SIP. However, since the development of this SIP revision by Georgia, the D.C. Circuit Court of Appeals vacated and remanded the policy provision of EPA's Phase II Ozone Implementation Rule (70 FR 71612, November 11, 2005) that allowed rate of progress/reasonable further progress credit for reductions to come from outside the nonattainment area. *See, NRDC* v. *EPA,* 2007 U.S. App. Lexis 25796 (November 2, 2007). EPA is now reconsidering its Phase II Rule. See, *http://www.epa.gov/air/ozonepollution/pdfs/20061211_reconsideration_fs.pdf*, for more information. Even if EPA determines, after reconsideration, that it is not appropriate to allow credit for reductions from outside the nonattainment area, it is still appropriate to approve this voluntary Early Progress Plan because sufficient reductions occur within the nonattainment area. Additionally, the reductions from outside the nonattainment were not used by the State of Georgia to demonstrate the progress necessary for this nonattainment area to establish Early Progress MVEBs.

VII. What Is EPA's Analysis of the Request?

On January 16, 2007, EPA received a request for approval of an Early Progress Plan for the sole purpose of establishing MVEBs for the 20-county Atlanta 8-Hour Ozone Area. The submittal utilizes a base year of 2002 to establish NO_X and VOC MVEBs for the year 2006. The planning assumptions used to develop the MVEBs were discussed and agreed to by the Atlanta interagency consultation group, which consists of the transportation and air quality partners in the Atlanta 8-hour ozone

[4] See, EPA's Transportation Conformity Rule at 40 CFR part 93 for more information on the interim tests.

nonattainment area. The total emissions in 2002 from point, area, nonroad and mobile sources for the Atlanta 8-Hour Ozone Area equaled 642.3 tpd of NO_X and 713.7 tpd of VOC. The projected total emissions for the aforementioned source categories for 2006 for Atlanta equaled 525.4 tpd of NO_X and 602.4 tpd of VOC. This represents an 18 percent reduction in NO_X and a 16 percent reduction in VOC emissions from 2002 to 2006 from sources located within the 20-county nonattainment area, which is a greater reduction than necessary to represent a significant level of emissions reductions. Tables 2 and 3 below show the 2002 actual emissions and 2006 emission projections for point, area, nonroad and mobile source reductions.

TABLE 2.—ATLANTA 8-HOUR OZONE AREA NO_X EMISSIONS

[Tons per day]

Source category	2002	2006
Point	139.8	80.8
Area	32.5	32.7
On-road Mobile*	342.14	306.72
Nonroad	127.9	105.1
Total**	642.3	525.4

* Calculated using MOBILE 6.2.

** There may be a slight difference for this total due to various rounding conventions used by the State to generate the emissions for point, area, onroad mobile and nonroad sources.

TABLE 3.—ATLANTA 8-HOUR OZONE AREA VOC EMISSIONS

[Tons per day]

Source category	2002	2006
Point	20.6	19.6
Area	347.6	326.4
On-road Mobile*	224.66	***172.22
Nonroad	120.9	84.2
Total**	713.7	***602.4

* Calculated using MOBILE 6.2.

** There may be a slight difference for this total due to various rounding conventions used by the State to generate the emissions for point, area, onroad mobile and nonroad sources.

*** Including the senior inspection & maintenance exemption, this total is 172.27 tpd, indicating a grand total of 602.45.

The 2006 MVEBs, as discussed in Section III of this rulemaking, are consistent with Georgia's 2002 emission baseline and 2006 projected inventories for on-road mobile sources. Atlanta's Early Progress Plan, including the 2006 MVEBs, is approvable because the SIP revision meets all applicable requirements for a voluntary Early Progress Plan. In a separate action, EPA has already found these MVEBs adequate for transportation conformity purposes. Please see Section VIII of this rulemaking for more details on the adequacy process.

VIII. What Is the Status of EPA's Adequacy Determination for MVEBs for the Atlanta 8-Hour Ozone Area?

Under section 176(c) of the CAA, new transportation projects, such as the construction of new highways, must ''conform'' to (i.e., be consistent with) the part of the state's air quality plan (or SIP) 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 NAAQS. If a transportation plan does not ''conform,'' most new 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. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are those that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with a maintenance plan for that NAAQS.

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA must affirmatively find the MVEB contained therein ''adequate'' for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB can be used by state and Federal agencies in determining whether proposed transportation projects ''conform'' to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining ''adequacy'' of an MVEB are set out in 40 CFR 93.118(e)(4). The process for determining ''adequacy'' 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 was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance was finalized in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and PM2.5 National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; transportation conformity rule amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). EPA follows this guidance and rulemaking in making its adequacy determinations.

Atlanta's Early Progress Plan submission contained new regional NO_X and VOC MVEBs for the Atlanta 8-Hour Ozone Area for the year 2006. The availability of the Georgia SIP submission with the Atlanta MVEBs was available for public comment on EPA's adequacy Web page on October 30, 2006, at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm*. The EPA public comment period on adequacy of the 2006 regional MVEBs for the Atlanta 8-Hour Ozone Area closed on November 29, 2006. EPA did not receive any comments or requests for the submittal.

EPA could not complete its adequacy process until the final submission of the Early Progress Plan was provided to EPA by the State of Georgia. EPA received the final submission on January 16, 2007. On January 24, 2007, EPA Region 4 sent a letter to Georgia informing them that EPA had found the MVEBs in Atlanta Early Progress Plan, dated January 12, 2007, to be adequate for transportation conformity purposes. In the January 24, 2007, letter, EPA explained that the MVEBs would be made available for use upon the effective date of EPA's notice of adequacy for these MVEBs in the **Federal Register**.

On April 9, 2007, EPA published a notice of adequacy in the **Federal Register**, and explained to the public that the notice was simply an announcement of a finding that EPA had already made. Further, the April 9, 2007, **Federal Register** notice explained that EPA Region 4 had sent a letter to Georgia on January 24, 2007, to inform the State that the MVEBs in the Atlanta Early Progress Plan, dated January 12, 2007, were adequate for the purposes of transportation conformity (72 FR 17550).

In the April 9, 2007, **Federal Register** notice, EPA inadvertently mislabeled the Atlanta 8-hour ozone NO_X MVEB as 172.27 tpd and the VOC MVEB as 306.75 tpd. As announced in EPA's letter to Georgia on January 24, 2007, the 2006 MVEBs for the Atlanta 8-Hour Ozone Area, as established by the Early Progress Plan for Atlanta are actually 306.75 tpd for NO_X and 172.27 tpd for VOC. EPA corrected this error in a **Federal Register** notice published on August 24, 2007 (72 FR 48635). This

finding was also announced on EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/pastsips.htm*.

IX. Final Actions on Atlanta's Early Progress Plan and the 2006 MVEBs

EPA is now taking direct final action to approve the January 12, 2007, SIP revision containing Atlanta's Early Progress Plan, which includes regional MVEBs for 2006 for the entire Atlanta 8-Hour Ozone Area. EPA is approving the Early Progress Plan and the regional MVEBs for the Atlanta 8-Hour Ozone Nonattainment Area because the plan meets all the requirements of a SIP submittal, and because the MVEBs, when considered with emissions from all sources, are contained in a SIP that shows some progress towards attainment from the base year of 2002 to the target year of 2006. EPA previously made these MVEBs available for use by the transportation partners through EPA's adequacy process. These MVEBs are currently being used in this area to demonstrate transportation conformity.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective April 21, 2008 without further notice unless the Agency receives adverse comments by March 21, 2008.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on April 21, 2008 and no further action will be taken on the proposed rule.

X. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this 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 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 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 approves 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 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 approves a SIP revision implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This 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 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.*).

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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *April 21, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: February 6, 2008.

J.I. Palmer, Jr.,

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 L—Georgia

■ 2. Section 52.570 (e) is amended by adding a new entry at the end of the table for ''27. Atlanta Early Progress Plan'' 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
* *	* * *	*	*
27. Atlanta Early Progress Plan.	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton counties.	1/12/07	2/20/08 [Insert first page of publication].

[FR Doc. E8–2706 Filed 2–19–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2007–0223; FRL–8344–7]

1-Propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt, polymer with ethenol and ethenyl acetate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of 1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt, polymer with ethenol and ethenyl acetate (CAS Reg. No. 107568–12–7) when used as an inert ingredient in a pesticide chemical formulation. Keller and Heckman, LLP submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA) requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of 1-propanesulfonic acid, 2-methyl-2-[(1-oxo-2-propenyl)amino]-, monosodium salt, polymer with ethenol and ethenyl acetate.

DATES: This regulation is effective February 20, 2008. Objections and requests for hearings must be received on or before April 21, 2008, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0223. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. All documents in the docket are listed in the docket index available in regulations.gov. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Karen Samek, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8825; e-mail address: *samek.karen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this ''**Federal Register**'' document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of FFDCA, as amended by FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2007–0223 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 21, 2008.