it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. Comments on this section will be considered before we make the final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. From 8 a.m., May 25, 2005, to 8 p.m. June 1, 2005, add temporary § 165.T01–053 to read as follows:

§ 165.T01–053 Security Zones; New York Marine Inspection Zone and Captain of the Port Zone.

(a) *Location.* The following waters within the New York Marine Inspection Zone and Captain of the Port Zone are security zones:

(1) *Stapleton Homeport Pier, Upper New York Bay, Staten Island, NY.* All waters of Upper New York Bay within approximately 400 yards of the Stapleton Homeport Pier bound by the following approximate positions: 40°38′00.6″ N, 074°04′22.3″ W, thence to 40°37′51.1″ N, 074°03′46.5″ W, thence to 40°37′27.5″ N, 074°03′54.5″ W, thence to 40°37′33.7″ N, 074°04′20.8″ W, (NAD 1983) thence along the shoreline to the point of origin.

(2) *New York City Passenger Ship Terminal and Intrepid Museum, Hudson River, Manhattan, NY.* All waters of the Hudson River within approximately 400 yards of Piers 86, 88, 90, and 92 bound by the following points: from the northeast corner of Pier 81 where it intersects the seawall, thence to approximate position 40°45′51.3″ N, 074°00′30.2″ W, thence to 40°46′27.7″ N, 074°00′04.9″ W, thence to the southeast corner of Pier 97 where it intersects the seawall.

(3) *2005 Fleet Week Parade of Ships and Navigational Periods, Port of New York/New Jersey.* All waters of the Port of New York/New Jersey within a 500-yard radius of each vessel participating in 2005 Fleet Week events while underway between Ambrose Light (LLNR 720) and the George Washington Bridge (river mile 11.0) on the Hudson River.

(b) *Enforcement period.* This section will be enforced from 8 a.m. on Wednesday, May 25, 2005, until 8 p.m. on Wednesday, June 1, 2005.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.33 apply.

(2) No vessel or person is allowed within 500 yards of a vessel protected by the security zone described in Paragraph (a)(3), unless authorized by the Captain of the Port or the designated on-scene-patrol personnel.

(3) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. These personnel comprise commissioned, warrant, and petty officers of the Coast Guard, as well as all uniformed Federal, State, and local law enforcement personnel assisting with event patrol. Upon being hailed by a U.S. Coast Guard or other Federal, State, or local law enforcement vessel by siren, radio, flashing light, or other means, the operator of a vessel must proceed as directed.

Dated: April 5, 2005.

Glenn A. Wiltshire,

Captain, U.S. Coast Guard, Captain of the Port, New York.

[FR Doc. 05–7902 Filed 4–19–05; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[RO4–OAR–2005–GA–0002; RO4–OAR–2005–GA–0003; FRL–7901–4]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia, Redesignation of Atlanta 1-Hour Severe Ozone Nonattainment Area to Attainment for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 1, 2005, the State of Georgia, through the Georgia Environmental Protection Division (EPD), submitted; a request to redesignate the 1-hour ozone National Ambient Air Quality Standard (NAAQS) nonattainment area of Atlanta, Georgia, to attainment; and a request for EPA approval of a Georgia State Implementation Plan (SIP) revision containing a 10-year maintenance plan for the 13-county Atlanta area, including new motor vehicle emission budgets (MVEBs) for the year 2015. In addition, Georgia has requested that EPA make a determination that certain Clean Air Act (CAA or Act) SIP submittal requirements related to attainment demonstrations and reasonable further progress are not applicable requirements for the purposes of this redesignation request because the Atlanta area has attained the 1-hour ozone NAAQS based on ambient air monitoring data for the 3-

year period including the years 2002, 2003, and 2004.

EPA is proposing to determine that the Atlanta area has attained the 1-hour ozone NAAQS. This proposal is based on three years of complete, quality-assured ambient air quality monitoring data for 2002 through 2004 ozone seasons. On the basis of this proposal, EPA is also proposing to determine that certain attainment demonstration and reasonable further progress requirements along with other related requirements of part D of Title I of the CAA are not applicable to the Atlanta area.

EPA is also proposing approval of both the 1-hour ozone redesignation request and the 10-year maintenance plan SIP revision, including the new 2015 MVEBs. EPA's proposed approval of the 1-hour ozone redesignation request is based on its determination that the Atlanta area has met the five criteria for redesignation to attainment specified in the CAA, including a demonstration that the Atlanta area has attained the 1-hour ozone NAAQS. EPA is proposing approval of the 10-year maintenance plan SIP revision, including the new 2015 MVEBs, because EPA has determined that the plan complies with the requirements of Section 175A of the Act.

Finally, in this proposed rulemaking, EPA is providing information on the status of its transportation conformity adequacy determination for new motor vehicle emission budgets (MVEB) for the year 2015 that are contained Georgia's the 10-year 1-hour ozone maintenance plan SIP submittal for the Atlanta area.

DATES: Written comments must be received on or before May 20, 2005.

ADDRESSES: Submit your comments, identified by Regional Material in EDocket (RME) ID No. RO4–OAR–2005–GA–0002; RO4–OAR–2005–GA–0003, by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

2. *Agency Website: http://docket.epa.gov/rmepub/* RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select ''quick search,'' then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. *E-mail: martin.scott@epa.gov.*

4. *Fax:* 404–562–9019.

5. *Mail:* ''RO4–OAR–2005–GA–0002; RO4–OAR–2005–GA–0003'', 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.

6. Hand Delivery or Courier. Deliver your comments to: 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, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to RME ID No. RO4–OAR–2005–GA–0002; RO4–OAR–2005–GA–0003. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://docket.epa.gov/rmepub/*, 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 information that you consider to be CBI or otherwise protected through RME, regulations.gov, or e-mail. The EPA RME website and the federal regulations.gov website are ''anonymous access'' systems, 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 RME or 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.

Docket: All documents in the electronic docket are listed in the RME index at *http://docket.epa.gov/rmepub/.* 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 RME 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 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, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: 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: The use of ''we,'' ''us,'' or ''our'' in this document refers to EPA.

Table of Contents

I. What Action Is EPA Taking?

Today, EPA is proposing four actions and providing status information on a fifth matter. First, EPA is proposing to determine that the Atlanta area has attained the 1-hour ozone standard NAAQS based on air quality monitoring data for the 2003 through 2004 ozone season. Second, EPA is proposing to determine that certain CAA SIP submittal requirements related to attainment demonstrations and reasonable further progress are not applicable to the Atlanta area because the area is attaining the 1-hour ozone standard. If an area has in fact attained

the 1-hour ozone standard, the stated purpose of CAA SIP submissions relating to attainment demonstrations and reasonable further progress (*i.e.* to ensure timely attainment of the 1-hour ozone standard) has already been fulfilled and there is no need for an area to make further submissions containing additional measures to achieve attainment. Third, EPA is proposing to approve a change in the legal designation of the Atlanta area from nonattainment to attainment for the 1-hour ozone NAAQS. The current Atlanta 1-hour ozone nonattainment area consists of the following counties: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding and Rockdale (Atlanta area). Fourth, EPA is proposing to approve Georgia's maintenance plan SIP revision for the Atlanta area. The maintenance plan is designed to keep the Atlanta area in attainment for the 1-hour ozone standard for the next 10 years.

Fifth, in support of the transportation conformity process, EPA is providing information on the status of its transportation conformity adequacy determination for new motor vehicle emission budgets (MVEB) for the year 2015 that are contained Georgia's the 10-year 1-hour ozone maintenance plan SIP submittal for the Atlanta area.

II. What Is the Background for This Action?

Under section 107(d)(1)(C) of the CAA, each ozone area designated nonattainment for the 1-hour ozone NAAQS prior to enactment of the 1990 CAA amendments, such as the Atlanta area, was designated nonattainment by operation of law upon enactment of the 1990 amendments. Under section 181(a) of the Act, each ozone area designated nonattainment under section 107(d) was also classified by operation of law as ''marginal,'' ''moderate,'' ''serious,'' ''severe,'' or ''extreme,'' depending on the severity of the area's air quality problem. These nonattainment designations and classifications were codified in 40 CFR Part 81 (see 56 FR 56694, November 6, 1991). The design value for an area, which characterizes the severity of the air quality problem, is represented by the highest design value at any of the individual ozone monitoring sites in the area (*i.e.*, the highest of the fourth highest 1-hour daily maximums in a given three-year period with complete monitoring data). Table 1 in section 181(a) provides the design value ranges for each nonattainment classification. Ozone nonattainment areas with design values between 0.160 parts per million (ppm) and 0.180 ppm for the three year period 1987–1989 were classified as serious. The Atlanta area design value was 0.162 ppm and thus the area was classified as serious.

Under section 182(c) of the CAA, states containing areas that were classified as serious nonattainment were required to submit SIPs to provide for certain controls, to show progress toward attainment, and to provide for attainment of the ozone NAAQS as expeditiously as practicable but no later than November 15, 1999.

Because Atlanta failed to attain the 1-hour ozone NAAQS by November 15, 1999, EPA issued a final rulemaking action in the September 26, 2003, **Federal Register** (68 FR 55469) determining that, by operation of law, the Atlanta area was being reclassified as a severe ozone nonattainment area effective January 1, 2004. In addition to having been required to submit SIP revisions meeting requirements for marginal, moderate, and serious ozone nonattainment areas, Georgia was required to submit plans meeting the additional requirements for areas classified as severe as required in section 182(d) of the Act.

Under EPA regulations at 40 CFR Part 50, the 1-hour ozone standard is attained when the expected number of days per calendar year with maximum hourly average ozone concentrations above 0.12 ppm or higher is equal to or less than 1, as determined in Appendix H of Part 50. Under Appendix H, the basic method is to record the number of exceedances of the standard monitored at each site in an area for each calendar year and then average the past three calendar years to determine if this average is less than or equal to one. In other words, an area has attained the 1-hour ozone NAAQS if there are three or fewer exceedances recorded over a three-year period at each of the monitoring sites within the area. If there are more than three exceedances over a three-year period at any of the monitoring sites, the area has not attained the standard. Based on ambient ozone season air quality data for the years 2002, 2003, and 2004, the Atlanta area has attained 1-hour ozone NAAQS. (See Table 1 below).

III. Why Is EPA Taking This Action and What Are the Criteria for Redesignation?

Section 107(d)(3)(D) of the CAA allows a Governor, or the Governor's designee, to initiate the redesignation process for an area to apply for attainment status. On February 1, 2005, the Georgia Environmental Protection Division (EPD) submitted a final maintenance plan for the Atlanta 1-hour ozone nonattainment area and a request for redesignation to attainment for the 1-hour ozone NAAQS.

Nonattainment areas may be redesignated to attainment status if certain CAA criteria for redesignation are met. The 1990 CAA Amendments revised section 107(d)(3)(E) to provide five specific requirements that an area must meet in order to be redesignated from nonattainment to attainment: (1) The area has attained the applicable NAAQS; (2) the area has a fully approved SIP under section 110(k) of the CAA; (3) the air quality improvement is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP and applicable Federal air pollution control regulations and other permanent and enforceable reductions, (4) the area has a fully approved maintenance plan pursuant to section 175A of the CAA; and (5) the area has met all applicable requirements under section 110 and part D of the CAA. As detailed below, EPA is proposing to determine that the Atlanta area has attained the 1-hour ozone standard and has fully met the requirements for redesignation found at section 107(d)(3)(E) of the CAA for redesignation of an area from nonattainment to attainment. The EPA believes that Georgia has demonstrated that the Atlanta area has attained, and that the criteria for redesignation have been met.

EPA provided guidance on redesignation in the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, on April 16, 1992 (57 FR 13498), and supplemented this guidance on processing redesignation requests in the following documents:

- State Implementation Plans: General Preamble for the Implementation of Title I of the CAA Amendments of 1990 (57 FR 13498), April 16, 1992 (General Preamble);
- ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
- ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G.T. Helms, Chief, Ozone and Carbon Monoxide Programs Branch, June 1, 1992;
- ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992;

• ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (ACT) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

• ''Technical Support Documents (TSD's) for Redesignation Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

• ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993;

• ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994; and

• ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. What Is EPA's Evaluation of the Redesignation Request?

EPA is proposing to determine that the Atlanta area has attained the 1-hour ozone NAAQS and, because of that determination, that certain attainment demonstration and reasonable further progress requirements along with other related requirements of part D of Title I of the CAA are not applicable to the Atlanta area. EPA is also proposing approval of both the 1-hour ozone redesignation request and the 10-year maintenance plan SIP revision, including the new 2015 MVEBs. EPA's proposed approval of the 1-hour ozone redesignation request is based on its determination that the Atlanta area has met the five criteria for redesignation to attainment specified in the CAA, including a demonstration that the Atlanta area has attained the 1-hour ozone NAAQS. EPA is proposing approval of the 10-year maintenance plan SIP revision, including the new 2015 MVEBs, because EPA has determined that the plan complies with the requirements of Section 175A of the Act. EPA is proposing to redesignate the Atlanta nonattainment area to attainment status for the 1-hour ozone NAAQS because all five redesignation criteria have been met. The basis for EPA's proposed actions is as follows:

(1). *Criteria (1): Atlanta Has Attained the 1-Hour Ozone NAAQS*

EPA is proposing to determine that the Atlanta area has attained the 1-hour ozone NAAQS. For ozone, an area may be considered attaining the 1-hour ozone NAAQS if there are no violations, as determined in accordance with 40 CFR 50.9 and Appendix H, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. A violation of the 1-hour ozone NAAQS occurs when the annual average number of expected daily exceedances is equal to or greater than 1.05 per year at a monitoring site. A daily exceedance occurs when the maximum hourly ozone concentration during a given day is 0.125 parts per million (ppm) or higher. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in Aerometric Information Retrieval System (AIRS). The monitors should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

The GAEPD submitted ozone monitoring data for the April through October ozone season from 2002 to 2004. This data has been quality assured and is recorded in AIRS. For the 2002 to 2004 time period, the design value is 0.123 ppm. The average annual number of expected exceedances is 1.0, or less, at each monitor for that same time period. The GAEPD's request is based on an analysis of quality-assured ozone air quality data which is relevant to the redesignation request. The request is based on ambient air ozone monitoring data collected for three consecutive ozone monitoring seasons from 2002 through 2004. The exceedances are summarized in the following table:

TABLE 1.—EXPECTED AND ACTUAL NUMBER OF EXCEEDANCES

Site name	Exceedances			Expected number of exceedances			3-year average
	2002	2003	2004	2002	2003	2004	
Confederate Ave	1	1	1	1	1	1	1.00
Conyers	2	0	0	2	0	0	0.67
Douglasville	1	0	0	1	0	0	0.33
Fayetteville	1	0	0	1	0	0	0.33
Gwinnett Tech	0	1	0	0	1	0	0.33
Kennesaw	1	0	0	1	0	0	0.33
McDonough	2	0	0	2	0	0	0.67
Newnan	0	0	0	0	0	0	0.00
South DeKalb	2	0	1	2	0	1	1.00
Tucker	1	1	1	1	1	1	1.00
Yorkville	2	0	0	2	0	0	0.67

In addition, GAEPD has committed to continue monitoring in these areas in accordance with 40 CFR part 58. In summary, EPA agrees that the data submitted by Georgia provides an adequate demonstration that the Atlanta area has attained the 1-hour ozone NAAQS.

(2). *Criteria (2) and (5): The Area Has a Fully Approved SIP Under Section 110(k); and the Area Meets All Applicable Requirements Under Section 110 and Part D of the CAA.*

In order to analyze whether the Atlanta area meets these criteria, it is necessary to discuss what requirements are applicable to the Atlanta area, and for the applicable SIP requirements, the extent to which they are fully approved under section 110(k) of the CAA.

Applicable Requirements

1. General SIP requirements: Section 110(a)(2) of the CAA delineates the general requirements for a SIP, which include enforceable emission

limitations and other control measures, means, or techniques, provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality, and programs to enforce the limitations. These requirements are discussed in the following EPA documents: ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' John Calcagni, Director, Air Quality Management Division, September 4, 1992; ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' John Calcagni, Director, Air Quality Management Division, October 28, 1992; and ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) on or after November 15, 1992,'' Michael H. Shapiro, Acting Assistant Administrator, September 17, 1993.

EPA has analyzed the Georgia SIP and determined that it is consistent with the requirements of CAA section 110(a)(2). Title 40 CFR 52.570 subpart L contains the historical record of the Georgia SIP. The SIP contains enforceable emission limitations; requires monitoring, compiling, and analyzing ambient air quality data; requires preconstruction review of new major stationary sources and major modifications to existing ones; provides for adequate funding, staff, and associated resources necessary to implement its requirements; and requires stationary source emissions monitoring and reporting.

2. Part D: General Provisions for Nonattainment Areas:

Before an area may be redesignated to attainment, it must have fulfilled the applicable requirements of part D. Under part D of title I of the CAA, an area's ozone classification determines the requirements to which it is subject. Subpart 1 of part D specifies the basic requirements applicable to all nonattainment areas. Subpart 2 of part D establishes additional requirements for nonattainment areas classified under Table 1 of section 181(a) of the CAA. As described in the General Preamble for Implementation of title I of the CAA, specific requirements of subpart 2 may override or modify subpart 1's general provisions (57 FR 13501, April 16, 1992). Therefore, in order to be redesignated, the State must meet the applicable requirements of subpart 1 of part D—specifically section 172(c), as well as the applicable requirements of subpart 2 of part D (section 182).

Section 172(c). A thorough discussion of the requirements contained in section 172(c) may be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992). Section 172(c) requires Georgia to adopt reasonable further progress plans, emission inventories, and establish a permit program for the construction of new and modified sources. The discussion below regarding section 182(a)(1) and section 182(d)(1)(A) describes how Georgia satisfies the requirements for emission inventories and rate-of-progress plans. In addition, Georgia's permit program was originally approved on August 20, 1976 (41 FR 35184) and was last revised on July 11, 2002, (67 FR 45909). These general requirements for nonattainment plans have been met by Georgia's adoption and implementation, and EPA's approval into the Georgia SIP, of programs and rules needed to attain the 1-hour NAAQS.

Section 182(a)(1)—This provision of the Act provided for the submission of a 1990 Baseline inventory. The EPA approved Georgia's 1990 Baseline Emissions Inventory on April 26, 1999 (64 FR 20186), effective May 26, 1999.

Section 182(a)(2)(A)—This provision of the Act required areas that were designated nonattainment before the Amendments of 1990 to correct any deficiencies in the area's reasonably available control technology (RACT) rules. Modifications to GAEPD's case-by-case volatile organic compound (VOC) and nitrogen oxides (NO_X) rules were adopted by the Georgia Board of Natural Resources on December 7, 2004, and filed with the Georgia Secretary of State on December 10, 2004. The EPA intends to propose approval of these rule revisions in a separate action. Final action on these rule revisions will occur on or before the date of any final action to redesignate the Atlanta area to attainment.

Section 182(a)(2)(B)—This provision of the Act relates to the savings clause for vehicle inspection and maintenance. It requires marginal areas to adopt vehicle inspection and maintenance programs. The discussion below regarding section 182(c)(3) describes how Georgia satisfies this requirement.

Section 182(a)(2)(C)—This provision of the Act required Georgia to adopt a New Source Review (NSR) Permit Program or to correct its existing program to meet EPA guidance requirements issued prior to 1990. Georgia's nonattainment NSR program was submitted November 13, 1992, and approved by EPA March 8, 1995, (60 FR 12688), effective May 8, 1995.

Section 182(a)(3)(A)—This provision of the Act requires a triennial Periodic Emissions Inventory for the nonattainment area. The most recent inventory for the Atlanta area was compiled for 2002 and submitted to EPA in June 2004, as required by the Consolidated Emissions Reporting Rule (CERR) which was promulgated by EPA on June 10, 2002. The CERR consolidates the requirements of this portion of the Act with other general provisions of Section 110 and continues the triennial reporting requirement for 2002 and beyond.

Section 182(a)(3)(B)—This provision of the Act requires sources of VOCs and NO_X in the nonattainment area to submit annual Emissions Statements regarding the quantity of emissions from the previous year. Georgia's Emissions Statements Program was submitted on November 13, 1992. Its approval by EPA was published in the **Federal Register** on February 2, 1996, (61 FR 3819), effective April 2, 1996.

Section 182(b)(2)—This provision of the Act requires RACT for each category of VOC sources covered by a control technique guideline (CTG). Georgia has adopted numerous VOC controls which can be found by referencing 40 CFR 52.570 subpart L.

Section 182(b)(4)—This provision of the Act requires the adoption of motor vehicle inspection and maintenance programs. The discussion below regarding section 182(c)(3)describes how Georgia satisfies this requirement.

Section 182(b)(5)—This provision of the Act requires the adoption of a general offset requirement of at least 1.15 to 1. The discussion below regarding section 182(d)(2) describes how Georgia satisfies this requirement.

Section 182(b)(3)—This provision of the Act requires Stage II refueling vapor recovery in ozone nonattainment areas classified as moderate or worse. Georgia's rule implementing the Stage II program was submitted November 13, 1992, and approved by EPA on February 2, 1996, (61 FR 3819), effective April 2, 1996.

Section 182(c)(1)—This provision of the Act requires enhanced monitoring of ozone and its precursors in ozone nonattainment areas classified as serious or worse. The Code of Federal regulations (40 CFR Part 58) was subsequently revised to require States to establish Photochemical Assessment Monitoring Stations (PAMS) as part of their SIP monitoring networks. Georgia's PAMS network was approved in a November 23, 1993, memorandum from EPA's Office of Air Quality Planning and Standards.

Section 182(c)(3)—This provision of the Act requires enhanced vehicle inspection and maintenance (I/M) in ozone nonattainment areas classified as

serious or worse. Georgia's enhanced I/M rule was submitted to EPA on August 9, 1999, and approved on April 19, 2002 (67 FR 19335), effective June 18, 2002.

Section 182(c)(4)—This provision of the Act requires a clean-fuel vehicle program in ozone nonattainment areas classified as serious or worse. Georgia's clean-fueled fleets rule was submitted to EPA on May 5, 1994, and approved on December 21, 1995, (60 FR 66150), effective May 22, 1994.

Section 182(c)(6)—This provision of the Act requires a serious or worse ozone nonattainment area to submit a *de minimis* rule for its NSR program. Georgia's rule was submitted November 13, 1992, and approved by EPA March 8, 1995, (60 FR 12688), effective May 8, 1995.

Section 182(c)(7)—This provision of the Act requires a special NSR rule for sources that emit less than 100 tons per year. Georgia's rule was submitted November 13, 1992, and approved by EPA March 8, 1995, (60 FR 12688), effective May 8, 1995.

Section 182(c)(8)—This provision of the Act requires a special NSR rule for sources that emit 100 or more tons per year. Georgia's rule was submitted November 13, 1992, and approved by EPA March 8, 1995, (60 FR 12688), effective May 8, 1995.

Section 182(d)—This provision of the Act requires that the major source threshold be defined as 25 tons per year. On March 15, 2005, GAEPD submitted rule revisions addressing this requirement. EPA intends to propose approval for this revision in a separate action. Final action on these revisions will occur on or before the date of any final action to redesignate the Atlanta area to attainment.

Section 182(d)(1)(A)—This provision of the Act requires severe ozone nonattainment areas to offset growth in emissions attributable to growth in vehicle miles traveled (VMT); to select and implement transportation control measures (TCMs) necessary to comply with the periodic emissions reduction requirements of Sections 182(b) and (c); and to consider TCMs specified in Section 108(f), and implement such TCMs as necessary to demonstrate attainment with the ozone standard. The first requirement was addressed in Georgia's Severe Area VMT SIP, submitted June 30, 2004. EPA intends to propose approval for this submittal in a separate action. Final action on these revisions will occur on or before the date of any final action to redesignate the Atlanta area to attainment. The second requirement was addressed in Georgia's 15 percent reasonable further progress (RFP) SIP (the 15 Percent Plan), the last revision to which was submitted on June 17, 1996, and approved by EPA on April 26, 1999 (64 FR 20186), effective May 26, 1999. That approval also included the TCMs in the 15 Percent Plan and therefore satisfies the second requirement. The third requirement, the selection and implementation of TCMs as necessary to demonstrate attainment of the ozone standard, is not applicable because the Atlanta area is attaining the 1-hour ozone NAAQS. A further discussion of non-applicability of requirements because of the attainment of the 1-hour ozone standard is set forth below.

Section 182(d)(2)—This provision of the Act requires a ratio of total emission reductions to total increased emissions of at least 1.3 to 1. Georgia's VOC offset rule, revised to address this severe nonattainment area requirement, was approved by the Georgia Board of Natural Resources on April 28, 2004. EPA intends to propose approval for this submittal in a separate action. Final action on these revisions will occur on or before the date of any final action to redesignate the Atlanta area to attainment.

Section 182(f)—This provision of the Act requires that plan provisions required for major stationary sources of VOCs shall also apply to major stationary sources of NO_X (under title I, part D, and subpart 2) unless the Administrator determines that net air quality benefits are greater in the absence of reductions of NO_X from the sources concerned. The Georgia SIP was amended in 1992 to add the requirements of NO_X offsets for new or modified major stationary sources in the nonattainment area. EPA approved this revision on March 8, 1995, (60 FR 12688), effective May 8, 1995.

Non-Applicable Requirements Due to Attainment of 1-Hour Ozone Standard

EPA interprets the CAA's general nonattainment provisions of subpart 1 of part D of Title I (sections 171 and 172) and the more specific attainment demonstration and related provisions of subpart 2 (section 182), relating to SIP requirements for ozone nonattainment areas to not require the submission of SIP revisions concerning reasonable further progress (RFP), attainment demonstrations, or contingency measures for areas where the monitoring data show that the area is attaining the 1-hour ozone standard. (See *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996)). This rationale is described in a memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' dated May 10, 1995. (See also, the final determination of attainment for St. Louis, 68 FR 25418, May 12, 2003; the proposed determination of attainment for St. Louis, 68 FR 4847, 4848, January 30, 2003; the proposed determination of attainment for Louisville, 66 FR 27483, 27486, May 17, 2001; and the proposed determination of attainment for Pittsburgh-Beaver Valley, 66 FR 1925, January 10, 2001, for more recent applications of this interpretation).

EPA believes it is reasonable to interpret the provisions regarding RFP and attainment demonstrations, along with other certain related provisions, not to require SIP submissions if an ozone nonattainment area subject to those requirements is monitoring attainment of the ozone standard (i.e., attainment of the NAAQS demonstrated with three consecutive years of complete, quality-assured, air quality monitoring data). EPA believes this interpretation is reasonable because the stated purpose of CAA provisions addressing or relating to RFP and attainment demonstrations is to ensure attainment of the standard by the applicable attainment date. If an area has in fact attained the standard, the stated purpose of the requirement will have been fulfilled and there will be no need for an area to make a further submission containing additional measures to achieve attainment. EPA has explained at length in other actions its rationale for the reasonableness of this interpretation of the CAA and incorporates those explanations by reference. See (67 FR 49600) (Cincinnati-Hamilton, Kentucky, July 31, 2002); (66 FR 53095) (Pittsburgh-Beaver Valley, Pennsylvania, October 19, 2001); (65 FR 37879) (Cincinnati-Hamilton, Ohio and Kentucky, June 19, 2000); (61 FR 20458) (Cleveland-Akron-Lorain, Ohio, May 7, 1996); (60 FR 36723) (Salt Lake and Davis Counties, Utah, July 18, 1995); (60 FR 37366 (July 20, 1995); (61 FR 31832–31833) (June 21, 1996) (Grand Rapids, MI). The United States Court of Appeals for the Tenth Circuit has upheld EPA's interpretation. *Sierra Club* v. *EPA,* 99 F.3d 1551 (10th Cir. 1996).

Pursuant to this interpretation, EPA's is proposing to determine that the following CAA provisions are not applicable requirements for purposes of this redesignation request because EPA believes the Atlanta area is currently attaining the 1-hour ozone standard:

Section 172(c)(2): Reasonable further progress (all nonattainment areas). As EPA stated in the General Preamble, no other measures to provide for attainment would be needed by areas seeking redesignation to attainment since ''attainment will have been reached.'' (57 FR 13564).

Section 172(c)(9): Contingency Measures. EPA has previously interpreted the contingency measure requirements of this section as no longer being applicable once an area has attained the standard since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' (57 FR 13564).

Section 182(b)(1)(A): Reasonable further progress (the 15 Percent Plan -VOC reductions for moderate and above nonattainment areas). Similar reasoning applies to this section. Although not an applicable requirement, Georgia's last revision was submitted June 17, 1996, approved April 26, 1999 (64 FR 20186), with an effective date of May 26, 1999.

Section 182(c)(2)(A): Attainment Demonstration (for serious and above nonattainment areas). As noted above, if an area has, in fact, monitored attainment of the relevant NAAQS, EPA believes there is no need for an area to make a further submission containing additional measures to achieve attainment. Upon attainment, the focus of state planning efforts shifts to the maintenance of the NAAQS and the development of a maintenance plan under section 175A.

Section 182(c)(2)(B): Reasonable further progress (for serious and above nonattainment areas). Similar reasoning applies to this section. Although not applicable requirements, the 9 Percent Plan (NO_X reductions), required by Section 182(c)(2)(B), were submitted by Georgia on June 17, 1996, approved March 18, 1999 (64 FR 13348), effective April 19, 1999. In addition, the Post-1999 Rate-of-Progress (ROP) Plan (NO_X reductions), required by Section 182(c)(2)(B), was submitted by Georgia on December 24, 2003, approved July 19, 2004 (69 FR 42880), effective August 18, 2004.

Section 182(c)(5): Triennial Demonstrations (for serious and above nonattainment areas). Similar reasoning applies to this section.

Section 182(c)(9): Contingency Provisions (for serious and above nonattainment areas). Similar reasoning applies to this section.

Section 182(g): Milestones. Similar reasoning applies to this section.

Other Non-Applicable Requirements

Section 176(c): Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects, before they are undertaken, conform to the air quality planning goals in the SIP. The requirement to determine conformity applies to transportation plans, programs and projects developed, funded or approved under Title 23 U.S.C. of the Federal Transit Act (''transportation conformity''), as well as to all other Federally supported or funded projects (''general conformity''). Section 176 further provides that state conformity revisions must be consistent with Federal conformity regulations that the CAA required the EPA to promulgate.

Since 1995, EPA has consistently interpreted the conformity requirements as not applying to the evaluation of redesignation requests under section 107(d) by the Agency. The rationale for this is based on a combination of two factors. First, the requirement to submit SIP revisions to comply with the conformity provisions of the CAA continues to apply to areas after redesignation to attainment, since such areas would be subject to a section 175A maintenance plan. Second, EPA's Federal conformity rules require the performance of conformity analyses in the absence of Federally approved state rules. Therefore, because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment and must implement conformity under Federal rules if states rules are not yet approved, EPA believes it is reasonable to view these requirements as not applying-to evaluations of redesignation requests by the Agency. See, *Wall* v. *EPA*, 265 F.3d 426, 439 (6th Cir. 2001) upholding this interpretation.

(3). *Criteria (3): The Air Quality Improvement in the Atlanta Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions.*

For the following reasons, EPA has determined that this Criteria has been met. First, EPA approved Georgia's SIP control strategy for the Atlanta area, including rules and the emission reductions achieved as a result of those rules that are enforceable. Second, a number of Federal and Statewide rules are in place which have significantly improved the ambient air quality in these areas. The following table is a partial list of rules which have been adopted, are permanent, enforceable, and demonstrate that the improvements in air quality in Atlanta are a result of control measures.

TABLE 2.—STATE CONTROL STRATEGY

State control strategy	Compliance date	Implemented
Requiring Stage I Vapor Recovery at Gasoline Dispensing Facilities in 13 counties (391–3–1–.02(2)(rr)).	Prior to November 15, 1994	Yes.
Expanding VOC and NO_X RACT requirements to 6 additional counties (391–3–1–.02(2)(tt) and (yy)).	Prior to May 1, 2003	Yes.
Requiring Stage II Vapor Recovery at Gasoline Dispensing Facilities in 13 counties (391–3–1–.02(2)(zz)).	Prior to November 15, 1995	Yes.
Lowering Automobile Windshield Washer Fluid VOC Content in 13 counties (391–3–1–.02(2)(aaa)).	Prior to January 1, 1996	Yes.
Lowering Reid Vapor Pressure (RVP) of gasoline sold in 45 counties (391–3–1–.02(2)(bbb)).	Prior to June 1, 1999	Yes.
Lowering Sulfur Content of gasoline sold in 45 counties (391–3–1–.02(2)(bbb))	Prior to September 16, 2003	Yes.
Limiting NO_X Emissions from 5 Georgia Power Plants (Bowen, Hammond, McDonough, Wansley, and Yates) to 0.13 lb/MMBtu (391–3–1–.02(2)(jjj)).	Prior to May 1, 2003	Yes.
Limiting NO_X Emissions from 7 Georgia Power Plants (Bowen, Hammond, McDonough, Wansley, Yates, Branch and Scherer) to 0.20 lb/MMBtu (391–3–1–.02(2)(jjj)).	Prior to May 1, 2003	Yes.
Regulating NO_X Emissions from Fuel-Burning Equipment in 45 counties (391–3–1–.02(2)(lll)).	Prior to May 1, 2000	Yes.

TABLE 2.—STATE CONTROL STRATEGY—Continued

State control strategy	Compliance date	Implemented
Regulating NO_X Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity in 45 counties (391–3–1–.02(2)(mmm)).	Prior to May 1, 2003	Yes.
Regulating NO_X Emissions from Large Stationary Gas Turbines in 45 counties (391–3–1–.02(2)(nnn)).	Prior to May 1, 2003	Yes.
Implementing a ban on Open Burning activities during the ozone season in 45 counties (391–3–1–.02(5)).	Prior to May 1, 2001	Yes.
Implementation of stricter PSD permitting requirements including lower applicability thresholds and emission offset requirements in 6 additional counties (391–3–1–.03(8)).	June 6, 1999	Yes.
Improving rule effectiveness for various rules (e.g., Graphic Arts Rule (391–3–1–.02(2)(mm)) and Coil Coating Rule (391–3–1–.02(2)(v))).	June 1996	Yes.
Implementing an enhanced inspection and maintenance program for vehicles in 13 counties (391–3–1–20).	October 1, 1996	Yes.
Limiting emissions from specific industrial sources through air quality permits (e.g., Blue Circle Cement (Lafarge), Transcontinental Gas Pipeline, Austell Box Board).	May 1, 2003	Yes.

In addition to the State adopted rules the following Federal control measures are also implemented in the Atlanta area:

TABLE 3.—FEDERAL CONTROL STRATEGY

Federal control measures	Compliance date	Implemented
National Architectural Coatings Rule	August 14, 1998	Yes.
National Autobody Refinishing Rule	August 14, 1998	Yes.
National Consumer Products Rule	September 11, 1998	Yes.
Federal Motor Vehicle Control Program, including National Tier 0, 1, and 2 Tailpipe Standards.	February 10, 2000	Yes.
Federal Heavy-Duty Highway Engine Standards (both sets: 2004-and-later, 2007-and-later).	October 6, 2000	Yes.
National Standards for New Nonroad Spark-Ignition Engines At or Below 19 kW	April 25, 2000	Yes.
Small Non-Road Gasoline Engines	April 25, 2000	Yes.
Large Non-Road Gasoline Engines	November 8, 2002	Yes.
Federal Consumer and Commercial Products Requirements	August 14, 1998	Yes.
Federal Non-Road Diesel Engine Phases 2 and 3 Requirements	May 11, 2004	Yes.
Federal Marine Engine Requirements	October 4, 1996; November 8, 2002; February 28, 2003.	Yes.
Federal Locomotive Requirements	December 17, 1997	Yes.

Third, the ambient ozone monitoring data in Table 1 demonstrates that the Atlanta area has attained the 1-hour ozone NAAQS during the time period of 2002–2004. Tables 2 and 3 list many, but not all, of the control measures which have been implemented in the Atlanta area to ensure that the reductions in ozone are permanent and enforceable. Fourth, based upon data previously supplied by the State of Georgia these control measures have resulted in more than 430 tpd in NO_X emissions reductions, and 80 tpd VOC emissions reductions from the 1990 baseline inventory.

Fifth, EPA believes that the improvement in air quality is attributable to reductions in emissions rather than solely from favorable meteorology. The GA EPD conducted an analysis of both the meteorological conditions and concentrations of ozone and its precursor gases during the 1999–2004 period. This analysis examined the variability in temperature, wind speed, and cloud cover which all play a role in producing conditions conducive to ozone formation. While, on average, meteorological conditions in 2002–2004 were less conducive to ozone formation than those conditions during 1999–2001, all factors that are generally agreed to contribute to high ozone concentrations were present. When high ozone days from the 1999–2001 period are compared with high ozone days during the 2002–2004 period it can be seen that the meteorological conditions were very similar. In addition, based on data noted above there is also a downward trend in NO_2 and NO_X concentrations during the same years. The downward trend in ambient ozone concentrations coincides with the implementation of NO_X control measures by the State of Georgia. In 1999, the Atlanta nonattainment area's ozone design value was 0.156 ppm, and in 2004, the design value decreased to 0.123 ppm. This is significant since scientific studies have generally shown ozone in the Atlanta region to be limited primarily by NO_X. Therefore, while meteorological variability may have contributed to the downward trend in ozone, substantial NO_X emission reductions have occurred (data referenced above) concurrently strongly suggesting that the reductions in NO_X emissions contributed substantially to reductions in ozone concentrations during the 2002–2004 time period. Thus, EPA agrees with the State's analysis that decreases in ozone concentrations in the Atlanta area have coincided with and are attributable to the implementation of emission control measures rather than favorable meteorology.

(4). *Criteria (4): The Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA.* EPA is proposing to approve Georgia's 10-year 1-hour ozone maintenance plan SIP submittal for the Atlanta area, including the newly established motor vehicle emission budgets for the year 2015. EPA

approval of the maintenance plan would satisfy the final criteria for redesignation of the Atlanta area to attainment status for the 1-hour ozone standard.

Section 175A of the CAA sets forth the elements of maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the State must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan contains contingency measures, with a schedule for implementation, adequate to assure prompt correction of any future 1-hour ozone violations.

On February 1, 2005, GAEPD submitted its revision to the Georgia SIP to include a 10-year maintenance plan as required by section 175A of the CAA. The maintenance plan shows compliance and maintenance of the 1-hour ozone standard by assuring that current and future emissions of VOC and NO_X remain at or below attainment year emission levels.

Monitored attainment of the 1-hour standard was achieved for the 2002–2004 three-year period. The most recent comprehensive periodic (triennial) emissions inventory for the Atlanta area was compiled for 2002 pursuant to section 182(a)(3)(A). In accordance with federal requirements, the triennial inventory for 2002 was submitted to EPA by June 1, 2004.

According to the September 4, 1992, EPA guidance document entitled, ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' the base attainment inventory should be consistent with EPA's most recent guidance on emission inventories and should represent the emissions during the time period associated with the monitoring data showing attainment. For purposes of demonstrating maintenance of the standard, 2002 was chosen as the base year representing the monitoring period of 2002–2004. The attainment year is 2004.

Attainment Inventory

Georgia's complete 2002 Periodic Emissions Inventory (PEI), submitted to EPA in June 2004, was the basis for point and area source emissions projections. The point source emissions for calendar year 2002 included in the 2002 PEI were taken from the data obtained from these regulated facilities. The 2002 point and area source inventories were grown to later years using projection factors from EPA's Economic Growth Analysis System (EGAS) 4.0. The resulting point and area inventories are conservatively high because no control factors were applied to the projected emissions. Updated nonroad and on-road mobile emissions for 2002 were calculated based on EPA-approved models (NONROAD and MOBILE6.2.03, respectively).

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

Maintenance Demonstration

The required maintenance plan must become a part of the SIP and provide for maintenance of the air quality in the affected area for at least 10 years after designation. Georgia has chosen 2015 as the end year of the maintenance plan for the Atlanta area.

The approach used for the maintenance plan to demonstrate that attainment of the 1-hour ozone standard will continue to be maintained is based upon restricting future anthropogenic emissions to a level that is representative of attainment of the standard. If these future emissions are no greater than the actual emissions during a year in the three year period for which attainment of the standard was monitored, then it can be assumed that attainment of the standard will also be achieved in future years.

It can be seen from Table 3 and Table 4 that there is a calculated safety margin for both VOC and NO_X for each year for which projections were made in the maintenance plan. Note that the mobile source emissions for 2005, 2010, and 2015 include the small emissions increases (0.09 NO_X tons per day, 0.24 VOC tons per day) resulting from the senior citizen vehicle inspection exemption in 2004.

TABLE 4.—ATLANTA 1-HOUR OZONE ATTAINMENT AREA MAINTENANCE PLAN NO_X EMISSIONS

[Tons per summer day]

Source category	2002	2005	2010	2015
Total for the Atlanta area:				
Point	55.58	54.99	58.43	63.79
Area	28.57	29.52	31.75	33.81
Mobile	365.55	284.72	191.65	110.80
Nonroad	114.35	116.24	107.72	98.15
Total	564.05	485.48	389.55	306.55
Maintenance Plan Decrease from 2002, (NO_X Safety Margin*)		78.57	174.50	257.50

*After assigning 11.08 TPD of the 2015 NO_X safety margin to the Motor Vehicle Emissions Budget, the revised 2015 NO_X safety margin will be 246.42 TPD.

TABLE 5.—ATLANTA 1-HOUR OZONE ATTAINMENT AREA MAINTENANCE PLAN VOC EMISSIONS

[Tons per summer day]

Source category	2002	2005	2010	2015
Total for the Atlanta area:				
Point	15.71	17.11	19.69	22.12
Area	294.20	314.68	357.11	398.41
Mobile	184.84	141.91	112.34	75.84

TABLE 5.—ATLANTA 1-HOUR OZONE ATTAINMENT AREA MAINTENANCE PLAN VOC EMISSIONS—Continued

[Tons per summer day]

Source category	2002	2005	2010	2015
Nonroad	83.44	64.28	48.96	47.02
Total	578.19	537.98	538.10	543.40
Maintenance Plan Decrease from 2002 (VOC Safety Margin*)		40.21	40.09	34.79

*After assigning 7.58 TPD of the 2015 VOC safety margin to the Motor Vehicle Emissions Budget, the revised 2015 VOC safety margin will be 27.21 TPD.

A ''safety margin'' is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in the three year period for which the area met the NAAQS. For example, the Atlanta area attained the 1-hour ozone NAAQS during the 2002–2004 time period. Georgia uses 2002 as the attainment level of emissions for the area. The emissions from point, area, nonroad, and mobile sources in 2002 equaled 578.19 tpd of VOC for the Atlanta area. Projected VOC emissions out to the year 2015 equaled 543.40 tpd of VOC. The safety margin for VOCs is calculated to be the difference between these amounts or, in this case, 34.79 tpd of VOC for 2015. By this same method, 257.50 tpd (*i.e.*, 564.05 in 2002 minus 306.55 in 2015) is the safety margin for NO_X for 2015. The emissions are projected to maintain the area's air quality consistent with the NAAQS. The safety margin is the extra emissions that can be allocated as long as the total attainment level of emissions is maintained. The credit, or a portion thereof, can be allocated to any of the source categories. The State of Georgia has also committed in the maintenance plan to the necessary continued operation of the ozone monitoring network in compliance with 40 CFR part 58.

Under section 211 of the Act, the requirement to use reformulated gasoline (RFG) became effective for the Atlanta severe nonattainment area on January 1, 2005. Georgia petitioned EPA to waive the RFG requirement for Atlanta. EPA found that it lacked the authority to grant the waiver request and denied the petition. Georgia filed a lawsuit to stop the implementation of RFG in Atlanta. The State's request for a preliminary injunction was denied and Georgia appealed that decision. Nevertheless, the RFG requirement was stayed pending appeal by order of the Federal District Court for the Northern District of Georgia in the case of *State of Georgia* v. *Michael Leavitt*, Docket # 1:04–CV–2778–CC. That case is now pending before the 11th Circuit Court of Appeals in Atlanta. In its 1-hour maintenance demonstration, GAEPD's mobile source modeling of the 1-hour ozone standard through the year 2015 was broken down as follows: Emissions for 2005–2015 were modeled assuming RFG with a 10 percent (by volume) ethanol oxygenate and 7.3 psi Reid Vapor Pressure (RVP); emissions for 2004 and earlier were modeled using the low sulfur (30 ppm)/low RVP (7.0 psi) Georgia gasoline in place under the SIP before the mandated RFG implementation date. EPA's independent analysis of the impacts of RFG for air quality in the 13-county Atlanta nonattainment area during our review of the Georgia petition to waive the RFG requirement, indicated that RFG would likely lead to a slight increase in NO_X emissions and would be relatively equivalent in emission benefit for VOC. This analysis indicates that a mobile run using only Georgia gasoline would likely produce at least equivalent NO_X and VOC levels. In any event, any increases would be well within the safety margin discussed above. Therefore, maintenance is indicated under either future fuel scenario (*i.e.*, using RFG or Georgia gasoline currently in place). EPA intends to confirm this conclusion prior to final action on this proposed redesignation. Thus, EPA believes that GAEPD's mobile source emissions modeling supports maintenance of the 1-hour ozone standard through the year 2015. EPA will address the applicability of RFG to severe areas like Atlanta after redesignation to maintenance and after the revocation of the one-hour standard in a separate action.

Plan To Maintain Air Quality

The GAEPD has implemented programs that will remain enforceable to ensure that maintenance of the 1-hour standard will continue. Regulations are prohibited from being removed from the SIP (''anti-backsliding'') following the redesignation of the area unless such a change is first approved by the EPA as a revision to the Georgia SIP, as provided by section 110(l) of the Act.

Control measures have been implemented on point, area, mobile, and nonroad sources to reduce emissions of oxides of NO_X and VOCs, both in the 13-county Atlanta nonattainment area and in surrounding counties. Control measures have been developed at both the state and federal level. Table 1 and Table 2 are lists of state and federal controls, respectively. These tables show the control measures relied upon to attain and maintain the 1-hour NAAQS.

All controls relied upon to attain the 1-hour NAAQS were implemented no later than May 1, 2003, except for the regional NO_X SIP Call and a portion of the Georgia gasoline marketing rule. The gasoline marketing rule requiring 30 ppm average sulfur year-round was implemented on September 16, 2003. The air quality impact of the new gasoline marketing sulfur content rule was realized in the 2004 ozone season with additional reductions of NO_X and VOCs. The NO_X SIP Call was implemented in neighboring States (AL, KY, TN, SC, and NC) on May 31, 2004. This resulted in the reduction of regional transport of ozone and its precursors.

Verification of Continued Attainment

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic updates of the area's emissions inventory.

The 11 ambient ozone monitors currently operating in the Atlanta area will continue to operate unless a change is approved by EPA consistent with 40 CFR part 58. No plans are underway to discontinue operation, relocate, or otherwise affect the ambient monitoring network in place.

As noted above, the 1990 Amendments required a triennial Periodic Emissions Inventory for the

nonattainment area. The most recent inventory for the Atlanta area was compiled for 2002. The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002. For the purposes of verifying continued attainment based upon the emissions inventory, the three main components of the inventory will be updated on different schedules. The major point sources of air pollution will continue to submit data on their emissions on an annual basis. This has been required under 40 CFR 51, subpart Q for many years. For the area source and mobile source portions of the inventory, these emissions will continue to be quantified on a three-year cycle. The inventory will be updated and maintained on a three-year cycle. As required by the CERR, the next overall emissions inventory will be compiled for 2005.

Contingency Plan

Section 175A(d) of the Act requires that the maintenance plan include provisions for contingency measures that would assure that the State will promptly correct any violation of the one-hour ozone NAAQS after redesignation of an area as an attainment area. A list of potential contingency measures that could be considered for future implementation in such an event should also be included in the maintenance plan.

The GAEPD has developed a contingency plan for the Atlanta 1-hour ozone nonattainment area. Contingency measures are intended to provide further emission reductions in the event that violations of the one-hour ozone NAAQS occur after redesignation to attainment. Consistent with this plan, GAEPD agrees to adopt and implement, as expeditiously as practicable, the necessary corrective actions in the event that violations of the 1-hour ozone NAAQS occur anywhere within the Atlanta maintenance area after redesignation to attainment. Contingency measures under Tier I or Tier II triggers would be implemented within 18 months unless GAEPD demonstrated to EPA that technical or economic feasibility warranted an implementation period longer than 18 months. Tier I and Tier II triggers are discussed below.

Under Section 175A(d), the minimum requirement for contingency measures is the implementation of all measures that were contained in the SIP before the redesignation. This is met due to the designation of the Atlanta area as nonattainment for the 8-hour ozone standard. The existing measures are expected to remain in place under the active portion of the SIP.

The State of Georgia will use actual ambient monitoring data as the indicator or trigger to determine whether additional contingency measures would be implemented. In accordance with 40 CFR Part 58, ambient ozone monitoring data that indicates a future violation of the 1-hour ozone NAAQS will begin the process to implement these contingency measures according to the protocols identified below. The contingency plan provides for different levels of corrective responses should the 1-hour ozone NAAQS be exceeded or violated, or if emissions in the region increase significantly above current levels.

Contingency Measure Triggers

Tier I: Any monitored ambient concentration of ozone at any ambient monitoring station in the Atlanta maintenance area above 0.124 ppm that occurs more than once per year, or, if the periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in emissions of either ozone precursor over the baseline or intermediate emissions inventories. The GAEPD will evaluate the exceedances to determine if the trend is likely to continue. If it is determined that additional emission reductions are necessary, GAEPD will implement the schedule below to implement any required measures as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures.

Tier II: Any recorded violation of the 1-hour ozone NAAQS at any ambient monitoring station in the Atlanta maintenance area. The GAEPD will work to conduct a comprehensive study to determine the causes of the violation, and the control measures necessary to mitigate the problem. The comprehensive analysis will examine:

- The number, location, and severity of the ambient ozone concentrations above the standard;
- The weather patterns contributing to ozone levels;
- Potential, contributing emission sources;
- The geographic applicability of possible contingency measures;
- Emission trends, including implementation timelines of scheduled control measures;
- Current and recently identified control technologies; and
- Air quality contributions from outside the maintenance area.

Implementation will be conducted as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures.

TABLE 6.—TIMELINE FOR THE DEVELOPMENT OF CONTINGENCY REQUIRED REGULATIONS

	Months
Identify potential sources for reductions	3
Identify applicable control measures	3
Initiate a stakeholder process	3
Draft SIP regulations	3
Initiate rulemaking process (including public comment period, hearing, Board adoption and final submission to EPA). This process may be initiated simultaneous with drafting of regulations	6
Completion no later than	18

TABLE 7.—LIST OF POTENTIAL CONTINGENCY MEASURES

Point Source Measures	Expanded geographic coverage of current point source measures.
	Apply RACT to smaller sources.
	MACT controls for industrial sources.
	LAER and offsets.
	Evaluate sources for additional control.
	Other measures to be identified.
Mobile Source Measures	California Engine Standards.

TABLE 7.—LIST OF POTENTIAL CONTINGENCY MEASURES—Continued

Area Source Measures	Diesel retrofits. Diesel I/M. Truck idling reductions. Incentives for vehicle retrofits. Other measures to be identified. California Architectural/Industrial Maintenance (AIM). Expanded geographic coverage of current area source measures for NO_X. Low-sulfur off-road fuel standards. California Off-Road Engine Standards. Locomotive emission reduction measures. Other measures to be identified.

Contingency measures will be selected from those listed in the above table or from any other measure deemed appropriate and effective at the time the selection is made. Which measure will be implemented will be determined based upon cost effectiveness, emission reduction potential, economic and social considerations, ease and timing of implementation, and other appropriate factors. Implementation of necessary controls in response to a Tier II trigger will take place as expeditiously as possible, but in no event later than 18 months after Georgia makes a determination, based on quality-assured ambient data, that a violation of the 1-hour ozone NAAQS has occurred.

V. Motor Vehicle Emissions Budgets

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans in ozone areas. These control strategy SIPs and maintenance plans create motor vehicle emissions budgets (MVEBs) for criteria pollutants and/or their precursors to address pollution from cars and trucks. The MVEB is the portion of the total allowable emissions that is allocated to highway and transit vehicle use and emissions. The MVEBs serve as a ceiling on emissions from an area's planned transportation system.

Motor vehicle emissions budgets for 2004 were established in the Atlanta Post-1999 ROP plan for ozone. The emissions budgets established limits at 160.80 tons/day of VOC and 318.24 tons/day of NO_X. The Atlanta Post-1999 ROP plan, including the motor vehicle emissions budgets, was approved by EPA on July 19, 2004 (69 FR 42880), effective August 18, 2004. A correction to the VOC budget was published August 9, 2004 (69 FR 48150), also effective August 18, 2004.

Georgia's 1-hour ozone redesignation request for the Atlanta area does not alter, by increasing or decreasing, the current 2004 mobile vehicle emissions budgets. The MVEB established in the Post-1999 ROP plan will be used for regional emissions analyses through the year 2014. However, Georgia's 10-year maintenance plan SIP submittal establishes new MVEBs for the year 2015. Both the 2004 MVEBs and the new 2015 MVEBs are set out in Table 8 below. These 2015 MVEB will be used for regional emissions analysis for 2015 and any required analysis year beyond 2015.

Mobile Source Maintenance Budget

The Atlanta area 1-hour ozone maintenance plan establishes an attainment inventory for the year 2002, the first year of the three-year period with monitoring data showing attainment. This attainment inventory identifies the base level of emissions in the area which is sufficient to maintain the 1-hour ozone NAAQS. Maintenance of the 1-hour ozone NAAQS is demonstrated by showing that future emissions of NO_X and VOC will not exceed the level of the attainment inventory. NO_X and VOC emissions from on-road mobile sources were projected for the year 2015. NO_X and VOC emissions were also projected for the year 2015 for point, area and nonroad mobile sources. These projections are shown in Table 4 for NO_X and Table 5 for VOC. As can be seen in Tables 4 and 5, total emissions of NO_X and VOC are projected to decrease from the 2002 base year through the year 2015. Specifically, NO_X emissions are projected to decrease by 257.50 tons per day and VOC emissions are projected to decrease by 34.79 tons per day. These projected decreases in emissions from the base year through 2015 are termed the ''safety margins.'' In establishing motor vehicle emissions budgets for the last year of the maintenance plan (2015 in this case), all or a portion of the safety margins may be allocated to the MVEB.

Under the maintenance plan, 10 percent of the projected 2015 mobile source NO_X and VOC emissions are being allocated to the MVEB to allow for likely changes in mobile source modeling assumptions. The maintenance plan establishes the 2015 MVEB at 121.88 tons per day for NO_X ($110.80 \times 1.1 = 121.88$) and 83.43 tons per day for VOC ($75.84 \times 1.1 = 83.42$). The Atlanta area emissions and safety margins are listed in Table 4 and Table 5.

TABLE 8.—13-COUNTY ATLANTA AREA MVEB

Year for which MVEB established	Where established	NO_X TPD	VOC TPD
2004	Post-1999 ROP Plan	318.24	160.80
2015	Atlanta One-Hour Maintenance Plan	121.88	83.42

VI. What Is EPA's Proposed Action on the Redesignation Request and Maintenance Plan for the Atlanta 1-Hour Ozone Nonattainment Area?

Today, EPA is proposing to approve the redesignation of the Atlanta 1-hour ozone nonattainment area to attainment. EPA has evaluated the State of Georgia's redesignation request and determined that it meets the five redesignation criteria set in section 107(d) of the Act. EPA believes that the redesignation request and monitoring data demonstrate that this area has attained the 1-hour ozone standard. In this redesignation request, EPA's is also proposing to determine that certain CAA provisions are not applicable requirements because the Atlanta area is currently attaining the 1-hour ozone standard. The final approval of this

redesignation request will change the official designation for the Atlanta area from severe nonattainment to attainment for the 1-hour ozone standard.

EPA is also proposing to approve the maintenance plan, and associated 2015 MVEB, SIP revision submitted by Georgia for the Atlanta area in conjunction with its redesignation request. EPA is proposing to approve the maintenance plan for Atlanta because it meets the requirements of section 175A as described more fully above. The new 2015 MVEBs will be effective on the date of publication (in the **Federal Register**) of EPA's final rulemaking on this action.

VII. What Is an Adequacy Determination and What Is the Status of EPA's Adequacy Determination for the Atlanta Maintenance Area's New MVEB for the Year 2015?

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 NAAQS. 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 MVEB 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 a 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 MVEB contained therein are ''adequate.'' Once EPA affirmatively finds the submitted MVEB adequate for transportation conformity purposes, those MVEB 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 MVEB has not yet been finalized. EPA's substantive criteria for determining ''adequacy'' of MVEB in submitted SIPs are set out in 40 CFR 93.118(e)(4).

EPA's process for determining ''adequacy'' of MVEB 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 MVEB is set out in EPA's May 1999 guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' This guidance is formalized in EPA's July 1, 2004, final rulemaking entitled ''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 Changes (68 FR 38974). EPA follows this process in making its adequacy determinations.

The Atlanta area maintenance plan submission contains new proposed VOC and NO_X MVEB for the year 2015. The availability of the SIP submission with these 2015 MVEB was announced for public comment on EPA's adequacy Web page on January 24, 2005, at: *http://www.epa.gov/otaq/transp/conform/currsips.htm*. The EPA public comment period on adequacy of the 2015 MVEB for the Atlanta Area closed on February 24, 2005, and no adverse comments were received. Following an evaluation of whether the adequacy criteria have been met, EPA will make its adequacy determination. EPA intends to make its determination of the adequacy of the 2015 MVEB for the Atlanta Area for transportation conformity purposes in the final rulemaking on the Atlanta area's 10-year 1-hour ozone maintenance plan submittal (the subject of this proposed rulemaking).

If EPA announces its adequacy finding for the 2015 MVEB, the 2015 MVEB would be effective on the date of publication of EPA's final rulemaking in the **Federal Register**. If EPA announces its adequacy determination for the 2015 MVEB before final action on this rulemaking, the adequate 2015 MVEB will be available for use for transportation conformity purposes on the effective date of the **Federal Register** notice which makes such an adequacy determination. For transportation plan analysis years that involve the year 2014 or before, the applicable budget for the purposes of conducting transportation conformity analyses will be the 2004 VOC (160.80 tpd) and NO_X (318.24 tpd) MVEB for this maintenance area. For transportation plan analysis years that involve the year 2015 or beyond, the applicable budget for the purposes of conducting transportation conformity analyses will be the 2015 VOC (83.42 tpd) and NO_X (121.88 tpd) MVEB for this maintenance area.

VIII. 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 proposed 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: April 12, 2005.

J.I. Palmer Jr.,

Regional Administrator, Region 4.

[FR Doc. 05–7936 Filed 4–19–05; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 05–02; FCC 05–14]

Service Rules and Procedures To Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to the Fixed Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (FCC) proposes and seeks comment on a regulatory framework for licensing the operation of Aeronautical Mobile Satellite Service (AMSS) systems to communicate with fixed-satellite service (FSS) networks in the Ku-Band frequencies. Aircraft Earth stations (AES) in the AMSS can be used to provide broadband telecommunications services on passenger, government, and executive/private aircraft. This Notice of Proposed Rulemaking (NPRM) also seeks comments on licensing methods for AES terminals that will minimize the burdens upon applicants and licensees, while maintaining operational limitations necessary to avoid harmful interference.

DATES: Comments are due on or before July 5, 2005, and reply comments are due on or before August 3, 2005.

ADDRESSES: All comments should be addressed to the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the Secretary, a copy of any Paperwork Reduction Act (PRA) comments on the information collection(s) proposed herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov*, and to Kristy L. LaLonde, OMB Desk Officer, Room 10234 NEOB, 725 17th Street, NW., Washington, DC 20503 via the Internet to *Kristy_L._LaLonde@omb.eop.gov* or by fax to 202–395–5167. Electronic comments may be filed using the Commission's Electronic Comment Filing System (ECFS). Comments filed though the ECFS can be sent as an electronic file via Internet to *http://www.fcc.gov/cgb/ecfs/*. All other filings must be sent to the Office of the Secretary, Federal Communications Commission, 445 12th St., SW., Room TW–B204, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Arthur Lechtman, (202) 418–1465, Satellite Division, International Bureau, Federal Communications Commission, Washington, DC 20554. For additional information concerning the information collection(s) contained in this document, contact Judith B. Herman at 202–418–0214, or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking* (NPRM) IB Docket No. 05–20, FCC 05–14, adopted January 18, 2005, released on February 9, 2005, and corrected by erratum on February 18, 2005. The full text of the *Second Report and Order* is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–488–5300, facsimile 202–488–5563, or via e-mail *FCC@BCPIWEB.com*. This NPRM may contain proposed new information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. The PRA implications of the Aeronautical Mobile Satellite Service (AMSS) NPRM are unknown at this time. We are seeking comment from the public on the regulatory framework for AMSS. The comments from the public will impact the PRA requirements of the new AMSS service. Therefore, we plan to address the PRA issues during the final stage of the rulemaking.

The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due June 20, 2005. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Summary of Notice of Proposed Rulemaking

1. On February 9, 2005, the Commission released the *Notice of Proposed Rulemaking* (''*NPRM*'') in the Aeronautical Mobile Satellite Service proceeding (IB Docket No. 05–20). In this *NPRM*, the Commission makes proposals and seeks comment on a regulatory framework for licensing the operation of Aeronautical Mobile Satellite Service (AMSS) systems to communicate with fixed-satellite service (FSS) networks in the Ku-Band frequencies. (For purposes of this *NPRM*, the ''conventional'' Ku-band refers to frequencies in the 11.7–12.2 GHz (downlink) and 14.0–14.5 GHz (uplink) bands and excludes the so-called ''extended Ku-band'' at 12.75–13.25 GHz, 13.75–14.0 GHz, 10.7–10.95 GHz, 10.95–11.2 GHz, 11.2–11.45 GHz, and 11.45–11.7 GHz. The ''conventional'' Ku-bands are allocated on a primary basis to the FSS. *See*