

seasonal sulfur control which becomes effective June 1, 2004.

Paragraph 4 is being amended to remove conflicting annual reporting language and to clarify the content and due date of quarterly reports required from each producer and importer.

Paragraph 5 (iii) is being amended to revise the terminal-level sampling requirements for 2003 and beyond for consistency with the above described changes.

EPA is proposing to approve these revisions to the Georgia Fuel Rule, as requested by the GAEPD, because these revisions meet the requirements of the CAA as amended in 1990. Starting September 16, 2003, the sulfur content requirements will revert back to the annual average of 30 ppm (by weight) and the per-gallon cap of 150 ppm. EPA approved an attainment demonstration for Atlanta with an attainment date for the 1-hour ozone NAAQS of November 15, 2004. However, due to a challenge to EPA's approval of the attainment demonstration for metro Atlanta before the United States 11th Circuit Court of Appeals, EPA's approval was vacated on June 16, 2003. Atlanta's attainment date has reverted to the previously applicable date of 1999. Under the CAA, EPA is required to make a finding as to whether Atlanta attained the 1-hour ozone NAAQS on November 15, 1999. If EPA finds that Atlanta did not attain the 1-hour standard in 1999, Atlanta will be reclassified to a severe nonattainment area by operation of law. As a severe area, Atlanta's attainment date will be as expeditiously as practicable but no later than November 15, 2005. It is unknown at this time if Atlanta's severe area attainment date will be November 15, 2004, or November 15, 2005, however, under either scenario these revisions will not interfere with the Atlanta area's ability to attain the 1-hour ozone NAAQS. This rule revision will not cause a delay for either a 2004 or 2005 attainment date since the original 30 ppm sulfur level will be in effect starting September 16, 2003, well before the November 15, 2004, or November 15, 2005, attainment date.

Tier 2 Credit

EPA notes that refineries producing low sulfur gasoline with sulfur levels below a refinery's baseline established under EPA's Tier 2 Gasoline Sulfur Control Program prior to the start of this program in 2004 may generate sulfur credits and/or allotments which can provide economic benefits to the refinery. These sulfur credits and allotments may be used to allow the refinery to produce gasoline with

slightly higher sulfur levels in future years, or they may be sold to other refineries. A refinery that meets the original April 1, 2003, requirement for supplying Georgia low sulfur gasoline may be eligible for more sulfur credits under EPA's Tier 2 Gasoline Sulfur Control Program than a refinery which meets the revised April 1, 2003, requirement for supplying Georgia low sulfur gasoline. Furthermore, such a refinery may also be eligible for sulfur allotments since allotments may be generated in 2003 by refineries that produce gasoline with an average sulfur level that is less than or equal to 60 ppm. For more information about EPA's Tier 2 Gasoline Sulfur Control Program, see EPA's rulemaking, Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements, dated February 10, 2000, (65 FR 6698).

IV. Proposed Action

EPA is proposing to approve the revisions to the Georgia SIP described above because they are consistent with EPA guidance and the CAA, as amended in 1990. EPA acknowledges that some companies, notably BP/Amoco and Chevron, stated in commenting upon the Georgia rule change that they had made the necessary investments and were prepared to meet the earlier April 1, 2003, deadline for supplying complying fuel. For example, Chevron worked pro-actively with the State of Mississippi and EPA Region 4 to develop an expedited permitting schedule to allow the necessary changes to their Pascagoula, MS, refinery in a good faith effort to meet the original rule deadlines. Although quantitative estimates are not available, today's proposed action will inevitably to some degree disadvantage companies who made these investments with an eye to meeting the original deadline as opposed to those companies which delayed making the necessary investments. EPA commends these companies for their commitment to environmental protection and, in keeping with EPA's policy and practice of encouraging early reductions, will be looking for ways to provide incentives for companies who comply ahead of regulatory deadlines.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is

also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 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, as stated in the previous paragraph.

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