(Authority: 10 U.S.C. 1174(h)(2) and 1212(c))

* * * * *

(5) *Separation pay and special separation benefits.* (i) * * * Where payment of separation pay or special separation benefits under section 1174a was made on or before September 30, 1996, VA will recoup from disability compensation an amount equal to the total amount of separation pay or special separation benefits. Where payment of separation pay or special separation benefits under section 1174a was made after September 30, 1996, VA will recoup from disability compensation an amount equal to the total amount of separation pay or special separation benefits less the amount of Federal income tax withheld from such pay.

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(Authority: 10 U.S.C. 1174 and 1174a)

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[FR Doc. 02–24390 Filed 9–26–02; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA–200228(a); FRL–7382–2]

Approval and Promulgation; Georgia Transportation Conformity State Implementation Plan Memorandum of Agreement for the Atlanta Metropolitan Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is promulgating a minor correction to its previous approval of the transportation conformity State Implementation Plan (SIP) for Atlanta, Georgia promulgated on April 7, 2000 (65 FR 18249). This direct final rulemaking will amend EPA's approval of the Georgia Transportation Conformity SIP, so that the current SIP is consistent with the March 2, 1999, decision by the U.S. Court of Appeals for the District of Columbia Circuit Court that affected the transportation conformity regulations pertaining to triggers and the frequency of conformity determinations. As a consequence of this correction, Georgia will no longer be required to make a new conformity determination within eighteen months of the submission date of an initial SIP. Alternatively, EPA's August 6, 2002, rulemaking revision (67 FR 50808) will now govern the establishment of the eighteen-month conformity clock for initial SIP submissions. The eighteen-month clock for initial SIPs will begin upon the effective date of EPA's adequacy finding for the motor vehicle emissions budgets in such submitted SIPs.

DATES: This direct final rule is effective November 26, 2002, without further notice, unless EPA receives adverse comment by October 28, 2002. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments on this action should be addressed to Kelly A. Sheckler at the Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Copies of documents relative to this action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day. References file GA 20228. The EPA Region 4 office may have additional background documents not available at the other locations.

Air and Radiation Docket and Information Center (Air Docket 6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460.

Environmental Protection Agency, Region 4 Air Planning Branch, 61 Forsyth Street, SW, Atlanta, Georgia 30303. Attn.: Kelly Sheckler, 404/562–9042, *Sheckler.Kelly@epa.gov.*

Georgia Department of Natural Resources, Environmental Protection Division, Air Protection Division, 4244 International Parkway, Suite 136, Atlanta, Georgia 30354.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler, Air Quality Modeling and Transportation Section, US. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303, *Sheckler.Kelly@epa.gov,* (404) 562–9042.

SUPPLEMENTARY INFORMATION:

Background

Transportation conformity is required under section 176(c) of the Clean Air Act (42 U.S.C. 7506(c) to ensure that federally supported highway and transit project activities are consistent with (''conform to'') the purpose of a state air quality implementation plan. EPA's transportation conformity rule established the criteria and procedures for determining whether transportation activities conform to the state air quality plan.

EPA first published the transportation conformity rule on November 24, 1993 (58 FR 62188), and made subsequent revisions to the rule in 1995 (60 FR 40098, August 7, 1995, and 60 FR 57179, November 14, 1995). On August 15, 1997, however, EPA published a comprehensive set of amendments that clarified and streamlined language from the 1993 transportation conformity rule and 1995 amendments (62 FR 43780). Since the publication of the 1997 rule, EPA has made two additional revisions to the conformity rule in 2000 and 2002 (65 FR 18911, April 10, 2000, and 67 FR 50808, August 6, 2002).

The August 2002 amendment to the conformity rule addressed, in part, the decision made on March 2, 1999, by the U.S. Court of Appeals for the District of Columbia Court that affected several provisions of the 1997 rulemaking (*Environmental Defense Fund* v. *EPA, et al.*, 167 F. 3d 641, D.C. Cir 1999). Specifically, the August amendment addressed the impact of this Court decision on one provision of the conformity rule, Section 93.104 (e). With this rule change, conformity must now be determined within eighteen months of the effective date of the **Federal Register** notice announcing EPA's finding that the motor vehicle emission budgets in an initial SIP submission are adequate rather than within eighteen months of initial SIP submission.

We made this minor change to the conformity rule to respond to the Court decision that EPA must find motor vehicle emissions budgets in submitted SIPs adequate before they can be used in a conformity determination. The August 2002, rulemaking also changes the starting point for eighteen month clocks that are currently running for areas with initial SIP submissions, so that these areas are given the full eighteen months after EPA's adequacy finding to determine conformity to their SIPs. In other words, in areas where a SIP has been submitted and EPA is currently reviewing it for adequacy, the eighteen-month clock required by section 93.104(e) (2) will now not start until the effective date of our adequacy finding. For areas that have submitted initial SIPs that EPA has already found adequate and to which conformity has not yet been determined, the August rule restarts the eighteen-month clock from the effective date of EPA's positive adequacy finding. For more information on the eighteen-month conformity requirement for initial SIP submissions see the August 6, 2002 final rule (67 FR 50808).

Section 51.390 (b) of the conformity rule specifies that after EPA approves a conformity SIP revision, the federal rule no longer governs conformity determinations with respect to the provisions covered by the state rule. Therefore, areas that have approved SIPs governing eighteen-month triggers (*i.e.*, SIPs that include 93.104(e)(a) from the 1997 transportation conformity rule), the actions of the August 6, 2002 rule will normally only be effective when EPA approves a conformity SIP revision that includes the amendment to the state rules to align the eighteen-month clock for initial SIP submissions with EPA's adequacy provisions. In the case of Atlanta, EPA has approved conformity SIP that included section 93.104(e)(2) from the 1997 version of the transportation conformity rule. However, EPA believes that its initial approval of Atlanta's SIP was in error. Specifically, EPA should not have approved section 105(e) of the State Interagency Transportation Conformity Memorandum of Agreement (MOA) since this provision mirrors section 93.104(e)(2) that was indirectly affected by the March 2, 1999 court decisions.

Therefore, in today's action, EPA is correcting its earlier approval of the Atlanta, Georgia transportation conformity SIP to remove approval of section 105(e) of the Interagency Transportation Conformity MOA. EPA believes that its approval of that provision was in error, because it was made after the March 2, 1999, court ruling that conformity could not be shown to the motor vehicle emissions budgets in submitted SIPs until EPA finds such submitted budgets adequate for transportation conformity purposes. Since section 105(e) would require a determination of conformity within eighteen-months of submittal of an initial SIP, even if EPA had not found the budget to be adequate, EPA concludes that it should not have approved that section of the Atlanta SIP.

Final Action

Therefore, pursuant to section 110(k)(6) of the Clean Air Act, EPA is now correcting its approval of the Atlanta SIP to remove its approval of section 105(e). In the absence of EPA approval of this provision, the state of Georgia will revert back to reliance of the Federal transportation conformity rule and its requirement for the eighteen-month conformity requirement for initial SIPs. That is, the eighteen-month conformity requirement will now be triggered in Atlanta only from the effective data of EPA's adequacy finding for such initial SIPs.

The EPA is publishing this rule without a prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments are filed. This rule will be effective November 26, 2002, without further notice unless the Agency receives adverse comments by October 28, 2002.

If the EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 26, 2002, and no further action will be taken on the proposed rule.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Effect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely corrects our action that approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this 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 corrects our action that approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely corrects our action that approves 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 rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the

appropriate circuit by November 26, 2002. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and will not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: September 11, 2002.

A. Stanley Meiburg,

Regional Administrator, Region 4.

Part 52 of chapter I, title 40, *Code of Federal Regulations,* is amended as follows:

PART 52—[AMENDED]

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

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

Subpart L—Georgia

2. Section 52.570(e), is amended by revising entry 12 in the table-EPA Approved Georgia Non-Regulatory Provisions to read as follows:

§ 52.570 Identification of plan.

* * * * *

EPA APPROVED GEORGIA NON-REGULATORY PROVISION

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date
* * * *	*	*	*
12. Georgia Interagency Transportation Conformity Memorandum of Agreement, except for the following sections: Section 103(4)(d); Section 105(e); Section 106(c); Section 110(c)(1)(ii); Section 110(c)(2)(ii); Section 110(d)(2)(i); Section 110(d)(3)(i); Section 110(e)(2)(i); Section 110(e)(3)(i); Section 119(e)(1); Section 119b(a)(2); Section 130(1); and Section 133..	Atlanta Metropolitan Area.	February 16, 1999.	November 26, 2002.
* * * *	*	*	*

[FR Doc. 02–24490 Filed 9–26–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–63–2–7569; FRL–7384–6]

Approval and Promulgation of Air Quality State Implementation Plans (SIP); Louisiana; Emissions Reduction Credits Banking in Nonattainment Areas

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is approving the Louisiana emission reduction credit (ERC) banking program as a revision to the Louisiana State Implementation Plan (SIP). The ERC banking regulation establishes a means of enabling stationary sources to identify and preserve or acquire emission reductions for New Source Review (NSR) emission offsets. The revisions remove the requirement that ERCs in the bank be set aside as a contingency measure for the attainment demonstration. The revisions also remove the requirement that NSR netting be conducted with surplus ERCs from the bank. The revisions clarify the requirement that ERCs be surplus to all requirements of the Clean Air Act (the Act) when used. The EPA approves these revisions to the ERC banking regulation to satisfy the provisions of the Act which relate to the permitting of new and modified sources which are located in nonattainment areas. The EPA does not approve the revisions as an Economic Incentive Program (EIP), nor through this rule alone are we allowing the use of ERCs for interprecursor trading purposes or for alternate Reasonably Available Control Technology (RACT) compliance purposes. Pursuant to section 553(d) of the Administrative Procedure Act, EPA finds good cause to make this action effective immediately.

EFFECTIVE DATE: This rule will be effective on September 27, 2002.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the following locations. Persons interested in examining these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733. Louisiana Department of Environmental Quality, 7920 Bluebonnet Boulevard, Baton Rouge, Louisiana 70884.

FOR FURTHER INFORMATION CONTACT: Merrit H. Nicewander, Watershed Management Section (6WQ–EW), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7519 *(nicewander.merrit@epa.gov).*

SUPPLEMENTARY INFORMATION: This section is organized as follows:

I. What action is EPA taking?
II. What did EPA propose?
III. What comments did EPA receive, and what are our responses?
IV. Administrative requirements

Throughout this document ''we'' ''us'' and ''our'' means EPA.

I. What Action is EPA Taking?

We are granting approval of the Louisiana Department of Environmental Quality (LDEQ) ERC banking regulation as a component of the Louisiana SIP. The rule is promulgated by the State at LAC 33:III, Chapter 6 (Regulations on Control of Emissions Through the Use of Emission Reduction Credit Banking), as published in the Louisiana Register on February 20, 2002. The Governor of Louisiana submitted this rule to the EPA as a SIP revision on March 4, 2002.

Our approval of the revised ERC bank rule was necessary to reflect the rescission of the contingency measures' enforceable process contained in section 621 of the rule, to incorporate the ''Surplus When Used'' provision in accordance with the Act and our Administrator's Order of December 22,