EPA also indicated that under the plantwide definition, new equipment would still be subjected to any applicable new source performance standard and that wholly new plants, as well as any modifications that resulted in a significant net emissions increase, would still be subject to NSR. Thus, EPA saw no significant disadvantage in the plantwide definition from the environmental standpoint, but the advantages from the standpoints of state flexibility and economic growth. It regarded the plantwide definition as presenting, at the very worst, environmental risks that were manageable because of the independent impetus to create adequate part D plans.

As a result, EPA ruled that a state wishing to adopt a plantwide definition generally has complete discretion to do so, and it set only one restriction on that discretion. If a state had specifically projected emission reductions from its NSR program as a result of a dual or similar definition and had relied on those reductions in an attainment strategy that EPA later approved, then the state needed to revise its attainment strategy as necessary to accommodate reduced NSR permitting under the plantwide definition (46 FR 50767 Col. 2 and 50769 Col. 1).

In 1984, the Supreme Court upheld EPA's action as a reasonable accommodation of the conflicting purposes of part D of the Act, and hence, well within EPA's broad discretion. Chevron, U.S.A., Inc. v. Natural Resources Defense Council, Inc., 104 S. Ct. 2778 (1984). Specifically, the Court agreed that the plantwide definition is fully consistent with the Act's goal of maximizing state flexibility and allowing reasonable economic growth. Likewise, the Court recognized that EPA had advanced a reasonable explanation for its conclusion that the plantwide definition serves the Act's environmental objectives as well (see 104 S. Ct. at 2792). EPA today generally reaffirms the rationales stated in the 1981 rulemaking. Those rationales were left undisturbed by the Supreme Court decision.

The SIP revision EPA is approving in this action substitutes a plantwide definition for a dual definition in Georgia's existing NSR program. The one nonattainment area to which this program applies (the 13-county metropolitan Atlanta area for ozone) has a part D plan previously approved by EPA, but nevertheless is still experiencing violations of the ozone NAAQS. In response to a 1984 SIP call, Georgia submitted a SIP addressing the nonattainment situation on May 22, 1985. Due to major deficiencies in the

submittal EPA proposed disapproval (52 FR 26435, July 14, 1987). An updated and revised SIP was later submitted October 1, 1987. The SIP addressed many problems noted in the earlier submittal, however, a few minor problems still existed after a detailed review by EPA. In a letter to the Georgia **Environmental Protection Division** dated November 9, 1989, EPA identified a few remaining minor Volatile Organic Compound (VOC) Reasonably Available Control Technology (RACT) issues that had to be resolved before EPA could approve the revision. Georgia resolved these issues and they have been approved by EPA in a Federal Register document dated October 13, 1992 (57 FR 46780). In fact Georgia has submitted several revisions required by the amended Act prior to the attainment of the NAAQS by 1999, the statutory attainment date for serious ozone nonattainment areas. Georgia has submitted revisions for VOC and NOx Reasonable Available Control Technology, Stage II vapor recovery, clean fuel fleet regulations and 15% VOC reduction. These revisions will be acted on in subsequent actions. The State has shown that in obtaining EPA approval of its original part D SIP it did not rely on any emission reductions from the operation of its existing NSR program. Therefore, EPA approves the switch to a plantwide definition, in accordance with its 1981 action.

Georgia's plantwide definition of source is consistent with the NSR requirements for ozone nonattainment areas in the Clean Air Act Amendments of 1990. The Atlanta area is classified as a "serious" ozone nonattainment area. Therefore, the attainment date for Atlanta is now 1999 (see section 181(a)), and Georgia must meet an independent requirement to reduce VOC emissions by fifteen percent in the first six years after 1990 and three percent per year thereafter (see section 182 (b) and (c)(2)(B)). While Georgia must account for the impact of its plantwide definition of source in the attainment and reasonable further progress demonstrations it submits under the 1990 Amendments, it is clear that Congress anticipated States could use the plantwide definition of source when devising such plans.

The 1990 Amendments include provisions regulating the application of the plantwide definition of source, including a special rule for serious and severe ozone nonattainment areas for determining "de minimis" net increases in VOC emissions from source modifications (section 182(c)(6)). It is clear that Congress anticipates states will often continue to employ EPA's

plantwide definition of source in ozone nonattainment areas (except in extreme areas, see section 182(e)(2)), provided the states can also meet the new reasonable further progress requirements in the Act. In addition, it is important to note that the 1990 Amendments' adoption of new future attainment deadlines for ozone has mooted concerns regarding the approvability of a plantwide source definition where a state has additional time to submit a revised SIP to provide for attainment by the revised deadline. As described above, Georgia has already begun to meet its obligations under the 1990 Amendments.

All of the amendments to Georgia Rules 391–3–1–.01 and 391–3–1–.03 are identical to or more stringent than corresponding federal regulations. Therefore, they will adequately protect the NAAQS and meet all requirements of the Act.

Public Comments

EPA received comments on the proposed approval of these SIP revisions from two sources. Both commenters questioned approval of the "plantwide" new source definition for nonattainment areas without an approved plan.

Response to Comments

As discussed earlier in this document, Georgia's submission, including the plantwide source definition, meets all applicable Federal regulations and policies. Further, the 1990 Amendments accommodate a plantwide definition of source and provide revised attainment deadlines. Finally, the State's previous attainment demonstration did not rely on NSR reductions from the dual source definition, and Georgia is making reasonable efforts to develop a complete and approvable ozone SIP in accordance with the 1990 Amendments. Therefore, EPA is approving this SIP revision.

Final Action

EPA is approving the aforementioned amendments to the Georgia rules submitted on December 15, 1986, and November 13, 1992.

EPA is publishing this action without prior proposal because the Agency views these as noncontroversial amendments and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revisions should adverse or critical comments be filed. This action will be effective on May 8, 1995 unless, by April 7, 1995 adverse or critical comments are received.