

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
157	11-1-06	12-1-06	2.75	4.00	4.00	4.00	7	8

■ 3. In appendix C to part 4022, Rate Set 157, as set forth below, is added to the table.

Appendix C to Part 4022—Lump Sum Interest Rates for Private-Sector Payments

* * * * *

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		i_1	i_2	i_3	n_1	n_2
157	11-1-06	12-1-06	2.75	4.00	4.00	4.00	7	8

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 4. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 5. In appendix B to part 4044, a new entry for November 2006, as set forth below, is added to the table.

Appendix B to Part 4044—Interest Rates Used to Value Benefits

* * * * *

For valuation dates occurring in the month—	The values of i_t are:							
	i_t	for $t =$	i_t	for $t =$	i_t	for $t =$	i_t	for $t =$
November 2006	.0570	1-20	.0475	>20	N/A			N/A

Issued in Washington, DC, on this 5th day of October 2006.
James C. Gerber,
Acting Interim Director, Pension Benefit Guaranty Corporation.
 [FR Doc. E6-16958 Filed 10-12-06; 8:45 am]
BILLING CODE 7709-01-P

highway from the boundary description, and clarifies the 8-hour ozone nonattainment boundary for Murray County, Georgia by adding a boundary description. Monroe County, Georgia is part of the Macon, Georgia 8-hour ozone nonattainment area and a portion of Murray County, Georgia makes up the Murray County (Chattahoochee National Forest Mountains), Georgia 8-hour ozone nonattainment area. The nonattainment boundaries for these two counties were described in EPA's final 8-hour ozone designations rule which was published in the **Federal Register** on April 30, 2004. EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by including the precise descriptions of the boundary in the Code of Federal Regulations. In addition, pursuant to Clean Air Act (CAA) section 110(k)(6), EPA is also correcting an error made in identifying the 8-hour ozone nonattainment boundary for Monroe County.

EFFECTIVE DATE: This action is effective: October 13, 2006.

ADDRESSES: EPA has established dockets for this action under Docket ID No. EPA OAR-2003-0083 (Designations) and EPA OAR-2003-0090 (Early Action Compacts). All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov Web site or in hard copy at the Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m. Monday through Friday, excluding legal holidays. The telephone number for the

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA OAR-2003-0083; FRL-8231-1]

Air Quality Designations and Classifications for the 8-Hour Ozone National Ambient Air Quality Standards; Early Action Compact Areas With Deferred Effective Dates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action corrects the 8-hour ozone nonattainment boundary for Monroe County, Georgia by deleting a

Public Reading Room is (202) 566-1744, and the telephone number for the Office of Air and Radiation Docket and Information Center is (202) 566-1742. In addition, we have placed a copy of the rule and a variety of materials regarding designations on EPA's designation Web site at: <http://www.epa.gov/oar/oaqps/glo/designations> and on the tribal Web site at: <http://www.epa.gov/air/tribal>. Materials relevant to Early Action Compact (EAC) areas are on EPA's Web site at: <http://www.epa.gov/ttn/naaqs/ozone/eac>. In addition, the public may inspect the rule and technical support at the following locations:

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.

FOR FURTHER INFORMATION CONTACT: Mr. Dick Schutt, 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) 562-9033. Mr. Schutt can also be reached via electronic mail at schutt.dick@epa.gov.

SUPPLEMENTARY INFORMATION: On April 30, 2004, (69 FR 23858), EPA published a rule designating and classifying areas for the 8-hour ozone National Ambient Air Quality Standards (NAAQS). That rule designated portions of both Monroe County and Murray County, Georgia, as nonattainment for the 8-hour ozone NAAQS. Those designations appear in 40 CFR 81.311. Today, EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by precisely describing the boundary as was recommended by the State of Georgia and approved by EPA in the April 2004 8-hour ozone designations rulemaking. In addition, pursuant to CAA section 110(k)(6), EPA is correcting an error made in identifying the 8-hour ozone nonattainment boundary for Monroe County.

Murray County

In letters dated October 20, 2003, and March 4, 2004, the State of Georgia recommended an 8-hour ozone nonattainment boundary for Murray County, Georgia (Murray County, Chattahoochee National Forest Mountains, Georgia 8-hour ozone nonattainment area) and described the boundary as being "enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200

degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves." See, Letter from Ron Methier, Georgia Environmental Protection Division, to Kay Prince, EPA Region 4, dated March 4, 2004. EPA concurred with this nonattainment boundary for Murray County, but in our subsequent April 30, 2004, 8-hour ozone designations rulemaking we described the nonattainment boundary only generally as "Murray Co. (Chattahoochee Nat Forest), GA: Murray County (part)." See, 69 FR 23857 (April 30, 2004).

The purpose of today's rule is not to change the Murray County, Georgia, 8-hour ozone nonattainment boundary, but to clarify the exact boundary description as recommended by Georgia and concurred upon by EPA as part of the April 30, 2004 8-hour ozone designations rulemaking. Thus, EPA is more clearly describing the Murray County 8-hour ozone nonattainment boundary (found at 40 CFR 81.311) as:

- The area enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200 degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.

Monroe County

Monroe County and Bibb County, Georgia make up the Macon, Georgia, 8-hour ozone nonattainment area. 69 FR 23857, 23894 (April 30, 2004). Monroe County is adjacent to the core Consolidated Metropolitan Statistical Area (CMSA) county of Bibb and has a large source of nitrogen oxides (NO_x) emissions from Georgia Power Company's Plant Scherer. Based on EPA's technical analysis in 2004, the portion of Monroe County that contains Plant Scherer was determined to be contributing to the 8-hour ozone violations recorded in Bibb County.

In its initial designation recommendation in July 2003, Georgia did not recommend any portion of Monroe County be included as part of the designated 8-hour ozone nonattainment area. In EPA's December 2003 response to the State's recommendation, EPA indicated that Monroe County should be included as part of the designated nonattainment area. Just prior to EPA's signature on the

8-hour ozone nonattainment designations on April 15, 2004, EPA's Office of Air Quality, Planning and Standards (OAQPS) requested that Georgia provide EPA with a boundary description for the Monroe County portion of the Macon, Georgia 8-hour ozone nonattainment area. In response, on April 13, 2004, the State of Georgia submitted a recommended boundary to OAQPS that included Georgia Power's Plant Scherer and that included the portion of the county that was contiguous to Bibb County. That recommendation included a road—U.S. Hwy 23/Georgia Hwy 87—as part of the recommended area to be designated nonattainment. The April 13, 2004 recommended boundary description read as follows:

- From the point where Bibb and Monroe Counties meet at the Ocmulgee River, follow the Ocmulgee River boundary north to 33 degrees, 05 minutes, due west to 83 degrees, 50 minutes, due south to the intersection with Georgia Hwy 18, east along Georgia Hwy 18 to U.S. Hwy 23/Georgia Hwy 87, south on U.S. Hwy 23/Georgia Hwy 87 to the Monroe/Bibb County line, and east to the intersection with the Ocmulgee River.

Following EPA's signature on the 8-hour ozone designations rule on April 15, 2004, but just prior to EPA's announcement of its 8-hour ozone designations on April 30, 2004, the State of Georgia submitted a corrected boundary description for Monroe County (on April 29, 2004). The corrected boundary description was provided to EPA Region 4, rather than OAQPS and continued to be contiguous to Bibb County and continued to include Georgia Power's Plant Scherer. The correction, however, excluded U.S. Hwy 23/Georgia Hwy 87. The State's April 29, 2004 corrected boundary description for Monroe County read as follows:

- From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150' from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150' north of the Georgia Hwy 18 centerline, proceed eastward 150' north of and parallel to the Georgia Hwy 18 centerline to 1150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow

the Monroe/Bibb County line to 150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline.

EPA Region 4 reviewed this corrected boundary recommendation at the time it was submitted and agreed with the recommendation, finding that it continued to include Georgia Power's Plant Scherer and was consistent with EPA's 11-factor nonattainment boundary guidance. However, at the time EPA Region 4 received Georgia's corrected boundary description for Monroe County, it was unaware that Georgia had previously provided a different description to OAQPS. In addition, EPA Region 4 believed, erroneously, that Georgia had simultaneously provided its April 29, 2004 corrected boundary description to OAQPS. Yet, Georgia had not provided its boundary correction to OAQPS and as a result, no effort was made by either EPA Region 4 or OAQPS to correct the Monroe County boundary description prior to the June 15, 2004, effective date of designation.

EPA is taking action today to correct its error in failing to correct the boundary prior to the area's effective date of designation. Because the April 29, 2004 letter was submitted in sufficient time for EPA to have corrected the boundary prior to the effective date of designation and such correction was not made due to a breakdown in communication between two EPA offices, EPA is today correcting its error. The corrected boundary description will read as follows:

- From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150' from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150' north of the Georgia Hwy 18 centerline, proceed eastward 150' north of and parallel to the Georgia Hwy 18 centerline to 1150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow the Monroe/Bibb County line to 150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline.

EPA is making this correction pursuant to the authority of CAA section 110(k)(6). Section 110(k)(6) provides:

- "Whenever the Administrator determines that the Administrator's action approving, disapproving, or

promulgating any plan or plan revision (or part thereof), area designation, redesignation, classification, or reclassification was in error, the Administrator may in the same manner as the approval, disapproval, or promulgation, revise such action as appropriate without requiring any further submission from the State. Such determination and the basis thereof shall be provided to the State and public."

As discussed above, the Administrator erroneously allowed the 8-hour ozone area designation for Monroe County, Georgia to become effective without reflecting Georgia's April 29, 2004 correction of its boundary recommendation. EPA's recent discovery of this error prompted today's correction.

Public Participation

EPA is clarifying the 8-hour ozone nonattainment boundary for Murray County, Georgia without notice and comment in accordance with CAA section 107(d)(2), which exempts the promulgation or announcement of a designation (including boundary determinations) from the notice and comment provisions of the Administrative Procedure Act (APA).

In addition, EPA is correcting the 8-hour ozone nonattainment boundary for Monroe County, Georgia without notice and comment for several reasons. First, CAA section 110(k)(6) provides that corrections to the promulgation of area designations (including boundary corrections) may be accomplished by the Administrator "in the same manner" as the promulgation. EPA's April 30, 2004 final 8-hour ozone designations rule was published as a final rule without public notice and comment in accordance with CAA section 107(d)(2), which exempts the promulgation or announcement of a designation (including boundary determinations) from the notice and comment provisions of the Administrative Procedure Act. Further, EPA's correction of the Monroe County, Georgia, 8-hour ozone nonattainment boundary falls under the "good cause" exemption in APA section 553(b)(3)(B). Section 553(b)(3)(B) provides that, upon finding "good cause," agencies may dispense with public participation where public notice and comment procedures are impracticable, unnecessary or contrary to the public interest. Public notice and comment for EPA's correction of the 8-hour ozone nonattainment boundary for Monroe County, Georgia, is unnecessary because the correction makes no substantive difference to EPA's analysis of the designation status of the Macon,

Georgia, 8-hour nonattainment area, as set out in EPA's April 30, 2004, final 8-hour ozone designations rule (69 FR 23858). In the April 30, 2004 rulemaking, EPA included, as part of the Macon, Georgia, 8-hour ozone nonattainment, the portion of Monroe County that contains Georgia Power's Plant Scherer because that portion was determined to be contributing to the 8-hour ozone violations recorded in Bibb County, Georgia. Today's correction of the boundary for Monroe County does not impact this prior technical analysis since the boundary continues to include Georgia Power's Plant Scherer and continues to be consistent with EPA's 11-factor ozone nonattainment boundary guidance. Finally, EPA can identify no particular reason why the public would be interested in being notified of this correction or in having the opportunity to comment on the correction prior to this action being finalized, since the corrected boundary for Monroe County continues to include Georgia Power's Plant Scherer and continues to be consistent with EPA's 11-factor ozone nonattainment boundary guidance.

Effective Date

EPA also finds that there is good cause under APA section 553(d)(3) for today's actions to become effective on the date of publication of this final rule. Section 553(d)(3) of the APA allows an effective date less than 30 days after publication "as otherwise provided by the agency for good cause found and published with the rule." 5 U.S.C. 553(d)(3). The purpose of the 30-day waiting period prescribed in APA section 553(d)(3) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule merely corrects the 8-hour ozone nonattainment boundary for Monroe County, Georgia, to exclude a highway, and clarifies the 8-hour ozone nonattainment boundary for Murray County, Georgia, by adding a boundary description to 40 CFR part 81. For these reasons, EPA finds good cause under APA section 553(d)(3) for today's actions to become effective on the date of publication of this final rule.

Final Actions

EPA is taking two actions today. First, EPA is clarifying the exact location of the 8-hour ozone nonattainment boundary for Murray County by including the boundary that was

recommended by the State of Georgia and approved by EPA in the April 2004 ozone designations rulemaking, but that was not included in 40 CFR part 81. Second, pursuant to CAA section 110(k)(6), EPA is also correcting the 8-hour ozone nonattainment boundary for Monroe County to reflect Georgia's April 29, 2004 recommended boundary.

Statutory and Executive Order Reviews:

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and, therefore, subject to the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. Pursuant to the terms of Executive Order 12866, it has been determined that this rule is not a "significant regulatory action" because none of the above factors applies. As such, this final rule was not formally submitted to OMB for review.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. This rule does not establish any new information collection burden apart from that required by law. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information,

processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the APA or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. The clarification and correction of these boundaries will not impose any requirements on small entities. After considering the economic impacts of today's final rule on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit

analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to state, local, and tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation of why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements. Today's final rule does not include a Federal mandate within the meaning of UMRA that may result in expenditures of \$100 million or more in any one year by either state, local, or tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. It does not create any additional requirements beyond those of the 8-hour NAAQS for ozone (62 FR 38894; July 18, 1997), and therefore, no UMRA analysis is needed. This rule only clarifies and corrects the 8-hour nonattainment boundaries for Murray County and Monroe County, Georgia. EPA believes that any new controls imposed as a result of this rule will not cost in the aggregate \$100 million or more annually. Thus, this Federal rule will not impose mandates that will require expenditures of \$100 million or more in the aggregate in any one year.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by state

and local officials in the development of regulatory policies that have federalism implications.” “Policies that have federalism implications” is defined in the Executive Order to include regulations that 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.” This final rule does not have federalism implications. It will 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. The Clean Air Act establishes the scheme whereby states take the lead in developing plans to meet the NAAQS. This rule will not modify the relationship of the states and EPA for purposes of developing programs to implement the NAAQS. Thus, Executive Order 13132 does not apply to this rule. Although Executive Order 13132 does not apply to this rule, EPA discussed the designation process and compact program with representatives of state and local air pollution control agencies, and tribal governments, as well as the Clean Air Act Advisory Committee, which is also composed of state and local representatives.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure “meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.” This final rule does not have “tribal implications” as specified in Executive Order 13175. This rule only clarifies and corrects the 8-hour ozone nonattainment boundaries for Murray County and Monroe County, Georgia. The Clean Air Act provides for states to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives tribes the opportunity to develop and implement Clean Air Act programs such as programs to attain and maintain the 8-hour ozone NAAQS, but it leaves to the discretion of the tribe whether to develop these programs and which programs, or appropriate elements of a program, they will adopt. This rule only clarifies and corrects the 8-hour ozone nonattainment boundaries

for Murray County and Monroe County, Georgia, of which no tribal land is included. This final rule does not have tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian tribes, since no tribe has implemented a Clean Air Act program to attain the 8-hour ozone NAAQS at this time. Furthermore, this rule does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian tribes. The Clean Air Act and the TAR establish the relationship of the Federal government and tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Because this rule does not have tribal implications, Executive Order 13175 does not apply. Although Executive Order 13175 does not apply to this rule, prior to designations action promulgated on April 15, 2004, EPA did outreach to tribal representatives regarding the designations and to inform them about the compact program and its impact on designations. EPA supports a national “Tribal Designations and Implementation Work Group” which provides an open forum for all tribes to voice concerns to EPA about the designation and implementation process for the NAAQS, including the 8-hour ozone standard. These discussions informed EPA about key tribal concerns regarding designations as the rule was under development.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: “Protection of Children From Environmental Health and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be (economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by

this rule present a disproportionate risk to children. Nonetheless, we have evaluated the environmental health and safety effects of the 8-hour ozone NAAQS on children. The results of this risk assessment are contained in the National Ambient Air Quality Standards for Ozone, Final Rule (62 FR 38855–38896; specifically, 62 FR 38854, 62 FR 38860 and 62 FR 38865).

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions That Significantly Affect Energy Supply, Distribution, or Use,” (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Information on the methodology and data regarding the assessment of potential energy impacts is found in Chapter 6 of U.S. EPA 2002, Cost, Emission Reduction, Energy, and Economic Impact Assessment of the Proposed Rule Establishing the Implementation Framework for the 8-Hour, 0.08 ppm Ozone National Ambient Air Quality Standard, prepared by the Innovative Strategies and Economics Group, Office of Air Quality Planning and Standards, Research Triangle Park, NC April 24, 2003.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This rule does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Congressional Review Act

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 rule is not a "major rule" as defined by 5 U.S.C. 804(2). This rule will be effective October 13, 2006.

K. Judicial Review

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 *December 12, 2006*. Filing a petition for

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: October 5, 2006.

Stephen L. Johnson,
Administrator.

■ 40 CFR part 81 is amended as follows:

GEORGIA—OZONE (8-HOUR STANDARD)

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

■ 2. In § 81.311 the table entitled (Georgia—Ozone (8-hour standard) is amended:

■ a. By adding footnote 3 to heading "Macon, GA:,"

■ b. Under Macon, GA by revising entries for "Monroe County (part)" and "Murray Co (Chattahoochee Nat Forest), GA:" to read as follows:

§ 81.311 Georgia

* * * * *

Designated area	Designation ^a		Category/classification	
	Date ¹	Type	Date ¹	Type
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Macon, GA: ³				
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
Monroe County (part)		Nonattainment		Subpart 1.
From the point where Bibb and Monroe Counties meet at U.S. Hwy 23/Georgia Hwy 87 follow the Bibb/Monroe County line westward 150' from the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed northward 150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to 33 degrees, 04 minutes, 30 seconds; proceed westward to 83 degrees, 49 minutes, 45 seconds; proceed due south to 150' north of the Georgia Hwy 18 centerline, proceed eastward 150' north of and parallel to the Georgia Hwy 18 centerline to 1150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline, proceed southward 1150' west of and parallel to the U.S. Hwy 23/Georgia Hwy 87 centerline to the Monroe/Bibb County line; then follow the Monroe/Bibb County line to 150' west of the U.S. Hwy 23/Georgia Hwy 87 centerline.				
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Murray Co (Chattahoochee Nat Forest), GA: Murray County (part)		Nonattainment		Subpart 1.
The area enclosed to the east by Murray County's eastern border, to the north by latitude of 34.9004 degrees, to the west by longitude 84.7200 degrees, and to the south by 34.7040 degrees. All mountain peaks within the Chattahoochee National Forest area of Murray County that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.				
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^a Includes Indian Country located in each county or area, except as otherwise specified.

¹ This date is June 15, 2004, unless otherwise noted.

³ The boundary change is effective October 13, 2006.

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DEPARTMENT OF HOMELAND SECURITY**Federal Emergency Management Agency****44 CFR Part 62**

RIN 1660-AA41

National Flood Insurance Program; Appeal of Decisions Relating to Flood Insurance Claims**AGENCY:** Federal Emergency Management Agency, DHS.**ACTION:** Final rule.

SUMMARY: This rule amends and finalizes the Federal Emergency Management Agency's (FEMA's) May 2006 interim rule establishing an appeals process for National Flood Insurance policyholders as required under section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act of 2004.

DATES: This final rule is effective November 13, 2006.

FOR FURTHER INFORMATION CONTACT: James Shortley, Director of Claims, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646-3418 (Phone), (202) 646-2818 (facsimile), or James.Shortley@dhs.gov (e-mail).

SUPPLEMENTARY INFORMATION:**Background**

In the face of mounting flood losses and escalating costs of disaster relief to the taxpayers, the National Flood Insurance Program (NFIP) was established by Congress as part of the National Flood Insurance Act of 1968 (the Act). Pub. L. 90-448, Title XII (Aug. 1, 1968), as amended, 42 U.S.C. 4001, *et seq.* The intent of the NFIP is to reduce future flood damage through community floodplain management ordinances, and to make risk-based flood insurance generally available for property owners. FEMA was designated by Congress to be the administrator of the NFIP.

In 1983, FEMA partnered with the private insurance industry to expand the NFIP policy base. This partnership between FEMA and the private sector property insurance companies is termed the Write Your Own (WYO) Program.

The WYO Program is a cooperative undertaking between the insurance industry and FEMA. The WYO Program allows participating property and

casualty insurance companies to issue and service the NFIP Standard Flood Insurance policies (SFIPs) in their own names. FEMA also uses the services of contractors to process NFIP policy information from the WYO Companies and the agents and to service SFIPs sold directly by FEMA. Contractors are sometimes employed by the WYO Companies to handle and adjust claims.

Section 205 of the Bunning-Bereuter-Blumenauer Flood Insurance Reform Act (FIRA) of 2004 (Pub. L. 108-264 (June 30, 2004), 42 U.S.C. 4011) requires FEMA to establish by regulation a formal process for the appeal of decisions of flood insurance claims issued through the NFIP. On May 26, 2006, FEMA issued an interim rule establishing a formal appeals process and soliciting comments from the public. *See* 71 FR 30294. The process implemented under the interim rule codifies FEMA's existing NFIP appeals practice and enables policyholders to formally appeal the decisions of any insurance agent or adjuster, or insurance company, or any FEMA employee or contractor with respect to their SFIP claims, proofs of loss, and loss estimates.

Under the formal appeals process, FEMA will acknowledge receipt of a policyholder's appeal in writing and advise the policyholder if additional information is required in order to fully consider the appeal. FEMA will review the documentation submitted by the policyholder and conduct any necessary additional investigations. FEMA will then advise the policyholder and the appropriate flood insurance carrier of FEMA's decision regarding the appeal.

Discussion

The Act and the SFIP authorize an insured (or policyholder) who is dissatisfied with an insurer's decision to deny a claim, in whole, or part, to file a lawsuit in Federal district court for the disallowed portion of the claim, or invoke the appraisal provision of the SFIP (a procedure to resolve disputes regarding the actual value of covered losses). This rule provides a formal appeals process for resolving flood insurance disputes prior to commencement of litigation.

The appeals process outlined in this rule does not abolish or replace the right to file a lawsuit against the insurer pursuant to the Act (42 U.S.C. 4072), nor does it expand or change the one-year statute of limitation to file suit against the insurer for the disallowed portion of the insured's claim. To avoid potentially conflicting results and duplicative efforts, an insured who files suit against an insurer is prohibited

from filing an appeal under this appeals process.

Similarly, this appeals process is not meant to provide an insured with multiple contractual or administrative, pre-litigation remedies. Accordingly, an insured who seeks to resolve issues regarding the actual cash value or, if applicable, replacement cost of damaged property, must elect to resolve this dispute through either the appraisal provision in the SFIP or this appeals process. An insured cannot seek remedy under both processes.

Finally, this rule does not amend or change the conditions necessary to recover under the SFIP. In the case of a flood loss to insured property, the insured must comply with the requirements set out in the SFIP; including, but not limited to, providing the insurer with prompt notice of the loss, submitting a valid proof of loss within 60 days after the loss, cooperating with the adjuster, separating damaged and undamaged property so that the insurer may examine it, and preparing an inventory of damaged personal property. *See* SFIP, 44 CFR Part 61, App. A(1), Part 61, App. A(2), Part 61, App. A(3).

This appeals process is available after the issuance of the insurer's final claim determination, which is the insurer's written denial, in whole or in part, of the insured's claim. Once the final claim determination is issued, an insured may appeal any action taken by the insurer, FEMA employee, FEMA contractor, insurance adjuster, or insurance agent. An insured must file an appeal within 60 days after receiving the insurer's final claim determination.

Response to Comments

The interim rule requested public comment. FEMA received two written and one oral comment. A summary of the comments received, together with FEMA's responses, is set forth below.

One commenter, U.S. Senator James Bunning, asked that FEMA provide additional information to the public during the appeals process, including stating the grounds for the initial denial of a claim and eventual resolution of any appeal; and identifying a point of contact for claimants so that they can speak with someone at FEMA directly. The Senator also recommended that FEMA provide a timeframe for issuance of a decision on an appeal, as well as what information and documentation should be included in any appeal filed.

FEMA agrees with these comments and has amended 44 CFR 62.20 accordingly. Specifically, FEMA agrees to provide the policyholder with a written acknowledgement of the receipt