

CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- 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);
- does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, pertaining to West Virginia's section 110(a)(2) infrastructure requirements for the 2012 PM<sub>2.5</sub> NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

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

Dated: December 1, 2016.

**Shawn M. Garvin,**

*Regional Administrator, Region III.*

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2016-0583; FRL-9957-32-Region 4]

### Air Plan Approval; Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2008 8-Hour Ozone Nonattainment Area to Attainment

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On July 18, 2016, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia 2008 8-hour ozone nonattainment area (hereafter referred to as the "Atlanta Area" or "Area") to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to approve the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for the years 2014 and 2030 for the Area, and incorporate it into the SIP, and to redesignate the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Area.

**DATES:** Comments must be received on or before January 23, 2017.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2016-0583 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*.

EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303-8960. Ms. Spann can be reached by phone at (404) 562-9029 or via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

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### I. What are the actions EPA is proposing to take?

EPA is proposing to take the following separate but related actions: (1) To approve Georgia's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporate it into the SIP, and (2) to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy

determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is proposing to approve Georgia's maintenance plan for the Atlanta Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to keep the Atlanta Area in attainment of the 2008 8-hour ozone NAAQS through 2030. The maintenance plan includes 2014 and 2030 MVEBs for NO<sub>x</sub> and VOC for the Atlanta Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the SIP.

EPA also proposes to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process MVEBs for the Atlanta Area. The Adequacy comment period began on September 2, 2016, with EPA's posting of the availability of Georgia's submissions on EPA's Adequacy Web site (<https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa>). The Adequacy comment period for these MVEBs closed on October 3, 2016. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, this notice of proposed rulemaking is in response to Georgia's July 18, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS.

## II. What is the background for EPA's proposed actions?

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15.

Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Atlanta Area was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.311. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. The Atlanta Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015, and therefore on May 4, 2016, EPA published a final rule reclassifying the Atlanta Area from a marginal nonattainment area to a moderate nonattainment area for the 2008 8-hour ozone standard. *See* 81 FR 26697 (May 4, 2016). Moderate areas are required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015. *See* 81 FR 45419. Under the provisions of EPA's ozone implementation rule for the 2008 8-hour ozone NAAQS (40 CFR part 51, subpart AA), if EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the area's obligations to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress plan (RFP), contingency measures, and other planning SIPs

related to attainment of the 2008 8-hour ozone NAAQS are suspended until EPA: (i) Redesignates the area to attainment for the standard or approves a redesignation substitute, at which time those requirements no longer apply; or (ii) EPA determines that the area has violated the standard, at which time the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval.

An attainment determination is not equivalent to a redesignation under section 107(d)(3) of the CAA. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Atlanta Area based on any new or revised ozone NAAQS, and the determination of attainment remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

## III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill

Laxton, Director, Technical Support Division, June 18, 1990;

2. "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;

3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the "Calcagni Memorandum");

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

6. "Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas," Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. "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 (hereinafter referred to as the "Shapiro Memorandum");

8. "Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas," Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. "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 (hereinafter referred to as the "Nichols Memorandum"); and

10. "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. Why is EPA proposing these actions?

On July 18, 2016, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing a maintenance plan for the Area. EPA's evaluation indicates that the Atlanta Area meets the requirements for redesignation as set forth in CAA section 107(d)(3)(E), including the maintenance plan requirements under CAA section 175A and associated MVEBs. As a result of these proposed findings, EPA is proposing to take the actions summarized in section I of this notice.

#### V. What is EPA's analysis of the redesignation request and July 18, 2016, SIP submission?

As stated above, in accordance with the CAA, EPA proposes to approve the 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Georgia SIP; and redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

##### *Criteria (1)—The Atlanta GA Area Has Attained the 2008 8-Hour Ozone NAAQS*

For redesignating a nonattainment area to attainment, the CAA requires

EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix P, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS. *See* 81 FR 45419. In that action, EPA reviewed complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015 and determined that the design values for each monitor in the Area are less than the standard of 0.075 ppm for that time period. The fourth-highest 8-hour ozone values at each monitor for 2013, 2014, and 2015 and the 3-year averages of these values (*i.e.*, design values), are summarized in Table 2, below.

TABLE 2—2013–2015 DESIGN VALUE CONCENTRATIONS FOR THE ATLANTA AREA  
[ppm]

Location (county)	Monitoring station	4th Highest 8-hour ozone value			3-Year design values  2013–2015
		2013	2014	2015	
Cobb .....	GA National Guard, McCollum Pkwy (13–067–0003) .....	0.067	0.063	0.066	0.066
Coweta .....	University of W. Georgia at Newnan (13–077–0002) .....	0.053	0.067	0.066	0.062
DeKalb .....	2390–B Wildcat Road Decatur (13–089–0002) .....	0.062	0.070	0.071	0.067
Douglas .....	Douglas Co. Water Auth. W. Strickland St. (13–097–0004) .....	0.063	0.065	0.070	0.066
Gwinnett .....	Gwinnett Tech, 5150 Sugarloaf Pkwy. (13–135–0002) .....	0.069	0.068	0.071	0.069
Henry .....	Henry County Extension Office (13–151–0002) .....	0.070	0.075	0.070	0.071
Paulding .....	Yorkville, King Farm (13–223–0003) .....	0.062	0.059	0.065	0.062
Rockdale .....	Conyers Monastery, 2625 GA Hwy. 212 (13–247–0001) .....	0.071	0.079	0.068	0.072
Fulton .....	Confederate Ave., Atlanta (13–121–0055) .....	0.069	0.073	0.077	0.073

The 3-year design value for 2013–2015 for the Atlanta Area is 0.073 ppm,<sup>1</sup> which meets the NAAQS.

For this proposed action, EPA has reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.<sup>2</sup> EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, Georgia has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

*Criteria (2)—Georgia Has a Fully Approved SIP Under Section 110(k) for the Atlanta Area; and Criteria (5)—Georgia Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Georgia has met all applicable SIP requirements for the Atlanta Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Georgia has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were due prior to submittal of the complete redesignation request.

*a. The Atlanta Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA*

*General SIP requirements.* General SIP elements and requirements are

delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.*, for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See Reading, Pennsylvania, proposed and final rulemakings* (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7,

2008); *Cleveland-Akron-Loraine, Ohio, final rulemaking* (61 FR 20458, May 7, 1996); and *Tampa, Florida, final rulemaking* at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the *Cincinnati, Ohio, redesignation* (65 FR 37890, June 19, 2000), and in the *Pittsburgh, Pennsylvania, redesignation* (66 FR 50399, October 19, 2001).

*Title I, Part D, applicable SIP requirements.* Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A moderate area must meet the marginal area requirements of section 182(a) and additional requirements specific to moderate (and higher) areas under section 182(b). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are “applicable” and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* Calcagni Memorandum. *See also* Shapiro Memorandum; Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club v. EPA*, 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of “applicable” under the statute is “whatever should have been in the plan at the time of attainment” rather than whatever actually was in the plan and already implemented or due at the time of attainment”).<sup>3</sup> For the Atlanta Area, no

<sup>1</sup> The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

<sup>2</sup> This preliminary data is available at EPA's air data Web site: <http://aqsdr1.epa.gov/aqswweb/aqstmp/airdata/>.

<sup>3</sup> Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a

section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore these requirements are not applicable for the purposes of redesignation.<sup>4</sup> In addition, as discussed below, several of the Part D requirements under 182(a) and 182(b) are otherwise not applicable for the purposes of redesignation and several of the requirements have already been satisfied by the State.

**Section 182(a) Requirements.** Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the ozone nonattainment area. This inventory submission was due on July 20, 2015, for the Atlanta Area. Georgia provided an emissions inventory for the Area to EPA in a February 6, 2015, SIP submission, and EPA approved the emissions inventory in an action published on August 11, 2015. *See* 80 FR 48036.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT “fix up” requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments. Furthermore, the State complied with this requirement under the 1-hour ozone NAAQS. *See* 57 FR 46780 (October 13, 1992).

Section 182(a)(2)(B) requires each state with a marginal or higher ozone nonattainment area classification that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Atlanta Area is not subject to the section 182(a)(2)(B) requirement because the Area was designated as nonattainment for the 2008 8-hour ozone standard after

the enactment of the 1990 CAA amendments. As discussed below in the section addressing section 182(b) requirements, Georgia has an I/M program that meets its past I/M obligations under section 182(c)(3) for its severe classification under the 1990 1-hour ozone NAAQS.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Georgia currently has a fully approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in the Nichols Memorandum. Georgia’s PSD program will become applicable in the Atlanta Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled *Verification of Continued Attainment*, the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by certain sources within that nonattainment area. Georgia provided a SIP revision to EPA on February 6, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on August 11, 2015, EPA published a direct final rule approving this SIP revision. *See* 80 FR 48036 (August 11, 2015).

**Section 182(b) Requirements.** Section 182(b) of the CAA, found in subpart 2 of part D, establishes additional requirements for moderate (and higher) ozone nonattainment areas. As noted above, no section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore, these requirements are not applicable for the purposes of redesignation.

The RFP plan requirements under section 182(b)(1) are defined as progress that must be made toward attainment for the 2008 8-hour ozone NAAQS. These requirements are not relevant for purposes of redesignation because EPA has determined that the Atlanta Area attained of the 2008 8-hour ozone NAAQS. *See* 57 FR 13564.

Section 182(b)(2) of the CAA requires states with areas designated as moderate (or higher) nonattainment areas for the ozone NAAQS to submit a SIP revision to require RACT for all major VOC and NO<sub>x</sub> sources and for each category of VOC sources in the Area covered by a Control Techniques Guidelines (CTG) document. The CTGs established by EPA are guidance to the states and provide recommendations only. A state can develop its own strategy for what constitutes RACT for the various CTG categories, and EPA will review that strategy in the context of the SIP process and determine whether it meets the RACT requirements of the CAA and its implementing regulations. If no major sources of VOC or NO<sub>x</sub> emissions (which should be considered separately) or no sources in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. In the past, Georgia has met previous RACT requirements. EPA approved Georgia’s RACT submittals, for the 1997 ozone NAAQS, on September 28, 2012. *See* 77 FR 59554.

The section 182(b)(3) gasoline vapor recovery requirements once applied in all moderate (and higher) ozone nonattainment areas. However, under section 202(a)(6) of the CAA the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. *See* 59 FR 16262; 40 CFR parts 86, 88, and 600.

Section 182(b)(4) of the CAA requires states with areas designated as moderate (or higher) nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). In 1991, EPA classified a 13-county area in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1990 1-hour ozone NAAQS, triggering the requirement for the State to establish an enhanced I/M program for this 13-county area.<sup>5</sup> EPA fully approved this program into the SIP in January 2000. *See* 65 FR 4133 (January 26, 2000).

Section 182(b)(5) of the CAA requires that for purposes of satisfying the general emission offset requirement, the ratio of total emission reductions to total increase emissions shall be at least 1.15 to 1. Georgia currently requires these

redesignation is approved, but are not required as a prerequisite to redesignation. *See* Calcagni Memorandum; CAA section 175A(c).

<sup>5</sup> On November 6, 1991, EPA designated and classified the following counties in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1-hour ozone NAAQS: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. *See* 56 FR 56694.

offsets in its SIP-approved state regulations, Georgia Rule 391–3–1–.03(8)(c)(13) and (14).

**Section 176 Conformity Requirements.** Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements<sup>6</sup> as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Georgia has an approved conformity SIP for the Atlanta Area. *See* 77 FR 35866 (June 15, 2012).

Thus, for the reasons discussed above, EPA proposes that the Atlanta Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Atlanta Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Georgia SIP for the Atlanta Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall*, 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action

(*see* 68 FR 25426 (May 12, 2003) and citations therein). Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS. *See* 80 FR 61109 (October 9, 2015) and 81 FR 65899 (September 26, 2016).

As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions, nor linked to an area's nonattainment status, are not applicable requirements for purposes of redesignation and believes that Georgia has met all part D requirements applicable for purposes of this redesignation.

**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 redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Georgia has demonstrated that the observed air quality improvement in the Atlanta Area is due to permanent and enforceable reductions in emissions resulting from federal measures and from state measures adopted into the SIP and is not the result of unusually favorable weather conditions.<sup>7</sup>

State measures adopted into the SIP and federal measures enacted in recent years have resulted in permanent emission reductions. The SIP-approved state measures, some of which implement federal requirements, that have been implemented to date and identified by Georgia include: Georgia Rule 391–3–1–.02(2)(yy)—Emissions of Nitrogen Oxides; Georgia Rule 391–3–1–.02(2)(jjj)—NO<sub>x</sub> from EGUs; Georgia Rule 391–3–1–.02(2)(lll)—NO<sub>x</sub> from

Fuel Burning Equipment; Georgia Rule 391–3–1–.02(2)(nnn)—NO<sub>x</sub> from Stationary Gas Turbines; Georgia Rule 391–3–1–.02(2)(rrr)—NO<sub>x</sub> from Small Fuel Burning Equipment; and Georgia Rule Chapter 391–3–20—Enhanced Inspection and Maintenance.

Georgia Rule 391–3–1–.02(2) contains provisions that target emission reductions necessary for ozone reduction. Those provisions that are approved into the federally-approved SIP and are therefore federally enforceable include:

Rule 391–3–1–.02(2)(yy)—this rule requires a case-by-case RACT determination for sources of NO<sub>x</sub> emissions with the potential to emit more than 25 tons of NO<sub>x</sub> per year in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties and for sources that have the potential to emit more than 100 tons of NO<sub>x</sub> per year in Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton counties.

Rule 391–3–1–.02(2)(jjj)—this rule regulates NO<sub>x</sub> emissions from coal-fired external combustion devices that generate steam for electricity generation. This rule established a NO<sub>x</sub> emission standard of 0.13 pounds per million British Thermal Unit (lb/MMBtu) from May 1 through September 30 (starting in 2003) averaged across affected sources in Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gwinnett, Heard, Henry, Paulding, and Rockdale counties.

Rule 391–3–1–.02(2)(lll)—this rule applies to fuel-burning equipment with maximum design heat input capacities greater than or equal to 10 million British Thermal Units per hour (MMBtu/hr) and less than or equal to 250 MMBtu/hr in 45 counties, including the counties in the Atlanta Area. It established a compliance date for the ozone standard beginning on May 1, 2000, and it affects all fuel burning equipment installed from that date forward. This rule also affects future possible emissions for new or modified sources by requiring the operation of equipment during the control season to meet emission limits based on the use of natural gas.

Rule 391–3–1–.02(2)(nnn)—this rule establishes ozone season NO<sub>x</sub> emissions limits for stationary gas turbines greater than 25 MW in 45 counties in and around the Atlanta Area. This rule requires combustion turbines permitted on or after April 1, 2000, to emit no more than 6 ppm NO<sub>x</sub> at 15 percent oxygen during the period of May 1 through September 30 of each year. This

<sup>6</sup> CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

<sup>7</sup> Georgia provided average temperature and precipitation data for May through September in Atlanta, Georgia, from 1930 through 2015. Based on this information, the average temperature and precipitation in 2013 fluctuates around the average meteorological conditions; the years 2014 and 2015 were hotter than the 1930–2000 average temperature; and precipitation in 2014 was less than the 1930–2000 average. *See* section 2.3 of the State's redesignation request and SIP revision for further meteorological information.

period falls within the broader ozone season.

Rule 391–3–1–.02(2)(rrr)—this is a RACT rule for small fuel-burning equipment. It requires that, in order to reduce NO<sub>x</sub>, an annual tune-up and the burning of natural gas, liquefied petroleum gas, or propane be conducted on individual fuel burning equipment in the Atlanta Area that is not subject to Rule 391–3–1–.02(2)(jjj) or 391–3–1–.02(2)(lll), during ozone season. This includes individual fuel-burning equipment located at facilities in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale County with NO<sub>x</sub> emissions exceeding 25 tons per year and at facilities in Barrow, Bartow, Carroll, Hall, Newton, Spalding or Walton County with NO<sub>x</sub> emissions exceeding 100 tons per year; the individual fuel-burning equipment has potential emissions of NO<sub>x</sub> equal to or exceeding 1 ton per year; and the individual fuel-burning equipment either has a maximum design heat input capacity of less than 100 million BTU per hour or less than 10 million BTU per hour, depending on when it was installed.

Rule Chapter 391–3–20—Enhanced Inspection and Maintenance (Vehicle Emissions I/M Program)—As discussed above, EPA fully approved the State's enhanced I/M program and adopted it into the SIP in January 2000. See 65 FR 4133 (January 26, 2000). The program applies to Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, all of which are located in the Atlanta Area.

Federal measures enacted in recent years have also resulted in permanent emission reductions in the Atlanta Area. The federal measures that have been implemented include the following:

*Clean Air Interstate Rule (CAIR)/Cross-State Air Pollution Rule (CSAPR).* CAIR created regional cap-and-trade programs to reduce SO<sub>2</sub> and NO<sub>x</sub> emissions in 28 eastern states, including Georgia, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 PM<sub>2.5</sub> NAAQS. See 70 FR 25162 (May 12, 2005). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in *North Carolina v. EPA*, 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in *North Carolina v. EPA*, 550 F.3d 1176, 1178 (D.C. Cir. 2008) to preserve the environmental benefits provided by CAIR. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated

CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 PM<sub>2.5</sub> NAAQS. CSAPR requires substantial reductions of SO<sub>2</sub> and NO<sub>x</sub> emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Numerous parties filed petitions for review of CSAPR, and on August 21, 2012, the D.C. Circuit vacated and remanded CSAPR to EPA. *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7, 38 (D.C. Cir. 2012). The United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA v. EME Homer City Generation, L.P.*, 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO<sub>2</sub> and ozone-season NO<sub>x</sub> CSAPR budgets as to a number of states. *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (D.C. Cir. 2015).<sup>8</sup> This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017.

On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. See 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO<sub>x</sub> budgets. The update withdraws these remanded NO<sub>x</sub> budgets, sets new Phase 2 CSAPR ozone season NO<sub>x</sub> emissions budgets for eight of the eleven states with remanded

<sup>8</sup> The remanded budgets include the Phase 2 sulfur dioxide (SO<sub>2</sub>) budgets for Georgia. On May 26, 2016, Georgia submitted a commitment letter to provide a SIP revision that adopts provisions for participation in the CSAPR annual NO<sub>x</sub> and annual SO<sub>2</sub> trading programs, including annual NO<sub>x</sub> and annual SO<sub>2</sub> budgets that are at least as stringent as the budgets codified for Georgia at 40 CFR 97.710(a) (SO<sub>2</sub> Group 2 trading budgets) and 40 CFR 97.410(a) (NO<sub>x</sub> Annual trading budgets). This commitment letter formed the basis for EPA's conditional approval of the visibility transport element of several infrastructure SIP submittals from the State. See 81 FR 65899 (September 26, 2016). SO<sub>2</sub> is not an ozone precursor; therefore, SO<sub>2</sub> reductions under CSAPR do not impact ozone air quality.

budgets, and removes the other three states from the CSAPR ozone season NO<sub>x</sub> trading program.<sup>9</sup>

*Tier 2 vehicle and fuel standards.* Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO<sub>x</sub> emissions.<sup>10</sup> The standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO<sub>x</sub> per mile. Additionally, in January 2006, the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NO<sub>x</sub> emissions. EPA expects that these standards will reduce NO<sub>x</sub> emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.<sup>11</sup>

*Large non-road diesel engines rule.* This rule was promulgated in 2004 and was phased in between 2008 through 2014. This rule reduces the sulfur content in the nonroad diesel fuel and reduces NO<sub>x</sub>, VOC, particulate matter, and carbon monoxide emissions. This rule applies to diesel engines and fuel used in industries such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO<sub>x</sub> emissions from non-road diesel engines by up to 90 percent nationwide.

*Medium and Heavy-Duty Vehicle Fuel Consumption and GHG Standards.* These standards have and will continue to reduce greenhouse gas emissions and increase fuel efficiency for model year 2014 through 2018 semi-trucks, heavy-duty pickup trucks and vans, and vocational vehicles. These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO<sub>2</sub> emissions and fuel consumption by

<sup>9</sup> See 81 FR 74504 for further discussion. Georgia has an ongoing original CSAPR NO<sub>x</sub> ozone season FIP requirement with respect to the 1997 ozone NAAQS, but EPA has found that it does not contribute to interstate transport with respect to the 2008 ozone NAAQS. EPA did not reopen comment on Georgia's interstate transport obligation with respect to the 1997 ozone NAAQS in the rulemaking for the CSAPR update rule, so Georgia's original CSAPR NO<sub>x</sub> ozone season requirements (including its emission budget) continue unchanged. See 81 FR 74506. The air quality modeling for the CSAPR update rule did not identify the Atlanta Area as an attainment or maintenance receptor for the 2008 8-hour ozone NAAQS. See <https://www3.epa.gov/airmarkets/CSAPRU/AQ%20Modeling%20TSD%20Final%20CSAPR%20Update.pdf>.

<sup>10</sup> Georgia also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

<sup>11</sup> EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at: <http://www.epa.gov/tier2/documents/f99051.pdf>.



2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NO<sub>x</sub> emissions.

*Heavy-duty gasoline and diesel highway vehicle standards.* EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO<sub>x</sub> and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NO<sub>x</sub> emissions from diesel trucks and buses and will reduce NO<sub>x</sub> emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.<sup>12</sup>

*Nonroad spark-ignition engines and recreational engines standards.* The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO<sub>x</sub>, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO<sub>x</sub>, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

*National program for greenhouse gas (GHG) emissions and fuel economy standards.* The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012–2016 (phase 1) and 2017–2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO<sub>x</sub> emissions released.

*Boiler and Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP).* The NESHAP for industrial, commercial, and institutional

boilers and the NESHAP for RICE are projected to reduce VOC emissions. The former applies to boiler and process heaters located at major sources of hazardous air pollutants (HAPs) that burn natural gas, fuel oil, coal, biomass, refinery gas, or other gas and had a compliance deadline of January 31, 2016. The latter applies to existing, new, or reconstructed stationary RICE located at major or area sources of HAPs, excluding stationary RICE being tested at a stationary RICE test cell, and has various compliance dates from August 16, 2004, to October 19, 2013, depending on the type of source.

*Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS).* The MATS for coal and oil-fired electric generation units (EGU) and the NSPS for fossil-fuel-fired electric utility steam generating units were published on February 16, 2012 (77 FR 9304). The purpose is to reduce mercury and other toxic air pollutant emissions from coal and oil-fired EGUs, 25 megawatts or more, that generate electricity for sale and distribution through the national electric grid to the public. The NSPS has revised emission standards for NO<sub>x</sub>, SO<sub>2</sub>, and particulate matter (PM) that apply to new coal and oil-fired power plants. The MATS compliance date for existing sources was April 16, 2015. However, all coal fired EGUs in Georgia received a one-year compliance extension. MATS rule is expected to reduce NO<sub>x</sub> and SO<sub>2</sub> emissions as well as emissions of mercury and other air toxics.

EPA proposes to find that the improvements in air quality in the Atlanta Area are due to real, permanent and enforceable reductions in NO<sub>x</sub> and VOC emissions resulting from the federal and SIP-approved state measures discussed above.

#### *Criteria (4)—The Atlanta Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS, Georgia submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a 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 10 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 remainder of the 20-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Georgia's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Georgia SIP.

#### b. Attainment Emissions Inventory

As discussed above, EPA has determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2013–2015. See 81 FR 45419. Georgia selected 2014 as the base year (i.e., attainment emissions inventory year) for developing a comprehensive emissions inventory for NO<sub>x</sub> and VOC, for which projected emissions could be developed for 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Georgia began development of the attainment inventory by first generating a baseline emissions inventory for the Area. The 2014 base year emissions were projected to 2030 for EGU point sources, non-EGU point sources, area sources, fires (both agricultural burning and land clearing, and wildfire and prescribed burning), non-road mobile sources, and on-road mobile sources. The State projected summer day emission inventories using projected rates of growth in population, traffic, economic activity, and other

<sup>12</sup> 66 FR 5002, 5012 (January 18, 2001).



parameters. In addition to comparing the final year of the plan (2030) to the base year (2014), Georgia compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, non-point, on-road mobile, and non-road mobile. Complete descriptions of how the State developed these inventories are located in Appendix A of the July 18, 2016, SIP submittal.

#### Point Sources

Georgia provided point source emissions for EGU and non-EGU stationary sources with emissions equal to or exceeding 25 tons per year of VOC or NO<sub>x</sub> in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, and equal to or exceeding 100 tons per year of VOC or NO<sub>x</sub> in Bartow and Newton counties.

EGU point source emissions for the three power plants in the Area (Plant Bowen, Plant McDonough/Atkinson, and Plant Yates) are tabulated from data collected from Georgia Power during the 2014 emission data collection process.<sup>13</sup> Georgia projected 2030 NO<sub>x</sub> and VOC emissions for two of the EGUs, Plant Bowen and Plant McDonough/Atkinson, from 2014 emissions using growth factors based on fuel consumption. At Plant Yates, five units were retired in 2015 and two units were converted from coal to natural gas boilers in 2015, and in the future, this facility is planned to be run as a peaking unit with a capacity factor of approximately 25 percent. Therefore, Georgia projected 2030 NO<sub>x</sub> emissions using the plant's projected usage, a nominal heat rate of 12 MMBtu/MWh, and the measured NO<sub>x</sub> emission rates after it was converted to natural gas. Georgia projected 2030 VOC emissions at the plant using maximum measured emission rates for May and June of 2015.

For non-EGU emissions, Georgia calculated summer day emissions for the 2014 and 2030 inventories using 2014 NO<sub>x</sub> and VOC emissions submitted by facilities during the 2014 GA EPD emission data collection process. The basis for Georgia's no-growth assumption for non-EGU point source emissions from 2014–2030 is discussed in the SIP submittal.

#### Non-Point Sources

GA EPD based its 2014 area source emissions on its 2014 Air Emissions Reporting Requirements (AERR) submittal.<sup>14</sup> <sup>15</sup> For certain area source sectors, GA EPD used EPA draft 2014 emission estimates<sup>16</sup> and for other source sectors for which EPA does not have draft 2014 estimates, GA EPD estimated 2014 area emissions using the average of 2011 and 2017 emissions from EPA's 2011 emissions modeling platform v6.2.<sup>17</sup> GA EPD multiplied 2014 area source emissions with growth factors to estimate 2030 area source emissions. These growth factors were calculated using 2011, 2017, and 2025 emissions in EPA's 2011 modeling platform v6.2.

GA EPD developed 2014 agricultural burning and land clearing emissions using 2014 burning records from the Georgia Forestry Commission (GFC) and EPA agricultural burning emission factors.<sup>18</sup> GA EPD used 2014 burning records from GFC and military bases to determine 2014 wildfire and prescribed burning emissions. GA EPD assumed that emissions from agricultural burning, land clearing, wildfire, and prescribed burning remained constant from 2014–2030.

#### On-Road Sources

The Atlanta Regional Commission developed 2014 and 2030 on-road mobile source emissions using EPA's MOVES2014a mobile source emissions model. GA EPD used best available local data for model inputs such as vehicle

population, vehicle miles traveled (VMT), road type distribution, average speed distribution, starts, ramp fractions, age distributions, I/M inputs, and fuel properties. The model was run separately for two different groups of nonattainment counties because of differences in I/M program and Stage II refueling requirements. The first group consisted of the following 13 counties with Stage II refueling in place through 2015<sup>19</sup> and I/M programs: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. The second group consisted of the following counties without I/M programs or Stage II refueling: Bartow and Newton.

#### Non-Road Sources

Some non-road mobile emissions in the U.S. are from the non-road equipment segment (*i.e.*, agricultural equipment, construction equipment, lawn and garden equipment, and recreational vehicles, such as boats and jet-skis). Georgia calculated 2014 and 2030 emissions from non-road sources other than marine, aircraft, and locomotives using the NONROAD portion of EPA's MOVES2014a model.<sup>20</sup> MOVES2014a defaults were used with 2014 meteorological data based on Atlanta Hartsfield Jackson International Airport meteorological data. Fuel properties reflected the current Georgia gasoline.<sup>21</sup>

For 2014 locomotive emissions, Georgia used 2011 emissions obtained from 2011 emissions modeling platform v6.2<sup>22</sup> because locomotive fuel consumption changed little from 2011 to 2014. Georgia projected 2030 locomotive emissions from 2014 emissions using growth and control factors. Summer day and annual emissions for 2014 and 2030 from aircraft at Atlanta Hartsfield Jackson International Airport were provided by

<sup>14</sup> The area source inventory was developed with the February 16, 2016, draft National Emissions Inventory for 2014 (2014 NEI) for all available source categories. Georgia EPD provided estimates for remaining area source categories not yet included in the draft 2014 NEI, which served as the basis for Georgia's required submittal for NEI development. The 2014 NEI is discussed further at <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation>.

<sup>15</sup> EPA's AERR, set forth at Subpart A to 40 CFR part 51, specifies that a state must submit triennial reports of annual (12-month) emissions for all sources and every-year reports of annual emissions of criteria air pollutants and their precursors for all major sources as well as annual emissions reporting from certain larger sources, as outlined in Appendix A to Subpart A. These submittals serve to help develop the national emissions inventory that EPA compiles and publishes triennially. The AERR includes specific reporting thresholds for point sources in attainment and nonattainment areas allows for general estimates for non-point sources.

<sup>16</sup> <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation>.

<sup>17</sup> Information regarding the 2011 emissions modeling platform v6.2 is located at <https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms>.

<sup>18</sup> These emissions factors are available at <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation>.

<sup>19</sup> As discussed above, Stage II controls are no longer required because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. See 59 FR 16262; 40 CFR parts 86, 88, and 600. On January 22, 2015, Georgia submitted a SIP revision to remove Stage II requirements from their SIP, and EPA approved this revision on September 25, 2015. See 80 FR 57729.

<sup>20</sup> Georgia used the version of MOVES2014a released by EPA on November 4, 2015. More information on the MOVES2014a model is available at <https://www.epa.gov/moves/moves2014a-latest-version-motor-vehicle-emission-simulator-moves>.

<sup>21</sup> Many of the counties in the Atlanta Area must use gasoline with a reduced Reid Vapor Pressure (RVP) of 7.8 pounds per square inch during some of the summer months. This reduced RVP reduces VOC emissions. For further information on RVP, see <https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>.

<sup>22</sup> <https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms>.

<sup>13</sup> Georgia's emission data collection process is discussed at <http://epd.georgia.gov/air/emissions-inventory-system-eis>.

KB Environmental Sciences on behalf of the City of Atlanta Department of Aviation and included in Appendix A-9 of the SIP submittal. Other aircraft emissions were projected from the 2011 emissions modeling platform v6.2 for 2014 and were projected for 2030 using growth factors. These growth factors were based on landing and take-off operation projections available from the Federal Aviation Administration's Terminal Area Forecasts. Growth rates for military aircraft stayed at 2011 levels. Georgia did not include marine emissions in the inventory because no commercial marine vessels operate in the Atlanta Area.

The 2014 base year inventory for the Area, as well as the projected inventories for other years, were

developed consistent with EPA guidance and are summarized in Tables 2 through 6 of the following subsection discussing the maintenance demonstration.

#### c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO<sub>x</sub> and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2018, 2022, 2026, and

2030. The 2022 emissions were calculated by linear interpolation between 2014 and 2030; 2018 emissions were calculated by linear interpolation between 2014 and 2022; and 2026 emissions were calculated by linear interpolation between 2022 and 2030.

(iii) Identifies an "out year" at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO<sub>x</sub> and VOC MVEBs were established for the last year (2030) of the maintenance plan as well as for an interim year 2014 (see section VI below).

(iv) Provides actual (2014) and projected emissions inventories, in tons per summer day (tpsd), for the Atlanta Area, as shown in Tables 3 and 4, below.

TABLE 3—ACTUAL AND PROJECTED AVERAGE SUMMER DAY NO<sub>x</sub> EMISSIONS FOR THE ATLANTA AREA  
[Tons per summer day (tpsd)]

Sector	2014	2018	2022	2026	2030
Point .....	31.36	31.11	30.85	30.60	30.34
Non-point .....	4.88	4.93	4.97	5.02	5.06
Non-road .....	76.69	69.99	63.29	56.59	49.89
On-road .....	170.15	137.01	103.86	70.72	37.57
Total .....	283.09	243.03	202.98	162.92	122.86

TABLE 4—ACTUAL AND PROJECTED AVERAGE SUMMER DAY VOC EMISSIONS FOR THE ATLANTA AREA  
[tpsd]

Sector	2014	2018	2022	2026	2030
Point .....	11.24	11.25	11.26	11.27	11.28
Non-point .....	119.89	118.52	117.16	115.79	114.42
Non-road .....	53.38	53.11	52.83	52.56	52.28
On-road .....	81.76	69.49	57.22	44.94	32.67
Total .....	266.25	252.35	238.45	224.54	210.64

Tables 3 and 4 summarize the 2014 and future projected emissions of NO<sub>x</sub> and VOC in the Atlanta Area. In situations where local emissions are the primary contributor to nonattainment, such as the Atlanta Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standard should not be exceeded in the future. Georgia has projected emissions as described previously and determined that emissions in the Atlanta Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, below, 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 which the area met the NAAQS. Georgia selected 2014 as the attainment emissions inventory year for the Atlanta Area and calculated safety margins for 2030 as shown in Table 5, below.

TABLE 5—SAFETY MARGINS FOR THE ATLANTA AREA

Year	VOC (tpd)	NO <sub>x</sub> (tpd)
2030 .....	55.61	160.23

The State has decided to allocate a portion of the available safety margin to the 2030 MVEBs to allow for, among other things, unanticipated growth in VMT and changes and uncertainty in

vehicle mix assumptions that will influence the emission estimations. Georgia has allocated 20.43 tpd (34.76 percent) of the available NO<sub>x</sub> safety margin to the 2030 NO<sub>x</sub> MVEB and 19.33 tpd (12.75 percent) of the available VOC safety margin to the 2030 VOC MVEB. After allocation of the available safety margin, the remaining safety margin is 139.80 tpd for NO<sub>x</sub> and 36.28 tpd for VOC. This allocation and the resulting available safety margin for the Atlanta Area are discussed further in section VI of this proposed rulemaking along with the MVEBs to be used for transportation conformity proposes.

#### d. Monitoring Network

There currently are nine monitors measuring ozone in the Atlanta Area. Georgia will continue to operate the monitors in the Atlanta Area in compliance with 40 CFR part 58 and has

thus addressed the requirement for monitoring. EPA approved Georgia's monitoring plan on October 13, 2015.

#### e. Verification of Continued Attainment

Georgia, through the GA EPD, has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the AERR, GA EPD is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. EPD will update the AERR inventory every three years and will use the updated emissions inventory to track progress of the maintenance plan.

#### f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the July 18, 2016, submittal, Georgia commits to continuing existing programs and commits to use emission inventory and air quality monitoring data as indicators to determine whether contingency measures will be implemented. The contingency plan included in the maintenance plan includes a two-tiered triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures.

A Tier 1 trigger will apply where a violation of the 2008 8-hour standard has not occurred, but where the State finds monitored ozone concentrations indicating that a violation may be imminent. The Tier 1 trigger date will be 60 days after the State observes a 4th

highest value of 0.076 ppm or greater at a single monitor for which the previous ozone season had a 4th highest value of 0.076 ppm or greater. If Tier 1 is triggered, Georgia will develop a plan identifying additional voluntary measures to be implemented to remedy the situation that may include the following measures or any other measure deemed appropriate and effective at the time the selection is made: Clean Air Force Campaign Strategies; additional Georgia Department of Transportation marketing campaigns; implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations; alternative fuel programs for fleet vehicle operations; gas can and lawnmower replacement programs; or voluntary engine idling reduction programs.<sup>23</sup> If the 4th highest exceedance occurs early in the ozone season, GA EPD will work with entities identified in the plan to determine if measures can be implemented during the current season, otherwise, GA EPD will implement the plan for the following ozone season. No later than May 1 of the year following the trigger, GA EPD will complete analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 2008 8-hour ozone NAAQS that would become state effective by the following year.

A Tier II trigger occurs when the periodic emissions inventory updates (AERR) reveal excessive or unanticipated growth greater than 10 percent in NO<sub>x</sub> or VOC emissions over the attainment or intermediate emissions inventories for the Area or when there is a quality assured design value equal to or greater than 0.076 ppm at a monitor in the Area, which is a violation of the 2008 Ozone NAAQS. The trigger date will be 60 days from the date that Georgia observes a 4th highest value that, when averaged with the two previous ozone seasons' 4th highest values, results in a three-year average equal to or greater than 0.076 ppm. If a Tier II trigger occurs, Georgia will conduct a comprehensive analysis and, as expeditiously as practicable but no

<sup>23</sup> If the State adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.,* Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP) (September 2004).

later than 24 months of the trigger, will implement at least one contingency measure. In order for more time to be allowed, Georgia must submit to EPA a demonstration that more time is needed and EPA must approve such demonstration.

If the comprehensive analysis determines that emissions from the Area are contributing to the trigger condition, GA EPD will evaluate those measures as specified in CAA section 172 for control options as well as other available measures. If a new measure/control is already promulgated and scheduled to be implemented at the federal or state level, and that measure/control is determined to be adequate, the State may conclude that additional local controls may be unnecessary. 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. Currently all such measures are in effect for the Atlanta Area; however, an evaluation of those measures, such as RACT, can be performed to determine if those measures are adequate or up-to-date. In addition to these measures, contingency measure(s) will be selected from the following types of measures or from any other measure deemed appropriate and effective at the time the selection is made:

- RACM for sources of VOC and NO<sub>x</sub>;
- RACT for point sources of VOC and NO<sub>x</sub>, specifically the adoption of new and revised RACT rules based on Groups II, III, and IV CTGs;
- Expansion of RACM/RACT to area(s) of transport within the State;
- Other measures deemed appropriate at the time as a result of advances in control technologies; and
- Additional NO<sub>x</sub> reduction measures yet to be identified.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Georgia for the Area meets the requirements of section 175A of the CAA and is approvable.

#### VI. What is EPA's analysis of Georgia's proposed NO<sub>x</sub> and VOC MVEBs for the area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must "conform" to (*i.e.*,

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 or any interim milestones. If a transportation plan does not conform, most new 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. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

After interagency consultation with the transportation partners for the Atlanta Area, Georgia has developed MVEBs for NO<sub>x</sub> and VOC for the Area. Georgia developed these MVEBs for the last year of its maintenance plan (2030) and for the interim year of 2014. Because the interim MVEB year of 2014 is also the base year for the maintenance plan inventory, there is no safety margin; therefore, no adjustments were made to the MVEBs for 2014. The 2030 MVEBs reflect the total projected on-road emissions for 2030, plus an allocation from the available NO<sub>x</sub> and

VOC safety margins. Under 40 CFR 93.101, the term "safety margin" is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO<sub>x</sub> and VOC MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. The NO<sub>x</sub> and VOC MVEBs for the Area are identified in Table 6, below.

TABLE 6—ATLANTA AREA NO<sub>x</sub> AND VOC MVEBs  
[tpd]

	2014	2030
NO <sub>x</sub> On-Road Emissions .....	170.15	37.57
NO <sub>x</sub> Safety Margin Allocated to MVEB .....		20.43
NO <sub>x</sub> MVEB .....	170.15	58
VOC On-Road Emissions .....	81.76	32.67
VOC Safety Margin Allocated to MVEB .....		19.33
VOC MVEB .....	81.76	52

Georgia has chosen to allocate a portion of the available safety margin to the 2030 NO<sub>x</sub> and VOC MVEBs for the Area based on the worst-case 2030 daily motor vehicle emissions projection. The worst-case projection for NO<sub>x</sub> is 54 percent (20.43 tpd) above the projected 2030 NO<sub>x</sub> on-road emissions and the worst-case projection for VOC is 59 percent (19.33 tpd) above the 2030 VOC on-road emissions. Georgia therefore allocated 20.43 tpd of the NO<sub>x</sub> safety margin to the 2030 NO<sub>x</sub> MVEB and 19.33 tpd of the VOC safety margin to the 2030 VOC MVEB. The remaining safety margins for 2030 are 139.80 tpd and 36.28 tpd NO<sub>x</sub> and VOC, respectively.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO<sub>x</sub> and VOC for years 2014 and 2030 for the Area because EPA has preliminarily determined that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

## VII. What is the status of EPA's adequacy determination for the proposed NO<sub>x</sub> and VOC MVEBs the Atlanta area?

When reviewing submitted "control strategy" SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, "Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision." EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the "New 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change," on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes," 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Georgia's maintenance plan includes NO<sub>x</sub> and VOC MVEBs for the Atlanta Area for interim year 2014 and 2030, the last year of the maintenance plan. EPA reviewed the NO<sub>x</sub> and VOC MVEBs through the adequacy process described in Section I.

EPA intends to make its determination on the adequacy of the 2014 and 2030 MVEBs for the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on September 2, 2016. If EPA finds the 2014 and 2030 MVEBs adequate or approves them, the new MVEBs for NO<sub>x</sub> and VOC must be used for future

transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2029, the 2014 MVEBs will be used, and for years 2030 and beyond, the applicable budgets will be the new 2030 MVEBs established in the maintenance plan.

### VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Georgia's redesignation request would change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in the Atlanta Area, found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Georgia's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2030 into the Georgia SIP. The maintenance plan establishes NO<sub>x</sub> and VOC MVEBs for 2014 and 2030 for the Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluating potential violations.

### IX. Proposed Actions

EPA is proposing to: (1) Approve the maintenance plan for the Atlanta Area, including the NO<sub>x</sub> and VOC MVEBs for 2014 and 2030, and incorporate it into the Georgia SIP, and (2) approve Georgia's redesignation request for the 2008 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is also describing the status of its adequacy determination for the NO<sub>x</sub> and VOC MVEBs for 2014 and 2030 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO<sub>x</sub> and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

If finalized, approval of the redesignation request would change the official designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in Georgia for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

### X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

### List of Subjects

#### 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

#### 40 CFR Part 81

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

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

Dated: December 13, 2016.

**Heather McTeer Toney,**  
Regional Administrator, Region 4.

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 300

[EPA-HQ-SFUND-1989-0009; FRL-9957-30-Region 3]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the North Penn Area 6 Superfund Site

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule; Notice of intent for partial deletion of the North Penn Area 6 Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region III is issuing a Notice of Intent to Delete a portion of the North Penn Area 6 Superfund Site (Site) located in Lansdale Borough, Montgomery County, Pennsylvania, from the National Priorities List (NPL). The proposed deletion affects approximately 6.5 acres at 135 East Hancock Street (the "Administrative