Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: January 23, 2013.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2013–02377 Filed 2–1–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0986; FRL–9775–5]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia; Redesignation of the Atlanta; 1997 8-Hour Ozone Moderate Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On April 4, 2012, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), submitted a request for EPA to redesignate the Atlanta, Georgia 8-hour ozone nonattainment area (hereafter referred to as the ''Atlanta Area'' or ''Area'') to attainment for the 1997 8-hour National Ambient Air Quality Standards (NAAQS); and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. The Atlanta Area consists of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in their entireties. EPA is proposing to approve the redesignation request for the Area, along with the related SIP revision, including Georgia's plan for maintaining attainment of the 1997 8-hour ozone standard in the Area. EPA is also proposing to approve the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the year 2024 for the Area. These actions are being proposed pursuant to the Clean Air Act (CAA or Act) and its implementing regulations.

DATES: Comments must be received on or before March 6, 2013.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2012–0986, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2012–0986, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2012-0986. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Jane Spann or Sara Waterson of the Regulatory Development Section, in the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann may be reached by phone at (404) 562–9029, or via electronic mail at *spann.jane@epa.gov.* Ms. Waterson may be reached by phone at (404) 562–9061,

or via electronic mail at *waterson.sara@epa.gov.*

SUPPLEMENTARY INFORMATION:

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

EPA is proposing to take the following two separate but related actions, one of which involves multiple elements: (1) to redesignate the Atlanta Area to attainment for the 1997 8-hour ozone NAAQS and (2) to approve into the Georgia SIP, under section 175A of the CAA, Georgia's plan for maintaining the 1997 8-hour ozone NAAQS (1997 ozone NAAQS maintenance plan), including the associated MVEBs. EPA is also notifying the public of the status of EPA's adequacy determination for the Atlanta Area MVEBs. These actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

First, EPA proposes to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. In this action, EPA is proposing to approve a request to change the legal designation of the Atlanta Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS.

Second, EPA is proposing to approve Georgia's 1997 ozone NAAQS 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). The maintenance plan is designed to help keep the Atlanta Area in attainment of the 1997 8-hour ozone NAAQS through 2024. Consistent with the CAA, the maintenance plan that EPA is proposing to approve today also includes NO_X and VOC MVEBs for the year 2024 for the Atlanta Area. EPA is proposing to approve (into the Georgia SIP) the 2024 MVEBs that are included as part of Georgia's 1997 ozone NAAQS maintenance plan.

EPA is also notifying the public of the status of EPA's adequacy process for the newly-established NO_X and VOC MVEBs for 2024 for the Atlanta Area. The public comment period for Adequacy for the Atlanta Area 2024 MVEBs began on February 29, 2012, with EPA's posting of the availability of this submittal on EPA's Adequacy Web site (*http://www.epa.gov/otaq/stateresources/transconf/currsips.htm#atlanta2*). The Adequacy comment period for these MVEBs closed on March 30, 2012. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEBs associated with Georgia's 1997 8-hour ozone maintenance plan. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

Today's notice of proposed rulemaking is in response to Georgia's April 4, 2012, SIP revision. That document addresses 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 of the 1997 8-hour ozone NAAQS.

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

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm). Under EPA's regulations at 40 CFR part 50, the 1997 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 0.08 ppm (i.e., 0.084 ppm when rounding is considered). *See* 69 FR 23857 (April 30, 2004).[1] Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in Appendix I of part 50.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Atlanta Area was designated nonattainment for the 1997 8-hour ozone NAAQS on April 30, 2004 (effective June 15, 2004) using 2001–2003 ambient air quality data (69 FR 23857, April 30, 2004). At the time of designation the Atlanta Area was classified as a marginal nonattainment area for the 1997 8-hour ozone NAAQS. In the April 30, 2004, Phase I Ozone Implementation Rule, EPA established ozone nonattainment area attainment dates based on Table 1 of section 181(a) of the CAA. This established an attainment date 3 years after the June 15, 2004, effective date for areas classified as marginal areas for the 1997 8-hour ozone nonattainment designations. Therefore, the Atlanta Area's original attainment date was June 15, 2007. *See* 69 FR 23951, April 30, 2004.

The Atlanta Area failed to attain the 1997 8-hour ozone NAAQS by June 15, 2007 (the applicable attainment date for marginal nonattainment areas), and did not qualify for any extension of the attainment date as a marginal area. As a consequence, on March 6, 2008, EPA published a rulemaking determining that the Atlanta Area failed to attain and, consistent with Section 181(b)(2) of the CAA, the Atlanta Area was reclassified by operation of law to the next highest classification, or ''moderate'' nonattainment. *See* 73 FR 12013. When an area is reclassified, a new attainment date for the reclassified area must be established. Section 181 of the CAA explains that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but no later than six years after designation, or June 15, 2010.[2] EPA further required that Georgia submit the SIP revisions meeting the new moderate area requirements as expeditiously as practicable, but no later than December 31, 2008.

On October 21, 2009, Georgia submitted an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, a 2002 base year emissions inventory and other planning SIP

[1] On July 20, 2012, EPA designated the Atlanta area as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. The current proposed action, however, is being taken with regard to the 1997 8-hour ozone NAAQS and not for the 2008 8-hour ozone NAAQS.

[2] On November 30, 2010, EPA determined that Georgia met the CAA requirements to obtain a one-year extension of the attainment date for the 1997 8-hour ozone NAAQS for the Atlanta Area. *See* 75 FR 73969. As a result, the Atlanta Area's attainment date was extended from June 15, 2010, to June 15, 2011, for the 1997 8-hour ozone NAAQS.

revisions related to attainment of the 1997 8-hour ozone NAAQS in the Atlanta Area. Subsequently, on June 23, 2011 (76 FR 36873), EPA determined that the Atlanta Area attained the 1997 8-hour ozone NAAQS. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period, showing that the Area had monitored attainment of the 1997 8-hour ozone NAAQS. The requirements for the Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the standard were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 40 CFR 52.582(d). Within the April 4, 2012, maintenance plan and redesignation request cover letter, Georgia withdrew the Atlanta Area's attainment demonstration (except the emissions inventory) as allowed by 40 CFR 51.1004(c); however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 172(c)(3) and section 182(a)(1). EPA took direct final action to approve the baseline emissions inventory portion of the attainment demonstration SIP revision on April 24, 2012 (77 FR 24399). The emissions statements requirement was approved on November 27, 2009 (74 FR 62249).

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 (hereafter 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;
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; 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.
11. ''Next Steps for Pending Redesignation Requests and State Implementation Plan Actions Affected by the Recent Court Decision Vacating the 2011 Cross-State Air Pollution Rule,'' Memorandum from Gina McCarthy, Assistant Administrator, November 19, 2012.

IV. Why is EPA proposing these actions?

On April 4, 2012, the State of Georgia, through GA EPD, requested the redesignation of the Atlanta Area to attainment for the 1997 8-hour ozone NAAQS. EPA's evaluation indicates that the Atlanta Area has attained the 1997 8-hour ozone NAAQS, and that the Atlanta Area meets the requirements for redesignation set forth in section 107(d)(3)(E), including the maintenance plan requirements under section 175A of the CAA. As a result, EPA is proposing to take the two related actions summarized in section I of this notice.

V. What is EPA's analysis of the request?

As stated above, in accordance with the CAA, EPA proposes in today's action to: (1) redesignate the Atlanta Area to attainment for the 1997 8-hour ozone NAAQS; and (2) approve the Atlanta Area's 1997 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, into the Georgia SIP. These actions are based upon EPA's preliminary determinations that the Atlanta Area continues to attain the 1997 8-hour ozone NAAQS, and EPA's preliminary determination that Georgia has met all other redesignation criteria for the Atlanta Area. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Atlanta Area in the following paragraphs of this section.

Criteria (1)—The Atlanta Area has Attained the 1997 8-Hour Ozone NAAQS

For ozone, an area may be considered to be attaining the 1997 8-hour ozone NAAQS if it meets the 1997 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.10 and Appendix I of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring

data. To attain these 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 0.08 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix I, the NAAQS are attained if the design value is 0.084 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58, and recorded in the EPA 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 June 23, 2011, at 76 FR 36873, EPA determined that the Atlanta Area was attaining the 1997 8-hour ozone NAAQS. For that action EPA reviewed ozone monitoring data from monitoring stations in the Atlanta Area for the 1997 8-hour ozone NAAQS for 2008–2010. These data have been quality-assured and are recorded in AQS. EPA has reviewed the 2009–2011 data, which indicate that the Area continues to attain the 1997 8-hour ozone NAAQS beyond the submitted 3-year attainment period of 2008–2010. The fourth-highest 8-hour ozone average for 2008, 2009, 2010, 2011, and the 3-year averages of these values (i.e., design values), are summarized in the following Table 1 of this proposed rulemaking.

TABLE 1—DESIGN VALUE CONCENTRATIONS FOR THE ATLANTA 1997 8-HOUR OZONE AREA

Location	County	Monitor ID	Annual arithmetic mean concentrations (ppm)			3-Year design values (ppm)	
			2008	2009	2010	2008–2010	2009–2011
GA National Guard McCollum Pkwy.	Cobb	13–067–0003	0.075	0.076	0.079	0.076	0.078
University of West Georgia at Newnan.	Coweta	13–077–0002	0.075	0.065	0.065	0.068	0.067
2390-B Wildcat Road Decatur	Dekalb	13–089–0002	0.087	0.077	0.075	0.079	0.077
Douglasville W. Strickland St.	Douglas	13–097–0004	0.080	0.072	0.074	0.075	0.074
Gwinnett Tech 1250 Atkinson Rd.	Gwinnett	13–135–0002	0.079	0.073	0.072	0.074	0.075
Henry County Extension Office	Henry	13–151–0002	0.086	0.074	0.078	0.079	0.078
Yorkville	Paulding	13–223–0003	0.072	0.067	0.071	0.070	0.071
Conyers Monastery	Rockdale	13–247–0001	0.089	0.070	0.076	0.078	0.075
Confederate Ave	Fulton	13–121–0055	0.084	0.077	0.080	0.080	0.080
Fayetteville-GDOT	Fayette	13–113–0001	0.086	*	*	*	*

* The Fayetteville-GDOT monitor was temporarily discontinued on October 31, 2008.

The 3-year design value for 2008–2010 submitted by Georgia for redesignation of the Atlanta Area is 0.080 ppm, which meets the NAAQS as described above. As mentioned above, on June 23, 2011 (76 FR 36873), EPA published a clean data determination for the Atlanta Area for the 1997 8-hour ozone NAAQS. The 2009–2011 certified data show that the Atlanta Area continues to attain the 1997 8-hour ozone NAAQS with a design value of 0.080 ppm at the Confederate Ave monitor. In today's action, EPA is proposing to determine that the Area is attaining the 1997 8-hour ozone NAAQS. EPA will not go forward with the redesignation if the Area does not continue to attain the 1997 8-hour ozone NAAQS until the time that EPA finalizes the redesignation. As discussed in more detail below, the State of 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 the Georgia SIP satisfies the criterion that it meets applicable SIP requirements for purposes of redesignation under part D of title I of the CAA (requirements specific to 1997 8-hour ozone nonattainment areas) in accordance with section 107(d)(3)(E)(v). Further, EPA 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 applicable 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. Section 110(a)(2) of title I of the CAA delineates the general requirements for a SIP, which include enforceable emissions limitations and other control measures, means, or techniques; provisions for the establishment and operation of appropriate devices necessary to collect data on ambient air quality; and programs to enforce the limitations. 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 (New Source Review (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 (e.g., NO_X SIP Call [3] and the Clean Air Interstate Rule (CAIR) [4]). 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. However, as discussed later in this notice, addressing pollutant transport from other states is an important part of an area's maintenance demonstration.

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 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, 1997); 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).

EPA completed rulemaking on a submittal from Georgia dated December 13, 2007, addressing ''infrastructure SIP'' elements required for the 1997 8-hour ozone NAAQS under CAA section 110(a)(2) on February 6, 2012. *See* 77 FR 5706. However, these are statewide requirements that are not a consequence of the nonattainment status of the Atlanta Area. As stated above, EPA believes that section 110 elements not linked to an area's nonattainment status are not applicable for purposes of redesignation. Therefore, EPA believes it has approved all SIP elements under section 110 that must be approved as a prerequisite for redesignating the Atlanta Area to attainment.

Title I, Part D, subpart 1 applicable SIP requirements. Subpart 1 of part D, found in sections 172(c)(1) through (9) and in section 176 of the CAA, sets forth the basic nonattainment requirements applicable to all nonattainment areas. A thorough discussion of the requirements contained in section 172 can be found in the General Preamble for Implementation of title I (57 FR 13498, April 16, 1992). Subpart 2 of part D, which includes section 182 of the CAA, establishes additional specific requirements depending on the area's ozone nonattainment classification. A thorough discussion of the requirements contained in section 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Part D Subpart 1 Section 172 Requirements and Part D, Subpart 2 Section 182 Requirements. Section 172(c)(1) requires the plans for all nonattainment areas to provide for the implementation of all RACM as expeditiously as practicable and to provide for attainment of the national primary ambient air quality standards. EPA interprets this requirement to impose a duty on all nonattainment areas to consider all available control measures and to adopt and implement such measures as are reasonably available for implementation in each area as components of the area's attainment demonstration. Under section 172, states with nonattainment areas must submit plans providing for timely attainment and meeting a variety of other requirements. Section 182 of the CAA, found in subpart 2 of part D, establishes additional specific requirements depending on the area's ozone nonattainment classification. For purposes of evaluating this redesignation request, the applicable part D, subpart 2 SIP requirements for all moderate nonattainment areas are contained in sections 182(b)(1)–(5). However, pursuant to 40 CFR 51.918, EPA's June 23, 2011, determination that the Area was attaining the 1997 8-hour ozone NAAQS suspended Georgia's obligation to submit most of the attainment planning requirements that would otherwise apply. Specifically, the determination of attainment suspended Georgia's obligation to submit an attainment demonstration and planning SIPs to provide for RFP, RACM, and contingency measures under sections 172(c)(9) and 182(b)(1) of the CAA.

The General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992) also discusses the evaluation of these requirements in the context of EPA's consideration of a redesignation request. The General Preamble sets forth EPA's view of applicable requirements for purposes of evaluating redesignation requests when an area is attaining a standard (General Preamble for Implementation of Title I (57 FR 13498, April 16, 1992)).

Because attainment has been reached in the Atlanta Area, no additional measures are needed to provide for attainment for the 1997 8-hour ozone NAAQS,[5] and section 172(c)(1) requirements for an attainment demonstration and RACM are no longer

[3] On October 27, 1998 (63 FR 57356), EPA issued a NO_X SIP Call requiring the District of Columbia and 22 states to reduce emissions of NO_X in order to reduce the transport of ozone and ozone precursors. While Georgia was not issued a NO_X SIP Call, the State has identified benefits from surrounding states. In compliance with EPA's NO_X SIP Call, 22 eastern states developed rules governing the control of NO_X emissions from electric generating units (EGU), major non-EGU industrial boilers, major cement kilns, and internal combustion engines.

[4] On May 12, 2005, EPA published the Clean Air Interstate Rule (CAIR), which requires significant reductions in emissions of SO_2 and NO_X from electric generating units to limit the interstate transport of these pollutants and the ozone and fine particulate matter they form in the atmosphere. *See* 76 FR 70093. The D.C. Circuit initially vacated CAIR, *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur to preserve the environmental benefits provided by CAIR, *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008). In response to the court's decision, EPA issued Cross-State Air Pollution Rule (CSAPR), to address interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011). On August 21, 2012, the D.C. Circuit issued a decision to vacate CSAPR. In that decision, it also ordered EPA to continue administering CAIR ''pending the promulgation of a valid replacement.'' *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d. 7, 38 (D.C. Cir., 2012). The D.C. Circuit has not yet issued the final mandate in *EME Homer City* as EPA (as well as other intervenors) petitioned for rehearing *en banc,* asking the full court to review the decision. While rehearing proceedings are pending, EPA intends to act in accordance with the panel opinion in the *EME Homer City* opinion.

[5] Effective July 20, 2012, EPA designated 15 counties in the Atlanta Area as nonattainment for the 2008 8-hour ozone NAAQS. This rulemaking does not address requirements for the portion of Atlanta that was designated nonattainment for the 2008 8-hour ozone NAAQS. Requirements for the portion of Atlanta that was designated nonattainment for the 2008 8-hour ozone NAAQS will be addressed in the future.

considered to be applicable for purposes of redesignation as long as the Area continues to attain the 1997 8-hour ozone NAAQS until redesignation. See also 40 CFR 51.918.

The RFP plan requirements under sections 172(c)(2) and 182(b)(1) are defined as progress that must be made toward attainment for the 1997 8-hour ozone NAAQS. These requirements are not relevant for purposes of redesignation because EPA has determined that the entire Atlanta Area has monitored attainment of the 1997 8-hour ozone NAAQS. *See* General Preamble, 57 FR 13564. *See* also 40 CFR 51.1004 (c). While it is not a requirement for redesignation, EPA is considering taking action on Georgia's RFP plan for the 1997 8-hour ozone NAAQS separate from today's proposed action.

Section 172(c)(3) and section 182(b) requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. Section 182(b) references section 182(a) of the CAA which requires, in part, for states to submit a current inventory of actual emissions (182(a)(1)). As part of Georgia's attainment demonstration for the Atlanta Area, Georgia submitted a 2002 base year emissions inventory. EPA approved the 2002 base year inventory on March 24, 2012, as meeting the section 172(c)(3) and section 182(a)(1) emissions inventory requirement. *See* 77 FR 24399.

Section 172(c)(4) requires the identification and quantification of emissions for major new and modified stationary sources to be allowed in an area, and section 172(c)(5) and section 182(b) require source permits for the construction and operation of new and modified major stationary sources anywhere in the nonattainment area. EPA has determined that, since PSD requirements will apply after redesignation, 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. A more detailed rationale for this view is described in a memorandum from Mary Nichols, Assistant Administrator for Air and Radiation, dated October 14, 1994, entitled, ''Part D New Source Review Requirements for Areas Requesting Redesignation to Attainment.'' Georgia has demonstrated that the Atlanta Area will be able to maintain the NAAQS without part D NSR in effect, and therefore Georgia need not have fully approved part D NSR programs prior to approval of the redesignation request. Nonetheless, Georgia currently has a fully-approved part D NSR program in place. Georgia's PSD program will become applicable in the Atlanta Area upon redesignation to attainment. Section 172(c)(6) requires the SIP to contain control measures necessary to provide for attainment of the NAAQS. Because attainment has been reached, no additional measures are needed to provide for attainment.

Section 172(c)(7) requires the SIP to meet the applicable provisions of section 110(a)(2). As noted above, EPA believes the Georgia SIP meets the requirements of section 110(a)(2) applicable for purposes of redesignation.

Section 182(b) references, in part, section 182(a)(3), which requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) of the CAA requires states to submit a periodic inventory every 3 years. The periodic emissions inventory is discussed in more detail in Criteria (4)(e), *Verification of Continued Attainment.*

Section 182(a)(3)(B) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision to require emissions statements to be submitted to the state by sources within that nonattainment area. EPA approved Georgia's emissions statements requirement, which is part of the attainment plan submittal, on November 27, 2009. *See* 74 FR 62249. EPA believes the Georgia SIP meets the requirements of section 182(a)(3)(B) applicable for purposes of redesignation.

Section 182(b)(2) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit a SIP revision to require reasonably available control technology (RACT) for all major VOC and NO_X 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_X 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.

EPA approved Georgia's RACT submittals on September 28, 2012. *See* 77 FR 59554. EPA believes the Georgia SIP meets the requirements of section 182(b)(2) applicable for purposes of redesignation.

Originally, the section 182(b)(3) Stage II requirement also applied in all moderate ozone nonattainment areas. However, under section 202(a)(6) of the CAA, 42 U.S.C. 7521(a)(6), the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas after EPA promulgated the onboard refueling vapor recovery standards on April 6, 1994, 59 FR 16262, codified at 40 CFR parts 86 (including 86.098–8), 88 and 600. Under implementation rules issued in 2002 for the 1997 8-hour ozone NAAQS, EPA retained the Stage II-related requirements under section 182(b)(3) as they applied for the now-revoked 1-hour ozone NAAQS. *See* 40 CFR 51.900(f)(5) and 40 CFR 51.916(a). As a previous 1-hour ozone nonattainment area, Georgia currently has Stage II requirements approved in its SIP for 13 counties in the Atlanta Area. This proposed rulemaking does not relate to those requirements and is not proposing any action to remove those requirements from Georgia's SIP.

Section 182(b)(4) of the CAA requires states with areas designated nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). Section 182(c)(3)requires enhanced vehicle inspection and maintenance (I/M) in ozone nonattainment areas classified as serious or worse. Georgia's enhanced I/M rule for the 13 county nonattainment area under the 1990 1-hr ozone standard was submitted to EPA on August 9, 1999, and approved on April 19, 2002 (67 FR 19335), effective June 18, 2002. Even though the Atlanta Area was designated as part of the moderate Atlanta Area for the 1997 8-hour ozone NAAQS, applicability of the I/M regulations to areas outside the Ozone Transport Region is based on the population of the urbanized area as defined by the 1990 census. In 1990, the Atlanta urbanized area was totally contained within Georgia and did not touch the State line. Therefore, the applicability level of a 1990 census population of 200,000 or more in an urbanized area (40 CFR 51.350(a)(1)) applies to the Atlanta urbanized area. EPA believes the Georgia SIP meets the requirements of section 182(b)(3) and 182(b)(4) applicable for purposes of redesignation.

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 offsets. EPA believes the Georgia SIP meets the requirements of section 182(b)(5) applicable for purposes of redesignation.

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 [6] 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, 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). Following passage of the CAA of 1970, Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing the various 1997 8-hour ozone NAAQS SIP elements applicable in the Atlanta Area (March 2, 1976, 41 FR 8956; 110(a)(1) and (2) for 1997 8-hour ozone NAAQS, February 6, 2012, 77 FR 5706; RACT, September 28, 2012, 77 FR 59554; emissions inventory, March 24, 2012, 77 FR 24399; emissions statement, November 27, 2009, 74 FR 62249).

As indicated 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. EPA has approved all part D subpart 1 requirements applicable for purposes of this redesignation.

Criteria (3)—The Air Quality Improvement in the Atlanta 1997 8-Hour Ozone NAAQS Nonattainment 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 and applicable federal air pollution control regulations and other permanent and enforceable reductions (CAA section 107(d)(3)(E)(iii)). EPA has preliminarily determined that Georgia has demonstrated that the observed air quality improvement in its portion of the Atlanta Area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, federal measures, and other state adopted measures. EPA does not have any information to suggest that the decrease in ozone concentrations in the Atlanta Area is due to unusually favorable meteorological conditions

State, local and federal measures enacted in recent years have resulted in permanent emission reductions. Most of these emission reductions are enforceable through regulations. A few non-regulatory measures also result in emission reductions.

The state measures, some of which implement federal requirements, that have been implemented to date and relied upon by Georgia to demonstrate attainment and/or maintenance include: Georgia Rule (yy)—Emissions of Nitrogen Oxides, Georgia Rule (lll)—NO_X from Fuel Burning Equipment, Georgia Rule (rrr)—NO_X from Small Fuel Burning Equipment, and Georgia Rule (jjj)—NO_X from EGUs. These rules have been approved in the federally-approved SIP.

Georgia's smoke management plan is a state-only requirement and is therefore not federally enforceable. This measure is not necessary for the continued maintenance of the Atlanta nonattainment area, however the implementation of this plan will support the maintenance of the ozone NAAQS for the Atlanta area. Additionally, Georgia Rule (sss) has not been submitted to EPA for approval into the SIP and is therefore not federally enforceable. The rule requirements to install and operate the control equipment have been incorporated into the each facility's respective title V federal operating permit. The rule alone is not relied upon to meet continued maintenance; however, the rule was designed to meet the emission reductions and deadlines of CAIR. Without the operation of the equipment required by Rule (sss), it would be impossible for the coal-fired EGUs operating in the state of Georgia to meet the emission budgets of either CAIR. Rule (sss) is state-effective and currently being implemented in Georgia.

The federal measures that have been implemented include the following:

Tier 2 vehicle standards. Implementation began in 2004 and will require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO_X per mile. The Tier 2 rule also reduced the sulfur content of gasoline to 30 ppm starting in January of 2006.

Large Non-road Diesel Engines Rule and Ultra Low-Sulfur Diesel Rule. EPA issued this rule in June 2004 (69 FR 38958), which applies to diesel engines used in industries, such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide. The non-road diesel rule was fully implemented by 2010.

Control Technique Guidelines. Georgia listed CTGs under federal measures implemented in the Atlanta Area. CTGs are not federal control measures. CTGs are federal guidelines for states to use in order to meet a CAA requirement for states to control VOC emissions from specific source categories. The resulting state controls are considered state measures, not

[6] 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.

federal measures. See criteria 2(a) of section V of this action for more information regarding CTGs.

Heavy-duty gasoline and diesel highway vehicle standards and Ultra Low-Sulfur Diesel Rule. 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_X and VOC emissions. This rule is expected to achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses.

Nonroad spark-ignition engines and recreational engines standards. This rule was effective in 2003 and will reduce NO_X and hydrocarbon emissions.

NO_X SIP Call in Surrounding States. The NO_X SIP Call created the NO_X Budget Trading Program designed to reduce the amount of ozone that crosses state lines.

EPA has considered the relationship of the Atlanta Area's maintenance plan to the reductions currently required pursuant to CAIR. Although CAIR was remanded to EPA, the remand of CAIR does not alter the requirements of the NO_X SIP Call and the State has demonstrated that the Atlanta Area can maintain the 1997 ozone NAAQS without any additional requirements (beyond those required by the NO_X SIP Call in surrounding states). Therefore, EPA has made the preliminary determination that the State's demonstration of maintenance under sections 175A and 107(d)(3)(E) remains valid based on reductions from the NO_X SIP Call.

The NO_X SIP Call required states to make NO_X emissions reductions. It also provided a mechanism (the NO_X Budget Trading Program) that states could use to achieve those reductions. When EPA promulgated CAIR, it discontinued (starting in 2009) the NO_X Budget Trading Program, 40 CFR 51.121(r), but established another mechanism—the CAIR ozone season trading program—which states could use to meet their NO_X SIP Call obligations, 70 FR 25289–90. EPA notes that a number of states, when submitting SIP revisions to require sources to participate in the CAIR ozone season trading program, removed the SIP provisions that required sources to participate in the NO_X Budget Trading Program. In addition, because the provisions of CAIR including the ozone season NO_X trading program have remained in place during the remand, EPA is not currently administering the NO_X Budget Trading Program. Nonetheless, all states regardless of the current status of their regulations that previously required participation in the NO_X Budget Trading Program, will remain subject to all of the requirements in the NO_X SIP Call even if the existing CAIR ozone season trading program is withdrawn or altered. In addition, the anti-backsliding provisions of 40 CFR 51.905(f) specifically provide that the provisions of the NO_X SIP Call, including the statewide NO_X emission budgets, continue to apply after revocation of the 1-hour NAAQS. Thus, for purposes of today's action, emissions reductions associated with the NO_X SIP Call are ''permanent and enforceable.''

All NO_X SIP Call states have SIPs that currently satisfy their obligations under the NO_X SIP Call; the NO_X SIP Call reduction requirements are being met; and EPA will continue to enforce the requirements of the NO_X SIP Call even after any response to the CAIR remand. For these reasons, EPA believes that regardless of the status of the CAIR program, the NO_X SIP Call requirements can be relied upon in demonstrating maintenance. Here, the State has demonstrated maintenance based in part on those requirements.

CAIR and CSAPR. CAIR remains in place and enforceable until substituted by a ''valid'' replacement rule. Regardless of the timing of the transition from CAIR to CSAPR, or a resulting court-ordered interstate transport remedy, emissions of NO_X and SO_2 have declined significantly and are expected to continue to decrease in the future due to the continuation of CAIR and Georgia's own EGU emissions rules.

To the extent that the Georgia submittal relies on CAIR reductions that occurred through 2012, the recent directive from the D.C. Circuit in *EME Homer City* ensures that the reductions associated with CAIR will be permanent and enforceable for the necessary time period for purposes of CAA section 107(d)(3)(E)(iii) and Georgia's request to redesignate the Atlanta Area and seek approval of its maintenance plan and other requirements associated with redesignation. EPA has been ordered by the court to develop a new rule, and the opinion makes clear that after promulgating that new rule EPA must provide states an opportunity to draft and submit SIPs to implement that rule. CAIR thus cannot be replaced until EPA has promulgated a final rule through a notice-and-comment rulemaking process, states have had an opportunity to draft and submit SIPs, EPA has reviewed the SIPs to determine if they can be approved, and EPA has taken action on the SIPs, including promulgating a Federal Implementation Plan, if appropriate. The court's clear instruction to EPA is that it must continue to administer CAIR until a ''valid replacement'' exists and thus CAIR reductions may be relied upon until the necessary actions are taken by EPA and states to administer CAIR's replacement. Furthermore, the court's instruction provides an additional backstop; by definition, any rule that replaces CAIR and meets the court's direction would require upwind states to have SIPs that eliminate significant contributions to downwind nonattainment and prevent interference with maintenance in downwind areas.

Further, in vacating CSAPR and requiring EPA to continue administering CAIR, the D.C. Circuit emphasized that the consequences of vacating CAIR ''might be more severe now in light of the reliance interests accumulated over the intervening four years.'' *EME Homer City,* 696 F.3d at 38. The accumulated reliance interests include the interests of states who reasonably assumed they could rely on reductions associated with CAIR, which brought certain nonattainment areas into attainment with the NAAQS. If EPA were prevented from relying on reductions associated with CAIR in redesignation actions, states would be forced to impose additional, redundant reductions on top of those achieved by CAIR. EPA believes this is precisely the type of irrational result the court sought to avoid by ordering EPA to continue administering CAIR. For these reasons also, EPA believes it is appropriate to allow states to rely on CAIR, and the existing emissions reductions achieved by CAIR, as sufficiently permanent and enforceable for purposes such as redesignation. Following promulgation of the replacement rule, EPA will review SIPs as appropriate to identify whether there are any issues that need to be addressed. In light of these unique circumstances and for the reasons explained above, EPA is proposing to approve the redesignation request and related SIP revisions for the Atlanta Area. EPA continues to implement CAIR in accordance with current direction from the court, and thus CAIR is in place and enforceable and will remain so until substituted by a valid replacement rule. Georgia's SIP revision lists CAIR as a control measure, which became state-effective on February 28, 2007, and was approved by EPA on October 9, 2007, 72 FR 57202, for the purpose of reduction SO_2 and NO_X emissions. The monitoring data used to demonstrate the Area's attainment of the

1997 8-hour ozone standard was impacted by CAIR.

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 1997 8-hour ozone NAAQS, GA EPD submitted a SIP revision to provide for the maintenance of the 1997 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 1997 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 proposes to find 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

The Atlanta Area attained the 1997 8-hour ozone NAAQS based on monitoring data for the 3-year period from 2008–2010. Georgia selected 2008 as the attainment emissions inventory year. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 1997 8-hour ozone NAAQS. Georgia began development of the attainment inventory by first generating a baseline emissions inventory for the Atlanta Area. As noted above, the year 2008 was chosen as the base year for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2017 and 2024.

The attainment year emissions were projected to future years separately using different methods by seven source categories, including: EGU point sources; non-EGU point sources; area sources; fires; nonroad mobile sources; nonroad mobile sources—marine, aircraft and railroad; and onroad mobile sources. Point sources captured in the inventory include stationary sources whose actual emissions equal or exceed 25 tons per year (tpy) of VOC or NO_X in the 13 counties in the Atlanta area that were previously nonattainment for the 1-hour ozone NAAQS and are currently nonattainment for the 1997 8-hour ozone NAAQS (Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale), and 100 tpy of VOC or NO_X in the seven remaining counties that make up the Atlanta nonattainment area for the 1997 8-hour ozone NAAQS (Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton).

The emissions inventory is composed of four major types of sources: point, area, on-road mobile and non-road mobile. Process-level emissions estimates for three EGU facilities in the Atlanta Area during 2008 were obtained from NEI2008 Version 1.5. The emissions were projected to year 2017 and 2024 using corresponding growth and control factors.

Ozone season daily emissions for EGU point sources were calculated by multiplying the annual total emissions with daily emissions fractions during June, July and August. The fractions for NO_X and VOC emissions during June, July and August were estimated, respectively, using hourly 2008 CAMD CEM NO_X emissions and heat input data, and then were divided by the number of days in these three months (92) to get ozone season daily emissions fractions. The same daily fractions have been used for both attainment year and future years. For future year emissions from Plant McDonough-Atkinson, the fraction of NO_X emissions during the months of June through August was calculated as the product of the NO_X ozone-season limit and three months divided by the sum of the ozone-season limit times five months and the non-ozone season limit times seven months.

Emissions estimates for non-EGU point sources in 2008 were obtained from NEI2008 Version 1.5. Emissions in future years 2017 and 2024 were estimated using SCC- and county-specific growth factors generated with the U.S. EPA's Economic Growth Analysis System Version 5.0 (EGAS 5.0) with ''Default REMI 6.0 SCC Configuration.'' Appendix B–2 contains a summary of the SCC specific growth factors for Atlanta ozone nonattainment area. These emissions are not subject to additional controls in the future years 2017 and 2024. Ozone season daily emissions for non-EGU point sources were estimated by multiplying the annual total emissions with ozone season daily emissions fractions, which were calculated using the same temporal allocation method used in Sparse Matrix Operator Kernel Emissions (SMOKE, *http://www.smoke-model.org/index.cfm*). The SMOKE temporal profiles and reference files were obtained from EPA's 2005 Modeling Platform Web site (*ftp://ftp.epa.gov/EmisInventory/2005v4_2/ancillary_smoke*). The SMOKE temporal profiles gave monthly emissions fractions, and were linked to each emission record by SCC according to the SMOKE temporal reference file. The total of the monthly fractions of June, July and August were divided by the number of days in these three months (92) to get ozone season daily emissions fractions.

Nonpoint sources captured in the inventory include stationary sources whose emissions levels of NO_X, SO_2, and particulate matter are each less than 25 tons per year. Emissions from nonpoint sources in 2008 were obtained from NEI2008 version 1.5. Ozone season daily emissions for area sources were calculated using the SMOKE temporal profiles as described for non-EGU point sources.

Emissions from fires in 2008 were obtained from NEI2008 version 1.5. These estimates were provided by Georgia Environmental Protection Division as part of AERR2008 submission (Georgia Air Protection Branch, 2011). This inventory was developed using 2008 burned area data and burning permit data provided by Georgia Forestry Commission and the same method as used for the VISTAS2002 fire inventory (*www.epa.gov/ttnchie1/conference/ei13/rpo/barnard_pres.pdf*). Emissions in future years 2017 and 2024 were assumed to be the same as attainment year 2008. Ozone season daily emissions for fires were calculated by

dividing the total emissions during June, July and August by the number of days in these three months (92). The emissions during these three months were estimated using monthly emissions for nonpoint fires and event emissions records for wildfires occurred during this period in NEI2008.

The 2008 NO_X and VOC emissions for the Atlanta Area, as well as the emissions for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 4 of the following subsection discussing the maintenance demonstration.

c. Maintenance Demonstration

The April 4, 2012, final SIP revision includes a maintenance plan for the Atlanta Area. The maintenance plan:

(i) Shows compliance with and maintenance of the 8-hour ozone standard by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2008 emissions levels.

(ii) Uses 2008 as the attainment year and includes future emissions inventory projections for 2017, 2020, and 2024.

(iii) Identifies an ''out year'' at least 10 years (and beyond) after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEBs were established for the last year (2024) of the maintenance plan (see section VI below).

(iv) Provides actual and projected emissions inventories, in tons per day (tpd), for the Atlanta Area, as shown in Tables 2 through 4 below.

TABLE 2—ACTUAL AND PROJECTED ANNUAL NO_X EMISSIONS (tpd) FOR THE ATLANTA AREA

Sector	2008	2014	2017	2020	2024
Point	75.99	60.69	53.05	54.43	56.27
Area *	49.30	54.92	57.73	60.62	64.48
Nonroad	117.47	99.18	90.04	87.03	83.01
On-road	364.02	264.80	215.19	165.58	99.43
Total **	606.78	479.59	416.01	367.66	303.19

* For nonpoint emissions, excluding fire.
** Numbers may be slightly different than the April 4, 2012, submittal based on rounding conventions.

TABLE 3—ACTUAL AND PROJECTED ANNUAL VOC EMISSIONS (tpd) FOR THE ATLANTA AREA

Sector	2008	2014	2017	2020	2024
Point	13.79	15.80	16.81	17.80	19.13
Area *	216.46	243.28	256.69	270.61	289.16
Nonroad	96.03	74.75	64.11	63.50	62.69
On-road	165.53	126.92	107.61	88.30	62.56
Total **	491.82	460.75	445.22	440.21	433.55

* For nonpoint emissions, excluding fire.
** Numbers may be slightly different than the April 4, 2012, submittal based on rounding conventions.

TABLE 4—EMISSION ESTIMATES FOR THE ATLANTA AREA

Year	VOC (tpd)	NO_X (tpd)
2008	491.82	606.78
2024	433.55	303.19
Difference from 2008 to 2024	−58.27	−303.59

Tables 2 through 4 summarize the 2008 and future projected emissions of NO_X and VOC from Atlanta. In situations where local emissions are the primary contributor to nonattainment, the ambient air quality standard should not be violated in the future as long as emissions from within the nonattainment area remain at or below the baseline with which attainment was achieved. 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, 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 2008 as the attainment emissions inventory year for the Atlanta Area. The State has decided to allocate a safety margin to the 2024 MVEB for the Atlanta Area. The safety margin was calculated as 99.43 tpd for NO_X and 62.56 tpd for VOC. A portion of the overall emissions reductions from 2008 to 2024 will be used as the safety margin for MVEB. The MVEB to be used for transportation conformity proposes is discussed in section VI. This allocation and the resulting available safety margin for the Atlanta Area are discussed further in section VI of this proposed rulemaking.

d. Monitoring Network

There are currently nine monitors measuring ozone in Atlanta. The State of Georgia, through GA EPD, has committed to continue operation of the monitors in Atlanta Area in compliance with 40 CFR part 58 and have thus addressed the requirement for monitoring. EPA approved the ozone portion of Georgia's 2012 annual ambient air monitoring network plan on October 16, 2012.

e. Verification of Continued Attainment

The State of Georgia, through GA EPD, has the legal authority to enforce and implement the requirements of the 1997 8-hour ozone maintenance plan for the Atlanta 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.

Verification of continued attainment is accomplished through operation of the ambient ozone monitoring network and the periodic updates of the Area's emissions inventory. GA EPD will continue to operate the current monitors located in the metro Atlanta area. There are no plans to discontinue operation,

relocate, or otherwise change the existing ambient monitoring network. Georgia will continue to update its emissions inventory at least once every three years.

The Consolidated Emissions Reporting Rule (CERR) was promulgated by EPA on June 10, 2002. The CERR was replaced by the Annual Emissions Reporting Requirements (AERR) rule on December 17, 2008. The most recent triennial inventory for Georgia was compiled for 2008. The larger point sources of air pollution will continue to submit data on their emissions on an annual basis as required by the AERR. Emissions from the rest of the point sources, the nonpoint source portion, and the on-road and nonroad mobile sources continue to be quantified on a three-year cycle. The inventory will be updated and maintained on a three-year cycle. As required by the AERR, the next overall emissions inventory will be compiled for 2011.

f. Contingency Measures in the Maintenance Plan

The contingency measures are designed to promptly correct a violation of the NAAQS that occurs after redesignation. 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).

The contingency plan included in Georgia's April 4, 2012, SIP revision includes a triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures. The State of Georgia will use actual ambient monitoring data and emissions inventory data as the indicators to determine whether contingency measures should be implemented.

Georgia has identified a primary trigger (Tier I) for the 1997 8-hour ozone NAAQS when any quality-assured 8-hour ozone monitoring reading exceeds 0.084 ppm at an ambient monitoring station located in the Atlanta maintenance area or if the periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in emissions of either ozone precursor over the attainment or intermediate emissions inventories for the Atlanta maintenance area (as determined by the triennial emission reporting required by AERR). GA EPD will conduct an evaluation as expeditiously as practicable to determine if the trend is likely to continue. If it is determined that additional emission reductions are necessary, GA EPD will adopt and implement any required measures in accordance with the schedule and procedure for adoption and implementation of contingency measures.

The ozone trigger concentrations described above apply to each monitor in the maintenance area. GA EPD will evaluate a Tier I condition, if it occurs, as expeditiously as practicable to determine the cause(s) of the ambient ozone or emissions inventory increase and to determine if a Tier II condition (see below) is likely to occur.

A secondary trigger (Tier II) is activated when any violation of the 1997 8-hour ozone NAAQS at any of the metro Atlanta ambient monitoring stations in the Atlanta maintenance area is recorded, based on quality-assured monitoring data. In this event, GA EPD will conduct a comprehensive study to determine the cause(s) of the ambient ozone increase and will implement any required measures as expeditiously as practicable, taking into consideration the ease of implementation and the technical and economic feasibility of selected measures

GA EPD will, in the event of 1) a Tier II trigger condition or 2) a Tier I condition in which GA EPD has determined that a Tier II condition is likely to occur, conduct a comprehensive study to determine what contingency measure(s) are required for the maintenance of the ozone standard. Since the metro Atlanta area may be influenced by emissions from outside the maintenance area, the study will attempt to determine whether the trigger condition is due to local emissions, emissions from elsewhere, or a combination of the previous. The comprehensive analysis, based on quality-assured ambient data, will examine:

- The severity of the trigger condition;
- the meteorological conditions (in the case of an ambient concentration trigger)
- associated with the trigger condition;
- potential contributing local emissions sources;
- potential contributing emissions resulting from regional or long-range transport;
- the geographic applicability of possible contingency measures;
- emission trends, including implementation timelines of potential control measures;
- timelines of ''on-the-books'' (adopted) measures that are not yet fully implemented (e.g., Georgia Rule (sss) NO_X controls);
- current and recently identified control technologies.

The comprehensive study will be completed and submitted to EPA for review as expeditiously as practical but no later than nine months after the Tier I or Tier II trigger is activated. When GA EPD determines, through the comprehensive study, what contingency measure(s) are required for the maintenance of the ozone standard, appropriate corrective measures will be adopted and implemented within 18 to 24 months after the Tier I or II trigger occurs. EPA anticipates that control measures not relied upon for attainment but that are currently being implemented by GA EPD will continue to produce substantial reductions in ozone precursors in excess of what is relied upon in this maintenance plan. They include the Georgia Multipollutant Rule as well as diesel engine retrofit, replacement, and repowering programs and truck stop electrification programs. Contingency measures will be adopted no later than 18 months following the date on which the Tier I or Tier II trigger is activated. Selection of measures will take into consideration the ease of implementation as well as technical and economic feasibility. If it is determined that adoption and implementation of a rule will take longer than 24 months following the trigger date, GA EPD will submit for EPA's approval a revised schedule for the development and adoption of contingency measures.

If the analysis required above determines emissions from the local area are contributing to the trigger condition, GA EPD will evaluate those measures as specified in Section 172 of the CAA for control options as well as other available measures. Section 175A(d) requires that state maintenance plans shall include a requirement that the state will implement all measures with respect to the control of the air pollutant concerned which were contained in the SIP for the area before redesignation of the area to attainment. Currently all such measures are in effect

for the Atlanta Area. 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_X.
- RACT for point sources of VOC and NO_X, 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.
- Mobile Source Measures.
- Implementation of a new measure/control that is already promulgated and scheduled to be implemented at the federal or state level.
- Additional NO_X reduction measure(s) yet to be identified.

EPA has concluded that the maintenance plan adequately addresses the five basic components of a maintenance plan: attainment inventory, monitoring network, verification of continued attainment, and a contingency plan. Therefore, the maintenance plan SIP revision submitted by the State of Georgia for the Atlanta Area meets the requirements of section 175A of the CAA, and thus EPA is proposing approval of the plan.

VI. What is EPA's analysis of Georgia's proposed NO_X and VOC MVEBs for the Atlanta 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) 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_X and VOC for the Atlanta Area. Georgia is developing these MVEBs, as required, for the last year of its maintenance plan, 2024. The MVEBs reflect the total on-road emissions for 2024, plus an allocation from the available NO_X and VOC safety margin. 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_X 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_X and VOC MVEBs for the Atlanta Area are defined in Table 5 below.

TABLE 5—ATLANTA AREA NO_X AND VOC MVEBS (TPD)

	2024
NO_X Emissions	
Base Emissions	99.43
Safety Margin Allocated to MVEB	26.9
NO_X Conformity MVEB	126
VOC Emissions	
Base Emissions	62.56
Safety Margin Allocated to MVEB	29.4
VOC Conformity MVEB	92

As mentioned above, Georgia has chosen to allocate a portion of the available safety margin to the NO_X and VOC MVEBs for 2024 for the Atlanta Area. This allocation is 26.9 tpd and 29.4 tpd for NO_X and VOC, respectively. Thus, the remaining safety margins for 2024 are 28.87 tpd and 276.69 tpd NO_X and VOC, respectively.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and VOC for 2024 for the Atlanta Area because EPA has preliminarily determined that the Area maintains the 1997 8-hour ozone NAAQS with the emissions at the levels of the budgets. Once the MVEBs for the Atlanta Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations. After thorough review, EPA has preliminarily determined that the budgets meet the adequacy criteria, as outlined in 40 CFR 93.118(e)(4), and is proposing to approve the budgets because they are consistent with maintenance of the 1997 8-hour ozone NAAQS through 2024.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs for 2024 for 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 $PM_{2.5}$ 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 submission includes NO_X and VOC MVEBs for the Atlanta Area for 2024, the last year of the maintenance plan. EPA reviewed the NO_X and VOC MVEBs through the adequacy process. The Georgia SIP submission, including the Atlanta Area NO_X and VOC MVEBs, was open for public comment on EPA's adequacy Web site on February 29, 2012, found at: *http://www.epa.gov/otaq/stateresources/transconf/currsips.htm#atlanta2.* The EPA public comment period on adequacy for the MVEBs for 2024 for the Atlanta Area closed on March 30, 2012. No comments, adverse or otherwise, were received during EPA's adequacy process for the MVEBs associated with Georgia's 1997 8-hour ozone maintenance plan.

EPA intends to make its determination on the adequacy of the 2024 MVEBs for the Atlanta Area for transportation conformity purposes in the near future by completing the adequacy process that was started on February 29, 2012. After EPA finds the 2024 MVEBs adequate or approves them, the new MVEBs for NO_X and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years for 2024 and beyond, the applicable budgets will be the new 2024 MVEBs established in the maintenance plan, as defined in section VI of this proposed rulemaking.

VIII. Proposed Action on the Redesignation Request and Maintenance Plan SIP Revision Including Proposed Approval of the 2024 NO_X and VOC MVEBs for the Atlanta Area

EPA previously determined that the Atlanta Area was attaining the 1997 8-hour ozone NAAQS on June 23, 2011, at 76 FR 36873. EPA is now proposing to take two separate but related actions regarding the Atlanta Area's redesignation and maintenance of the 1997 8-hour ozone NAAQS.

First, EPA is proposing to determine, based on complete, quality-assured and certified monitoring data for the 2009–2011 monitoring period that the Atlanta Area is attaining the 1997 8-hour ozone NAAQS. Based on 2010–2012 preliminary data in AQS, the Area is continuing to attain the 1997 8-hour ozone NAAQS. EPA is proposing to determine that Georgia has met the criteria under CAA section 107(d)(3)(E) for the Atlanta Area for redesignation from nonattainment to attainment for the 1997 8-hour ozone NAAQS. On this basis, EPA is proposing to approve Georgia's redesignation request for the 1997 8-hour ozone NAAQS for the Atlanta Area.

Second, EPA is proposing to approve the maintenance plan for the Atlanta Area, including the NO_X and VOC MVEBs for 2024, into the Georgia SIP (under CAA section 175A). The maintenance plan demonstrates that the Area will continue to maintain the 1997 8-hour ozone NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5). Further, as part of today's action, EPA is describing the status of its adequacy determination for the NO_X and VOC MVEBs for 2024 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_X and VOC MVEBs pursuant to 40 CFR 93.104(e).

If finalized, approval of the redesignation request would change the official designation of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in Georgia from nonattainment to attainment for the 1997 8-hour ozone NAAQS as found at 40 CFR part 81. This proposed action is does not relate to these same counties designation status under the 2008 8-hour ozone NAAQS. Those counties in the Atlanta Area that were designated nonattainment for the 2008 8-hour ozone NAAQS would remain nonattainment for that NAAQS even if this action is finalized.

IX. 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 today. Approval of Georgia's redesignation request would change the legal designation of the designated portion of Atlanta Area for the 1997 8-hour ozone NAAQS, found at 40 CFR part 81, from nonattainment to attainment.[7] Approval of Georgia's request would also incorporate a plan for maintaining the 1997 8-hour ozone NAAQS in the Atlanta Area through 2024 into the Georgia SIP. This maintenance plan includes contingency measures to remedy any future violations of the 1997 8-hour ozone NAAQS and procedures for evaluation of potential violations. The maintenance plan also establishes NO_X and VOC MVEBs for 2024 for the Atlanta Area. The NO_X MVEB is 126 tpd. The VOC MVEB is 92 tpd. Additionally, EPA is notifying the public of the status of EPA's adequacy determination for the newly-established NO_X and VOC MVEBs for 2024 for the Atlanta Area.

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. 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 approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For this reason, these proposed actions:

- Are not ''significant regulatory action[s]'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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

[7] This proposed action does not proposed to change the Area's designation for the 2008 8-hour ozone NAAQS.

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

• do 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 does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the determination does not have substantial direct effects on an Indian Tribe. There are no Indian Tribes located within the Atlanta nonattainment area.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

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

Dated: January 24, 2013.

Gwendolyn Keyes Fleming,

Regional Administrator, Region 4.

[FR Doc. 2013–02380 Filed 2–1–13; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Parts 1247 and 1248

[Docket No. EP 431 (Sub-No. 4)]

Review of the General Purpose Costing System

AGENCY: Surface Transportation Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: Through this Notice of Proposed Rulemaking, the Surface Transportation Board (Board) is proposing certain changes to its general purpose costing system, the Uniform Railroad Costing System (URCS). Specifically, the Board is proposing to adjust how URCS calculates certain system-average unit costs in Phase II, thereby obviating the need for URCS to apply a separate make-whole adjustment in Phase III. The Board is also proposing other related changes to URCS that would result in more accurate movement costs, as well as changes to two of its reporting requirements.

DATES: Comments are due by March 21, 2013; replies are due by April 22, 2013.

ADDRESSES: Comments may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the ''E-Filing'' link on the Board's Web site, at *http://www.stb.dot.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 431 (Sub-No. 4), 395 E Street SW., Washington, DC 20423–0001.

FOR FURTHER INFORMATION CONTACT: The Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877–8339.

SUPPLEMENTARY INFORMATION: In 1989, the Board's predecessor, the Interstate Commerce Commission (ICC), adopted URCS as its general purpose costing system. *Adoption of the Unif. R.R. Costing Sys. as a Gen. Purpose Costing Sys. for All Regulatory Costing Purposes,* 5 I.C.C.2d 894 (1989). The Board uses URCS for a variety of regulatory functions. URCS is used to make the jurisdictional determination in railroad maximum rate reasonableness proceedings, as well as the revenue allocation methodology and rate prescription methodology. URCS is also used to develop variable costs for making cost determinations in abandonment proceedings; to provide the railroad industry and shippers with a standardized costing model; to cost the Board's Car Load Waybill Sample to develop industry cost information; and to provide interested parties with basic cost information. URCS develops a regulatory cost estimate that can be applied to a service that occurs anywhere on a rail carrier's system.

URCS develops these cost estimates through three distinct phases. In Phase I, which was completed one time when URCS was originally developed, regression analyses were performed using the annual reports submitted by Class I rail carriers (R–1 reports) at the time and equations linking expense account groupings with particular measures of railroad activities were estimated. In Phase II, which is performed annually, URCS takes the aggregated cost data provided by Class I carriers in their most recent R–1 reports and disaggregates them by calculating the system-average unit costs associated with specific rail activites. In Phase III, URCS takes the unit costs from Phase II and applies them to the characteristics of a particular movement in order to calculate the system-average variable and total costs of that movement.

The ICC and now the Board have made modest adjustments to URCS over the years.[1] In August 2009, the Senate Committee on Appropriations directed the Board to submit a report providing options for updating URCS. In the report submitted by the Board in May 2010, the Board identified the ''make-whole adjustment'' as one area that warranted further review.[2] This rulemaking is intended to address concerns with the make-whole adjustment in URCS.

The make-whole adjustment is applied by URCS to correct the fact that, when disaggregating data and calculating system-average unit costs in Phase II, URCS currently does not take into account the economies of scale realized from larger shipment sizes. The purpose of the make-whole adjustment, which is calculated and applied in Phase III, is to recognize the efficiency savings that a carrier obtains in its

[1] *See, e.g., Review of the Surface Transp. Bd.'s Gen. Costing Sys.,* EP 431 (Sub-No. 3) (STB served Apr. 6, 2009); *Review of Gen. Purpose Costing Sys.,* EP 431 (Sub-No. 2) (STB served Dec. 5, 1997); *Review of Gen. Purpose Costing Sys.,* EP 431 (Sub-No. 2) (STB served Oct. 1, 1997); *Review of Gen. Purpose Costing Sys.,* EP 431 (Sub-No. 2) (ICC served July 21, 1993).

[2] Surface Transp. Bd., *Surface Transportation Board Report to Congress Regarding the Uniform Rail Costing System,* 14, 18–19 (May 27, 2010).