

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2022-0290; FRL-10107-01-R4]

#### Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2015 8-Hour Ozone Nonattainment Area to Attainment

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

**ACTION:** Proposed rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is proposing to approve changes to the Georgia State Implementation Plan (SIP) submitted on behalf of the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, on February 28, 2022, through a letter dated February 25, 2022. The submission includes a request for the EPA to redesignate the Atlanta, Georgia 2015 8-hour ozone nonattainment area (hereinafter referred to as the “Atlanta Area” or “Area”) to attainment for the 2015 8-hour ozone National Ambient Air Quality Standards (NAAQS or standards) and to approve a SIP revision containing a maintenance plan for the Area. EPA is proposing to approve the State’s plan for maintaining attainment of the 2015 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for the years 2018 and 2033 for the Area, and to incorporate the maintenance plan into the SIP, and to redesignate the Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the Area.

**DATES:** Comments must be received on or before September 26, 2022.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0290 at [http://](http://www.regulations.gov)

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

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

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#### I. Summary of EPA’s Proposed Actions

EPA is proposing to take the following separate but related actions addressing the February 25, 2022 submittal:<sup>1</sup> (1) to

<sup>1</sup> EPA notes that the February 28, 2022, submission was received under a cover letter dated February 25, 2022. For clarity, throughout this notice EPA will refer to the February 28, 2022,

approve Georgia’s plan for maintaining the 2015 ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporate the plan into the SIP, and (2) to redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is proposing to approve Georgia’s maintenance plan for the Atlanta Area as meeting the requirements of section 175A (such approval being one of the Clean Air Act (CAA or Act) criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to keep the Atlanta Area in attainment of the 2015 8-hour ozone NAAQS through 2033. The maintenance plan includes 2018 and 2033 MVEBs for NO<sub>x</sub> and VOC for the Atlanta Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the SIP.

EPA also proposes to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, EPA is proposing to approve a request to change the legal designation of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties in Georgia, as found at 40 CFR part 81, from nonattainment to attainment for the 2015 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA’s adequacy process for the MVEBs for the Atlanta Area. The adequacy comment period began on February 11, 2022, with EPA’s posting of the availability of Georgia’s submission on EPA’s adequacy website (<https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa>). The adequacy comment period for these MVEBs closed on March 15, 2022. No comments, adverse or otherwise, were received during the adequacy

submission by its cover letter date of February 25, 2022.

comment period. Please see Section VII of this notice of proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, this notice of proposed rulemaking is in response to Georgia's February 25, 2022, redesignation request and associated SIP submission that 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 for the 2015 8-hour ozone NAAQS.

## II. Background

On October 1, 2015, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.070 parts per million (ppm) to provide increased protection of public health and the environment. *See* 80 FR 65292 (October 26, 2015). The 2015 ozone NAAQS retains the same general form and averaging time as the 0.075 ppm NAAQS set in 2008 but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2015 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 0.070 ppm. *See* Appendix U of 40 CFR part 50. This 3-year average is referred to as the design value.

Upon promulgation of a new or revised ozone NAAQS, section 107(d) of the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS (or that contributes to ambient air quality in a nearby area that is violating the NAAQS). As part of the designations process for the 2015 8-hour ozone NAAQS, the Atlanta Area was designated as a "Marginal" ozone nonattainment area, effective August 3, 2018. *See* 83 FR 25776 (June 4, 2018) and 40 CFR 81.311. Areas that were designated as Marginal ozone nonattainment areas were required to attain the 2015 8-hour ozone NAAQS no later than August 3, 2021, based on 2018, 2019, and 2020 monitoring data. *See* 40 CFR 51.1303.<sup>2</sup> The Atlanta Area has an attaining design value calculated using 2018, 2019 and 2020 ozone ambient monitoring data. The Atlanta Area design value continues to meet the 2015 8-hour ozone standard with a design value calculated using 2019, 2020, and 2021 ozone ambient monitoring data. Based on complete,

<sup>2</sup>Determination that the Atlanta Area attained by the required August 3, 2021, attainment date is being addressed in a separate rulemaking. *See* 87 FR 21842 (April 13, 2022).

quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area, EPA is proposing to determine that the Atlanta Area attained the 2015 8-hour ozone NAAQS to meet the CAA 107(d)(3)(E)(i) requirement that the area attains the NAAQS for redesignation purposes.

## III. 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 EPA Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable Federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

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

1. "Ozone and Carbon Monoxide Design Value Calculations," Memorandum from Bill Laxton, Director, Technical Support Division, June 18, 1990;
2. "Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;
3. "Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations," Memorandum from G.T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;
4. "Procedures for Processing Requests to Redesignate Areas to Attainment," Memorandum from John Calcagni, Director, Air Quality Management Division, September 4,

1992 (hereinafter referred to as the "Calcagni Memorandum");

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

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

7. "State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992," Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993 (hereinafter referred to as the "Shapiro Memorandum");

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

9. "Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment," Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the "Nichols Memorandum"); and

10. "Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard," Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

## IV. Georgia's SIP Submittal

On February 25, 2022, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing a maintenance plan for the Area. EPA's evaluation indicates that the Atlanta Area meets the requirements for redesignation as set forth in CAA section 107(d)(3)(E), including the maintenance plan requirements under CAA section 175A and associated MVEBs. As a result of these proposed findings, EPA is proposing to take the actions summarized in Section I of this notice.

**V. EPA’s Analysis of Georgia’s SIP Submittal**

As stated above, in accordance with the CAA, EPA proposes to approve the 2015 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Georgia SIP; and redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

*Criterion (1)—The Atlanta Area Has Attained the 2015 8-Hour Ozone NAAQS*

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. See

CAA section 107(d)(3)(E)(i). For ozone, an area may be considered to be attaining the 2015 8-hour ozone NAAQS if it meets the 2015 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.19 and Appendix U of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the 2015 8-hour ozone NAAQS, the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area must not exceed 0.070 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix U, the 2015 8-hour ozone NAAQS are attained if the design value is 0.070 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA’s Air Quality

System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

EPA reviewed complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2015 8-hour ozone NAAQS for 2018 through 2021 and has determined that the design values for each monitor in the Area are equal to or less than the standard of 0.070 ppm for that time period. Based on this air quality monitoring data, EPA is proposing to determine that the Atlanta Area attained the 2015 8-hour ozone NAAQS. The fourth-highest 8-hour ozone values at each monitor for 2018 through 2021 and the 3-year averages of these values (*i.e.*, design values), are summarized in Table 1, below.

**TABLE 1—2018–2021 OZONE CONCENTRATIONS FOR THE ATLANTA AREA**  
[ppm]

Air Quality System (AQS) site code	Site name	Annual 4th-highest daily maximum 8-hr ozone concentration				Design values	
		2018	2019	2020	2021	2018–2020	2019–2021
13–067–0003	Kennesaw	0.065	0.067	0.056	0.062	0.062	0.061
13–085–0001	Dawsonville	0.065	0.062	0.057	0.061	0.061	0.060
13–089–0002	South DeKalb	0.067	0.073	0.061	0.067	0.067	0.067
13–097–0004	Douglasville	0.064	0.072	0.056	0.07	0.064	0.066
13–121–0055	United Avenue	0.072	0.075	0.063	0.066	0.070	0.068
13–135–0002	Gwinnett	0.065	0.068	0.066	0.065	0.066	0.066
13–151–0002	McDonough	0.069	0.075	0.058	0.066	0.067	0.066
13–247–0001	Conyers	0.069	0.072	0.060	0.063	0.067	0.065
13–231–9991	Georgia Station (Pike County) CASTNET.	0.065	0.068	0.054	0.061	0.062	0.061

The highest 3-year design value for 2018–2020 for the Atlanta Area is 0.070 ppm at the United Ave site (AQS ID: 13–121–0055),<sup>3</sup> which meets the NAAQS. The highest 3-year design value for 2019–2021 for the Atlanta Area is 0.068 ppm at the United Ave site, which is below the NAAQS.

EPA will not take final action to approve the redesignation of the Atlanta Area if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. Preliminary 2022 ozone monitoring data currently indicates an attaining 2020, 2021 and 2022 design value for the Atlanta Area. As discussed in more detail below, Georgia has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

*Criterion (2)—Georgia Has a Fully Approved SIP Under Section 110(k) for the Atlanta Area; and Criterion (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, see CAA section 107(d)(3)(E)(v), and that the state has a fully approved SIP under section 110(k) for the area, see CAA section 107(d)(3)(E)(ii). EPA proposes to find that Georgia has met all applicable SIP requirements for the Atlanta Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Georgia has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and proposes to determine that the SIP is fully approved

with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were due prior to submittal of the complete redesignation request.

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

*General SIP requirements.* General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures

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

needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D)(i)(I), referred to as the “good neighbor provision” or the “interstate transport provision” of the Act, requires that SIPs contain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D)(i)(I) 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 classification 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 for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area’s attainment status are not applicable requirements for purpose 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* 61 FR 53174 (October 10, 1996) and 62 FR 24826 (May 7, 1997) (Reading, Pennsylvania, proposed and final rulemakings); 61 FR 20458 (May 7, 1996) (Cleveland-Akron-Loraine, Ohio, final rulemaking); and 60 FR 62748, (December 7, 1995) (Tampa, Florida, final rulemaking)). *See also* 65 FR 37890 (June 19, 2000) (discussion on this issue in Cincinnati, Ohio,

redesignation) and 66 FR 50399 (October 19, 2001) (Pittsburgh, Pennsylvania, redesignation).

*Title I, part D, applicable SIP requirements.* Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area’s nonattainment classification. As provided in subpart 2, a Marginal ozone nonattainment area must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I. *See* 57 FR 13498 (April 16, 1992).

Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are “applicable” and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state’s submittal of a complete redesignation request. *See* Calcagni Memorandum. *See also* Shapiro Memorandum; 60 FR 12549, 12465–66 (March 7, 1995) (Final Redesignation of Detroit-Ann Arbor); 68 FR 25418, 25424–27 (May 12, 2003) (Final Redesignation of St. Louis, Missouri); and *Sierra Club v. EPA*, 375 F. 3d 537, 541 (7th Cir. 2004) (upholding EPA’s redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club’s view that the meaning of “applicable” under the statute is “whatever should have been in the plan at the time of attainment” rather than “whatever actually was in the plan and already implemented or due at the time of attainment”).<sup>4</sup> In addition, as discussed below, several of the part D requirements under 182(a) are otherwise not applicable for the purposes of redesignation and several of the requirements have already been satisfied by the State.

*Section 182(a) Requirements.* Section 182(a)(1) requires states to submit a comprehensive, accurate, and current

<sup>4</sup> Applicable requirements of the CAA that become due after the area’s submittal of a complete redesignation request remain applicable until a redesignation is approved but are not required as a prerequisite to redesignation. *See* Calcagni Memorandum; CAA section 175A(c).

inventory of actual emissions from sources of VOC and NO<sub>x</sub> emitted within the boundaries of the ozone nonattainment area. This required submission was due by August 3, 2020, for the Atlanta Area. *See* 40 CFR 51.1315(a). Georgia provided an emissions inventory for the Area to EPA in a July 2, 2020, SIP submission, and EPA approved the emissions inventory in an action published on March 9, 2022. *See* 87 FR 13179.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT “fix up” requirement for the 2015 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments. Furthermore, the State complied with this requirement under the 1-hour ozone NAAQS. *See* 57 FR 46780 (October 13, 1992).

Section 182(a)(2)(B) requires each state with a Marginal or higher ozone nonattainment area classification that implemented, or was required to implement, a vehicle inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Atlanta Area is not subject to the section 182(a)(2)(B) requirement because the Area was designated as nonattainment for the 2015 8-hour ozone standard after the enactment of the 1990 CAA amendments.

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

approved part D NSR SIP for the Atlanta Area. See 87 FR 3677 (January 25, 2022).

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the *Verification of Continued Attainment* section of this notice, the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by certain sources within that nonattainment area. Georgia provided a SIP revision to EPA on July 2, 2020, with a supplement to that submittal on November 4, 2021, addressing the section 182(a)(3)(B) emissions statements requirements. EPA approved Georgia's July 2, 2020, and November 4, 2021, SIP revision in an action published on March 9, 2022. See 87 FR 13179.

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

EPA interprets the conformity SIP requirements<sup>5</sup> as not applying for the purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and Federal conformity rules apply where state rules have not been approved. See *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); see also 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Georgia has an approved

conformity SIP for the Atlanta Area. See 77 FR 35866 (June 15, 2012).

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

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

EPA has fully approved the applicable Georgia SIP for the Atlanta Area under section 110(k) of the CAA for all requirements applicable for purpose of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request, see *Calcagni Memorandum at 3*; *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984, 989–90 (6th Cir. 1998); and *Wall v. EPA*, 265 F.3d 426 (6th Cir. 2001), plus any additional measures it may approve in conjunction with a redesignation action, see 68 FR 25426 (May 12, 2003) and citations therein. Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS. See 86 FR 68413 (December 12, 2021), 85 FR 14147 (March 11, 2020), and 85 FR 20836 (April 15, 2020). As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions nor linked to an area's nonattainment status are not applicable requirements for purposes of redesignation, and it believes that Georgia has met all part D requirements applicable for purpose of this redesignation.

**Criterion (3)—The Air Quality Improvement in the Atlanta Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions**

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable Federal air pollution control regulations, and other permanent and enforceable reductions. See CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Georgia has demonstrated that the observed air quality improvement in the Atlanta Area is due to permanent and enforceable reductions in emissions

resulting from Federal measures and from state measures adopted into the SIP and is not the result of unusually favorable weather conditions or the COVID-19 pandemic.<sup>6</sup>

State measures adopted into the SIP and Federal measures enacted in recent years have resulted in permanent emission reductions. The SIP-approved state measures, some of which implement Federal requirements, that have been implemented to date and identified by Georgia include: Georgia Rule 391-3-1-.02(2)(yy)—Emissions of Nitrogen Oxides; Georgia Rule 391-3-1-.02(2)(jjj)—NO<sub>x</sub> from Electric Generating Units (EGUs); Georgia Rule 391-3-1-.02(2)(lll)—NO<sub>x</sub> from Fuel Burning Equipment; Georgia Rule 391-3-1-.02(2)(nnn)—NO<sub>x</sub> from Stationary Gas Turbines; Georgia Rule 391-3-1-.02(2)(rrr)—NO<sub>x</sub> from Small Fuel Burning Equipment; and Georgia Rule Chapter 391-3-20—Enhanced Inspection and Maintenance.

<sup>6</sup> Georgia provided average temperature and precipitation data for May through September in Atlanta, Georgia, from 1930 through 2020. Based on this information, the average temperature and precipitation fluctuates around the average meteorological conditions, with 2018, 2019, and 2020 being hotter than the 1930–2020 average temperature and 2018 and 2020 wetter than the 1930–2020 average precipitation. Georgia concluded that the 2018–2020 period for the Atlanta Area was not unusually cool or wet and that meteorology is not responsible for the decreasing ozone trends. See Section 2.3 of the State's redesignation request and proposed SIP revision for further information. EPA analyzed 2021 meteorology data related to the Atlanta Area which shows that the May through September 2021 temperatures were essentially the same as the 30-year 1981–2020 normals and that 2021 precipitation was near the 75th percentile of the 30-year average and not significantly higher than in 2017 and 2018. The 2021 data does not indicate unusually favorable weather conditions for lower ozone concentrations and is consistent with Georgia's conclusions that the air quality improvement in the area is due to permanent and enforceable emissions reductions.

Georgia also provided data related to the COVID-19 pandemic's impact on mobile emissions. Georgia recognized that following the beginning of the pandemic, 2020 vehicle counts and vehicle miles traveled (VMT) were lower than 2018 and 2019, but Georgia points out that studies indicate that people plan to work from home more in the future than they did before the pandemic, therefore VMT are not expected to return to pre-pandemic levels. See Georgia Commute Options, *COVID-19 Commute Impact Report* (Dec. 2021), available at <https://gacommuteoptions.com/home/return-to-office/covid-19-commute-impact-report/>. Georgia also points out that, despite preliminary traffic and congestion data from the Georgia Department of Transportation, TomTom International BV (TomTom) and the Federal Highway Administration indicating increased VMT from 2020 to 2021, ozone design values are still decreasing. See Atlanta Regional Commission, *How Traffic Patterns in ATL Have Changed During Pandemic*, <https://atlantaregional.org/whats-next-atl/articles/how-traffic-patterns-in-atl-have-changed-during-pandemic/>; TomTom, Atlanta Traffic, [https://www.tomtom.com/en\\_gb/traffic-index/atlanta-traffic/](https://www.tomtom.com/en_gb/traffic-index/atlanta-traffic/).

<sup>5</sup> CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain Federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

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

Rule 391–3–1–.02(2)(jjj) regulates NO<sub>x</sub> emissions from coal-fired external combustion devices that generate steam for electricity generation. This rule established a NO<sub>x</sub> emission standard of 0.13 pound per million British thermal unit (lb/MMBtu) from May 1 through September 30 (starting in 2003) averaged across affected sources in Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gwinnett, Heard, Henry, Paulding, and Rockdale Counties.<sup>7</sup>

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

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

Rule 391–3–1–.02(2)(rrr) is a RACT rule for small fuel-burning equipment. It requires that in order to reduce NO<sub>x</sub> emissions, an annual tune-up and the

burning of natural gas, liquefied petroleum gas, or propane be conducted on individual fuel burning equipment in the Atlanta Area during ozone season for units not subject to Rule 391–3–1–.02(2)(jjj) or 391–3–1–.02(2)(lll). This includes individual fuel-burning equipment located at facilities in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale County with NO<sub>x</sub> emissions exceeding 25 tons per year (tpy) and at facilities in Barrow, Bartow, Carroll, Hall, Newton, Spalding or Walton County with NO<sub>x</sub> emissions exceeding 100 tpy; the individual fuel-burning equipment has potential emissions of NO<sub>x</sub> equal to or exceeding 1 tpy; and the individual fuel-burning equipment either has a maximum design head input capacity of less than 100 MMBtu/hr or less than 10 MMBtu/hr, depending on when it was installed.

Rule Chapter 391–3–20 is the Enhanced Inspection and Maintenance (Vehicle Emissions I/M Program). EPA fully approved the State's enhanced I/M program and adopted it into the SIP in January 2000 and updated it in April 2009.<sup>8</sup> See 65 FR 4133 (January 26, 2000) and 74 FR 17783 (April 17, 2009), respectively. The program applies to Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale Counties.

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

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

On August 8, 2011, see 76 FR 48208, acting on the D.C. Circuit's remand, EPA promulgated CSAPR to address the

issues raised by the remand of CAIR. CSAPR addressed the two NAAQS at issue in CAIR and additionally addressed the good neighbor provision for the 2006 PM<sub>2.5</sub> NAAQS.<sup>9</sup> CSAPR required 28 states to reduce SO<sub>2</sub> emissions, annual NO<sub>x</sub> emissions, or ozone season NO<sub>x</sub> emissions that significantly contribute to other states' nonattainment or interfere with other states' abilities to maintain the 1997 PM<sub>2.5</sub> and ozone standards and the 2006 PM<sub>2.5</sub> standard.<sup>10</sup> The FIPs required EGUs in the covered states, including Georgia, to participate in regional trading programs to achieve the necessary emissions reductions. CSAPR was the subject of an adverse decision by the D.C. Circuit in August 2012.<sup>11</sup> However, this decision was reversed in April 2014 by the Supreme Court, which largely upheld the rule, including EPA's approach to addressing interstate transport in CSAPR. *EPA v. EME Homer City Generation, L.P.*, 572 U.S. 489 (2014) (*EME Homer City I*). The rule was remanded to the D.C. Circuit to consider claims not addressed by the Supreme Court. *Id.* In July 2015, the D.C. Circuit generally affirmed EPA's interpretation of various statutory provisions and EPA's technical decisions, *EME Homer City Generation, L.P. v. EPA*, 795 F.3d 118 (2015) (*EME Homer City II*), but the court remanded the rule without vacatur for reconsideration of EPA's emissions budgets for certain states, which the court found may have over-controlled those states' emissions with respect to the downwind air quality problems to which the states were linked. *Id.* at 129–30, 138. For more information on the legal issues associated with CSAPR and the Supreme Court and D.C. Circuit's decisions in the EME Homer City litigation, refer to the preamble of the CSAPR Update.<sup>12</sup> On October 13, 2017, EPA approved into the Georgia SIP, the Group 1 NO<sub>x</sub> ozone season trading program budgets and implementing

<sup>9</sup> See 76 FR 48208.

<sup>10</sup> CSAPR was revised by several rulemakings after its initial promulgation in order to revise certain states' budgets and to promulgate FIPs for five additional states addressing the good neighbor obligation for the 1997 ozone NAAQS. See, e.g., 76 FR 80760 (December 27, 2011); 77 FR 10324 (February 21, 2012); 77 FR 34830 (June 12, 2012). Additional revisions to CSAPR are discussed in the following paragraph.

<sup>11</sup> On August 21, 2012, the D.C. Circuit issued a decision in *EME Homer City Generation, L.P. v. EPA*, 696 F.3d 7 (D.C. Cir. 2012), vacating CSAPR. The EPA sought review with the D.C. Circuit en banc and the D.C. Circuit declined to consider EPA's appeal en banc. *EME Homer City Generation, L.P. v. EPA*, No. 11–1302 (D.C. Cir. January 24, 2013), ECF No. 1417012 (denying EPA's motion for rehearing en banc).

<sup>12</sup> Cross-State Air Pollution Rule Update for the 2008 Ozone NAAQS, 81 FR 74504, 74511 (October 26, 2016).

<sup>7</sup> Plant Bowen operates the only remaining coal-fired EGU in the Atlanta Area. In order to comply with Rule 391–3–1–.02(2)(jjj) Plant Bowen incorporated a 0.07 lb/MMBtu permit limit from May 1–September 30 into its Title V permit and has been operating at or below this limit each year from May 1–September 30 since 2003.

<sup>8</sup> EPA has recently proposed to approve a revision to the Georgia I/M program. See 87 FR 41080 (July 11, 2022).

regulations to address interstate transport for the 1997 8-hour ozone standard and removed from Georgia's SIP those state trading program rules adopted to comply with CAIR. See 82 FR 47930.

From 2016 to 2021, EPA established multiple rules to address interstate transport of ozone pollution respecting the 2008 8-hour ozone NAAQS including the CSAPR Update in 2016, see 81 FR 74504, the Close Out rule in 2018, see 83 FR 65878, and the Revised CSAPR Update in 2021, see 86 FR 23054. For additional policy and legal details including litigation regarding the 2008 8-hour ozone interstate transport considerations, please refer to the preamble of the final Revised CSAPR Update. See 86 FR 23054. EGUs in Georgia were not found to significantly contribute to nonattainment or interfere with maintenance in downwind states for the 2008 8-hour standard.

On April 6, 2022, EPA published in the **Federal Register** a notice of proposed rulemaking titled the "Federal Implementation Plan Addressing Regional Ozone Transport for the 2015 Ozone National Ambient Air Quality Standard," which if finalized, would fully resolve the covered states' CAA interstate transport obligations for the 2015 Ozone NAAQS.<sup>13</sup> The proposed rule addresses 26 states' obligations to eliminate significant contribution to nonattainment, or interference with maintenance, for the 2015 standard in other states. Georgia is not within the scope of that proposed rule because EPA found that emissions from sources in Georgia will not significantly contribute to nonattainment or interfere with maintenance of the 2015 ozone NAAQS in another state and approved Georgia's 2015 ozone transport SIP. See 86 FR 68413 (December 2, 2021).

*Tier 2 vehicle and fuel standards.* Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO<sub>x</sub> emissions.

These standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO<sub>x</sub> per mile. Additionally, in January 2006, the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NO<sub>x</sub> emissions. EPA expects that these standards will reduce NO<sub>x</sub> emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.<sup>14</sup>

*Tier 3 vehicle and fuel standards.* Implementation began in 2017 and will continue to phase in through 2025. These standards set new vehicle emissions standards and lower the allowed sulfur content of gasoline in order to reduce air pollution from passenger cars and trucks. Tailpipe and evaporative emissions will be reduced for passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. The Tier 3 vehicle standards for light-duty vehicles, light-duty trucks, and medium-duty passenger vehicles will be a fleet average standard of 0.03 gram of non-methane organic gases (NMOG) + NO<sub>x</sub> per mile as measured on the Federal Test Procedure (FTP), and a fleet average standard 0.05 gram of NMOG + NO<sub>x</sub> per mile as measured on the Supplemental Federal Test Procedure (SFTP). The Tier 3 vehicle standards for heavy-duty pick-ups and vans will be 0.178 gram per mile of non-methane organic gases (NMOG) + NO<sub>x</sub> for Class 2b vehicles and 0.247 gram per mile of NMOG + NO<sub>x</sub> for Class 3 vehicles, as measured on the FTP. This standard required Federal gasoline to meet an annual average standard of 10 ppm of sulfur by January 1, 2017. The Tier 3 tailpipe standards for light-duty vehicles will reduce the fleet average standards for the sum of NMOG and NO<sub>x</sub> by approximately 80 percent from the current fleet average standards, and will reduce the per-vehicle particulate matter (PM) standards by 70 percent. The Tier 3 program for heavy-duty vehicles will reduce the fleet average standards for NMOG + NO<sub>x</sub> and PM by approximately 60 percent from the current fleet average standards. The Tier 3 program is also reducing the evaporative VOCs by approximately 50 percent from the current standards, and these standards apply to all light-duty and on-road gasoline-powered heavy-duty vehicles.

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

*Medium and heavy-duty vehicle fuel consumption and GHG standards.* These standards have reduced and will continue to reduce greenhouse gas emissions and increase fuel efficiency for model year 2014 through 2018

combination tractors (semi-trucks), heavy-duty pickup trucks and vans, and vocational vehicles. These standards required on-road vehicles to achieve reductions in CO emissions and fuel consumption by 2018. The decrease in fuel consumption may result in NO<sub>x</sub> emission reductions.

*Heavy-duty gasoline and diesel highway vehicle standards & ultra low-sulfur diesel rule.* EPA issued this rule in 2001. See 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; it further reduces the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO<sub>x</sub> and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NO<sub>x</sub> emissions from diesel trucks and buses and will reduce NO<sub>x</sub> emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.<sup>15</sup>

*Nonroad spark-ignition engines and recreational engines standards.* The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO<sub>x</sub>, hydrocarbons, and CO from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (e.g., forklifts and airport ground service equipment), recreational vehicles (e.g., off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. Now that all of the nonroad spark-ignition and recreational engine standards are fully implemented, there has been an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO<sub>x</sub>, and 56 percent reduction in CO emissions. See 73 FR 59034 (October 8, 2008). The controls resulting from these standards reduce ambient concentrations of ozone, CO, and PM<sub>2.5</sub>.

*National program for greenhouse gas (GHG) emissions and fuel economy standards.* The Federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012–2016 (phase 1) and 2017–2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile in carbon dioxide (CO<sub>2</sub>) which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being

<sup>13</sup> See 87 FR 20036.

<sup>14</sup> EPA, Regulatory Announcement, EPA420-F-99-051 (December 1999), available at <http://www.epa.gov/tier2/documents/f99051.pdf>.

<sup>15</sup> See 66 FR 5002, 5012 (January 18, 2001).



consumed, and therefore, slightly less VOC emissions released. EPA issued the Safer Affordable Fuel-Efficient (SAFE) Vehicles Rule on April 30, 2020, as an update to Phase 2. *See* 84 FR 24174 (April 30, 2020). This new standard sets fuel economy and CO<sub>2</sub> standards that increase 1.5 percent in stringency each year from model years 2021 through 2026 and applies to passenger cars and light trucks. On February 8, 2021, the D.C. Circuit issued an order granting the Federal Government's motion to stay litigation over the SAFE Vehicles Rule. *See Order, Union of Concerned Scientists v. NHTSA*, No. 19–1230 (D.C. Cir. Feb. 8, 2021)).

*Boiler and Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP)*. The NESHAP for industrial, commercial, and institutional boilers (40 CFR part 63, subpart DDDDD) and the NESHAP for RICE (40 CFR part 63, subpart ZZZZ) are projected to reduce VOC emissions. The former applies to boiler and process heaters located at major sources of hazardous air pollutants (HAPs) that burn natural gas, fuel oil, coal, biomass, refinery gas, or other gas and had a compliance deadline of January 31, 2016. The latter applies to existing, new, or reconstructed stationary RICE located at major or area sources of HAPs, excluding stationary RICE being tested at a stationary RICE test cell, and has various compliance dates from August 16, 2004, to October 19, 2013, depending on the type of source and date of construction or reconstruction.

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

EPA proposes to find that the improvements in air quality in the Atlanta Area are due to real, permanent

and enforceable reductions in NO<sub>x</sub> and VOC emissions resulting from the Federal and SIP-approved state measures discussed above.

*Criterion (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. *See* CAA section 107(d)(3)(E)(iv). In conjunction with its request to redesignate the Atlanta Area to attainment for the 2015 8-hour ozone NAAQS, Georgia submitted a SIP revision to provide for the maintenance of the 2015 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. Pursuant to 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 2015 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 plan, verification of continued attainment, and a contingency plan. As discussed more fully below, EPA has preliminarily determined that Georgia's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Georgia SIP.

b. Attainment Emissions Inventory

As discussed above, the Atlanta Area has an attaining design value for the 2015 8-hour ozone NAAQS based on

quality-assured monitoring data for the 3-year period from 2018–2020.<sup>16</sup> The Atlanta Area design value continues to meet the 2015 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2019–2021. Georgia selected 2018 as the base year (*i.e.*, attainment emissions inventory year) for developing a comprehensive emissions inventory for NO<sub>x</sub> and VOC, for which projected emissions could be developed for 2021, 2024, 2027, and 2030. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2015 8-hour ozone NAAQS. Georgia began development of the attainment inventory by first generating a baseline emissions inventory for the Area. The 2018 base year emissions were projected to 2033 for EGU point sources, non-EGU point sources, area sources, fires (both agricultural burning and land clearing, and wildfire and prescribed burning), non-road mobile sources, and on-road mobile sources. The State projected summer day emission inventories using projected rates of growth in population, traffic, economic activity, and other parameters. In addition to comparing the final year of the plan (2033) to the base year (2018), Georgia compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2015 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, non-point, on-road, and non-road mobile. Complete descriptions of how the State developed these inventories are located in Appendix A–3 through Appendix A–10 of the February 25, 2022, SIP submittal.

*Point Sources*

Georgia provided point source emissions for EGU and non-EGU stationary sources with emissions equal to or exceeding 250 tpy of VOC or 2,500 tpy of NO<sub>x</sub> in Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties. The 2017 emissions inventory (most recent triannual National Emissions Inventory (NEI) year) includes all stationary sources whose actual emissions equal or exceed 100 tpy of VOC or 100 tpy of NO<sub>x</sub>. Therefore, 2017 point source emissions for the smaller point sources that were not included in the 2018 inventory were added by Georgia to provide a

<sup>16</sup> Final air quality design values for all criteria pollutants, including ozone, are available at <https://www.epa.gov/air-trends/air-quality-design-values>. These design values are calculated in accordance with 40 CFR part 50.



comprehensive 2018 point source emissions inventory.

EGU point source emissions for the two power plants in the Area (Plant Bowen, Plant McDonough/Atkinson) are tabulated from data collected from Georgia Power during the 2018 emission data collection process.<sup>17</sup> Georgia projected 2033 NO<sub>x</sub> and VOC emissions for Plant Bowen and Plan McDonough/Atkinson from the 2018 emissions using growth factors based on fuel consumption.

For non-EGU emissions, Georgia calculated 2018 and 2033 NO<sub>x</sub> and VOC summer day emissions using 2018 data submitted by facilities during the 2018 GA EPD emission data collection process. The basis for Georgia's non-growth assumption for non-EGU point source emissions from 2018–2033 is discussed in the SIP submittal.

#### Non-Point Sources

Since 2018 is not an NEI year, GA EPD estimates 2018 area source emissions as an interpolation between 2016 and 2023 emissions from EPA's 2016 emissions modeling platform v1.<sup>18</sup> GA EPD multiplied the 2018 area source emissions with growth factors to estimate 2033 area source emissions. These growth factors were calculated using 2016, 2023, and 2028 emissions in EPA's 2016 modeling platform v1.

GA EPD developed 2018 agricultural burning and land clearing emissions using 2018 burning records from the Georgia Forestry Commission (GFC) and EPA agricultural burning emission factors provided during the development of 2011 agricultural burning emissions for the 2011 NEI. The emissions for land clearing were estimated using the same method used in SEMAP 2007<sup>19</sup> and the 2011 NEI fire inventory. Emissions in future year 2033 are projected to be the same as base year 2018. Summer day emissions from agricultural burning and land clearing were calculated using emissions during the month of July, and Georgia used the same formula it used to calculate summer day emissions for non-EGU sources.

GA EPD used 2018 burning records from the GFC, the United States Forest Service, the United States Fish &

Wildlife Service, and military bases to determine 2018 wildfire and prescribed burning emissions, again using the same method used in SEMAP 2007<sup>20</sup> and the 2011 NEI fire inventory. Summer day emissions from wildfires and prescribed burning were calculated using daily emissions from fires that occurred during the 20 weekdays in July and then dividing the total emissions during July weekdays by 20 days. GA EPD assumed that emissions from agricultural burning, land clearing, wildfires, and prescribed burning remained constant from 2018–2033.

#### On-Road Sources

The Atlanta Regional Commission developed 2018 and 2033 on-road mobile source emissions using EPA's MOVES3 mobile source emissions model. GA EPD used best available local data for model inputs such as population, VMT, road type distribution, average speed distribution, starts, ramp fractions, age distributions, I/M inputs, and fuel properties. The model was run separately for two different groups of nonattainment counties in the Atlanta Area: one six-county group consisting of Clayton, Cobb, Dekalb, Fulton, Gwinnett, and Henry; and Bartow County alone. The Area was broken into two groups because of differences in I/M control programs and summer fuel blends (volatility levels). Running the model separately addresses the impacts from different inputs by county and is consistent with modeling for future transportation conformity demonstrations.<sup>21</sup> The six-county group has an I/M program and a summer fuel blend with Reid Vapor Pressure (RVP, a measure of volatility) limit of 8.8 psi for 2018. Bartow County does not have an I/M program and has a summer fuel blend with a RVP limit of 10.0 psi. All seven counties in the Atlanta Area will have the same fuel blend by 2033.

#### Non-Road Sources

Some non-road mobile emissions in the U.S. are from the non-road equipment segment (*i.e.*, agricultural equipment, construction equipment, lawn and garden equipment, and recreational vehicles, such as boats and jet-skis). Georgia calculated 2018 and 2033 emissions from non-road sources other than marine, aircraft, and locomotives, using the NONROAD portion of EPA's MOVES3 model.<sup>22</sup>

<sup>20</sup> *Id.*

<sup>21</sup> See "Ozone 2015 Maintenance Plan Modeling Assumptions" in Appendix A–11 of Georgia's submittal for more details.

<sup>22</sup> Georgia used MOVES3. More information on the MOVES3 model is available at <https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves>.

MOVES3 defaults were used with 2018 meteorological data based on Atlanta Hartsfield Jackson International Airport meteorological data. Fuel properties reflected the current Georgia gasoline formulation.<sup>23</sup>

For 2018 locomotive emissions, Georgia used the 2017 NEI<sup>24</sup> because locomotive fuel consumption changed little from 2017 to 2018. Georgia projected 2033 locomotive emissions from 2018 emissions using growth and annual factors. Summer day and annual emissions for 2018 and 2033 from aircraft at Atlanta Hartsfield Jackson International Airport were provided by KB Environmental Sciences on behalf of the City of Atlanta Department of Aviation and are included in Appendix A–10 of the SIP submittal. Other aircraft emissions were projected from the 2017 NEI version 2 for 2018 and were projected for 2033 using growth factors. The growth factors were based on landing and take-off operation projections available from the Federal Aviation Administration's Terminal Area Forecasts. Growth rates for military aircraft stayed at 2017 levels. Georgia did not include marine emissions in the inventory because no commercial marine vessels operate in the Atlanta Area.

The 2018 base year inventory for the Area, as well as the projected inventories for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 4 of the following subsection discussing the maintenance demonstration.

#### c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance plan that does all of the following:

(i) Shows compliance with and maintenance of the 2015 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO<sub>x</sub> and VOC remain at or below 2018 emissions levels.

(ii) Uses 2018 as the attainment year and includes future emissions inventory projections for 2021, 2024, 2027, and 2030. The 2027 emissions were calculated by linear interpolation

<sup>23</sup> Many of the counties in the Atlanta Area must use gasoline with a reduced Reid Vapor Pressure (RVP) of 7.8 pounds per square inch during some of the summer months. This reduced RVP reduces VOC emissions. For further information on RVP, see <http://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure>.

<sup>24</sup> See Appendix A–9 of the February 25, 2022 SIP submittal.

<sup>17</sup> Georgia's emission data collection process is discussed at <https://epd.georgia.gov/forms-permits/air-protection-branch-forms-permits/air-emissions/submit-emissions-inventory>.

<sup>18</sup> Information regarding the 2016 emissions modeling platform v6.1 is located at <https://www.epa.gov/air-emissions-modeling/2016v1-platform>.

<sup>19</sup> See AMEC, Development of the 2007 Base Year and Typical Year Fire Emission Inventory for the Southeastern States Air Resource Managers, Inc. (Final Report) (2012).

between 2018 and 2033; 2024 emissions were calculated by linear interpolation between 2018 and 2027; and 2021 emissions were calculated by linear interpolation between 2018 and 2024; and 2030 emissions were calculated by

linear interpolation between 2027 and 2033.  
 (iii) Identifies an “out year” at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO<sub>x</sub> and VOC MVEBs were established for the last year (2033) of the maintenance plan as

well as for an interim year of 2018 (see Section VI, below).  
 (iv) Provides actual 2018 and projected emissions inventories, in tons per summer day (tpsd), for the Atlanta Area, as shown in Tables 2 through 4, below.

TABLE 2—ACTUAL AND PROJECTED AVERAGE SUMMER DAY NO<sub>x</sub> EMISSIONS FOR THE ATLANTA AREA [tpsd] \*

Source	2018	2021	2024	2027	2030	2033
Point .....	28.02	27.82	27.62	27.42	27.22	27.02
Non-point .....	2.70	2.70	2.70	2.70	2.70	2.70
On-road .....	99.99	87.27	74.56	61.85	49.14	36.43
Non-road .....	49.22	48.70	48.18	47.67	47.15	46.63
Total .....	179.92	166.49	153.06	139.63	126.20	112.77

\* The emissions represented in the table may be slightly different than the inventories in the submittal based on rounding convention.

TABLE 3—ACTUAL AND PROJECTED AVERAGE SUMMER DAY VOC EMISSIONS FOR THE ATLANTA AREA [tpsd] \*

Source	2018	2021	2024	2027	2030	2033
Point .....	8.07	8.07	8.07	8.06	8.06	8.06
Non-point .....	23.36	23.88	24.40	24.91	25.43	25.95
On-road .....	54.00	47.55	41.09	34.64	28.18	21.73
Non-road .....	37.89	38.53	39.17	39.80	40.44	41.08
Total .....	123.32	118.03	112.73	107.41	102.11	96.82

\* The emissions represented in the table may be slightly different than the inventories in the submittal based on rounding convention.

TABLE 4—EMISSION ESTIMATES FOR THE ATLANTA AREA [tpsd] \*

Pollutant	2018	2021	2024	2027	2030	2033	Safety margins
NO <sub>x</sub> .....	179.92	166.49	153.06	139.63	126.20	112.77	67.16
VOC .....	123.32	118.03	112.73	107.41	102.11	96.82	26.50

\* The emissions represented in the table may be slightly different than the inventories in the submittal based on rounding convention.

Tables 2 through 4 summarize the 2018 and future projected emissions of NO<sub>x</sub> and VOC in the Atlanta Area. In situations where local emissions were the primary contributor to nonattainment, such as the Atlanta Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standard should not be exceeded in the future. Georgia has projected emissions as described previously and determined that emissions in the Atlanta Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in Section VI, below, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level

of emissions is the level of emissions during one of the years in which the area met the NAAQS. Georgia selected 2018 as the attainment emissions inventory year for the Atlanta Area and calculated safety margins for 2033. Because the initial MVEB year of 2018 is also the base year for the maintenance plan inventory, there is no safety margin for 2018, therefore, no adjustments were made to the MVEB for 2018. The State has allocated a portion of the safety margin to the 2033 MVEB for the Atlanta Area.

TABLE 5—SAFETY MARGINS FOR THE ATLANTA AREA

Year	NO <sub>x</sub> (tpsd)	VOC (tpsd)
2033 .....	67.16	26.50

The State has decided to allocate a portion of the available safety margin to the 2033 MVEBs to allow for, among other things, unanticipated growth in VMT and changes and uncertainty in vehicle mix assumptions that will influence the emission estimations. Georgia has allocated 17.57 tpd of the available NO<sub>x</sub> safety margin to the 2033 NO<sub>x</sub> MVEB and 13.27 tpd of the available VOC safety margin to the 2033 VOC MVEB. After allocation of the available safety margin, the remaining safety margin is 49.59 tpd for NO<sub>x</sub> and 13.23 tpd for VOC. This allocation and the resulting available safety margin for the Atlanta Area are discussed further in Section VI along with the MVEBs to be used for transportation conformity purposes.

*d. Monitoring Network*

There currently are nine AQS monitors measuring ozone in the

Atlanta Area. Georgia will continue to operate the monitors in the Atlanta Area in compliance with 40 CFR part 58 and has thus addressed the requirement for the monitoring. EPA approved Georgia's 2021 ambient air monitoring network plan on October 19, 2021.

*e. Verification of Continued Attainment*

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

Additionally, under the Air Emissions Reporting Requirements (AERR) (40 CFR part 51, subpart A), every three years GA EPD is required to develop a comprehensive, annual, statewide emissions inventory that is due twelve to eighteen months after the completion of the inventory year. EPD will update the AERR inventory every three years and will use the updated emissions inventory to track the progress of maintenance of the NAAQS.

*f. Contingency Measures in the Maintenance Plan*

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

In the February 25, 2022, submittal, Georgia states that the minimum requirement for contingency provisions is the implementation of all measures that were contained in the SIP for the Area before the redesignation and that all such measures are in effect for the Area. Georgia also commits to use emission inventory and air quality monitoring data as indicators to determine whether contingency measures will be implemented. The contingency measures in the maintenance plan include a two-tiered triggering mechanism to determine

when a contingency measure is needed and a process of developing and implementing appropriate control measures.

A Tier 1 trigger will apply where a violation of the 2015 8-hour ozone standard has not occurred, but where the State finds monitored ozone concentrations indicating that a violation may be imminent. The Tier 1 trigger date will be 60 days after the State observes a 4th highest value of 0.071 ppm or greater at a single monitor for which the previous ozone season had a 4th highest value of 0.071 ppm or greater. If Tier 1 is triggered, Georgia will develop a plan identifying additional voluntary measures to be implemented to remedy the situation that may include the following measures to be implemented to remedy the situation. The plan may include the following measures or any other measure deemed appropriate and effective at the time the selection is made: additional Clean Air Force Campaign strategies; additional Georgia Department of Transportation marketing campaigns; implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations; alternative fuel programs for fleet vehicle operations; gas can and lawnmower replacement programs; or voluntary engine idling reduction programs.<sup>25</sup> If the 4th highest exceedance occurs early in the ozone season, GA EPD will work with entities identified in the plan to determine if measures can be implemented during the current season; otherwise, GA EPD will implement the plan for the following ozone seasons. No later than May 1 of the year following the trigger, GA EPD will complete analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 2015 8-hour ozone NAAQS.

A Tier II trigger will apply when any quality assured ozone design value is equal to or greater than 0.071 ppm at a monitor in the Atlanta Area which would be a violation of the 2015 ozone NAAQS. The Tier II trigger date will be 60 days after the State observes a 4th highest value that, when averaged with

<sup>25</sup> If the State adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.,* Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction programs in State Implementation Plans (SIPs) (October 24, 1997); and EPA's policy document, "Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP)" (September 2004).

the two previous ozone seasons' fourth highest values, would result in a three-year average equal to or greater than 0.071 ppm. Alternatively, a Tier II trigger is activated if the periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in NO<sub>x</sub> or VOC emissions over the attainment or intermediate emissions inventories for the Atlanta Area. Once a Tier II trigger is activated, GA EPD will conduct an analysis based on quality-assured ambient data and, within 24 months of the trigger, will implement at least one contingency measure. In order for more time to be allowed, Georgia must submit to EPA a demonstration that more time is needed, and EPA must approve such demonstration.

If the comprehensive analysis determines that emissions from the Area are contributing to the trigger condition, GA EPD will evaluate those measures as specified in CAA section 172 for control options as well as other available measures. If a new measure or control is already promulgated and scheduled to be implemented at the Federal or state level, and that measure or control is determined to be adequate, the State may conclude that additional local controls may be unnecessary. At a minimum, section 175A contingency plans must include a requirement that the state will implement all measures that were contained in the SIP before the redesignation. Currently, all such measures are in effect for the Atlanta Area; however, at the time of a Tier II trigger, an evaluation of those measures such as RACT, can be performed to determine if those measures are adequate or up-to-date. In addition to these measures, contingency measures will be selected from the following types of measures or from any other measures deemed appropriate and effective at the time that the selection is made:

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

EPA preliminarily finds that the maintenance plan adequately provides the five basic required components of a maintenance plan: the attainment

emissions inventory, maintenance demonstration, monitoring plan, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Georgia for the Atlanta Area meets the requirements of section 175A of the CAA and is approvable.

#### VI. EPA's Analysis of Georgia's Proposed NO<sub>x</sub> and VOC MVEBs

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 designated as 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 reasonable further progress and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule. *See* 58

FR 62188. The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

After interagency consultation with the transportation partners for the Atlanta Area, Georgia has developed MVEBs for NO<sub>x</sub> and VOC for the Area. Georgia developed these MVEBs for the last year of the maintenance plan (2033) and for the interim year of 2018. Because the interim MVEB year of 2018 is also the base year for the maintenance plan inventory, there is no safety margin; therefore, no adjustments were made to the MVEBs for 2018. Under 40 CFR 93.101, the term "safety margin" is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO<sub>x</sub> and VOC MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. The NO<sub>x</sub> and VOC MVEBs for the Area are identified in Table 5, below.

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

	2018	2033
NO <sub>x</sub> On-Road Emissions .....	99.99	37.57
NO <sub>x</sub> Safety Margin Allocated to MVEB .....		17.57
NO <sub>x</sub> MVEB .....	99.99	54
VOC On-Road Emissions .....	54.00	21.73
VOC Safety Margin Allocated to MVEB .....		13.27
VOC MVEB .....	54.00	35

\*The emissions represented in the table may be slightly different than the inventories in the submittal based on rounding convention.

Georgia has chosen to allocate a portion of the available safety margin to the 2033 NO<sub>x</sub> and VOC MVEBs for the Area based on the worse-case 2033 daily motor vehicle emissions projection. The worst-case projection for NO<sub>x</sub> is 48 percent (17.57 tpd) above the projected 2033 NO<sub>x</sub> on-road emissions, and the worst-case projection for VOC is 61 percent (13.27 tpd) above the 2033 VOC on-road emissions. Georgia therefore allocated 17.57 tpd of the NO<sub>x</sub> safety margin to the 2033 NO<sub>x</sub> MVEB and 13.27 tpd of the VOC safety margin to the 2033 MVEB. The remaining safety margins for 2033 are 49.59 tpd and 13.23 tpd for NO<sub>x</sub> and VOC, respectively.

Through this proposed rulemaking, EPA is proposing to approve the MVEBs

for NO<sub>x</sub> and VOC for years 2018 and 2033 for the Area because EPA has determined that the Area maintains the 2015 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Area are approved or found adequate (whichever comes first), they must be used for future conformity determinations.

#### VII. EPA's Adequacy Determination for the Proposed NO<sub>x</sub> and VOC MVEBs

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 initiated 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 in an action titled "New 8-Hour Ozone and PM<sub>2.5</sub> National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change" on July 1, 2004. *See* 69 FR 40004. Additional information on the adequacy process for transportation conformity purpose is available in the June 30, 2003, proposed rule titled "Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes." *See* 68 FR 38974, 38984.

As discussed earlier, Georgia's maintenance plan includes NO<sub>x</sub> and VOC MVEBs for the Atlanta Area for interim year 2018 and 2033, the last year of the maintenance plan. EPA reviewed the NO<sub>x</sub> and VOC MVEBs through the adequacy process as described in Section I.

EPA intends to make its determination on the adequacy of the

2018 and 2033 MVEBs for the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on February 11, 2022. If EPA finds the 2018 and 2033 MVEBs adequate or approves them, the new MVEBs for NO<sub>x</sub> and VOC must be used for future transportation conformity determinations. For required regional emissions analysis years that involve 2018 through 2032, the new 2018 MVEBs will be used, and for years 2033 and beyond, the applicable budgets will be the new 2033 MVEBs established in the maintenance plan.

#### VIII. Effect of EPA's Proposed Actions

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Georgia's redesignation request would change the legal designation of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties, in the Atlanta Area, found at 40 CFR part 81, from nonattainment to attainment for the 2015 8-hour ozone NAAQS. Approval of Georgia's associated SIP revision would also incorporate a plan for maintaining the 2015 8-hour ozone NAAQS in the Area through 2033 into the Georgia SIP. The maintenance plan establishes NO<sub>x</sub> and VOC MVEBs for the 2018 and 2033 for the Area and includes contingency measures to remedy any future violations of the 2015 8-hour ozone NAAQS and procedures for evaluating potential violations.

#### IX. Proposed Actions

EPA is proposing to: (1) approve the maintenance plan for the Atlanta Area, including the NO<sub>x</sub> and VOC MVEBs for 2018 and 2033, and incorporate it into the Georgia SIP, and (2) approve Georgia's redesignation request for the 2015 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is also describing the status of its adequacy determination for the NO<sub>x</sub> and VOC MVEBs for the 2018 and 2033 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to

the new NO<sub>x</sub> and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

If finalized, approval of the redesignation request would change the official designation of Bartow, Clayton, Cobb, DeKalb, Fulton, Gwinnett, and Henry Counties, in Georgia for the 2015 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

#### X. Statutory and Executive Order and Reviews

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

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Do not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);

- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- 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).

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

#### List of Subjects

##### 40 CFR Part 52

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

##### 40 CFR Part 81

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

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

Dated: August 12, 2022.

**Daniel Blackman,**

*Regional Administrator, Region 4.*

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