PART 81—[DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES]

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

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

■ 4. In § 81.334, the table entitled ''North Carolina-1997 8-Hour Ozone NAAQS (Primary and Secondary)'' is by revising the entries for ''Charlotte-Gastonia-Rock Hill, NC–SC,'' ''Cabarrus County,'' ''Gaston County,'' ''Iredell County (part) Davidson Township, Coddle Creek Township,'' ''Lincoln County,'' ''Mecklenburg County,'' ''Rowan County,'' and ''Union County'' to read as follows:

§ 81.334 North Carolina.

* * * * *

NORTH CAROLINA-1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designated [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Charlotte-Gastonia-Rock Hill, NC–SC	This action is effective 12/2/13	Attainment.		
Cabarrus County	This action is effective 12/2/13	Attainment.		
Gaston County	This action is effective 12/2/13	Attainment.		
Iredell County (part) Davidson Township, Coddle Creek Township.	This action is effective 12/2/13	Attainment.		
Lincoln County	This action is effective 12/2/13	Attainment.		
Mecklenburg County	This action is effective 12/2/13	Attainment.		
Rowan County	This action is effective 12/2/13	Attainment.		
Union County	This action is effective 12/2/13	Attainment.		
*	*	*	*	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] Effective April 15, 2008.
[3] November 22, 2004.
[4] Attainment date extended to June 15, 2011.

* * * * *

[FR Doc. 2013–28099 Filed 11–29–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2012–0986; FRL–9903–32–Region 4]

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: Final rule.

SUMMARY: EPA is taking final action to approve a request submitted on April 4, 2012, from the State of Georgia, through the Georgia Environmental Protection Division (GA EPD), to redesignate the Atlanta, Georgia, ozone nonattainment area (hereafter referred to as the ''Atlanta Area,'' or ''Area'') to attainment for the 1997 8-hour ozone National Ambient Air Quality Standards (NAAQS). 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's approval of the redesignation request is based on the determination that Georgia has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). Additionally, EPA is approving, as a revision to the Georgia State Implementation Plan (SIP) a maintenance plan for the 1997 8-hour ozone standard for the Atlanta Area, including new 2024 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC). In this final notice, EPA also responds to comments received on EPA's February 4, 2013, proposed rulemaking.

DATES: This rule will be effective on January 2, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2012–0986. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *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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VI. Final Actions
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I. What is the background for these final actions?

On April 4, 2012, Georgia submitted to EPA a request to redesignate the Atlanta Area to attainment for the 1997 8-hour ozone NAAQS and to approve Georgia's SIP revision containing a maintenance plan for the Atlanta Area. In an action published on February 4, 2013 (78 FR 7705), EPA proposed approval of Georgia's maintenance plan for the 1997 8-hour ozone NAAQS, including the NO_X and VOC MVEBs contained therein. At that time, EPA also proposed to approve the redesignation of the Atlanta Area to attainment. Additional background for today's action is set forth in EPA's February 4, 2013, proposal. *See* 78 FR 7705.

As stated in the February 4, 2013, proposal, this redesignation addresses the Atlanta Area's status solely with respect to the 1997 8-hour ozone NAAQS, for which designations were finalized on April 30, 2004.[1] *See* 69 FR 23857. On March 7, 2012, at 77 FR 13491, EPA determined that the Atlanta Area attained the 1997 8-hour ozone NAAQS by its June 15, 2011, applicable attainment date,[2] and that the Area was continuing to attain the ozone NAAQS based on quality-assured monitoring data that was currently available.

EPA reviewed quality-assured ozone monitoring data from ambient ozone monitoring stations in the Atlanta Area from 2008–2011, as recorded in Air Quality System (AQS), and summarized the 3-year average of the annual fourth highest daily maximum 8-hour average (i.e., design value) for 2008–2010 and 2009–2011 in Tables 1 and 2. The data for 2012 were certified on May 1, 2013, and the design value for 2010–2012 is in Table 3. The 2008–2010 design value establishes that the Area attained by its attainment date and the 2009–2011, and the 2010–2012 design values establish that the Atlanta Area continues to meet the 1997 8-hour ozone NAAQS. Preliminary data provided by GA EPD for 2013 indicate that the Atlanta Area continues to attain the 1997 8-hour ozone NAAQS and further indicate that in 2013 no monitors in the Area recorded a fourth-high ozone value above the 1997 8-hour ozone NAAQS. See Response 1 below for more detail on the 2013 preliminary data.

TABLE 1—2008–2010 DESIGN VALUE CONCENTRATION FOR THE ATLANTA AREA FOR THE 1997 8-HOUR OZONE NAAQS (PPM)

Location	County	Monitor ID	4th highest 8-hour ozone value			3-Year design values
			2008	2009	2010	2008–2010
GA National Guard McCollum Pkwy	Cobb	13–067–0003	0.075	0.076	0.079	0.076
University of West Georgia at Newnan.	Coweta	13–077–0002	0.075	0.065	0.065	0.068
2390–B Wildcat Road Decatur	Dekalb	13–089–0002	0.087	0.077	0.075	0.079
Douglasville W. Strickland St.	Douglas	13–097–0004	0.080	0.072	0.074	0.075
Gwinnett Tech 1250 Atkinson Rd	Gwinnett	13–135–0002	0.079	0.073	0.072	0.074
Henry County Extension Office	Henry	13–151–0002	0.086	0.074	0.078	0.079
Yorkville	Paulding	13–223–0003	0.072	0.067	0.071	0.070
Conyers Monastery	Rockdale	13–247–0001	0.089	0.070	0.076	0.078
Confederate Ave	Fulton	13–121–0055	0.084	0.077	0.080	0.080
Fayetteville-GDOT	Fayette	13–113–0001	0.086	*	*	*

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

TABLE 2—2009–2011 DESIGN VALUE CONCENTRATION FOR THE ATLANTA AREA FOR THE 1997 8-HOUR OZONE NAAQS (PPM)

Location	County	Monitor ID	4th highest 8-hour ozone value			3-Year design values
			2009	2010	2011	2009–2011
GA National Guard McCollum Pkwy.	Cobb	13–067–0003	0.076	0.079	0.079	0.078
University of West Georgia at Newnan.	Coweta	13–077–0002	0.065	0.065	0.072	0.067
2390–B Wildcat Road Decatur.	Dekalb	13–089–0002	0.077	0.075	0.080	0.077
Douglasville W. Strickland St..	Douglas	13–097–0004	0.072	0.074	0.078	0.074
Gwinnett Tech 1250 Atkinson Rd.	Gwinnett	13–135–0002	0.073	0.072	0.082	0.075
Henry County Extension Office.	Henry	13–151–0002	0.074	0.078	0.082	0.078
Yorkville	Paulding	13–223–0003	0.067	0.071	0.075	0.071
Conyers Monastery	Rockdale	13–247–0001	0.070	0.076	0.081	0.075
Confederate Ave	Fulton	13–121–0055	0.077	0.080	0.084	0.080

[1] On March 6, 2008, the Atlanta Area was reclassified to moderate nonattainment for the 1997 8-hour ozone NAAQS. *See* 73 FR 12013.

[2] On November 30, 2010, EPA published a final rule extending the attainment date for the Atlanta Area until June 15, 2011. *See* 75 FR 73969.

TABLE 3—2010–2012 DESIGN VALUE CONCENTRATION FOR THE ATLANTA AREA FOR THE 1997 8-HOUR OZONE NAAQS (PPM)

Location	County	Monitor ID	4th highest 8-hour ozone value			3-Year design values
			2010	2011	2012	2010–2012
GA National Guard McCollum Pkwy	Cobb	13–067–0003	0.079	0.079	0.075	0.077
University of West Georgia at Newnan.	Coweta	13–077–0002	0.065	0.072	0.062	0.066
2390–B Wildcat Road Decatur	Dekalb	13–089–0002	0.075	0.080	0.085	0.080
Douglasville W. Strickland St.	Douglas	13–097–0004	0.074	0.078	0.073	0.075
Gwinnett Tech 1250 Atkinson Rd	Gwinnett	13–135–0002	0.072	0.082	0.080	0.078
Henry County Extension Office	Henry	13–151–0002	0.078	0.082	0.088	0.082
Yorkville	Paulding	13–223–0003	0.071	0.075	0.072	0.072
Conyers Monastery	Rockdale	13–247–0001	0.076	0.081	0.081	0.079
Confederate Ave	Fulton	13–121–0055	0.080	0.084	0.087	0.083

Effective July 20, 2012, EPA designated a portion of the Atlanta Area for the 1997 8-hour ozone NAAQS as nonattainment for the 2008 8-hour ozone NAAQS. This rulemaking does not address requirements for the 2008 8-hour ozone NAAQS. Requirements for the Area for the 2008 8-hour ozone NAAQS will be addressed in the future.

II. What are the actions EPA is taking?

In today's rulemaking, EPA is approving: (1) Georgia's 1997 8-hour ozone maintenance plan for the Atlanta Area, including the MVEBs contained therein (such approval being one of the CAA criteria for redesignation to attainment status); and (2) Georgia's redesignation request to change the legal designation of the Atlanta Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. The maintenance plan is designed to demonstrate that the Atlanta Area will continue to attain the 1997 8-hour ozone NAAQS through 2024. EPA's approval of the redesignation request is based on EPA's determination that Georgia has shown that the Atlanta Area meets the criteria for redesignation set forth in CAA, sections 107(d)(3)(E) and 175A, including the determination that the Atlanta Area has attained the 1997 8-hour ozone NAAQS. EPA's analyses of Georgia's redesignation request and maintenance plan are described in detail in the February 4, 2013, proposed rule (see 78 FR 7705), and in responses to comments in this final rulemaking. As stated above, since the publication of EPA's proposed rule, preliminary data available for 2013 show the Area continues to attain the 1997 8-hour ozone NAAQS.

Consistent with the CAA, the maintenance plan that EPA is approving includes the 2024 MVEBs for NO_X and VOC for the Atlanta Area. In this action, EPA is approving these NO_X and VOC MVEBs for the purposes of transportation conformity. For required regional emissions analysis for 2024 and beyond, the applicable budgets will be the new 2024 MVEBs.

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 tons per day (tpd) and 29.4 tpd for NO_X and VOC, respectively. The remaining safety margins for 2024 are 276.69 tpd and 28.87 tpd NO_X and VOC, respectively.[3]

The MVEBs, specified in tpd, included in the maintenance plan are as follows:

TABLE 4—2024 ATLANTA AREA NO_X AND VOC MVEBS (TPD)

NO_X Emissions	
Base Emissions	99.43
Safety Margin Allocated to MVEB[4]	26.9
NO_X Conformity MVEB	126
VOC Emissions	
Base Emissions	62.56
Safety Margin Allocated to MVEB	29.4
VOC Conformity MVEB	92

In its February 4, 2013, proposed action, EPA noted that the public comment period on the adequacy of the Atlanta Area MVEBs for the year 2024 (as contained in Georgia's submittal) began on February 29, 2012, and closed on March 30, 2012. No comments were received during the public comment period.

[3] The remaining safety margins for NO_X and VOC were inadvertently listed in reverse order in the February 4, 2013, proposal. *See* 78 FR 7716. The remaining safety margins for NO_X are 276.69 tpd and 28.87 tpd for VOC as correctly stated in section vi of the proposed rulemaking notice.

III. What are EPA's responses to comments?

EPA received one set of comments on the February 4, 2013, proposed actions associated with the redesignation of the Atlanta Area for the 1997 8-hour ozone NAAQS. These comments were submitted by GreenLaw on behalf of Mothers & Others for Clean Air, Sierra Club, and its members. A summary of the comments and EPA's responses to them are provided below.

Comment 1: The Commenter contends that EPA cannot redesignate the Atlanta Area because the Agency relied on ambient air quality data from 2008–2011 to determine that the area has attained the NAAQS and did not consider data from 2012. The Commenter states that the fourth-highest ozone value at two monitors in the Atlanta Area exceeded 0.084 ppm in 2012. The Commenter claims that this shows that the Area ''has not solved its ozone problem,'' and that EPA should require GA EPD to certify the 2012 data before approving the final redesignation to attainment.

Response 1: EPA disagrees with the Commenter's claim that the monitored air quality in the Atlanta Area precludes EPA from approving Georgia's request to redesignate the area to attainment. The quality-assured monitoring data show that the Area continues to qualify for redesignation. First, EPA has considered complete, quality-assured and certified data for all monitors through 2012. These data have been certified and show that the Area continues to attain the standard. In accordance with 40 CFR Part 50, Appendix I, the determination as to whether the Area meets the NAAQS is based on the three-year average of the annual fourth-highest readings at a monitor, and not a monitor's fourth-highest ozone value in a single year. No monitored value in a single year can itself be a violation. A violation of the 1997 8-hour ozone

NAAQS occurs when the three-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at a monitor in an area exceeds 0.084 ppm (i.e., a violation occurs when the three-year average exceeds 0.084 ppm at any one monitor in the area). This three-year average is called the monitor's ''design value.'' Even if the fourth-highest daily maximum at one monitor in one year exceeds 0.084 ppm, this does not constitute a violation. Only a three-year average of monitor readings can establish that a violation has occurred. Data must be quality-assured according to the data handling and reporting convention described in 40 CFR Part 50, Appendix I before it can be used to determine whether a violation has occurred. An ambient air monitor reading that exceeds 0.084 ppm in any one year is not determinative of a violation.

The certified data in Tables 1, 2, and 3 show that the Atlanta Area is attaining the 1997 8-hour ozone standard. The 2012 data are now certified, and the Area remains in attainment of the 1997 8-hour ozone NAAQS because the 3-year design value is below 0.084 ppm. The Commenter's reference to the East Confederate Avenue Site (AQS ID 131210055) and the Henry County Extension Office Site (AQS ID 131510002) do not call into question the Area's attainment status, because the three-year 2010–2012 design values for these two monitors remain below the 1997 8-hour ozone NAAQS. Moreover, GA EPD provided preliminary data through October 2013 indicating that the Atlanta Area continues to attain the 1997 8-hour ozone NAAQS and further indicate that in 2013 no monitors in the Area recorded a fourth-high ozone value above the 1997 8-hour ozone NAAQS.[5]

Comment 2: The Commenter contends that Georgia's redesignation submittal is flawed because it ''fails to demonstrate that past reductions in levels of harmful ozone were not due to temporary factors such as the Great Recession and weather'' and that EPA cannot approve the redesignation request without a weather adjusted analysis. The Commenter specifically contends that it would be arbitrary for EPA to rely on ambient monitoring data from 2008–2011 to satisfy the section 107(d)(3)(E)(i) requirement that the Area attain the NAAQS because the emissions and air quality from these years were influenced by temporary economic conditions (the ''Great Recession'') and that EPA has failed to provide any analysis to the contrary. According to the Commenter, ''[c]ertain monitors in the Atlanta nonattainment area have higher values in 2012 than in 2008–2011—the years referenced by EPA in its Proposed Rule—and the readings have been increasing as the economy rebounds.'' The Commenter also contends that it is inappropriate to use data from 2008–2010 to determine if the improvement in air quality is due to permanent and enforceable reductions under section 107(d)(3)(E)(iii) because the data ''does not take into account economic conditions and other considerations'' such as weather.

Response 2: As noted above, EPA, pursuant to established regulations, uses a three-year cycle to determine attainment of the 1997 8-hour ozone NAAQS. The averaging of values over three years serves to account for variations in meteorology and the economy from year to year. *See* 40 CFR 50.10 and Appendix I to CFR part 50. Although EPA's proposal referred to 2008–2010 data, EPA has shown that additional monitoring data establish that the Atlanta Area has continued to attain the 1997 8-hour ozone NAAQS beyond the attainment period of 2008–2010. EPA's review of all data currently available, including certified 2009–2011 data and now-certified 2010–2012 data, establishes that the Area continued to attain the standard with 2009–2011 and now-certified 2010–2012 data. This is the case despite the fact that conditions in the 2012 ozone season were more conducive to ozone formation than in many other previous years. EPA disagrees with the Commenter's assertion that that two individual monitor readings in 2012 cast doubt on the Atlanta Area's attainment status. Nor does the Commenter provide information to support its contention that the improvement in air quality during this period was due to the economy and favorable meteorological conditions rather than to measures the State and EPA have undertaken to reduce emissions of ozone precursors. To the contrary, the certified data show that the Area remained continuously in attainment throughout three sets of three-year period, during varying meteorological and economic conditions.

Regarding the Commenter's contention that economic conditions influenced the 2008–2010 ambient ozone concentrations, annual NO_X emissions data for Georgia electric generating units (EGUs) in 2008, emissions in the first year of the ''Great Recession,'' were in fact similar to emissions from these units for 2003–2007. *See* Table 5 below.

TABLE 5—GEORGIA EGU SUMMER SEASON NO_X EMISSION DATA *

Power plant	2003	2004	2005	2006	2007	2008
Bowen	5068.67	4689.08	5510.13	5671.34	4531.89	4824.60
Hammond	2377.06	2039.56	2756.03	2560.85	2327.03	2439.41
Harllee Branch	7603.69	7708.01	10369.23	11298.11	10456.83	10274.67
Jack McDonough	1982.57	2100.07	2241.88	2108.11	2204.02	1760.46
Kraft	2156.75	1783.23	1914.35	2024.73	2292.75	1685.40
McIntosh	1438.09	1404.47	1246.55	1635.37	1260.17	1184.90
Mitchell	1117.94	904.84	1472.60	1037.79	1028.78	1145.54
Scherer	9695.31	9763.72	9289.08	8854.13	9311.99	9627.62
Wansley	2523.59	2709.45	3411.88	3063.36	3303.27	3052.20
Yates	4935.43	4961.97	5706.27	5917.75	5894.25	5984.46
Total	38899.10	38064.41	43917.99	44171.54	42610.97	41979.24

* From EPA Clean Air Markets Division Web site.

[5] These preliminary data are included in the docket and are provided for the purpose of indicating continued attainment of the 1997 8-hour ozone NAAQS. The data have not yet been quality-assured or certified, and therefore may be subject to change.

Furthermore, NOx emission data for the 10 state VISTAS region from 2002–2009 demonstrate that mobile and non-road NOx emissions have decreased substantially in Georgia and region-wide and to a much greater extent than can be attributed to economic fluctuations during this period. These reductions are attributable to permanent and enforceable reductions from the numerous Federal and state mobile and non-road measures implemented during this period. *See* Tables 6 and 7.

TABLE 6—2002 VISTAS BASE INVENTORY FOR NO_X

[Tons]

State	Point	Non-road	Area	Mobile	Total
AL	244,348	65,366	34,900	158,212	502,826
FL	302,833	180,627	48,664	465,640	997,764
GA	196,731	97,961	49,987	307,732	652,411
KY	237,209	104,571	40,966	156,417	539,163
MS	104,661	88,787	7,528	111,914	312,890
NC	196,731	84,284	41,517	327,329	649,861
SC	130,394	50,249	24,602	140,489	345,734
TN	221,638	96,827	20,063	238,577	577,105
VA	147,301	63,219	52,396	222,374	485,290
WV	277,589	33,239	13,631	58,999	383,458
Total	2,059,435	865,130	334,254	2,187,683	5,446,502

* From GA Regional Haze Plan Appendix C.3 Table 4 (page 15).

TABLE 7—2009 VISTAS BASE INVENTORY FOR NO_X

[Tons]

State	Point	Non-road	Area	Mobile	Total
AL	151,714	56,862	35,831	101,831	346,238
FL	132,185	163,794	47,979	315,840	659,798
GA	148,809	85,733	51,925	209,349	495,816
KY	129,779	94,752	43,548	101,182	369,261
MS	92,409	80,567	8,048	70,743	251,767
NC	101,236	70,997	45,382	201,609	419,224
SC	86,934	43,235	25,259	92,499	247,927
TN	124,274	86,641	20,717	151,912	383,544
VA	288,213	54,993	53,596	134,232	531,034
WV	124,359	30,133	14,384	35,635	204,511
Total	1,379,912	767,707	346,669	1,414,832	3,909,120

* From GA Regional Haze Plan Appendix C.3 Table 5 (page 15).

Regarding the Commenter's contention that weather influenced the 2008–2010 ambient ozone concentrations, EPA agrees that weather conditions have an effect on ozone concentrations, both in terms of increasing ozone and decreasing ozone. However, weather effects are not controllable, and EPA determines compliance with the ozone NAAQS using a three-year average to account for changes in meteorology. In the case of Atlanta, the Area has continuously attained for three three-year averaging periods, thereby reinforcing the conclusion that attainment is due to permanent and enforceable reductions rather than variable economic conditions or favorable meteorology.

Ozone season temperatures and precipitation are two readily available parameters that can be used to evaluate the potential weather impacts on ozone concentrations. Ozone is more readily formed on warm, sunny days when the air is stagnant. Conversely, ozone production is generally more limited when it is cloudy, cool, rainy, or windy.[6] Table 8 provides temperature and precipitation data for Georgia for the ozone seasons (March-October) from 2008–2012 obtained from the National Oceanic and Atmospheric Administration's National Climatic Data Center (NOAA NCDC). The data in Table 8 show that both average temperature and precipitation varied significantly from 2008–2012.

TABLE 8—GEORGIA TEMPERATURE AND PRECIPITATION OZONE SEASON (MARCH–OCTOBER) DATA [7]

Year	Average March–October temperature [degrees F] (anomaly [degrees F])	Rank [since 1895, scale of 1–118]	Precipitation [inches] (anomaly, inches)	Rank [since 1895, scale of 1–118]
2008	70.2 (−0.7)	30	30.22 (−4.07)	29
2009	70.5 (−0.4)	41	43.91 (+9.62)	112

[6] *http://www.epa.gov/airtrends/weather.html.*

[7] Data obtained from the National Climatic Data Center (NCDC) Web site: *http://gis.ncdc.noaa.gov/map/cag/#app=cdo.*

TABLE 8—GEORGIA TEMPERATURE AND PRECIPITATION OZONE SEASON (MARCH–OCTOBER) DATA [7]—Continued

Year	Average March–October temperature [degrees F] (anomaly [degrees F])	Rank [since 1895, scale of 1–118]	Precipitation [inches] (anomaly, inches)	Rank [since 1895, scale of 1–118]
2010	72.0 (+1.1)	101	29.40 (−4.89)	24
2011	71.9 (+1.0)	98	26.25 (−4.0)	9
2012	72.2 (+1.3)	108	29.04 (−5.25)	22

Table 8 provides the following data: Average ozone season (March–October) temperature and precipitation; deviation from the 118 year average ozone season temperature and precipitation (termed the ''anomaly''); and the rank of the given year on the 118 year (1895–2012) recorded history list. A rank of 118 is given to the hottest or wettest year. The rank and anomaly data in Table 8 show that average ozone season temperatures were below normal in 2008 and 2009 with precipitation below normal in 2008 and much above normal in 2009. Temperatures were much above normal and precipitation was much below normal for the years 2010, 2011, and 2012. If weather was the controlling factor for ozone concentrations, the levels of 2008–2010 ozone design values would be expected to be lower than the 2009–2011 design values. However, for six out of the nine monitoring sites listed in Tables 1 and 2 above, the 2008–2010 design values are higher than the 2009–2011 design values. Therefore, factors other than weather appear to be controlling the ozone concentrations. Further, there was nothing about the weather during the 2008–2010 three-year period that would indicate that EPA cannot go forward with the proposed approval of the Atlanta redesignation.

Additionally, 2012 was one of the hottest and driest years in the recent past. See Table 8, above. In fact, a record-setting heat wave occurred in late June through early July 2012, which resulted in high ozone levels measured across the southeast, and yet (as indicated in the Response to Comment 1 above), data for the 2010–2012 ozone season show that the Atlanta Area continues to be in attainment of the 1997 ozone standard. This fact further supports EPA's position that weather is not the controlling factor in the Area's attainment.

The analysis of meteorological conditions and emissions trends discussed above, along with the analysis of permanent and enforceable emissions reduction measures described in the proposed rulemaking and in the Responses to Comment 3, below, demonstrate that the improvement in air quality in the Atlanta Area is independent of weather or economic factors.

Comment 3(a): The Commenter states that EPA relied on a number of state-only Georgia rules as permanent and enforceable measures and specifically refers to the Georgia Multipollutant Rule and the Smoke Management Plan. The Commenter further states that ''[u]nless Georgia submits these rules, and EPA adopts them into the enforceable implementation plan, they cannot be relied upon for redesignation as they are not enforceable by EPA or the public and they are not permanent.''

Response 3(a): EPA did not rely on any state-only Georgia rules as permanent and enforceable measures under section 107(d)(3)(E)(iii). The Commenter correctly states that Georgia's Smoke Management Plan and Georgia Rule (sss)—Multipollutant Rule are not incorporated into the Georgia SIP and thus, EPA is not relying on emissions associated with those rules as part of this redesignation. As noted in the proposed rule, ''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.'' The proposed rule also states that ''Georgia Rule (sss) has not been submitted to EPA for approval into the SIP and is therefore not federally enforceable.'' *See* 78 FR 7705.

While Georgia Rule (sss) may contribute to future NO_X reductions, which may help continue to assure maintenance, it did not contribute to NO_X reductions that resulted in the Atlanta Area becoming attainment for the 1997 8-hour ozone NAAQS. This is demonstrated by the fact that EGUs contributed 63.62 tpd of the 606.78 tpd NO_X emissions for 2008, or only about 10.5 percent of the NO_X emissions, based on the Atlanta attainment year inventory.

Comment 3(b): The Commenter contends that reductions associated with the NO_X SIP Call are not permanent and enforceable because the NO_X SIP Call ''has been replaced and therefore effectively no longer exists.'' The Commenter further states that the NO_X SIP Call ''is a cap and trade program, which means that there are no actual reductions required from the emission sources in the Metro-Atlanta nonattainment area. Rather, to the extent that any reductions were once required, they could have happened only in areas downwind that have little to no impact on the Metro-Atlanta area nonattainment.'' The Commenter cites to the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) decision in *NRDC* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009) to support its position that ''EPA cannot use cap-and-trade programs to satisfy an area-specific statutory mandate.''

Response 3(b): EPA disagrees that the emission reductions resulting from the NO_X SIP Call are not permanent and enforceable under section 107(d)(3)(E)(iii). The Commenter's contention that reductions associated with the NO_X SIP Call cannot be considered permanent and enforceable because the rule ''has been replaced and therefore effectively no longer exists'' is erroneous. As noted in the proposal, even though EPA discontinued the NO_X Budget Trading Program when it promulgated CAIR, ''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.'' *See* 78 FR 7712. Participation in the CAIR ozone season trading program is one acceptable way for states to meet their NO_X SIP Call obligations, but obligations under the NO_X SIP Call exist independent of CAIR and are independently permanent and enforceable. EPA further explained in the proposal that 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. EPA therefore does not agree with the Commenter that reductions associated with the NO_X SIP Call are not permanent and enforceable because of the status of the rule.

Although Georgia was not subject to the NO_X SIP Call, reductions from the NO_X SIP Call in upwind states helped the Atlanta Area achieve attainment.

EPA also disagrees that the Atlanta Area cannot be redesignated for the 1997 8-hour ozone NAAQS solely because the NO_X SIP Call is a cap-and-trade program. The Commenter's reliance on *NRDC* v. *EPA,* 571 F.3d 1245 (D.C. Cir. 2009) is inapposite. The D.C. Circuit's decision in that case does not support the Commenter's argument and is entirely consistent with EPA's position here. That case addressed a specific aspect of the cap-and-trade program, solely within the very different context of EPA's determination that the NO_X SIP Call trading program presumptively satisfied the nonattainment Reasonably Available Control Technology (RACT) requirement. The Court's decision centered on whether the RACT requirement could be satisfied by reductions outside the nonattainment area. The Court simply held that because EPA had not shown the trading program would result in sufficient reductions *in a nonattainment area,* its determination that the program satisfied the nonattainment RACT requirement was not supported.[8] *Id.* at 1256– 58. The Court did not hold, or address the issue, as Commenter suggests, of how emissions trading programs that require emissions reductions—either inside or outside a nonattainment area—and which result in air quality improvement, should be considered in evaluating redesignation requests. Trading programs require total mass emission reductions by establishing mandatory caps on total emissions to permanently reduce the total mass emissions allowed by sources subject to the programs, validated through rigorous continuous emission monitoring and reporting regimes. The emission caps and associated controls are enforced through associated SIP rules or Federal implementation plans (FIPs). Any purchase of allowances and increase in emissions by one source necessitates a corresponding sale of allowances and either reduction in emissions or use of allowances by another source. Given the regional nature of ozone, the corresponding NO_X emission and/or allowance reduction in one affected area will have an air quality benefit that will compensate, at least in part, for the impact of any emission increase in another affected area. In this case, as shown in Tables 6 and 7 of this notice, the NO_X SIP Call and other Federal mobile and non-road control regulations achieved measurable reductions in NO_X emissions in the states upwind from and affecting the Atlanta Area. For the reasons explained above, reductions associated with the NO_X SIP Call are permanent and enforceable because states remain subject to the requirements of that rule. EPA has therefore determined that with regard to the reductions associated with the NO_X SIP Call, in accordance with section 107(d)(3)(E)(iii), ''the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of . . . applicable Federal air pollutant control regulations.'' Thus, EPA disagrees that the Commenter has identified a basis on which EPA should disapprove Georgia's redesignation request.

Comment 3(c): The Commenter does not believe that EPA can rely on CAIR or CSAPR to provide permanent and enforceable emissions reductions under section 107(d)(3)(E)(iii). According to the Commenter, EPA cannot rely on CAIR because it has been remanded, and cites to two prior **Federal Register** notices in support of its position that EPA's proposed reliance on CAIR as a permanent and enforceable measure for redesignation is contrary to other EPA Region 4 actions. The Commenter reiterates its position that emissions reductions associated with CAIR cannot be considered permanent and enforceable because CAIR is a cap-and-trade program (citing again to *NRDC* v. *EPA* for the proposition that ''cap and trade programs cannot be used to satisfy area-specific mandates''). Specifically, the Commenter contends that, under CAIR, ''[a]ny emissions reductions impacting the Metro-Atlanta nonattainment area achieved through CAIR could be lost through the purchase of emissions credits or trading of credits'' and that ''[a]ny source could decide at any time in the future to purchase emissions credits, increasing its emissions and thus impacts to the Atlanta Area.'' The Commenter contends that ''CAIR did not impose any reductions'' and that the use of modeling in developing CAIR is unreliable because it used assumptions about the economy, the weather, and international commodity prices like the price of coal and natural gas. Instead, the Commenter believes that EPA could impose unit specific emission limits for units in and impacting the Atlanta Area, and argues that such limits would not be redundant of reductions required by CAIR ''because CAIR did not impose any reductions on these units.'' The Commenter also states that ''to the extent'' that EPA relies on reductions from CSAPR, that rule has been vacated and EPA may not rely on reductions associated with CSAPR for the purposes of this redesignation.

Response 3(c): EPA does not agree that emission reductions associated with CAIR cannot be considered permanent and enforceable for purposes of meeting the requirements of section 107(d)(3)(E)(iii). Section 107(d)(3)(E) of the CAA sets out the requirements for redesignation, and states in relevant part that the Administrator must ''determine[] that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable implementation plan and applicable Federal air pollutant control regulations and other permanent and enforceable reductions.'' 42 U.S.C. 7407(d)(3)(E)(iii).

EPA recognizes that the D.C. Circuit's remand of CAIR necessarily means that CAIR will at some point cease to be in effect. However, EPA disagrees that the Court's remand forecloses the Agency and states from relying on CAIR for purposes such as redesignating an area from nonattainment to attainment. Subsection (iii) of section 107(d)(3)(E) is a backwards looking requirement; it requires that the attainment air quality in the area is ''due to'' permanent and enforceable emission reductions. The purpose of this requirement is to ensure that in redesignating areas from nonattainment to attainment, EPA does not rely on ephemeral, temporarily improved air quality that results from circumstances such as temporary shutdowns of plants or reduced emission rates because of slowed production. *See* Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (Calcagni Memorandum) at page 4. The structure of section 107(d)(3)(E)(iii) indicates that the Act generally considers reductions resulting from SIPs and Federal regulations as permanent and enforceable. It references ''other'' reductions that are comparable to measures adopted into SIPs or federally adopted regulations and can therefore *also* qualify as permanent and enforceable reductions, indicating that, in general, SIP reductions and

[8] The Court specifically elected not to vacate the RACT provision and left open the possibility that EPA may be able to reinstate the provision for particular nonattainment areas if, upon conducting a technical analysis, it finds the NO_X SIP Call results in greater emissions reductions in a nonattainment area than would be achieved if RACT-level controls were installed in that area. *Id.* at 1258.

reductions from Federal regulations are the types of reductions that the Act views in the first instance as having the requisite permanence and enforceability for purposes of redesignation.

Georgia's CAIR provisions can be found in Georgia Rule 391–3–1–.02(12)—Clean Air Interstate Rule NO_X Annual Trading Program. On October 9, 2007, at 72 FR 57202, EPA approved Georgia's CAIR provisions, including CAIR NO_X allocations. These SIP provisions are in place and are federally enforceable. And, because CAIR has been in force since 2005, the monitoring data used to demonstrate the Area's attainment of the 1997 8-hour ozone NAAQS by the June 2011 attainment deadline were impacted by CAIR. CAIR reductions began as early as 2005, with full program requirements beginning in 2009. CAIR was thus in place and federally enforceable at the time the Atlanta Area began monitoring attainment, and it continues to remain in place under the instruction of the Court in *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d. 7 (D.C. Cir., 2012), which vacated CSAPR and explicitly left CAIR in place until EPA implements a replacement rule.

With regard to the **Federal Register** notices cited by Commenter, those notices pre-date the D.C. Circuit's decision in *EME Homer City.* Thus, statements regarding CAIR in those notices would not be appropriately applied to the Atlanta action because of the significantly changed circumstances surrounding CAIR. It is not unreasonable for the Agency to reassess its position about whether the reductions of CAIR can be considered sufficiently permanent and enforceable for purposes of redesignation, in light of the D.C. Circuit's vacatur of CSAPR and its order that the Agency continue to implement CAIR in *EME Homer City.* That decision significantly altered the status of CAIR, particularly in the context of redesignations.

As noted in the proposed rule (78 FR 7712), EPA believes that relying on CAIR emission reductions in order to redesignate the Atlanta Area, which has been attaining the NAAQS for many years and continues to maintain the standard, is precisely the type of ''reliance interest'' that the D.C. Circuit was concerned about in ordering the Agency to continue administering CAIR. *EME Homer City,* 696 F.3d at 38. In addition, in its substantive holdings, the D.C. Circuit in *EME Homer City* held that ''a SIP logically cannot be deemed to lack a 'required submission' before EPA quantifies the good neighbor obligation.'' *Id.* at 32. Under this holding, states have no obligation to submit ''good neighbor'' SIPs until EPA has quantified their ''good neighbor'' obligations and EPA may not promulgate a FIP to address such obligations until the Agency first quantifies the state's obligations, and provides the state an opportunity to submit a plan consistent with that defined obligation. 696 F.3d at 28–37. The *EME Homer* City decision thus significantly lengthens the time it will take to get in place regulations to replace the remanded CAIR. Under the *EME Homer City* decision, SIP provisions to replace CAIR could not go into effect until EPA has undertaken analysis and rulemaking to define states' obligations in accordance with the other statutory requirements identified by the *EME Homer City* Court, provided states adequate time to develop implementation plans consistent with the defined obligations, and EPA has reviewed and approved the SIP submissions in notice-and-comment rulemakings. Similarly, no FIP to replace CAIR could go into effect unless EPA found a state failed to submit a SIP within the time given to develop such implementation plans or disapproved such a SIP submittal. It is not unreasonable for EPA to determine that in light of these circumstances, CAIR will be in place for a significant amount of time. EPA therefore disagrees with the Commenter that its prior statements regarding the status of CAIR before the *EME Homer City* decision dictate how the Agency must view CAIR after that decision.

In addition, the modeling EPA conducted for the CSAPR rulemaking demonstrates that the Atlanta Area would have attained and will continue to maintain the standard even without CAIR. The air quality modeling analysis, which analyzed a base-case and future-year modeling scenario in which neither CAIR nor CSAPR was in place demonstrated that the Atlanta Area would have been able to attain and will be able to maintain the 1997 8-hour ozone NAAQS in the absence of any transport rule. *See* ''Air Quality Modeling Final Rule Technical Support Document,'' Appendix B, B–8 to B–9. This modeling is available in the docket for this redesignation action. Nothing in the *EME Homer City* decision undermines that conclusion or suggests that the air quality modeling conducted during the rulemaking was flawed.

EPA also disagrees with the Commenter that emission reductions occurring within the relevant nonattainment area cannot be relied upon for the purpose of redesignations simply because they are associated with the emissions trading programs established in CAIR. As discussed in Response to Comment 3(b), EPA does not agree that *NRDC* v. *EPA* supports the Commenter's position. Although framed in terms of the requirements of section 107(d)(3)(E)(iii), that is, the Act's requirement that an area's current attainment is a *result* of permanent and enforceable measures, the Commenter's concerns appear more focused on potential future problems in the Atlanta Area. For instance, the Commenter notes that reductions that were achieved through CAIR that impacted the Atlanta Area ''could be lost'' because of future emissions trading, and that sources could decide ''in the future'' to purchase emissions credit and therefore have a negative impact on the Atlanta Area. The Commenter's focus on future reductions under CAIR suggests concern not with EPA's approval under section 107(d)(3)(E)(iii), but rather the requirements for a fully approved maintenance plan in section 107(d)(3)(E)(iv) and section 175A that require the state to show that the area will maintain the standard for ten years following redesignation. In the proposal, EPA provided projected emissions of NO_X and VOC, the precursors to ozone pollution, for the Atlanta Area for the relevant maintenance period. *See* 78 FR 7714, tbls. 2–4. Under its existing suite of control measures, including CAIR, Atlanta is attaining the 1997 8-hour ozone NAAQS. Over the maintenance period, emissions for each precursor are expected to further decrease in the Atlanta Area. If violations of the standard after redesignation nevertheless occur, EPA has approved the contingency measures in the maintenance plan to account for such events.

Further, evaluations have been made to see whether trading has created emissions ''hot spots.'' For example, since the beginning of the Acid Rain Program, there have been no emissions hot spots identified or created as a result of the program (see ''The Acid Rain Program Experience: Should We Be Concerned About SO_2 Emissions Hotspots?'' at *http://epa.gov/airmarkets/resource/acidrain-resource.html*).

Additionally, states and localities may impose stricter limits on sources to address specific local air quality concerns. For example, Georgia has adopted a multipollutant rule for Electricity Generating Units that control emissions of sulfur dioxide (SO_2) and NO_X, and North Carolina has adopted its Clean Smokestacks Act. Florida recently revised its Regional Haze Plan which imposed additional restrictions on a number of facilities in the State.

These limits must be met regardless of a source's accumulated allowances.

The Commenter's statement that ''CAIR did not impose any reductions'' is simply incorrect, and indicates a lack of understanding of cap-and-trade programs. In general, cap-and-trade programs provide economic incentives for early reductions in emissions and encourage sources to install controls earlier than required for compliance with future caps on emissions. The flexibility under a cap and trade system is not about *whether* to reduce emissions; rather, it is about how to reduce them at the lowest possible cost. As explained above in Response to Comment 3(b), trading programs require total mass emission reductions by establishing mandatory caps on total emissions to permanently reduce the total mass emissions allowed by sources subject to the programs, validated through rigorous continuous emission monitoring and reporting regimens. The emission caps and associated controls are enforced through the associated SIP rules or FIPs. Any purchase of allowances and increase in emissions by one source necessitates a corresponding sale of allowances and either reduction in emissions or use of banked allowances by another covered source. Given the regional nature of ozone, the corresponding NO_X emission and/or allowance reduction in one affected area will have an air quality benefit that will compensate, at least in part, for the impact of any emission increase in another affected area. EPA disagrees with the Commenter's suggestion that only specific emission limits on units can be considered ''reductions.''

In fact, the actual data that EPA has evaluated in order to conclude that the Atlanta Area has met the criteria for redesignation shows that power plant emissions in both Atlanta and the surrounding region have substantially decreased as a result of cap-and-trade programs, including CAIR. The facts contradict the theoretical concerns raised by the Commenter, and show that the emission trading programs, combined with other controls, in fact worked to improve air quality in the Area. Moreover, the NO_X SIP Call and CAIR have successfully reduced transported emissions contributing to ozone nonattainment in areas across the country. Data collected from long-term national air quality monitoring networks demonstrate that these regional cap-and-trade programs have resulted in substantial achievements in air quality caused by emission reductions from power sector sources.[9] In 2004, EPA designated 91 areas in the Eastern half of the United States as nonattainment for the 8-hour ozone standard adopted in 1997, using data from 2001–2003. Based on data gathered from 2009—2011, 90 of these original Eastern nonattainment areas show concentrations below the 1997 ozone standard. *Id.* at 12. Many states have sought and continue to seek redesignation of their nonattainment areas, relying in part on the reductions attributable to these cap-and-trade programs. *See, e.g.,* 76 FR at 59607 (proposing to redesignate a portion of the Chicago area for the 1997 8-hour ozone NAAQS), finalized at 76 FR 76302, and 74 FR 63995 (redesignation of Great Smoky Mountain National Park for the 1997 8-hour ozone NAAQS). The Commenter's contention that EPA and Georgia may not rely on the substantial emission reductions that have already occurred from these rules based on a faulty and rigid interpretation of the CAA would impose a major obstacle for nonattainment areas across the country that have achieved attainment air quality because of the reductions required by the rules. This would unnecessarily undermine a reasonable, proven, and cost-effective approach to combating regional pollution problems.

Of the federally-enforceable rules relied upon by Georgia in its redesignation request, the Commenter singles out cap-and-trade programs as insufficiently permanent and enforceable to meet the requirements for redesignation. Measures that have been approved into Georgia's SIP that have helped contribute to the Area's attainment of the 1997 8-hour ozone standard 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. Federal rules relied upon by Georgia in its redesignation request include Tier 2 vehicle standards, Large Non-road Diesel Engines Rule, and nonroad spark-ignition engines and recreational engines standards. *See* 78 FR 7705. There is inherent flexibility in nearly all of these requirements relied upon in Georgia's redesignation request, including Federal transportation control measures and SIP emission rate limits, also known as ''command-and-control'' regulations. For example, the rules do not and cannot account for when and where people drive their cars, nor do they dictate that consumers in a certain area invest in newer, lower-emitting cars. Similarly, emission rate limits limit the rate of emissions per unit of fuel consumed, or parts per million of emissions in the exhaust but do not regulate throughput or hours of operation of the regulated sources. It would be unworkable for EPA to disqualify a requirement as ''permanent and enforceable'' for the purposes of redesignation simply because the requirement did not require the exact same pollutant emission reduction every hour of every day of every year. The Atlanta Area relied on a suite of requirements that, while inherently allowing for some flexibility, has collectively served to bring the Area into, and to maintain, attainment of the NAAQS.

Moreover, the Commenter's concerns about modeling with regard to the CAIR rulemaking are not germane to this redesignation; it is the Atlanta Area's monitored attainment and continued monitored attainment that EPA is relying on in finalizing redesignation for this area, as opposed to modeling that EPA conducted for the CAIR rulemaking and any assumptions about commodity prices and the economy that necessarily went into that rulemaking.

Finally, EPA is not relying on CSAPR for continued maintenance of the Area and in approving this redesignation of Atlanta. As such, there is no basis to conclude that it would be improper to redesignate the Area even in the absence of CSAPR.

Comment 4(a): The Commenter states that EPA cannot approve the emissions inventory under CAA section 182(a)(1) because ''portions of the emissions inventory were estimated, as opposed to being based on actual emissions.''

Response 4(a): In a prior, separate rulemaking, EPA has already taken final action to approve the emissions inventory for the Atlanta Area under section 182(a)(1). *See* 77 FR 24399. It is settled law that, in evaluating redesignations, EPA is not required to review already-approved SIP revisions. EPA may rely on prior SIP approvals in approving a redesignation request (*Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998), *Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001)), plus any additional measures it may approve in conjunction with a redesignation action (*see* Calcagni Memorandum at page 3; 68 FR 25426 (May 12, 2003) and citations therein). In EPA's prior rulemaking action on Atlanta's emissions inventory,

[9] 2011 Environmental and Health Results Report, CAIR, Acid Rain Program, and former NO_X Budget Trading Program Progress Report 2011 (March 2013), *http://www.epa.gov/airmarkets/progress/ARPCAIR11_downloads/ARPCAIR11_environmental_health.pdf* (''2011 Environmental and Health Results Report'').

EPA provided an opportunity for public notice and comment; and no comments were submitted. EPA approved the emissions inventory as consistent with the requirements of section 182(a)(1), the CAA implementing regulations, and EPA guidance for emission inventories. Thus, any comments regarding EPA's approval of the emissions inventory are untimely and unfounded. EPA notes that the maintenance demonstration accompanying the redesignation request includes an attainment year inventory that serves as the base year for projecting emissions over the maintenance period. The State has shown, and EPA agrees, that this inventory is accurate and comprehensive. Since EPA has already approved the inventory under section 182(b)(1), no additional approval is necessary.

Comment 4(b): The Commenter further disputes the approvability of the emissions inventory because ''[t]here is no indication that EPA accounted for the increase in NO_X and VOC emissions that will result from use of E15 when it approved GA EPD's estimate of on-road emissions as satisfying the section 182(a)(1) comprehensive emissions inventory requirement.''

Response 4(b): EPA does not believe that the Commenter's concerns regarding E15 use in the Atlanta Area and increases in VOC and NOx emissions are supported. The Commenter's concerns appear to derive not from the emissions inventories that EPA approved, but rather from the possibility that the future increases in NO_X and VOC that the Commenter believes might result from the use of E15. Therefore, this appears to be a concern regarding future maintenance of the standard rather than a concern about the approvability of the prior emissions inventories. In any event, EPA believes that the Commenter's concerns regarding E15 use in that Atlanta Area and potential resulting increases in VOC and NO_X emissions are unfounded. Georgia has a state fuel rule that covers 45 counties that is inclusive of the 20-county Atlanta Area that was designated nonattainment for the 1997 8-hour ozone NAAQS. Regardless of the allowance for increased ethanol in conventional fuel (i.e., E15), Georgia must comply with the requirements of its state fuel rule which was put in place specifically to reduce fuel-related VOC and NO_X emissions for the Atlanta Area. EPA approved Georgia's fuel rule into the Georgia SIP for the purposes of meeting 1-hour ozone NAAQS (see 67 FR 8200 (February 20, 2002)), and this rule remains in Georgia's federally-enforceable SIP. GA EPD modeled the Georgia fuel rule requirements in developing the emissions inventory for the maintenance plan.

In 2010 and 2011, EPA granted partial waivers for use of E15 in model year (MY) 2001 and newer light-duty motor vehicles (75 FR 68094 and 76 FR 4662). As discussed in the partial waiver decisions, there may be some small emission impacts from the use of E15. E15 is expected to cause a small immediate emissions increase in NO_X emissions. However, due to its lower volatility than the E10 currently in-use, its use is also expected to result in lower evaporative emissions. Other possible emissions impacts may be from the misfueling of E15 in vehicles or engines for which its use is not approved, i.e. MY2000 and older motor vehicles, heavy-duty engines and vehicles, motorcycles and all nonroad engines, vehicles and equipment. EPA promulgated a separate rule dealing specifically with the mitigation of misfueling to reduce the potential emissions impacts from misfueling (76 FR 44406).

However, the E15 partial waivers do not require that E15 be made or sold and it is unclear if and to what extent E15 may even be used in Georgia. Even if E15 is introduced into commerce in Georgia, considering the likely small and offsetting direction of the emission impacts, the limited set of motor vehicles approved for its use, and the measures required to mitigate misfueling, EPA believes that any potential emission impacts of E15 will be less than the maintenance plan safety margin by which Georgia shows maintenance of the 1997 8-hour ozone NAAQS. As shown in Tables 9 and 10, total VOC and NO_X emissions decrease significantly from 2008 through 2024, the last year of the maintenance plan. During this period, total NO_X emissions decrease 50 percent (by 303 tpd) and VOC emissions decrease 12 percent (by 58 tpd). It should be noted that EPA recently proposed the Tier 3 vehicle emissions and fuel standards program. The proposal calls for more stringent limits on emissions of NO_X and VOCs from new motor vehicles beginning with the 2017 model year resulting in emissions reductions as these vehicles enter the fleet. The proposal also calls for reducing the annual average sulfur content of gasoline from 30 ppm to 10 ppm beginning on January 1, 2017. Reductions in the sulfur content of gasoline would enable automobile manufacturers to comply with the proposed vehicle emissions standards, and would also achieve significant immediate benefits by reducing emissions from existing vehicles. The maintenance plan does not include emissions reductions from these proposed regulatory changes. If the Tier 3 vehicle emissions and fuel standards program is finalized as proposed, it would result in additional reductions in on-road emissions of NO_X and VOC that go beyond those which are consistent with maintenance of the 1997 ozone NAAQS in the Atlanta Area.

TABLE 9—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 10—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

TABLE 10—ACTUAL AND PROJECTED ANNUAL VOC EMISSIONS (TPD) FOR THE ATLANTA AREA—Continued

Sector	2008	2014	2017	2020	2024
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.

Georgia used EPA's approved motor vehicle emissions factor model, MOVES2010, to prepare the on-road inventory. Additionally, EPA has concluded that GA EPD used the appropriate parameters for modeling the Georgia fuel rule and that the emissions inventories are approvable.

Comment 5(a): The Commenter claims that EPA cannot approve the maintenance plan because it ''would need to show, at a minimum, [that] the 2014, 2017, 2020, and 2024 emissions will be significantly below the 2012 emissions'' given that ''2012 emission levels result in ambient concentrations over the NAAQS.''

Response 5(a): The Commenter's contention that maintenance can be shown only by emissions that are ''significantly below the 2012'' emissions is based solely on the same misguided premise as its argument in Comment 1: that two monitor readings in 2012 showed concentrations above the level of the 1997 8-hour ozone NAAQS. As EPA explained in Reponses to Comments 1 and 2 above, these readings did not establish violations or alter the Area's attainment status, and the Area continued to attain the 1997 8-hour ozone NAAQS in 2012. These readings also in no way undermine the validity of the attainment year emissions inventory, which remains the benchmark for showing the levels of emissions that are needed to maintain the NAAQS. Consequently, the Area need not, as the Commenter claims, show that emissions levels in the future will be significantly lower in order to demonstrate continued attainment. Therefore, the State met the criteria for demonstrating maintenance by establishing its attainment inventories at the time of the development of the maintenance plan and showing that future projected emissions remain at or below the attainment emissions levels. *See Wall* v. *EPA,* supra.

For its maintenance demonstration, Georgia used the 2008 National Emissions Inventory (NEI) as base year emissions inventory reflecting one of the years in a three-year period (2008 –2011) when attainment was reached. Georgia's maintenance plan projected that total emissions during the 10-year maintenance period after redesignation will stay below attainment year levels. The 2008 inventory, one of the years in the three-year period in which the Area attained the 1997 8-hour ozone NAAQS, is an appropriate inventory to be used to demonstrate maintenance of the NAAQS.[10]

The Commenter asserts that ''2012 emissions levels result in ambient concentrations above the NAAQS.'' Again, as set forth in Response 1 above, a violation of the 1997 8-hour ozone NAAQS is based on a three-year average, and does not, as the Commenter claims, result from a one-year fourth high value. The 2010–2012 ozone season data established that the Area continues to attain the 1997 8-hour ozone NAAQS. Preliminary data for 2013 indicate continued attainment. Moreover, the maintenance plan also provides a mechanism for anticipating and preventing violations. For example, the maintenance plan's Tier I contingency measures are triggered when ''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).'' *See* 78 FR 7705.

Comment 5(b): The Commenter states its view that the maintenance plan is not approvable because it is missing contingency provisions that provide for the prompt correction of violations. According to the Commenter, neither the Tier I nor the Tier II response ''occurs on a prompt schedule, and several of the potential contingency measures listed are inappropriate, inadequate, or vague.'' The Commenter goes on to state that the Tier I response to prepare a comprehensive study to develop corrective measures ''is not a corrective measure at all.'' The Commenter states its belief that a period of 18 to 24 months, or more, to adopt and implement corrective measures does not satisfy the statutory requirement for prompt correction of violations under either the Tier I or Tier II response, that the contingency measures listed in the maintenance plan are ''too vague,'' and that the procedure for selecting contingency measures has not been provided.

Response 5(b): EPA, consistent with its views set forth in many other redesignation rulemakings, believes that the contingency measures in the maintenance plan are adequate under section 175A(d). EPA therefore disagrees with the Commenter's contention that the contingency measures are vague and do not provide for prompt correction of a NAAQS violation. Section 175A(d) of the CAA requires that a maintenance plan include such contingency provisions, ''as the Administrator deems necessary,'' to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation of the area. *See* 42 U.S.C. 7505A(d). Unlike section 172(c)(9), which governs contingency measures for nonattainment areas, section 175A does not require the adoption of specific contingency measures that must take effect without further action by the State or EPA. Instead, Congress provided EPA with the discretion to determine the form and timing of the contingency that are required. Section 175A(d) provides leeway for EPA to take into account the need of a state to assess, adopt, and implement contingency measures if and when a violation occurs after an area's redesignation to attainment. Therefore, in accordance with the discretion accorded it by statute, EPA may allow reasonable time for states to analyze data and address the causes and appropriate means of remedying a violation. In assessing what ''promptly'' means in this context, EPA also may take into account time for adopting and implementation of the appropriate measure. In the case of the Atlanta Area, EPA reasonably concluded that 18–24 months constitutes a timeline consistent

[10] As explained in the Calcagni Memorandum, ''[w]here a state has made an adequate demonstration that air quality has improved as a result of the SIP, the attainment inventory will generally be the actual inventory at the time the area attained the standard.''

with prompt correction of a potential monitored violation. This timeframe also conforms with EPA's many prior rulemakings on acceptable schedules for implementing section 175A contingency measures. EPA has long exercised this discretion in its rulemakings on section 175A contingency measures in redesignation maintenance plans, allowing as contingency measures commitments to adopt and implement in lieu of fully adopted contingency measures, and finding that implementation within 18 to 24 months of a violation complies with the requirements of section 175A. See recent redesignations such as Indianapolis Area 1997 Annual $PM_{2.5}$ standard (76 FR 59512, 59522 (Sept. 27, 2011)); Baton Rouge Area 1997 8-hour ozone standard (76 FR 74000 (Nov. 30, 2011) (final); 76 FR 53853, 53869 (Aug. 30, 2011) (proposed)); Crittenden County, Arkansas portion of the Memphis Area 1997 8-hour ozone standard (75 FR 14077 (Mar. 24, 2010) (final); 75 FR 2091, 2100 (Jan. 14, 2010) (proposal)); 76 FR 79579, 79590 (Dec. 22, 2011) (proposed)); Hickory-Morganton-Lenoir Area 1997 Annual $PM_{2.5}$ standard, 76 FR 71452 (Nov. 18, 2011) (final); 76 FR 58210, 58222 (Sept. 20, 2011) (proposed)). Section 175A does not establish any deadlines for implementation of contingency measures after redesignation to attainment. It also provides far more latitude than does section 172(c)(9), which applies to a different set of contingency measures applicable to nonattainment areas. Section 172(c)(9) contingency measures must ''take effect . . . without further action by the State or [EPA].''

EPA has consistently applied this interpretation of section 175A since its announcement in a September 4, 1992, Calcagni Memorandum (noting that a State is *not* required under 175A ''to have fully adopted contingency measures that will take effect without further action by the State in order for the maintenance plan to be approved''), and two U.S. Circuit Courts of Appeal have agreed with the Agency. In *Greenbaum* v. *EPA,* the U.S. Court of Appeals for the Sixth Circuit endorsed the Calcagni Memorandum's statements regarding contingency measures for 175A maintenance plans and noted that EPA ''has been granted broad discretion by Congress in determining what is 'necessary to assure' prompt correction'' under this section. 370 F.3d 527, 540 (6th Cir. 2004). The Court also stated that ''no pre-determined schedule for adoption of the measures is necessary in each specific case.'' Id. In *Sierra Club* v. *EPA,* the U.S. Court of Appeals for the Seventh Circuit agreed with *Greenbaum* on these issues and identified the rationale behind the discretion afforded to EPA and the states in the timing and development of contingency measures, noting that ''[i]ntelligent decisions may depend on the nature of future developments.'' 375 F.3d 537, 540 (7th Cir. 2004) (also noting that the ''statute does not call for any particular degree of precision in the period after attainment . . . so again, the EPA (and the affected states) had choices to make, choices that may be gainsaid only if obviously misguided.''). The CAA does not specify the requisite nature, scope, specificity, or number of contingency measures to be included in a maintenance plan under section 175A. It is for EPA to determine whether the state has given adequate assurance that it can promptly correct a violation. The State has committed to remedy a future violation,[11] and included measures to address future violations and a timeline for promptly completing adoption and implementation. For example, Georgia included a consideration of expansion of RACT for point sources of VOC and NOx, specifically the adoption of new and revised RACT rules based on Groups II, III and IV control technique guidelines (CTGs) as a possible contingency measure to implement. This identification of measures is sufficiently specific while allowing for latitude in potential scope. This will enable the State to address a range of potential sources and differing degrees and types of violations. EPA believes that the contingency measures set forth in the submittal, combined with the State's commitment to an expeditious timeline and process for implementation, provide assurance that the State will promptly correct a future violation. Given the uncertainty as to timing, degree, and nature of any future violation, EPA believes that the contingency measures set forth adequately balance the need for flexibility in the scope and type of measure to be implemented with the need for expeditious state action.

Given the discretion provided to EPA and the states under section 175A(d), the need for flexibility in developing appropriate contingency measures in light of potential future developments, and the need for an appropriate amount of time to develop and adopt these measures, EPA has determined that Georgia's maintenance plan satisfies all applicable requirements.

[11] In the context of this rulemaking, a future violation indicates that the Tier II trigger is activated.

The maintenance plan for the Atlanta Area contains two different types of contingency measures. The ''Tier I'' response, is not required under section 175A, and therefore not subject to its criteria. The Tier I response is triggered before any violation has occurred. It is designed not to correct a violation, but to anticipate and evaluate circumstances that may prefigure a violation.[12]

Georgia's Tier II contingency measures, by contrast, are triggered by a violation of the NAAQS. It compels the State to first conduct a comprehensive study to determine what contingency measures are required for the maintenance of the ozone NAAQS. Georgia must submit this study to EPA for review as expeditiously as practicable but no later than nine months after the trigger date. The State must adopt and implement measures within 18 to 24 months after the trigger occurs. In addition to setting these specific timing requirements, the maintenance plan (see page 37 of the narrative) also lists a number of measures (e.g., expansion of RACT for point sources of VOC and NOx, specifically the adoption of new and revised RACT rules based on Groups II, III and IV CTGs) that Georgia may select as a contingency measure (see the proposed rule for this action at 78 FR 7716 for a complete list). In a September 20, 2013 letter to EPA that has been placed in the docket for this action, GA EPD confirms that it commits to address and correct any violation of the 1997 8-hour ozone NAAQS as expeditiously as practicable, and no later than 24 months from trigger activation. For additional details pertaining to the State's commitments regarding contingency measures, see the September 20, 2013 letter from GA EPD, included in the rulemaking docket. For all of the reasons set forth above, EPA finds that, pursuant to CAA section 175A(d), the contingency measures included in the maintenance plan and the schedule for the development and adoption of measures are adequate to assure that the State will promptly correct any future violation of the NAAQS that may occur after redesignation.

Comment 6: The Commenter contends that EPA cannot approve the redesignation request or maintenance plan without considering the impacts

[12] Specifically, the ''Tier I'' response in the Atlanta maintenance plan is triggered: (1) when any quality-assured 8-hour ozone monitoring reading exceeds 0.084 ppm at an ambient air monitoring station in the Atlanta maintenance area; or (2) if the periodic emission inventory updates reveal excessive or unanticipated growth greater than 10 percent in ozone precursors emissions in the Atlanta maintenance area.

that climate change will have on ozone formation during the maintenance period. The Commenter states that ''climate change will make our ozone problems worse'' and cites to an April 2009 EPA document for support.

Response 6: EPA agrees that climate change is a serious environmental issue; however, EPA does not agree that the redesignation and maintenance plan at issue in today's notice are flawed because they do not specifically consider the impacts of climate change on future ozone concentrations. Given the potential wide-ranging impacts of climate change on air quality planning, EPA is developing climate adaptation implementation plans to assess the key vulnerabilities to our programs (including how climate change might affect attainment of national ambient air quality standards) and to identify priority actions to minimize these vulnerabilities. With respect to climate impacts on future ozone levels, EPA's Office of Air and Radiation has identified as a priority action the need to adjust air quality modeling tools and guidance as necessary to account for climate-driven changes in meteorological conditions and meteorologically-dependent emissions. However, the broad range of potential future climate outcomes and variability of projected response to these outcomes limits EPA's ability, at this time, to translate a general expectation that average ozone levels will increase with rising temperatures to specific ''actionable'' SIP policies at any specific location. Additionally, EPA believes that the natural variability in meteorological patterns will have a larger influence on ozone concentrations than climate influences over the relatively short-term SIP maintenance period. Thus, EPA believes it is appropriate to rely upon the existing air quality modeling tools and guidance and applicable CAA provisions to ensure that ozone maintenance areas do not violate the NAAQS (as a result of climate change or any other cause). In addition, in spite of the uncertainty associated with short-term climate change impacts on ozone concentrations, the projected emissions reductions of 50 percent for NOx and 12 percent for VOC in the Atlanta Area over the next 10 years are so large that they would overwhelm any potential climate change impacts on ozone. EPA therefore believes that climate change will not impact the ability of the Atlanta Area to maintain the 1997 8-hour ozone NAAQS.

Comment 7: The Commenter asserts that EPA cannot redesignate the Atlanta Area or approve the maintenance plan because the Area ''does not have SIP approved contingency measures for VOCs and NOx, an attainment demonstration and reasonable further progress for VOC and NOx.'' According to the Commenter, ''the contingency measures should have already been triggered or at most may be triggered this year if Metro-Atlanta's design value exceeds 0.084 ppm'' which distinguishes the Atlanta Area from prior actions where ''EPA has claimed that these provisions do not matter because if any area is attaining, these requirements would not apply anyway.'' The Commenter believes that ''all provisions that were in the nonattainment SIP would need to become applicable again'' if the Area violates the NAAQS in the future, and that ''under EPA's interpretation, there are no provisions that were in the SIP before redesignation that will become effective again if the area falls out of compliance with the NAAQS.''

Response 7: On June 23, 2011 (76 FR 36873), EPA determined that the Atlanta Area had attained the 1997 8-hour ozone NAAQS based on 2008–2010 monitoring data. Under 40 CFR 51.918, upon a finding that the area is attaining the standard, requirements for SIP submissions linked to attainment demonstrations, RFP, and attainment plan contingency measures are suspended for so long as the area is attaining the standard.[13]

In addition, in the context of redesignations, EPA has long interpreted requirements related to attainment planning (e.g., attainment demonstrations, RFP, and attainment plan contingency measures) as not applicable for purposes of redesignation. In the General Preamble EPA stated that: [t]he section 172(c)(9) requirements are directed at ensuring reasonable further progress (RFP) and attainment by the applicable date. These requirements no longer apply when an area has attained the standard and is eligible for redesignation. Furthermore, section 175A for maintenance plans provides specific requirements for contingency measures that effectively supersede the requirements of section 172(c)(9) for these areas. ''General Preamble for the Interpretation of Title I of the Clean Air Act Amendments of 1990,'' (General Preamble) 57 FR 13498, 13564 (April 16, 1992). *See* also Calcagni Memorandum (dated 9/4/1992) at page 6. (''The requirements for reasonable further progress and other measures needed for attainment will not apply for redesignations because they only have meaning for areas not attaining the standard.'').

In any event, EPA has previously determined that the Atlanta Area attained by its attainment date (77 FR 13491), and therefore, no contingency measures under the requirements of section 172(c)(9) can be triggered, since those ''contingency measures are directed at ensuring RFP and attainment by the applicable date.'' Id. at 13564.

The State must continue to operate an appropriate monitoring network, in accordance with 40 CFR part 58, to verify the attainment status of the Area. The air quality data relied upon to determine that the Area is attaining the ozone standard must be consistent with 40 CFR part 58 requirements and other relevant EPA guidance and recorded in EPA's AQS.

As stated in Response 1, the Area remains in attainment of the 1997 8-hour ozone NAAQS, and the 2010—2012 quality-assured three-year design value remains below 0.084 ppm. Preliminary data for 2013 show continued attainment; therefore, no additional measures have been triggered. Even if approved section 172(c)(9) contingency measures were contained in the SIP, these measures are undertaken solely to address a failure to attain by the Area's attainment date. For an area like the Atlanta Area that has attained by its attainment date, no 172(c)(9) contingency measures would be triggered by a violation that occurred subsequently. After attainment, section 172(c)(9) contingency measures are no longer deployed. Because the Area qualifies for redesignation, the 175A maintenance plan approved today ensures that GA EPD will adopt and implement any required measures in accordance with the schedule and procedure for adoption and implementation of contingency measures.'' *See* 78 FR 7705.

Comment 8: The Commenter states that ''EPA has failed to conduct an adequate analysis with respect to the

[13] EPA described its interpretation in a May 10, 1995 memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, entitled ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone Ambient Air Quality Standard'' (hereafter referred to as the ''Seitz Memorandum''). *See also* the discussion and rulemakings cited in EPA's Final Rule to Implement the 8-Hour Ozone NAAQS—Phase 2, 70 FR 71612, 71644–71646 (November 29, 2005). The Tenth, Seventh and Ninth Circuits have upheld EPA rulemakings applying the Clean Data Policy. *See Sierra Club* v. *EPA,* 99 F. 3d 1551 (10th Cir. 1996); *Sierra Club* v. *EPA,* 375 F.3d 537 (7th Cir. 2004); and *Our Children's Earth Foundation* v. *EPA,* No. 04–73032 (9th Cir. June 28, 2005) (memorandum opinion). As explained in the Seitz Memorandum, EPA believes it is appropriate to interpret the more specific attainment demonstration and related provisions of subpart 2 in the same manner. *See Sierra Club* v. *EPA,* 99 F.3d. 1551 (10th Cir. 1996).

1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 NAAQS, and the 2008 8-hour ozone NAAQS'' and that without such an analysis, ''EPA cannot ensure that redesignation will not interfere with attainment of these NAAQS and thus cannot approve the redesignation.'' The Commenter continues by stating ''EPA's redesignation of Metro-Atlanta will delay attainment of the 2008 ozone NAAQS because the 2012 ambient data proved that the current emission limits are not adequate to maintain the 1997 NAAQS much less the 2008 NAAQS. Thus, if EPA does not approve the redesignation request, Georgia EPD will have to provide for additional emission reductions of ozone precursors. These emission reductions will assist in attaining the 2008 ozone NAAQS as quickly as possible.''

Response 8: First, as set forth earlier in other responses to comments, the 2012 data do not ''prove that the current emissions limits are not adequate to maintain the 1997 NAAQS . . . .'' The data for 2012 establish, and preliminary data for 2013 also indicate, that current emissions levels are consistent with continued attainment of the 1997 8-hour ozone NAAQS. EPA does not agree that additional emissions reductions are required in order for the Area to qualify for redesignation. EPA has also evaluated the redesignation in relation to the requirements of section 110(l) and believes that redesignation is consistent with the provisions of that section. Section 110(l) provides in part: ''[t]he Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress . . ., or any other applicable requirement of this chapter.'' 42 U.S.C. 7410(l). EPA does not believe it is necessary to conduct an analysis with respect to the impact of the redesignation on the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 NAAQS, and the 2008 8-hour ozone NAAQS. Although EPA does not interpret section 110(l) as requiring a full attainment demonstration for every SIP revision, the Agency does consider section 110(l) requirements when acting on each SIP revision. *See,* e.g., 70 FR 53, 57 (January 3, 2005); 70 FR 17029, 17033 (April 4, 2005); 70 FR 28429, 28431 (May 18, 2005); and 70 FR 58119, 58134 (October 5, 2005). In this instance, the redesignation does not relax any existing control requirements, nor does it alter any existing control requirements, and therefore, EPA concludes that this redesignation will not interfere with attainment or maintenance of any of these air quality standards. The Commenter did not provide any information that would cause EPA to conclude that approval of Georgia's redesignation will have any impact on the Area's ability to comply with the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 NAAQS, and the 2008 8-hour ozone NAAQS.

As set forth above, Georgia's April 4, 2012, redesignation request and maintenance plan for the 1997 8-hour ozone NAAQS do not revise or remove any existing emissions limit for any NAAQS or remove any other existing substantive SIP provisions. In fact, the maintenance plan provided with the State's submission demonstrates a decline in the ozone precursors (e.g., NO_X and VOC) emissions over the timeframe of the initial maintenance period.[14] Furthermore, EPA designated 15 of the 20 counties in the 1997 8-hour ozone area as nonattainment for the 2008 8-hour ozone NAAQS. With this nonattainment designation, EPA notes that, even after the redesignation of the Atlanta Area for the 1997 8-hour ozone NAAQS, 15 of these counties will continue to have to comply with nonattainment new source review requirements for ozone. For all of these reasons, EPA disagrees that the Commenter has identified a rationale on which EPA could disapprove of the SIP revision at issue.

IV. Why is EPA taking these actions?

EPA has determined that the Atlanta Area has attained the 1997 8-hour ozone NAAQS and has also determined that all other criteria for the redesignation of the Atlanta Area from nonattainment to attainment of the 1997 8-hour ozone NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the Atlanta Area has an approved plan demonstrating maintenance of the 1997 8-hour ozone NAAQS. EPA is also taking final action to approve the maintenance plan for the Atlanta Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. EPA is also approving the new NO_X and VOC MVEBs for the year 2024 as contained in Georgia's maintenance plan for the Atlanta Area because these MVEBs are consistent with maintenance of the 1997 8-hour ozone NAAQS in the Area. The detailed rationale for EPA's findings and actions is set forth in the February 4, 2013, proposed rulemaking and in the Reponses to Comments and other discussion in this final rulemaking.

V. What are the effects of these actions?

Approval of the redesignation request changes the legal designation of the Atlanta Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. EPA is modifying the regulatory table in 40 CFR 81.341 to reflect a designation of attainment for the counties. EPA is also approving, as a revision to the Georgia SIP, the State's plan for maintaining the 1997 8-hour ozone NAAQS in the Atlanta Area through 2024. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 8-hour ozone NAAQS, and establishes NO_X and VOC MVEBs for the year 2024 for the Atlanta Area.

VI. Final Action

EPA is taking final action to approve the State of Georgia's request for redesignation and change the legal designation the Atlanta Area from nonattainment to attainment for the 1997 8-hour ozone NAAQS. Through this action, EPA is also approving into the Georgia SIP the 1997 8-hour ozone maintenance plan for the Atlanta Area, which includes for this Area the new NO_X and VOC MVEB for 2024 for the Atlanta Area of 126 tpd and 92 tpd, respectively.

VII. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application 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 actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those

[14] EPA notes that the Atlanta Area does not have violating monitors for the 1997 annual $PM_{2.5}$ NAAQS, the 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, the 1-hour SO_2 NAAQS, and that this Area has never been designated nonattainment for 2006 24-hour $PM_{2.5}$ NAAQS, the 1-hour NO_X NAAQS, or the 1-hour SO_2 NAAQS.

imposed by state or federal law. For these reasons, these actions:

- Are not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- 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 an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory action 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 rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 31, 2014. 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. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

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.

Dated: November 14, 2013.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

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

Subpart L—Georgia

■ 2. Section 52.570(e) is amended by adding an entry for ''1997 8-hour ozone *Maintenance Plan for the Atlanta Area''* at the end of the table to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approval date	Explanation
*	*	*	*	*
1997 8-hour ozone *Maintenance Plan for the Atlanta Area.*	Atlanta 1997 8-Hour Ozone Nonattainment Area.	4/4/2012	12/2/2013	

* * * * *

PART 81–DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

■ 4. In § 81.311, the table entitled ''Georgia-1997 8-Hour Ozone NAAQS (Primary and Secondary)'' is amended under ''Atlanta, GA'' by revising the entries for ''Barrow County,'' ''Bartow County,'' ''Carroll County,'' ''Cherokee County,'' ''Clayton County,'' ''Cobb County,'' ''Coweta County,'' ''DeKalb County,'' ''Douglas County,'' ''Fayette County,'' ''Forsyth County,'' ''Fulton County,'' ''Gwinnett County,'' ''Hall County,'' ''Henry County,'' ''Newton County,'' ''Paulding County,'' ''Rockdale County,'' ''Spalding County'' and ''Walton County'' to read as follows:

§ 81.311 Georgia.

* * * * *

GEORGIA-1997 8-HOUR OZONE NAAQS

[Primary and secondary]

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Atlanta, GA:				
Barrow County	This action is effective 12/2/13	Attainment.		
Bartow County	This action is effective 12/2/13	Attainment.		
Carroll County	This action is effective 12/2/13	Attainment.		
Cherokee County	This action is effective 12/2/13	Attainment.		
Clayton County	This action is effective 12/2/13	Attainment.		
Cobb County	This action is effective 12/2/13	Attainment.		
Coweta County	This action is effective 12/2/13	Attainment.		
DeKalb County	This action is effective 12/2/13	Attainment.		
Douglas County	This action is effective 12/2/13	Attainment.		
Fayette County	This action is effective 12/2/13	Attainment.		
Forsyth County	This action is effective 12/2/13	Attainment.		
Fulton County	This action is effective 12/2/13	Attainment.		
Gwinnett County	This action is effective 12/2/13	Attainment.		
Hall County	This action is effective 12/2/13	Attainment.		
Henry County	This action is effective 12/2/13	Attainment.		
Newton County	This action is effective 12/2/13	Attainment.		
Paulding County	This action is effective 12/2/13	Attainment.		
Rockdale County	This action is effective 12/2/13	Attainment.		
Spalding County	This action is effective 12/2/13	Attainment.		
Walton County	This action is effective 12/2/13	Attainment.		
* * *	* *	*	*	*

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.
[2] Effective April 15, 2008.
[3] The boundary change is effective October 13, 2006.

* * * * *

[FR Doc. 2013–28105 Filed 11–29–13; 8:45 am]

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