

Paperwork Reduction Act

The proposed priorities, requirements, and definitions contain information collection requirements that are approved by OMB under OMB control number 1894-0006; the proposed priorities, requirements, and definitions do not affect the currently approved data collection.

Regulatory Flexibility Act Certification

The Secretary certifies that this proposed regulatory action would not have a substantial economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Although some of the Alaska Native Organizations, LEAs, and other entities that receive STEP program funds qualify as small entities under this definition, the proposed priorities, definitions, and requirements would not have a significant economic impact on these small entities. The Department believes that the costs imposed on an applicant by the proposed priorities, requirements, and definitions would be limited to the costs related to providing the documentation outlined in the proposed priorities, definitions, and requirements when preparing an application and that those costs would not be significant. Participation in the STEP program is voluntary. We expect that in determining whether to apply for STEP funds, an eligible entity would evaluate the requirements of preparing an application and any associated costs and weigh them against the benefits likely to be achieved by receiving a STEP grant. An eligible entity will probably apply only if it determines that the likely benefits exceed the costs of preparing an application.

We invite comments from small entities as to whether they believe the proposed priorities, requirements, and definitions would have a significant economic impact on them and, if so, we request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an

intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance. This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or another accessible format.

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James F. Lane,

Senior Advisor, Office of the Secretary, Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0203; FRL-10510-01-R4]

Air Plan Approval; Georgia; Macon Area Limited Maintenance Plan for the 1997 8-Hour Ozone NAAQS

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submitted by the State of Georgia, through the Georgia Environmental Protection Division (EPD), via a letter dated October 20, 2021. The SIP revision includes a Limited Maintenance Plan (LMP) for the Macon 1997 8-hour ozone national ambient air quality standards (NAAQS) maintenance area (hereinafter referred to as the Macon 1997 8-hour Ozone NAAQS Area or Macon Area or Area). The Macon 1997 8-hour Ozone NAAQS Area consists of all of Bibb County and a portion of Monroe County located in middle Georgia. EPA is proposing to approve the Macon Area LMP because it provides for the maintenance of the 1997 8-hour ozone NAAQS within the Area through the end of the second 10-year portion of the maintenance period. The effect of this action would be to make certain commitments related to maintenance of the 1997 8-hour ozone NAAQS in the Macon Area federally enforceable as part of the Georgia SIP.

DATES: Comments must be received on or before January 27, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0203 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

Tiereny Bell, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. The telephone number is (404)

562–9088. Ms. Bell can also be reached via electronic mail at bell.tiereny@epa.gov.

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I. Summary of EPA's Proposed Action

In accordance with the Clean Air Act (CAA or Act), EPA is proposing to approve the Macon Area LMP for the 1997 8-hour ozone NAAQS, which was adopted by Georgia EPD on October 12, 2021, and submitted to EPA as a revision to the Georgia SIP under a letter dated October 20, 2021.¹ The Macon LMP is designed to maintain the 1997 8-hour ozone NAAQS within the Macon Area through the end of the second 10-year portion of the maintenance period beyond redesignation. As a general matter, the Macon Area LMP relies on the same control measures and applicable contingency provisions to maintain the 1997 8-hour ozone NAAQS during the second 10-year portion of the maintenance period as the maintenance plan submitted by Georgia EPD for the first 10-year period. EPA is proposing to approve the plan because it meets all applicable requirements under CAA sections 110 and 175A.

II. Background

Ground-level ozone is formed when oxides of nitrogen (NO_x) and volatile organic compounds (VOC) react in the presence of sunlight. These two pollutants, referred to as ozone precursors, are emitted by many types of pollution sources, including on- and off-road motor vehicles and engines, power plants and industrial facilities, and smaller area sources such as lawn and garden equipment and paints. Scientific evidence indicates that adverse public health effects occur following exposure to ozone, particularly in children and adults with lung disease. Breathing air containing ozone can reduce lung function and inflame airways, which can increase respiratory symptoms and

aggravate asthma and other lung diseases.

Ozone exposure also has been associated with increased susceptibility to respiratory infections, increased medication use, doctor visits, and emergency department visits, and increased hospital admissions for individuals with lung disease. Children are at increased risk from exposure to ozone because their lungs are still developing and they are more likely to be active outdoors, which increases their exposure.²

In 1979, under section 109 of the CAA, EPA established primary and secondary NAAQS for ozone at 0.12 parts per million (ppm), averaged over a 1-hour period. *See* 44 FR 8202 (February 8, 1979). On July 18, 1997, EPA revised the primary and secondary NAAQS for ozone to set the acceptable level of ozone in the ambient air at 0.08 ppm, averaged over an 8-hour period. *See* 62 FR 38856 (July 18, 1997).³ EPA set the 8-hour ozone NAAQS based on scientific evidence demonstrating that ozone causes adverse health effects at lower concentrations and over longer periods of time than was understood when the pre-existing 1-hour ozone NAAQS was set. EPA determined that the 8-hour ozone NAAQS would be more protective of human health, especially for children and adults who are active outdoors and for individuals with a pre-existing respiratory disease, such as asthma.

Following promulgation of a new or revised NAAQS, EPA is required by the CAA to designate areas throughout the nation as attaining or not attaining the NAAQS. On April 30, 2004, EPA designated the Macon 1997 8-hour Ozone NAAQS Area, which consists of all of Bibb County and a portion of Monroe County in Georgia, as nonattainment for the 1997 8-hour ozone NAAQS. The designation became effective on June 15, 2004. *See* 69 FR 23858 (April 30, 2004). Subsequently, in 2007, EPA redesignated the Macon 1997 8-hour Ozone NAAQS Area to attainment for the 1997 8-hour ozone NAAQS and approved the first maintenance plan demonstrating attainment through the initial 10-year period.

² *See* "Fact Sheet, Proposal to Revise the National Ambient Air Quality Standards for Ozone," January 6, 2010, and 75 FR 2938 (January 19, 2010).

³ In March 2008, EPA completed another review of the primary and secondary ozone NAAQS and tightened them further by lowering the level for both to 0.075 ppm. *See* 73 FR 16436 (March 27, 2008). Additionally, in October 2015, EPA completed another review of the primary and secondary ozone NAAQS and tightened them by lowering the level for both to 0.070 ppm. *See* 80 FR 65292 (October 26, 2015).

EPA has revised the ozone NAAQS twice since the 1997 standards were finalized. On July 20, 2012, EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS. The Macon Area was designated as attainment for that standard with an effective date of July 20, 2012. *See* 77 FR 30088 (May 21, 2012). On November 16, 2017, EPA designated areas for the 2015 8-hour ozone NAAQS. The Macon Area was designated attainment for that standard with an effective date of January 16, 2018. *See* 82 FR 54232 (November 16, 2017).

A state may submit a request to redesignate a nonattainment area that is attaining a NAAQS to attainment, and, if the area has met the criteria described in section 107(d)(3)(E) of the CAA, EPA may approve the redesignation request.⁴ One of the criteria for redesignation is for the area to have an approved maintenance plan under CAA section 175A. The maintenance plan must demonstrate that the area will continue to maintain the NAAQS for the period extending ten years after redesignation, and it must contain such additional measures as necessary to ensure maintenance and such contingency provisions as necessary to assure that violations of the NAAQS will be promptly corrected. Eight years after the effective date of redesignation, the state must also submit a second maintenance plan to ensure ongoing maintenance of the NAAQS for an additional ten years pursuant to CAA section 175A(b) (*i.e.*, ensuring maintenance for 20 years after redesignation).

EPA has published long-standing guidance for states on developing maintenance plans, beginning with a 1992 memo referred to as the Calcagni memo. The Calcagni memo⁵ provides that states may generally demonstrate maintenance by either performing air quality modeling to show that the future mix of sources and emission rates will not cause a violation of the NAAQS or by showing that projected future emissions of a pollutant and its precursors will not exceed the level of

⁴ Section 107(d)(3)(E) of the CAA sets out the requirements for redesignating a nonattainment area to attainment. They include attainment of the NAAQS, full approval of the applicable SIP pursuant to CAA section 110(k), determination that improvement in air quality is a result of permanent and enforceable reductions in emissions, demonstration that the state has met all applicable section 110 and part D requirements, and a fully approved maintenance plan under CAA section 175A.

⁵ John Calcagni, Director, Air Quality Management Division, EPA Office of Air Quality Planning and Standards (OAQPS), "Procedures for Processing Requests to Redesignate Areas to Attainment," September 4, 1992 (Calcagni memo).

¹ EPA received Georgia's SIP submission on October 20, 2021.

emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory).⁶ EPA clarified in three subsequent guidance memos that certain areas can meet the CAA section 175A requirement to provide for maintenance by showing that they are unlikely to violate the NAAQS in the future, using information such as the area design values⁷ when they are significantly below the standard and have been historically stable.⁸ EPA refers to a maintenance plan containing this streamlined demonstration as a limited maintenance plan, or LMP.

EPA has interpreted CAA section 175A as permitting the LMP option because section 175A of the Act does not define how areas may demonstrate maintenance, and in EPA's experience implementing the various NAAQS, areas that qualify for an LMP and have approved LMPs have rarely, if ever, experienced subsequent violations of the NAAQS. As noted in the LMP guidance memoranda, states seeking an LMP must still submit the other maintenance plan elements outlined in the Calcagni memo, including an attainment emissions inventory, provisions for the continued operation of the ambient air quality monitoring network, verification of continued attainment, and a contingency plan in the event of a future violation of the NAAQS. Moreover, a state seeking an LMP must still submit its section 175A maintenance plan as a revision to its SIP, with all attendant notice and comment procedures. While the LMP guidance memoranda were originally written with respect to certain NAAQS,⁹ EPA has extended the LMP interpretation of section 175A to other NAAQS and pollutants not specifically

covered by the previous guidance memos.¹⁰

EPA is proposing to approve the Macon LMP because Georgia has made a showing, consistent with EPA's prior LMP guidance, that the Macon 1997 8-hour Ozone NAAQS Area's ozone concentrations are well below the 1997 8-hour ozone NAAQS and have been historically stable and that the State has met the other maintenance plan requirements. Georgia EPD submitted this LMP for the Macon Area to fulfill the CAA's second maintenance plan requirement. EPA's evaluation of the Macon Area LMP is presented in section IV below.

In June 2007, Georgia EPD submitted to EPA a request to redesignate the Macon 1997 8-hour Ozone NAAQS Area to attainment for the 1997 8-hour ozone NAAQS. This submittal contained a plan, for inclusion in the Georgia SIP, to provide for maintenance of the 1997 8-hour ozone NAAQS in the Macon 1997 8-hour Ozone NAAQS Area through 2018. EPA approved Georgia's Macon 1997 8-hour Ozone NAAQS Area maintenance plan and the State's request to redesignate the Area to attainment for the 1997 8-hour ozone NAAQS effective October 19, 2007.¹¹

Section 175A(b) of the CAA requires states to submit a revision to the first maintenance plan eight years after redesignation to provide for maintenance of the NAAQS for ten additional years following the end of the first 10-year period. However, EPA's final implementation rule for the 2008 8-hour ozone NAAQS revoked the 1997 8-hour ozone NAAQS and stated that one result of the revocation was that areas that had been redesignated to attainment (*i.e.*, maintenance areas) for the 1997 NAAQS no longer needed to submit second 10-year maintenance plans under CAA section 175A(b).¹² In *South Coast Air Quality Management District v. EPA*, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) vacated EPA's interpretation that, because of the revocation of the 1997 8-hour ozone NAAQS, second maintenance plans were not required for "orphan maintenance areas," *i.e.*, areas that had been redesignated to attainment for the 1997 8-hour ozone NAAQS (maintenance areas) and were designated attainment for the 2008 ozone NAAQS. *South Coast*, 882 F.3d 1138 (D.C. Cir. 2018). Thus, states with

these "orphan maintenance areas" under the 1997 8-hour ozone NAAQS must submit maintenance plans for the second maintenance period. Accordingly, through a letter dated October 20, 2021, Georgia submitted a second maintenance plan covering the Macon Area that provides for attainment of the 1997 8-hour ozone NAAQS through 2027.

In recognition of the continuing record of air quality monitoring data showing ambient 8-hour ozone concentrations in the Macon 1997 8-hour Ozone NAAQS Area well below the 1997 8-hour ozone NAAQS, Georgia EPD chose the LMP option for the development of its second 1997 8-hour ozone NAAQS maintenance plan for the Macon Area. On October 20, 2021, Georgia EPD adopted this second 10-year 1997 8-hour ozone maintenance plan, and subsequently submitted the Macon LMP to EPA as a revision to the Georgia SIP.

III. Georgia's SIP Submittal

Georgia's October 20, 2021, submittal includes the LMP, air quality data, a summary of the previous emissions inventory and a conclusion regarding future emission levels, and attachments, as well as certification of adoption of the plan by Georgia EPD. Attachments to the plan include documentation of notice, opportunity for hearing and public participation prior to adoption of the plan by Georgia EPD on October 20, 2021, and state legal authority. The LMP notes that Georgia's LMP submittal for the remainder of the 20-year maintenance period for the Macon Area is in response to the D.C. Circuit's decision overturning aspects of EPA's implementation rule for the 2008 8-hour ozone NAAQS. The Macon Area LMP does not include any additional emissions reduction measures but relies on the same emissions reduction strategy as the first 10-year maintenance plan that provides for the maintenance of the 1997 8-hour ozone NAAQS through 2018. Prevention of significant deterioration (PSD) requirements and control measures contained in the SIP will continue to apply, and federal measures (*e.g.*, federal motor vehicle control programs) will continue to be implemented in the Macon Area.

IV. EPA's Evaluation of Georgia's SIP Submittal

EPA has reviewed the Macon Area LMP, which is designed to maintain the 1997 8-hour ozone NAAQS within the Macon Area through the end of the 20-year period beyond redesignation, as required under CAA section 175A(b). The following is a more detailed

⁶ See Calcagni memo at 9.

⁷ The ozone design value for a monitoring site is the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations. The design value for an ozone area is the highest design value of any monitoring site in the area.

⁸ See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from Sally L. Shaver, OAQPS, dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

⁹ The prior memos addressed: unclassifiable areas under the 1-hour ozone NAAQS, nonattainment areas for the PM₁₀ (particulate matter with an aerodynamic diameter less than 10 microns) NAAQS, and nonattainment areas for the carbon monoxide (CO) NAAQS.

¹⁰ See, *e.g.*, 79 FR 41900 (July 18, 2014) (approval of the second ten-year LMP for the Grant County 1971 SO₂ maintenance area).

¹¹ See 72 FR 53432 (September 19, 2007).

¹² See 80 FR 12264, 12315 (March 6, 2015).

summary of EPA's interpretation of the section 175A requirements¹³ and EPA's evaluation of how each requirement is met.

A. Attainment Emissions Inventory

For maintenance plans, a state should develop a comprehensive, accurate inventory of actual emissions for an attainment year to identify the level of emissions which is sufficient to maintain the NAAQS. A state should

develop this inventory consistent with EPA's most recent guidance on emissions inventory development. For ozone, the inventory should be based on typical summer day emissions of VOC and NO_x, as these pollutants are precursors to ozone formation. The Macon LMP includes an ozone attainment inventory for the Bibb County portion and the partial Monroe County portion of the Macon Area generated from the data EPA made

available from the 2014 National Emissions Inventory (NEI) and that Georgia represents as 2014 summer tons.¹⁴ Table 1 presents a summary of the inventory for 2014 contained in the LMP for the Bibb County portion of the Macon Area. Table 2 presents a summary of the inventory for 2014 contained in the LMP for the partial Monroe County portion of the Macon Area.

TABLE 1—2014 VOC AND NO_x EMISSIONS (SUMMER TONS) FOR THE BIBB COUNTY PORTION OF THE MACON AREA

	Point source	Nonpoint source	Onroad mobile source	Nonroad mobile source	Total
VOC	509	1,063	841	406	2,819
NO _x	899	180	1,492	170	2,741

TABLE 2—2014 VOC AND NO_x EMISSIONS (SUMMER TONS) FOR THE PARTIAL MONROE COUNTY PORTION OF THE MACON AREA

	Point source	Nonpoint source	Onroad mobile source	Nonroad mobile source	Fire	Total
VOC	167	225	251	103	9	755
NO _x	3,160	116	910	25	4	4,215

The Attainment Emissions Inventory section of the Macon Area LMP describes the methods, models, and assumptions used to develop the attainment inventory and notes that Georgia EPD relied on version 2 of the 2014 NEI.¹⁵ Point source emissions were calculated from data collected annually from the sources and reported to the State or local air agencies. Nonpoint source emissions were estimated by multiplying an emission factor by some known indicator of collective activity, such as fuel usage, and were estimated on the county level. Nonroad mobile source emissions in the 2014NEIv2, in part, were estimated using the latest version of the EPA's motor vehicles emission model, MOVES (which includes estimates nonroad emissions like agriculture, commercial and mining, industrial and recreational equipment, and commercial and residential lawn and garden equipment). Locomotives, aircraft, and marine nonroad sources are not included in MOVES, and Georgia EPD relied on EPA-generated emissions for these sectors.¹⁶ Onroad mobile sources in the

2014NEIv2 were estimated using MOVES and the latest planning assumptions regarding vehicle type, vehicle activity, and vehicle speeds to estimate vehicular emissions for 2014. Georgia EPD's estimates for vehicle emissions reflect emissions inventories and ancillary data files used for emissions modeling, as well as the meteorological, initial condition, and boundary condition files need to run the air quality model.

Based on our review of the methods, models, and assumptions used by Georgia to develop the inventory, EPA proposes to find that the Macon 1997 ozone NAAQS LMP includes a comprehensive, reasonably accurate inventory of actual ozone precursor emissions in attainment year 2014 and proposes to conclude that this is acceptable for the purposes of a subsequent maintenance plan under CAA section 175A(b).

B. Maintenance Demonstration

The maintenance demonstration requirement is satisfied in a LMP if the state can provide sufficient weight of evidence indicating that air quality in

the area is well below the level of the NAAQS, that past air quality trends have been shown to be stable, and that the probability of the area experiencing a violation over the second 10-year maintenance period is low.¹⁷ These criteria are evaluated below.

1. Evaluation of Ozone Concentrations

To attain the 1997 8-hour ozone NAAQS, the three-year average of the fourth-highest daily maximum 8-hour average ozone concentrations (design value) at each monitor within an area must not exceed 0.08 ppm. Based on the rounding convention described in 40 CFR part 50, Appendix I, the NAAQS is attained if the design value is 0.084 ppm or below. EPA evaluated quality assured and certified 2018–2020 monitoring data (which was the most recent quality assured and certified data at the time of submission) and determined that the design value for the Macon Area was 0.061 ppm, or 73 percent of the level of the 1997 8-hour ozone NAAQS, as measured at the Macon-Forestry monitor located in Bibb County, Georgia (AQS ID: 13–021–0012). Based on

¹³ See Calcagni memo.

¹⁴ Georgia defines summer tons as the total cumulative emissions from May through September.

¹⁵ Documentation and data for the 2014 NEIv2 can be accessed via the following website: <http://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>.

¹⁶ EPA developed emissions for these sectors based on AP–42 emissions factor, and information supplied by the Eastern Regional Technical Advisory Committee for locomotives and Federal Aviation Administration's Emissions and Dispersion Modeling System (since replaced by the Aviation Environmental Design Tool).

¹⁷ See "Limited Maintenance Plan Option for Nonclassifiable Ozone Nonattainment Areas" from

Sally L. Shaver, OAQPS, dated November 16, 1994; "Limited Maintenance Plan Option for Nonclassifiable CO Nonattainment Areas" from Joseph Paisie, OAQPS, dated October 6, 1995; and "Limited Maintenance Plan Option for Moderate PM₁₀ Nonattainment Areas" from Lydia Wegman, OAQPS, dated August 9, 2001. Copies of these guidance memoranda can be found in the docket for this proposed rulemaking.

quality assured and certified monitoring data for 2019–2021 (the most recent quality assured and certified data), the current the design value for the Macon Area is 0.061 ppm, or 73 percent of the level of the 1997 8-hour ozone NAAQS, as measured in Bibb County, Georgia (AQS ID: 13–021–0012). Consistent with prior guidance, EPA believes that if the most recent air quality design value for the area is at a level that is well below the NAAQS (e.g., below 85 percent of

the NAAQS, or in this case below 0.071 ppm), then EPA considers the state to have met the section 175A requirement for a demonstration that the area will maintain the NAAQS for the requisite period. Such a demonstration assumes continued applicability of PSD requirements and any control measures already in the SIP and that Federal measures will remain in place through the end of the second 10-year maintenance period, absent a showing

consistent with section 110(l) that such measures are not necessary to assure maintenance.

Table 3 presents the design values for the monitor in the Macon Area over the 2010–2021 period. As shown, the site has been below the level of the 1997 8-hour ozone NAAQS during this time, and the most current design value is below the level of 85 percent of the NAAQS, consistent with prior LMP guidance.

TABLE 3—1997 8-HOUR OZONE NAAQS DESIGN VALUES (DV) (PPB) AT THE MONITORING SITE IN THE MACON 1997 OZONE NAAQS AREA FOR THE 2010–2021 TIME PERIOD

Location	County (State)/tribal land	AQS site ID	2008–2010 DV	2009–2011 DV	2010–2012 DV	2011–2013 DV	2012–2014 DV	2013–2015 DV	2014–2016 DV	2015–2017 DV	2016–2018 DV	2017–2019 DV	2018–2020 DV	2019–2021 DV
* Macon-Forest Monitor.	Bibb County (Georgia).	13–021–0012	73	73	73	71	67	63	65	65	65	64	61	61

* The ozone monitor located in Bibb County within the Macon 1997 8-hour Ozone NAAQS Area at Macon-Forestry (AQS Site ID 13–021–0012) began operation in 1997 and provided data for the 1997 8-hour ozone designation finalized in 2004.

Therefore, the Macon Area is eligible for the LMP option, and EPA proposes to find that the long record of monitored ozone concentrations that attain the NAAQS, together with the continuation of existing VOC and NO_x emissions control programs in the Macon Area, adequately provide for the maintenance of the 1997 8-hour ozone NAAQS in the Area through the second 10-year maintenance period and beyond.

2. Stability of Ozone Levels

As discussed above, the Macon Area has maintained air quality below the 1997 8-hour ozone NAAQS over the past fifteen design values.¹⁸ Additionally, the design value data shown in Table 3 illustrates that ozone levels have been relatively stable over this timeframe, with a modest downward trend. For example, the data in Table 3 indicates that the largest year-over-year change in design value at any one monitor during these twelve design value years was 4 ppb, which occurred between the 2013 design value and the 2014 design value and between the 2014 design value and the 2015 design value, representing approximately a 6 percent decrease at monitor 13–021–0012 (Macon-Forestry). At this monitor, the design values between the 2016 design value through the 2018 design value remained steady at 65 ppb. Furthermore, there is an overall downward trend in design values for the Macon 1997 8-hour Ozone NAAQS

Area. This downward trend in ozone levels, coupled with the relatively small, year-over-year variation in ozone design values, makes it reasonable to conclude that the Macon Area will not exceed the 1997 8-hour ozone NAAQS during the second 10-year maintenance period.

C. Monitoring Network and Verification of Continued Attainment

EPA periodically reviews the ozone monitoring networks operated and maintained by the states in accordance with 40 CFR part 58. The network plans, which are submitted annually to EPA, are consistent with the ambient air quality monitoring network assessment. It is important to note that the Macon Area was designated nonattainment due to ozone concentrations at the monitor located at Macon-Forestry.¹⁹ Georgia operates a network plan that includes the ambient ozone monitoring station within the Macon Area. The annual network plan developed by Georgia follows a public notification and review process. EPA has reviewed and approved Georgia's 2021 Ambient Air Monitoring Network Plan ("2021 Annual Network Plan") which addresses the monitor used to determine attainment for the Macon Area.²⁰

¹⁹ See 69 FR 23858 (April 30, 2004) for the final designation action for the 1997 8-hour ozone NAAQS and <https://www.epa.gov/ground-level-ozone-pollution/1997-ozone-national-ambient-air-quality-standards-naaqs-nonattainment> for the monitoring data associated with the designation for the 1997 8-hour ozone NAAQS.

²⁰ See October 19, 2021, letter and approval from Caroline Freeman, Director, Air and Radiation Division, EPA Region 4 to Karen Hays, Chief, Environmental Protection Division, Georgia Department of Natural Resources, available in the docket for this proposed action.

Separately, Georgia has committed to maintaining the monitor within the Macon Area.²¹ Under a CAA section 103 grant agreement with EPA, Georgia has operated the Macon Area monitoring network since 1997, the year EPA promulgated the 1997 8-hour ozone NAAQS, and has operated the Macon-Forestry monitor in its current location since 2001. EPA provides oversight of Georgia's operation of this monitor on an annual basis through normal grant monitoring activities.

To verify the attainment status of the Area over the maintenance period, the maintenance plan should contain provisions for continued operation of an appropriate, EPA-approved monitoring network in accordance with 40 CFR part 58. As noted above, Georgia's 2021 Annual Network Plan, which covers the monitor within the Macon Area, has been approved by EPA in accordance with 40 CFR part 58, and Georgia has committed to continue operating of this monitor and to consulting with EPA prior to making changes to it. The State also acknowledges the obligation to meet monitoring requirements in compliance with 40 CFR part 58.²² EPA proposes to find that there is an adequate ambient air quality monitoring network in the Macon Area to verify continued attainment of the 1997 8-hour ozone NAAQS.

D. Contingency Plan

Section 175A(d) of the CAA requires that a maintenance plan include contingency provisions. The purpose of such contingency provisions is to

²¹ See 72 FR 42354 (August 2, 2007).

²² See Georgia's October 20, 2021, SIP submittal at page 9.

¹⁸ The Macon Area has maintained ozone concentrations below the 1997 8-hour ozone NAAQS since 2007, when the Area was redesignated to attainment. See Air Quality Design Values, Previous Design Value Reports, <https://www.epa.gov/air-trends/air-quality-design-values#previous>.

prevent future violations of the NAAQS or to promptly remedy any NAAQS violations that might occur during the maintenance period.

The Macon Area LMP contingency plan includes tracking and triggering mechanisms to determine when control measures are needed, and a process for developing and adopting appropriate control measures. There are two potential triggers for the contingency plan. The Tier I trigger will be any 8-hour ozone monitoring reading exceeding 84 ppb at the ambient monitoring station located within the Macon Area or periodic emissions inventory updates²³ that reveal excessive or unanticipated growth greater than 10 percent in either NO_x or VOC emissions over the attainment inventory for the Macon Area. The Tier II trigger will be any recorded violation of the 1997 8-hour ozone NAAQS at the Bibb County ambient monitoring station in the Macon Area. Upon either the Tier I or Tier II triggers being activated, Georgia EPD will commence analyses to determine what additional measures, if any, will be necessary to attain or maintain the ozone standard. If activation of either trigger occurs, the plan provides a regulatory adoption process for revising emission control strategies. If Georgia's analysis determines that the Macon Area is the source of emissions that contribute to a violation, the State will evaluate those measures as specified in section 172 of the CAA for control options as well as other available measures. Georgia will implement necessary controls as expeditiously as possible, and at least one contingency measure will be implemented within 24 months after the determination, based on quality-assured ambient data, that a violation has occurred. The Georgia EPD will begin initial analysis of possible contingency measures within 6 months of the trigger occurring.²⁴ EPA proposes to find that the contingency provisions in Georgia's second maintenance plan for the 1997 8-hour ozone NAAQS meet the requirements of CAA section 175A(d).

E. Conclusion

EPA proposes to find that the Macon Area LMP for the 1997 8-hour ozone NAAQS includes an approvable update of various elements of the initial EPA-

approved maintenance plan for the 1997 8-hour ozone NAAQS. EPA also proposes to find that the Macon Area qualifies for the LMP option and adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through the documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and historically stable design values.

EPA believes the Macon Area LMP, which retains existing control measures in the SIP, is sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Macon Area over the second maintenance period (*i.e.*, through 2027) and thereby satisfies the requirements for such a plan under CAA section 175A(b). EPA is therefore proposing to approve Georgia's October 20, 2021, submission of the Macon Area LMP as a revision to the Georgia SIP.

V. Transportation Conformity and General Conformity

Transportation conformity is required by section 176(c) of the CAA. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS. *See* CAA 176(c)(1)(A) and (B). EPA's transportation conformity rule at 40 CFR part 93, subpart A requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether they conform. The conformity rule generally requires a demonstration that emissions from the Regional Transportation Plan (RTP) and the Transportation Improvement Program (TIP) are consistent with the motor vehicles emissions budget (MVEB) contained in the control strategy SIP revision or maintenance plan. *See* 40 CFR 93.101, 93.118, and 93.124. A MVEB is defined as "the portion of the total allowable emissions defined in the submitted or approved control strategy implementation plan revision or maintenance plan for a certain date for the purpose of meeting reasonable further progress milestones or demonstrating attainment or maintenance of the NAAQS, for any criteria pollutant or its precursors, allocated to highway and transit vehicle use and emissions." *See* 40 CFR 93.101.

Under the conformity rule, LMP areas may demonstrate conformity without a regional emissions analysis. *See* 40 CFR 93.109(e). On October 16, 2007, EPA made a finding that the MVEBs for the first 10 years of the 1997 8-hour ozone maintenance plan for the Macon 1997 8-hour Ozone NAAQS Area were

adequate for transportation conformity purposes. In a **Federal Register** notice dated September 19, 2007, EPA notified the public of that finding. *See* 72 FR 53432. This adequacy determination became effective on October 19, 2007. After approval of this LMP or an adequacy finding for this LMP, there is no requirement to meet the budget test pursuant to the transportation conformity rule for the Macon Area. All actions that would require a transportation conformity determination for the Macon Area under EPA's transportation conformity rule provisions are considered to have already satisfied the regional emissions analysis and "budget test" requirements in 40 CFR 93.118 as a result of EPA's adequacy finding for this LMP. *See* 69 FR 40004 (July 1, 2004).

However, because LMP areas are still maintenance areas, certain aspects of transportation conformity determinations still will be required for transportation plans, programs, and projects. Specifically, for such determinations, RTPs, TIPs, and transportation projects still will have to demonstrate that they are fiscally constrained (40 CFR 93.108) and meet the criteria for consultation (40 CFR 93.105) and Transportation Control Measure implementation in the conformity rule provisions (40 CFR 93.113) as well as meet the hot-spot requirements for projects (40 CFR 93.116).²⁵ Additionally, conformity determinations for RTPs and TIPs must be determined no less frequently than every four years, and conformity of plan and TIP amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104. In addition, in order for projects to be approved they must come from a currently conforming RTP and TIP. *See* 40 CFR 93.114 and 40 CFR 93.115.

VI. Proposed Action

Under sections 110(k) and 175A of the CAA and for the reasons set forth above, EPA is proposing to approve the Macon Area LMP for the 1997 8-hour ozone NAAQS, submitted by Georgia EPD on October 20, 2021, as a revision to the Georgia SIP. EPA is proposing to approve the Macon Area LMP because it includes an acceptable update of various elements of the 1997 8-hour ozone NAAQS maintenance plan approved by EPA for the first 10-year

²³ The Air Emissions Reporting Rule (AERR) requires state and local agencies to collect and submit criteria pollutant emissions data to EPA's Emissions Inventory System (EIS) according to the schedule in 40 CFR 51.30.

²⁴ *See* the Contingency Plan Section of the LMP for further information regarding the contingency plan, including measures that Georgia will consider for adoption if any of the triggers are activated.

²⁵ A conformity determination that meets other applicable criteria in Table 1 of paragraph (b) of this section (93.109(e)) is still required, including the hot-spot requirements for projects in CO, PM₁₀, and PM_{2.5} areas.

period and retains the relevant provisions of the SIP.

EPA also finds that the Macon Area qualifies for the LMP option and that the Macon Area LMP adequately demonstrates maintenance of the 1997 8-hour ozone NAAQS through documentation of monitoring data showing maximum 1997 8-hour ozone levels well below the NAAQS and continuation of existing control measures. EPA believes the Macon Area's 1997 8-Hour Ozone LMP to be sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Macon Area over the second 10-year maintenance period, through 2027, and thereby satisfies the requirements for such a plan under CAA section 175A(b).

VII. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National

Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects in 40 CFR Part 52

Environmental Protection, Air Pollution Control, Incorporation by reference, Intergovernmental Relations, Nitrogen Oxides, Ozone, Reporting and Recordkeeping Requirements, Volatile Organic Compounds.

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

Dated: December 20, 2022.

Daniel Blackman,
Regional Administrator, Region 4.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 300 and 600

[Docket No. 221215-0273]

RIN 0648-BK85

Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would add species or groups of species to the Seafood Import Monitoring Program (SIMP) established pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In addition, this proposed rule would amend SIMP regulations to clarify the responsibilities of the

importer of record; amend the definition of importer of record to more closely align with the U.S. Customs and Border Protection (CBP) definition; amend the language requiring chain of custody records to be made available for audit or inspection to add a requirement that such records be made available through digital means if requested by NMFS; clarify the Aggregated Harvest Report criteria; and clarify the application of SIMP requirements to imports into the Pacific Insular Areas.

DATES: Written comments on the proposed rule must be received on or before March 28, 2023.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2022-0119, by any of the following methods:

Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-2022-0119 in the Search box. Click on the "Comment" icon, complete the required fields, and enter or attach your comments.

Mail: Submit written comments to Rachael Confair, Office of International Affairs, Trade, and Commerce, National Marine Fisheries Service, 1315 East-West Highway (F/IS5), Silver Spring, MD 20910.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

The draft Regulatory Impact Review and Initial Regulatory Flexibility Assessment supplementing this proposed rule are available on www.regulations.gov. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of International Affairs, Trade, and Commerce and by submission to Information Collection Review (<https://www.reginfo.gov/public/do/PRAMain>).

FOR FURTHER INFORMATION CONTACT: Rachael Confair, Office of International Affairs, Trade, and Commerce, National