

addresses the NNSR requirements for the 2015 8-hour ozone NAAQS. The EPA has made, and will continue to make, these materials available electronically through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

Under the Clean Air Act, 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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed 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); and
 - 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 Clean Air Act.
- The State did not evaluate environmental justice considerations as part of its SIP submittal. There is no information in the record inconsistent

with the stated goals of Executive Order 12898 (59 FR 7629, February 16, 1994) of achieving environmental justice for people of color, low-income populations, and indigenous peoples.

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

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

Dated: December 16, 2022.

Martha Guzman Aceves,
Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2022-0202; FRL-10511-01-R4]

Air Plan Approval; Georgia; Murray County 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), on October 20, 2021. The SIP revision includes the 1997 8-hour ozone national ambient air quality standards (NAAQS) Limited Maintenance Plan (LMP) for the portion of Murray County, Georgia, previously designated nonattainment for the 1997 8-hour ozone NAAQS (hereinafter referred to as the Murray County 1997 8-hour Ozone NAAQS Area or Murray County Area or Area). EPA is proposing to approve the Murray County Area LMP because it provides for the maintenance of the 1997 8-hour ozone NAAQS within the Murray County 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 Murray County Area federally enforceable as part of the Georgia SIP.

DATES: Comments must be received on or before January 23, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2022-0202 at <https://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.*, on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www2.epa.gov/dockets/commenting-epa-dockets>.

FOR FURTHER INFORMATION CONTACT:

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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 LMP for the Murray County 1997 8-hour Ozone NAAQS Area submitted by Georgia EPD as a revision to the Georgia SIP on October 20, 2021. In 2004, the Murray County Area was designated as nonattainment for the 1997 8-hour ozone NAAQS, effective June 15, 2004.¹ See 69 FR 23857 (April 30, 2004). Subsequently, in 2007, this Area was redesignated to attainment for the 1997 8-hour ozone NAAQS with EPA's approval of the first maintenance plan demonstrating attainment through the initial 10-year period. The Murray County LMP is designed to maintain the 1997 8-hour ozone NAAQS within the Murray County Area through the end of the second 10-year portion of the maintenance period beyond redesignation. EPA is proposing to approve the plan because it meets all applicable requirements under CAA sections 110 and 175A. As a general matter, the Murray County Area LMP relies on the same control measures and relevant 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.

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 in 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 a higher level of 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),³ 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).⁴ 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 15, 2004, EPA designated the Murray County Area as nonattainment for the 1997 8-hour ozone NAAQS. The designation became effective on June 15, 2004. See 69 FR 23858 (April 30, 2004).

Similarly, on July 20, 2012, EPA designated areas as unclassifiable/attainment or nonattainment for the 2008 8-hour ozone NAAQS. The Murray County Area was designated as attainment for the 2008 8-hour ozone standard with an effective date of July 20, 2012. See 77 FR 30088 (May 21, 2012).

In addition, on November 16, 2017, EPA designated areas for the 2015 8-hour ozone NAAQS. The Murray County area was designated as attainment/unclassifiable for the 2015 8-hour ozone standard with an effective

date of January 16, 2018. See 82 FR 54232 (November 16, 2017) and 83 FR 25776 (June 4, 2018).

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.⁵ 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. The Calcagni memo⁶ 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 emissions during a year when the area was attaining the NAAQS (*i.e.*, attainment year inventory). See Calcagni memo at 9. 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 area design values⁷ when they

⁵ 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.

⁶ 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).

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.

Continued

¹ The Murray County 1997 8-hour Ozone NAAQS Area is located entirely within the Chattahoochee National Forest area of Murray County, Georgia. The Area consists of all mountain peaks within the Chattahoochee National Forest that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.

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 0.12 ppm converts to 120 parts per billion (ppb). 1 ppm = 1,000 ppb.

⁴ In March 2008, EPA completed another review of the primary and secondary ozone NAAQS and strengthened 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 a review of the primary and secondary ozone NAAQS and strengthened them by lowering the level for both to 0.070 ppm. See 80 FR 65292 (October 26, 2015).

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 (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

In this case, EPA is proposing to approve the Murray County LMP because Georgia has made a showing, consistent with EPA's prior LMP guidance, that the Murray County 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 Area has met the other maintenance plan requirements. Georgia EPD submitted this LMP for the Murray County Area to fulfill the CAA's second maintenance

plan requirement. EPA's evaluation of the Murray County Area LMP is presented in section IV below.

In June of 2007, Georgia EPD submitted to EPA a request to redesignate the Murray County 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 Area through 2018. EPA approved Georgia's Murray County 1997 8-hour Ozone NAAQS Area maintenance plan and the State's request to redesignate the Area to attainment effective November 15, 2007.¹¹

Section 175A(b) of the CAA requires states to submit a second 10-year maintenance plan as 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 a consequence of that 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 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 Murray County 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 Murray County 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 Area. On October 20, 2021, Georgia EPD adopted this second 10-year maintenance plan and subsequently submitted the Murray County 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, and state legal authority. The LMP notes that Georgia's submittal for the remainder of the 20-year maintenance period for the Murray County Area is in response to the D.C. Circuit's decision overturning aspects of EPA's Implementation Plan rule.

The Murray County 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.*, Tier 3 Motor Vehicle Emission and Fuel Standards) will continue to be implemented.

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

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

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 58538 (October 16, 2007).

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

¹³ See Calcagni memo at 7–13.

precursors to ozone formation. The Murray County LMP also includes an ozone attainment inventory for Murray County¹⁴ generated from the data EPA made available from the 2014 National Emissions Inventory (NEI) and that Georgia represents as 2014 summer tons.¹⁵ Table 1 presents a summary of the inventory for 2014 contained in the LMP.

TABLE 1—2014 VOC AND NO_x EMISSIONS (SUMMER TONS) FOR MURRAY COUNTY

Sector	2014	
	NO _x	VOC
Fire	0	0
Nonpoint	77	224
Nonroad	37	45
Onroad	260	190
Point	60	28
Total ¹⁶	433	487

The Attainment Emissions Inventory section of the Murray County 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 National Emissions Inventory (NEI) (2014NEIv2) from EPA 2014 version 7.0 modeling platform.¹⁷ Area 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 data for these sectors.¹⁸ 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 of 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, as well as our review of the 2014 summer emissions data, EPA proposes to find that the Murray County 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 considered to be 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.¹⁹ These criteria are evaluated below.

¹⁸ EPA developed emissions data for these sectors based on AP-42 emissions factors 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).

¹⁹ 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.

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 2018–2020 design value for the Murray County 1997 8-hour Ozone NAAQS Area was 0.062 ppm, or 74 percent of the level of the 1997 8-hour ozone NAAQS (measured at the Fort Mountain, Cohutta Overlook monitor in Murray County, Georgia (AQS ID: 13–213–0003)). Based on quality assured and certified monitoring data for 2019–2021 (the most recent quality assured and certified data), the current design value for the Murray County 1997 8-hour Ozone NAAQS Area is 0.062 ppm, or 74 percent of the level of the 1997 8-hour ozone NAAQS (measured at the Fort Mountain, Cohutta Overlook monitor in Murray County, Georgia (AQS ID: 13–213–0003)). 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 2 presents the design values for the monitor in the Murray County 1997 8-hour Ozone NAAQS 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.

¹⁴ The Murray County Area is the portion of Murray County that consists of all mountain peaks within the Chattahoochee National Forest that have an elevation greater than or equal to 2,400 feet and that are enclosed by contour lines that close on themselves.

¹⁵ Georgia defines summer tons as the total cumulative emissions from May through September.

¹⁶ The totals represented in the table may be slightly different than the inventories in the LMP based on rounding convention.

¹⁷ Documentation and data for the 2014 NEIv2 can be accessed via the following website: <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>. The 2014 summer emissions data for the Murray County Area are from the EPA 2014 version 7.0 modeling platform, which is based on the National Emissions Inventory (2014 NEI version 2) and are available at https://www.epa.gov/sites/default/files/2018-11/ozone_1997_naaqs_emiss_inv_data_nov_19_2018_0.xlsx.

TABLE 2—1997 8-HOUR OZONE NAAQS DESIGN VALUES (DV) (ppb) AT THE MONITORING SITE IN THE MURRAY COUNTY 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
Fort Mountain, Cohutta Overlook Monitor.	Murray County (Georgia).	13–213–0003	73	71	72	68	66	64	65	65	65	65	62	62

* The ozone monitor located in the Murray County 1997 8-hour Ozone NAAQS Maintenance Area at Fort Mountain, Cohutta Overlook (AQS Site ID 13–213–0003) began operation in 1999 and provided data for the 1997 8-hour ozone designation finalized in 2004.

Therefore, the Murray County 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, adequately provide for the maintenance of the 1997 8-hour ozone NAAQS in the Murray County Area through the second 10-year maintenance period and beyond.

2. Stability of Ozone Levels

As discussed above, the Murray County Area has maintained ozone concentrations below the 1997 8-hour ozone NAAQS over the past fifteen 3-year design value periods.²⁰ Additionally, the design value data shown in Table 2 illustrates that ozone levels have been relatively stable over this timeframe, with a modest downward trend. For example, the data in Table 2 indicate that the largest year-over-year change in design value at any one monitor during these twelve design value years was 0.004 ppm, which occurred between the 2010–2012 design value and the 2011–2013 design value, representing approximately a 5 percent decrease at monitor 13–213–0013 (Fort Mountain, Cohutta Overlook). At this monitor, four design values spanning over six years remained steady at 0.065 ppm, which occurred between the 2014–2016 design value through 2017–2019 design value. Furthermore, there is an overall downward trend in design values for the Murray County 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 Murray County Area will not exceed the 1997 8-hour ozone NAAQS during the second 10-year maintenance period.

²⁰ The Murray County Area has maintained ozone concentrations below the 1997 8-hour ozone NAAQS since 2007 when the Area was redesignated to attainment for the 1997 8-hour ozone NAAQS. See Air Quality Design Values, Previous Design Value Reports, <https://www.epa.gov/air-trends/air-quality-design-values#previous>.

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. The Murray County 1997 8-hour Ozone NAAQS Area was designated nonattainment due to ozone concentrations at the monitor located at Fort Mountain in the Chattahoochee National Forest.²¹

Under a CAA section 103 grant agreement with EPA, Georgia has operated this monitor since 1999, following EPA's promulgation of the 1997 8-hour ozone NAAQS. EPA provides oversight of the State's operation of this monitor on an annual basis through normal grant monitoring activities. Georgia operates a network plan that includes this monitor. 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 Murray County 1997 8-hour Ozone NAAQS Area.²² Separately, Georgia has committed to maintaining the monitor within the Murray County Area.²³

To verify the attainment status of an 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

²¹ See 69 FR 23858 (April 30, 2004) (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> (monitoring data associated with the designation for the 1997 8-hour ozone NAAQS).

²² 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.

²³ See 72 FR 49679 (August 29, 2007).

58. As noted above, Georgia's 2021 Annual Network Plan, which covers the monitor within the Murray County Area, has been approved by EPA in accordance with 40 CFR part 58, and Georgia commits to continuing operation of this monitor and to consulting with the EPA prior to making any changes to it. The State also acknowledges the obligation to meet monitoring requirements in compliance with 40 CFR part 58.²⁴ EPA proposes to find that there is an adequate ambient air quality monitoring network in the Murray County 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 prevent future violations of the NAAQS or to promptly remedy any NAAQS violations that might occur during the maintenance period.

The Murray County 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 Fort Mountain ambient monitoring station located in the Murray County Area or periodic emissions inventory updates²⁵ that reveal excessive or unanticipated growth greater than 10 percent in either NO_x or VOC emissions over the attainment inventory for the Murray County Area. The Tier II trigger will be any recorded violation of the 1997 8-hour ozone NAAQS at the Fort Mountain ambient monitoring station in

²⁴ See Georgia's October 20, 2021, SIP submittal (available in the docket for this proposed rulemaking) at page 11.

²⁵ 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.

the Murray County 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 Murray County 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.²⁶

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 Murray County 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 Murray County 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 Murray County 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 Murray County 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 Murray County 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 Metropolitan Transportation Plan (MTP) 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 Murray County 1997 8-hour Ozone NAAQS Area were adequate for transportation conformity purposes. In a **Federal Register** notice dated August 29, 2007, EPA notified the public of that status of that finding. *See* 72 FR 49679. This adequacy determination became effective on November 15, 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 Murray County Area. All actions that would require a transportation conformity determination for the Murray County 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).

According to 40 CFR 93.101, isolated rural nonattainment and maintenance areas are areas that do not contain or are not part of any metropolitan planning area as designated under the transportation planning regulations.

Isolated rural areas do not have Federally required MTPs or TIPs and do not have projects that are part of the emissions analysis of any metropolitan planning organizations' MTP or TIP. Projects in such areas are instead included in the statewide transportation improvement program. Murray County is considered an isolated rural area. Transportation conformity is done in isolated rural areas only when non-exempt Federal Highway/Federal Transit projects need funding or approval. Specifically, these areas must demonstrate they have met the consultation requirements according to 40 CFR 93.112; use the latest planning assumptions per 40 CFR 93.110 as it relates to information about Transportation Control Measures (TCMs) in an approved SIP, as well as ensure the timely implementation of the TCMs according to 40 CFR 93.113.

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 Murray County 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 Murray County 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 period and retains the relevant provisions of the SIP.

EPA also finds that the Murray County Area qualifies for the LMP option and that the Murray County 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 Murray County Area's 1997 8-Hour Ozone LMP to be sufficient to provide for maintenance of the 1997 8-hour ozone NAAQS in the Murray County Area over the second 10-year maintenance period, through 2027, and thereby satisfy 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

²⁶ 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.

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 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 16, 2022.

Daniel Blackman,

Regional Administrator, Region 4.

[FR Doc. 2022–27866 Filed 12–22–22; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R09–OAR–2022–0623; FRL–10031–01–R9]

Clean Air Act Operating Permit Program; California; San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of revisions to the Clean Air Act (CAA or “Act”) Operating Permit Program (title V) of the San Diego County Air Pollution Control District (SDCAPCD or “District”) in California. Once approved by the EPA, these program revisions will modify the major source title V potential to emit (PTE) thresholds to conform with the recent reclassification of the San Diego County ozone nonattainment area to “Severe” for the 2008 and 2015 ozone National Ambient Air Quality Standards (NAAQS). We are taking comments on these proposed revisions and publish our final action approving these revisions elsewhere in this issue of the **Federal Register** in a direct final rule.

DATES: Comments must be received on or before January 23, 2023.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2022–0623 at <https://www.regulations.gov>. For comments submitted at [Regulations.gov](https://www.regulations.gov), follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The 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. The 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, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: La Weeda Ward, Permits Office (Air–3–1), U.S. Environmental Protection Agency, Region IX, (213) 244–1812, ward.laweeda@epa.gov.

SUPPLEMENTARY INFORMATION:

Throughout this document, “we,” “us,” and “our” refer to the EPA. This proposal addresses the following local rule: SDCAPCD Rule 1401, “Title V Operating Permits—General Provisions.” In the Final Rules section of this **Federal Register**, the EPA is approving the District’s submissions and making administrative updates as a direct final rule without prior proposal because we view this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the action is set forth in the preamble to the direct final rule. If the EPA receives no adverse comments, the EPA contemplates no further action. If the EPA receives adverse comments, the EPA will withdraw the direct final rule and will address all public comments in a subsequent final rule based on this proposed rule. We do not plan to open a second comment period on this action, so anyone interested in commenting should do so at this time. Please note that if the EPA receives an adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, the EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule of the same title that is located in the Final Rules section of this **Federal Register**.

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