

Georgia Department of Natural Resources

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Environmental Protection Division
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Gwendolyn Keyes Fleming
Regional Administrator
U.S. EPA, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-3104

Re: Certification of 110(a) Infrastructure Elements for the 2008 8-Hour Ozone
NAAQS

Dear Ms. Fleming:

With this letter, the Georgia Environmental Protection Division (EPD) is certifying that Georgia's current State Implementation Plan (SIP) contains the Section 110(a) elements of the Clean Air Act (CAA) that meet the requirements of the 8-hour Ozone National Ambient Air Quality Standards (NAAQS) as revised in 2008.

Section 110(a)(1) of the CAA requires states to submit plans to provide for the implementation, maintenance, and enforcement of any new or revised NAAQS. The details of this plan are specified in 110(a)(2). States are required to include in these SIPs specific infrastructure elements that provide assurances that the State will have the resources and authorities to establish the basic programs to implement, maintain, and enforce the new or revised standards. The specific elements of Section 110(a)(2) are listed below:

- Enforceable Emission Limitations and Other Control Measures [§110(a)(2)(A)]
- Air Quality Monitoring, Compilation, Data Analysis, and Reporting [§110(a)(2)(B)]
- Enforcement and Stationary Source Permitting [§110(a)(2)(C)]
- Interstate Transport [§110(a)(2)(D)]
- Resources, Conflict of Interest, and Emergency Backstop [§110(a)(2)(E)]
- Stationary Source Emissions Monitoring and Reporting [§110(a)(2)(F)]
- Emergency Powers and Contingency Plans [§110(a)(2)(G)]
- SIP Revision for Revised Air Quality Standards or New Attainment Methods [§110(a)(2)(H)]
- SIP Revisions for New Nonattainment Areas [§110(a)(2)(I)]
- Consultation and Public Notification [§110(a)(2)(J)]
- Air Quality Modeling and Reporting [§110(a)(2)(K)]
- Major Stationary Source Permitting Fees [§110(a)(2)(L)]
- Consultation with Local Entities [§110(a)(2)(M)]

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The attachment contains details of each of these requirements as found in the SIP. Georgia's current SIP and all subsequent revisions affected by this certification as detailed in the attachment have been prepared in accordance with 40 CFR 51 and have previously met all applicable state and federal public notice, hearing, and comment requirements. All references cited as EPD's authority for each element have been submitted previously to EPA. Element §110(a)(2)(I) is specific to a nonattainment area plan or revision. Nonattainment area plans are required under Part D of the CAA, which provides for a different schedule and; therefore, §110(a)(2)(I) is not required to be addressed by this submission.

Should you or your staff have any questions, please feel free to contact Jimmy Johnston at 404-363-7014.

Sincerely,

F. Allen Barnes
Director

FAB:JJ:JK:klc

Enclosure

c: Scott Davis (with enclosure)
EPA Region 4

James Capp (w/out enclosure)
EPD, Air Protection Branch

Attachment A

§ 110(a)(2) Infrastructure SIP Elements

Enforceable Emission Limitations and Other Control Measures **[§ 110(a)(2)(A)]**

Section 110(a)(2)(A) of the CAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “include enforceable emission limitations and other control measures, means, or techniques (including economic incentives such as fees, marketable permits, and auctions of emissions rights), as well as schedules and timetables for compliance.”

Georgia Authority:

- Georgia Rules for Air Quality 391-3-1-.01 – “Definitions. Amended.”
- Georgia Rules for Air Quality 391-3-1-.02 – “Provisions. Amended.”
- Georgia Rules for Air Quality 391-3-1-.03 – “Permits. Amended.”

Air Quality Monitoring, Compilation, Data Analysis, and Reporting [§ 110(a)(2)(B)]

Section 110(a)(2)(B) of the CAA requires that Georgia’s State Implementation Plan for the 2008 Ozone NAAQS “provide for establishment and operation of devices, methods, systems, and procedures to:

- (i) monitor, compile, and analyze data on ambient air quality, and**
- (ii) upon request, make such data available to the Administrator.”**

Monitoring Network:

Georgia EPD produces an annual ambient monitoring network plan and periodic network assessment in accordance with 40 CFR 58.10. The purpose of the annual ambient monitoring network plan is two-fold. First, the plan confirms that the network continues to meet the State and Local Air Monitoring Stations (SLAMS) criteria established by federal regulations and that the information in the state and federal monitoring records properly classify each monitoring station. Second, the plan serves as a directory of existing State and Local Air Monitoring Stations (SLAMS), Photochemical Assessment Monitoring Stations (PAMS), Speciation Trends Network (STN) and Supplemental Speciation sites, National Air Toxics Trends Station (NATTS), Special Purpose Monitoring (SPM), Georgia Air Toxics Network, Acid Rain sites,

and the meteorological parameters performed at each location. EPA recently approved Georgia's current ambient monitoring network as detailed in the 2011 Ambient Air Monitoring Plan submitted to EPA by EPD.

Georgia Authority:

- Georgia's authority to monitor ambient air quality is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- The Air Planning Agreement (APA) between EPA and the State of Georgia establishes the obligation to operate an ambient monitoring network that complies with applicable federal regulation(s).
- No specific statutory or regulatory authority is necessary to authorize data analysis or the submission of such data to EPA. Federal grant requirements establish the obligation to provide data to EPA.
- Georgia has and will continue to submit data to EPA's Air Quality System.

Enforcement and Stationary Source Permitting [§110(a)(2)(C)]

Section 110(a)(2)(C) of the CAA requires that Georgia's SIP for the 2008 Ozone NAAQS "include a program to provide for enforcement of measures in (A), and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved, including a permit program as required in parts C and D."

Georgia Authority - Enforcement: Georgia EPD's Enforcement Program covers mobile and stationary sources, consumer products, and fuels.

- Georgia's enforcement authority is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- The Air Planning Agreement.
- Georgia Rule 391-3-1-.07 – "Inspections and Investigations. Amended."
- Georgia Rule 391-3-1-.09 – "Enforcement. Amended."

Georgia Authority – Stationary Source Permitting:

- Georgia's permitting authority is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)

- Georgia Rules for Air Quality 391-3-1-.02. - “Provisions. Amended.” This includes PSD requirements under Georgia Rules for Air Quality 391-3-1-.02(7).
- Georgia Rules for Air Quality 391-3-1-.03. – “Permits. Amended.” This includes Nonattainment New Source Review requirements under Georgia Rules for Air Quality 391-3-1-.03(8)(c) and (g).

Interstate Transport [§110(a)(2)(D)] of the Clean Air Act

Section 110(a)(2)(D)(i) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “contain adequate provisions-

(i) prohibiting, consistent with the provisions of this subchapter, any source or other type of emissions activity within the State from emitting any air pollutant in amounts which will-

(I) contribute significantly to nonattainment in, or interfere with maintenance by, any other State with respect to any such national primary or secondary ambient air quality standard, or

(II) interfere with measures required to be included in the applicable implementation plan for any other State under Part C to prevent significant deterioration of air quality or to protect visibility.”

Georgia Authority: for Subsection (2)(D)(i)(I)

- NO_x emissions reductions as required by Multipollutant Control for Electric Utility Steam Generating Units under Georgia Rule for Air Quality 391-3-1-.02(2)(sss).

Georgia has previously implemented statewide controls for NO_x under the State Multipollutant Rule that met or exceeded the NO_x emissions reductions required by the CAIR rule, which has been replaced by the current Cross State Air Pollution Rule (CSAPR). The rule requires the application of Selective Catalytic Reduction (SCR) on all large, coal-fired Electric Generating Units (EGU) in the state. Once fully implemented on December 31, 2015, Georgia’s Multipollutant Rule will be more stringent than CSAPR. However, CSAPR was not developed to determine a state’s significant contribution for the 2008 Ozone NAAQS. Previously EPA has determined the significant contribution of each upwind state to downwind receptors. EPA has not yet made such a determination for the current NAAQS. In the NO_x SIP Call, EPA took the position that this role is the responsibility of EPA. This discussion occurs on pages 63 FR 57368-70 of the Federal Register with the emphasis on the following excerpts:

EPA believes it reasonable to interpret the ambiguity in section 110(a)(2)(D)(i)(I) to include this determination [the determination of what constitutes "significant contribution"] among EPA’s responsibilities, particularly in the current circumstances. Determining the overall level of air pollutants allowed to be emitted in a State is

comparable to determining overall standards of air quality, which the courts have recognized as EPA's responsibility, and is distinguishable from determining the particular mix of controls among individual sources to attain those standards, which the caselaw identifies as a State responsibility. (63 FR 57369)

Once EPA determines the overall level of reductions (by assigning the aggregate amounts of emissions that must be eliminated to meet the requirements of section 110(a)(2)(D)), it falls to the State to determine the appropriate mix of controls to achieve those reductions. (63 FR 57369)

Without determining an acceptable level of NO_x reductions, the upwind State would not have guidance as to what is an acceptable submission. The EPA's determination, as part of the issuance of the SIP call, of the amounts of NO_x emissions the SIPs must prohibit obviously provides for more efficient and smooth-running administrative processes at both the State and Federal levels. For the same reasons that EPA believes it is appropriate for the Agency to establish the emissions budgets under the authority of section 110(a)(2)(D) and (k)(5), EPA believes that it is necessary to do so through a rule under the general rulemaking authority of section 301(a). Setting such a rule is necessary, as a practical matter, for the Administrator's effective implementation of section 110(a)(2)(D). (63 FR 57370)

Georgia Authority: for Subsection (2)(D)(i)(II)

- PSD requirements under Georgia Rules for Air Quality 391-3-1-.02(7).

All new major sources and major modifications in Georgia, including major sources of the precursors of ozone, are currently subject to Prevention of Significant Deterioration (PSD) under Georgia Rule for Air Quality 391-3-1-.02(7).

Georgia has developed and implemented a Regional Haze State Implementation Plan to protect visibility. Georgia submitted the Regional Haze SIP in 2009 and is awaiting approval by EPA. Georgia has three Class I areas: the Cohutta Wilderness Area, the Okefenokee Wilderness Area and the Wolf Island Wilderness Area. Of these three areas, IMPROVE monitors are located at the Cohutta Wilderness Area and Okefenokee Wilderness Area. Georgia's Regional Haze SIP revision demonstrates that the precursors to ozone, NO_x and VOC are not significant contributors to visibility impairment.

Section 110(a)(2)(D)(ii) of the CAAA requires that Georgia's SIP for the 2008 Ozone NAAQS contain adequate provisions "insuring compliance with the applicable requirements of sections 126 and 115 of this title (relating to interstate and international pollution abatement)."

Georgia Authority: for Subsection (2)(D)(ii)

- Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)

- PSD regulation under Georgia Rule for Air Quality 391-3-1-.02(7).
- Permitting regulations under Georgia Rule for Air Quality 391-3-1-.03.
- In addition, nothing in Georgia’s statutory or regulatory authority prohibits or otherwise interferes with Georgia’s ability to exercise sections 126 and 115 of the CAA.

All PSD requirements have either been approved by EPA for Georgia or have been submitted for approval to EPA.

Resources, Conflict of Interest, and Emergency Backstop [§ 110(a)(2)(E)]

Section 110(a)(2)(E)(i) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “provide

(i) necessary assurances that the State...will have adequate personnel funding, and authority under State...law to carry out such implementation plan (and is not prohibited by any provision of Federal or State law from carrying out such plan),

(ii) requirements that the State comply with the requirements respecting State boards under Section 128, and

(iii) necessary assurances that, where the State has relied on a local or regional government, agency, or instrumentality for the implementation of any plan provision, the State has responsibility for ensuring adequate implementation of such plan provision.”

Georgia Authority: (i)

- This is accomplished through the CAA Section 105 grant process, Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. 12-9-10), and Georgia Rule for Air Quality 391-3-1-.03(9) [Georgia Air Permit Fee System].

Georgia Authority: (ii)

- Georgia’s authority is found in Georgia Air Quality Act Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.) Section 12-9-5(a) is the specific provision that complies with CAA 128.
- Georgia Rules for Air Quality 391-3-1-.01 – “Definitions. Amended.”
- Georgia Rules for Air Quality 391-3-1-.02 – “Provisions. Amended.”
- Georgia Rules for Air Quality 391-3-1-.03 – “Permits. Amended.”

Georgia Authority: (iii)

Georgia does not rely on localities for specific SIP implementation.

There are several specific elements that must be identified to satisfy the requirements of Section 110(a)(2)(E):

- In accordance with 40 CFR Part 51, Subpart M, Georgia EPD will develop, implement, and enforce the SIP as a whole.
- In accordance with 40 CFR 51, Subpart O, a description of the resources available to the EPD to carry out the SIP was included with Georgia's Title V Permit Program plan submitted on November 12, 1993.
- In accordance with 40 CFR 51, Subpart L, a legal opinion from the Georgia's Attorney General regarding the EPD's legal authority was also included with Georgia's Title V Permit Program plan submitted on November 12, 1993.
- Georgia complies with Clean Air Act Section 128.
- Georgia retains responsibility for ensuring adequate implementation of Georgia's obligations with respect to the 2008 Ozone NAAQS.

Stationary Source Emissions Monitoring and Reporting [§ 110(a)(2)(F)]

Section 110(a)(2)(F) of the CAAA requires that Georgia's SIP for the 2008 Ozone NAAQS "require, as may be prescribed by the Administrator-

- (i) Installation, maintenance, and replacement of equipment, and implementation of other necessary steps, by owners or operators of stationary sources to monitor emissions,**
- (ii) Periodic reports on the nature and amounts of emissions and emissions-related data, and**
- (iii) Correlation of such reports by the State agency with any emission limitations or standards established pursuant to CAA, which reports shall be available at reasonable times for public inspection".**

Georgia Authority:

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- Georgia Rule for Air Quality 391-3-1-.02(3) – “Sampling.”
- Georgia Rule for Air Quality 391-3-1-.02(6) – “Source Monitoring.”
- Georgia Rule for Air Quality 391-3-1-.02(7) – “Prevention of Significant Deterioration of Air Quality.”
- Georgia Rule for Air Quality 391-3-1-.02(8) – “New Source Performance Standards.”
- Georgia Rule for Air Quality 391-3-1-.02(11) – “Compliance Assurance Monitoring.”
- Georgia Rule for Air Quality 391-3-1-.03 – “Permits. Amended.”

EPD has met and will consistently meet the emissions reporting requirements of 40 CFR Part 51, including the Air Emissions Reporting Requirements (AERR).

Emergency Powers and Contingency Plans [§ 110(a)(2)(G)]

Section 110(a)(2)(G) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “provide for authority comparable to that in section 303 and adequate contingency plans to implement such authority.”

Section 303 provides legal authority to the U.S. EPA to halt the emission of air pollutants that present an imminent and substantial endangerment to public health or welfare or the environment. U.S. EPA is authorized to either bring a lawsuit in federal court or, if such civil action cannot assure prompt protection of public health or welfare, to issue such orders as may be necessary to protect public health or welfare or the environment.

The requirement for states to provide adequate contingency plans to implement such authority is intended to establish emergency episode plans for responding to elevated pollutant levels in urban areas. Emergency episode plans are required in areas that record ambient pollutant concentrations in excess of threshold levels specified in 40 CFR Part 51.150.

Section 303 of the CAA authorizes the Administrator to take certain emergency actions if pollution levels in an area constitute “an imminent and substantial endangerment to public health or welfare, or the environment.” Section 110(a)(2)(G) of the CAA requires that SIPs must provide for the authority comparable to that in Section 303, and must include adequate contingency plans to implement such authority. Pursuant to these provisions, EPA promulgated 40 CFR 51.16 (36 FR 24002, November 21, 1971), which established “significant harm levels” for five criteria pollutants – SO₂, inhalable particulate matter (PM₁₀), NO₂, CO, and ozone. Part 51.16 was eventually restructured as Subpart H and Appendix L of Part 51 (51 FR 40668,

November 7, 1986). The requirement to submit an emergency plan for SO₂, PM₁₀, NO₂, CO, and ozone is based on a priority classification scheme under 40 CFR Part 51 Subpart H. Georgia currently has emergency provisions specifically for ozone as identified below.

Georgia Authority:

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- Georgia Rule for Air Quality 391-3-1-.04 – “Air Pollution Episodes.”
- January 1972 SIP: “*Implementation Plan for Attainment of State and National Ambient Air Standards*” – Air Quality Control Branch, Georgia Department of Public Health (primarily pages 169-266).

SIP Revision for Revised Air Quality Standards or New Attainment Methods [§ 110(a)(2)(H)]

Section 110(a)(2)(H) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “provide for revision of such plan-

- from time to time as necessary to take account of revisions of such national primary or secondary ambient air quality standard or the availability of improved or more expeditious methods of attaining such standard, and**
- except as provided in (3)(C), whenever the Administrator finds on the basis of information available to EPA that the plan is substantially inadequate to attain the NAAQS which it implements or to otherwise comply with any additional requirements established under this chapter”.**

Georgia Authority:

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- The Air Planning Agreement.
- Georgia EPD is required by 12-9-6(b)(12) of the Georgia Air Quality Act to submit SIP revisions whenever revised air quality standards are promulgated by U.S. EPA.

SIP Revisions for New Nonattainment Areas [§ 110(a)(2)(I)]

Section 110(a)(2)(I) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS provide “in the case of a plan or plan revision for an area designated as a nonattainment area, meet the applicable requirements of Part D (relating to nonattainment areas).”

This requirement only applies when an area is designated as nonattainment with the Ozone NAAQS and is only addressed when an attainment demonstration is required, as required by a separate provision and schedule as defined by the CAA. Therefore, no submission for this element is necessary.

Consultation and Public Notification [§ 110(a)(2)(J)]

Section 110(a)(2)(J) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “meet applicable requirements of Section 121 (relating to consultation), Section 127 (relating to public notification), and Part C (relating to prevention of significant deterioration of air quality and visibility protection).”

Georgia Authority:

Section 121 requires that states provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials of local governments, and any affected federal land manager in carrying out CAA requirements.

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.).
- Georgia Administrative Procedures Act (O.C.G.A. §50-13-4).
- Georgia Rule 391-3-1-.02(7) as it relates to Class I areas.
- Georgia EPD commits to maintaining a process of consultation with parties designated under Section 121.

Specifically, 12-9-5(b)(17) of the Georgia Air Quality Act states that the DNR Board is to “establish satisfactory processes of consultation and cooperation with local governments or other designated organizations of elected officials or federal agencies for the purpose of planning, implementing, and determining requirements under this article to the extent required by the federal act.”

Section 127 requires the states to provide measures which will be effective to notify the public on a regular basis of instances or areas in which any air quality standard is exceeded during the preceding calendar year, to advise the public of the health hazards associated with such pollution, and to enhance public awareness of measures that can be taken to prevent such standards from being exceeded. Public notification for air quality is accomplished by alerts for particulate matter.

- Daily air quality forecasts may be disseminated to the public in Atlanta via electronic Georgia DOT billboards.
- The non-profit organization “Clean Air Campaign” disseminates statewide air quality information as well as ways to reduce air pollution.

- In addition, EPD’s Ambient Monitoring web page (www.georgiaair.org/amp) provides information regarding current and historical air quality across the state.
- Georgia EPD commits to maintaining a public information and education program that satisfies the requirements of Section 127.

Georgia Authority:

Meet applicable requirements of Part C (PSD and visibility protection).

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- Georgia Rule for Air Quality 391-3-1-.02(1) – “General Requirements.”
- Georgia Rule for Air Quality 391-3-1-.02(7) – “Prevention of Significant Deterioration.”

Other EPA infrastructure guidance provides that “states remain obligated to adopt and submit a PSD program for EPA approval that applies to all regulated NSR pollutants, including GHG.” U.S. EPA has approved revisions to Georgia’s PSD program to incorporate provisions related to GHGs. There are no new applicable visibility protection obligations under Section 110(a)(2)(J) as a result of the 2008 Ozone NAAQS.

Air Quality Modeling and Reporting [§ 110(a)(2)(K)]

Section 110(a)(2)(K) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “provide for-

- (i) the performance of such air quality modeling as the Administrator may prescribe for the purpose of predicting the effect on ambient air quality of any emissions of any air pollutant for which the Administrator has established a national ambient air quality standard, and**
- (ii) the submission, upon request, of data related to such air quality modeling to the Administrator.”**

Georgia Authority: (i)

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- Photochemical grid models, such as CMAQ and CAMx, are those that are consistent with EPA’s Attainment Guidance when used to demonstrate attainment with the Ozone NAAQS. EPD currently has personnel with training and experience to conduct photochemical modeling with both CMAQ and CAMx.

Georgia Authority: (ii)

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)
- Air quality modeling data is submitted as part of Georgia’s relevant SIP submissions and through federal grant commitments.

Major Stationary Source Permitting Fees [§ 110(a)(2)(L)]

Section 110(a)(2)(L) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this chapter, a fee sufficient to cover-

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner receives a permit for such source , the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including court costs or costs associated with any enforcement action),

until such fee requirement is superseded with respect to such sources by the Administrator’s approval of a fee program under subchapter V of this chapter”.

Georgia Authority:

- Georgia Rule for Air Quality 391-3-1-.03(9) – “Permit Fees.” This rule incorporates the EPA-approved Title V fee program.

Consultation with Local Entities [§110(a)(2)(M)]

Section 110(a)(2)(M) of the CAAA requires that Georgia’s SIP for the 2008 Ozone NAAQS “provide for consultation and participation by local political subdivisions affected by the plan.”

The Georgia Environmental Protection Division is responsible for developing, implementing, and enforcing Georgia’s state air quality program.

Georgia Authority:

- The Georgia Air Quality Act: Article 1: Air Quality (O.C.G.A. Section 12-9, et seq.)