



A&WMA

# Georgia Regulatory Update Conference

## Current State of the Air in GA

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# Anticipated NAAQS Implementation Milestones

Pollutant	NAAQS Prom. Date	Governor's Rec. Due to EPA	Designations Effective (approximate date)	110(a) SIPs Due (3 yrs after NAAQS promulgation)	Attainment Dem. Due	Attainment Date	Notes & Impacts to GA
Ozone	March 2008	March 2009	July 2012	March 2011	N/A (Marginal)	Dec. 2015 (Marginal)	<ol style="list-style-type: none"> <li>1. Only Atlanta is above this standard (75 ppb). 15 counties designated nonattainment.</li> <li>2. If Atlanta does not meet attainment deadline, then bump up to Moderate w/ Dec. 2018 deadline.</li> </ol>
NO <sub>2</sub> (primary)	Jan 2010	Jan 2011	Feb 2012	Jan 2013	N/A	N/A	<ol style="list-style-type: none"> <li>1. 1 roadside NO<sub>2</sub> monitors required in Atlanta by Jan. 2013. 1 in Augusta and 1 more in Atlanta may be required in future.</li> <li>2. All areas in GA meeting this standard</li> <li>3. Permitting new NO<sub>2</sub> (combustion sources) more difficult.</li> </ol>
SO <sub>2</sub> (primary)	June 2010	June 2011	December 2012?	June 2013	June 2014?	December 2017?	<ol style="list-style-type: none"> <li>1. All areas in GA meeting this standard (Rome is close)</li> <li>2. Permitting new SO<sub>2</sub> sources more difficult</li> <li>3. Implementation for unclassifiable areas very uncertain</li> </ol>
CO	August 2011	N/A	N/A	N/A	N/A	N/A	<ol style="list-style-type: none"> <li>1. Standard unchanged</li> <li>2. One roadside monitor required in Atlanta by 2015</li> <li>3. All areas in GA meeting this standard</li> </ol>
NO <sub>2</sub> /SO <sub>2</sub> Secondary	March 2012	N/A	N/A	N/A	N/A	N/A	EPA retained the current secondary standards.
PM <sub>2.5/10</sub>	2013?	2014?	2015?	2016?	2018?	2020?	Preliminary indications are that standards for PM <sub>2.5</sub> may become more stringent. PM <sub>10</sub> expected to stay the same.
Ozone	2014?	2015?	2016? (based on 2013-15 data)?	2017?	2019??	2022?? (Moderate)	<ol style="list-style-type: none"> <li>1. More nonattainment areas possible</li> <li>2. Areas classified as "moderate" or above by EPA required to implement I/M programs.</li> <li>3. Boundary determinations are sensitive</li> </ol>

# Particulate Matter NAAQS



- May 30 – EPA sends review of particulate matter NAAQS to OMB
- May 31 - Judge in DC Circuit issues Order to EPA to
  - By June 7, 2012, sign notice of proposed rulemaking for PM NAAQS review
  - Seek expedited publication in Federal Register
  - Close comment period no later than 9 weeks after publication in Federal Register
  - Compel Asst. Administrator McCarthy to appear at hearing on June 11 for examination regarding EPA's position that final rulemaking can not be completed until August 15, 2013

# Sulfur Dioxide (SO<sub>2</sub>) NAAQS



- New 1-hour standard of 75 parts per billion set on June 2, 2010
- EPA originally proposed drastic new approach for designating areas and developing SIPs. Included doing a “substantive attainment SIP” for all areas initially designated as “unclassifiable” doing multi-source dispersion modeling statewide and submitting SIP (including any necessary permit revisions) by June 2013.
- EPA changed course in letter to states dated April 12, 2012.
- EPA held meetings with environmental, state, and industry stakeholders on May 30, 31, and June 1 to get input on possible path forward for implementing this NAAQS

DEADLINE	MILESTONE
June 2010	EPA sets new SO <sub>2</sub> standard
June 2011	State submit area designation recommendations based on available data
December 2012?	EPA make formal designations based on available data
June 2013	Infrastructure SIPs due
December 2017?	Attainment deadline for all nonattainment areas
TBD	Requirements for areas/sources designated unclassifiable? Modeling? Source oriented ambient monitors? Permit revisions? Permits as SIPs? Deadline(s)?

# 2008 Ozone NAAQS Designations and Implementation

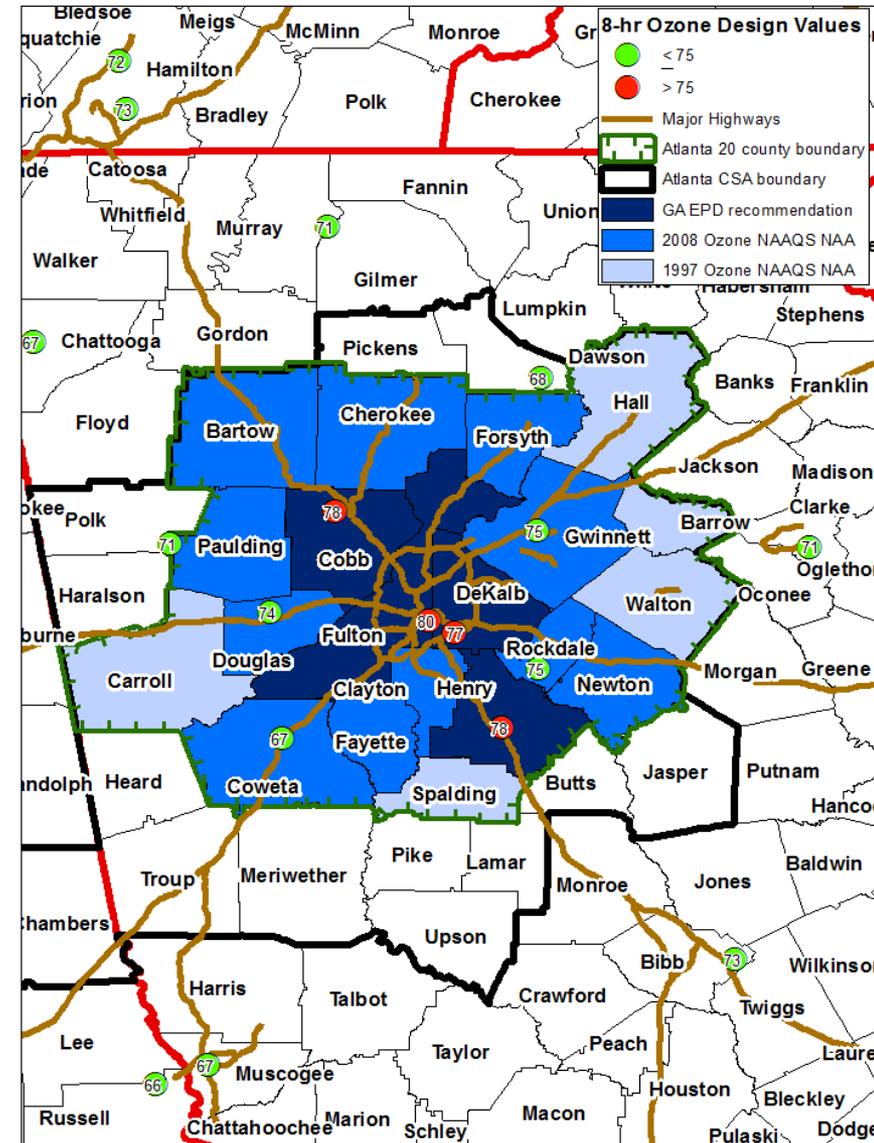


- EPA designated 45 areas (including Atlanta) nonattainment on April 30, 2012 for the 2008 ozone NAAQS. Published in FR on May 21, 2012
- EPA also finalized the Classifications Rule under the 2008 ozone NAAQS on April 30, 2012
  - Established Subpart 2 based classification thresholds and end-of-year attainment dates
  - Revokes the 1997 standard only for purposes of transportation conformity 1 year after 2008 NAAQS designations
- Still waiting on implementation rule and associated guidance

# New Ozone Nonattainment Area for 2008 NAAQS

- EPA made designation on April 30, 2012
- Atlanta area boundary is 15 counties
  - Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, and Rockdale
- Deadline is December 31, 2015
- Classified as “Marginal” area
  - No attainment plan required
- Five counties previously designated nonattainment for 1997 standard not included
  - Barrow, Carroll, Hall, Spalding, and Walton
  - Transportation Conformity (for Ozone) ends 1 year after effective date of designations
  - Nonattainment NSR ends after redesignation for 1997 standard is approved and after EPD can change rules
- Fact Sheet available

8-hr Ozone Design Values for 2011

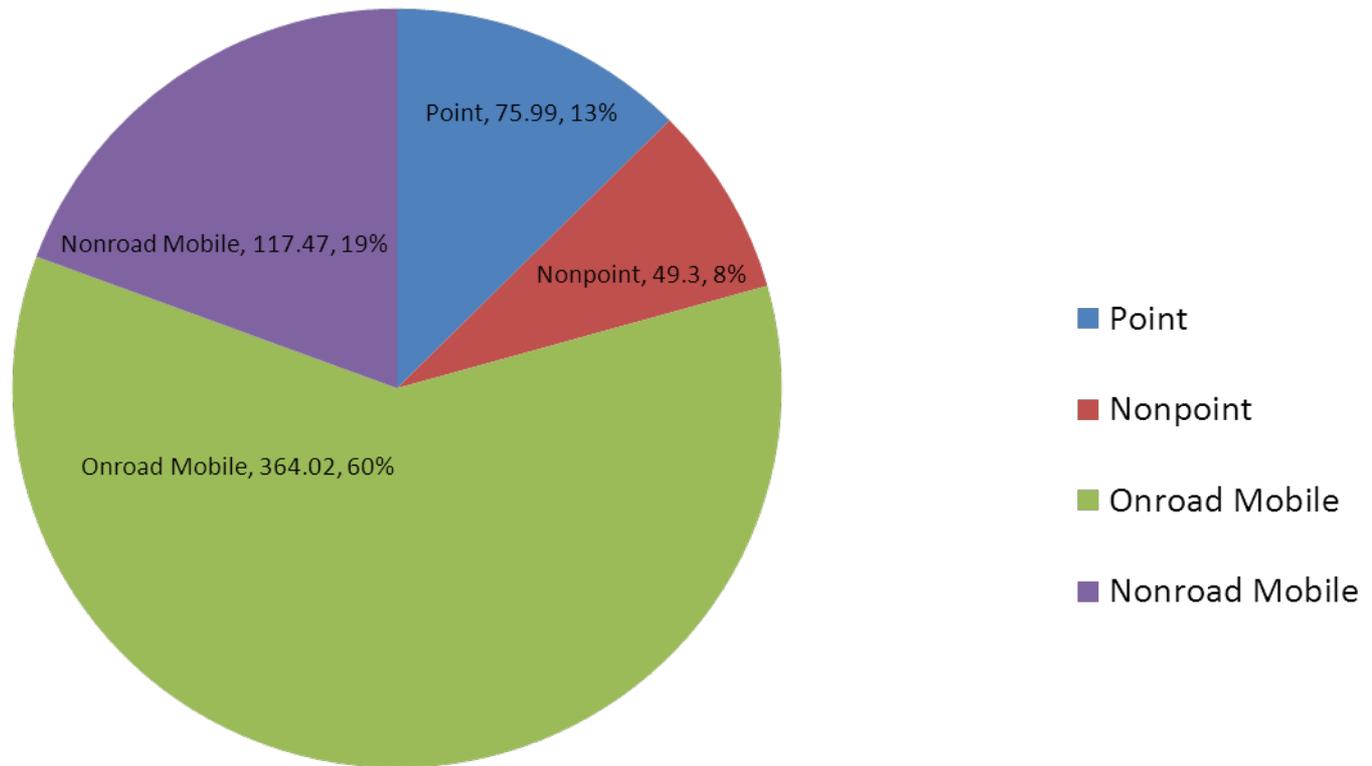


# 2008 Ozone NAAQS Litigation



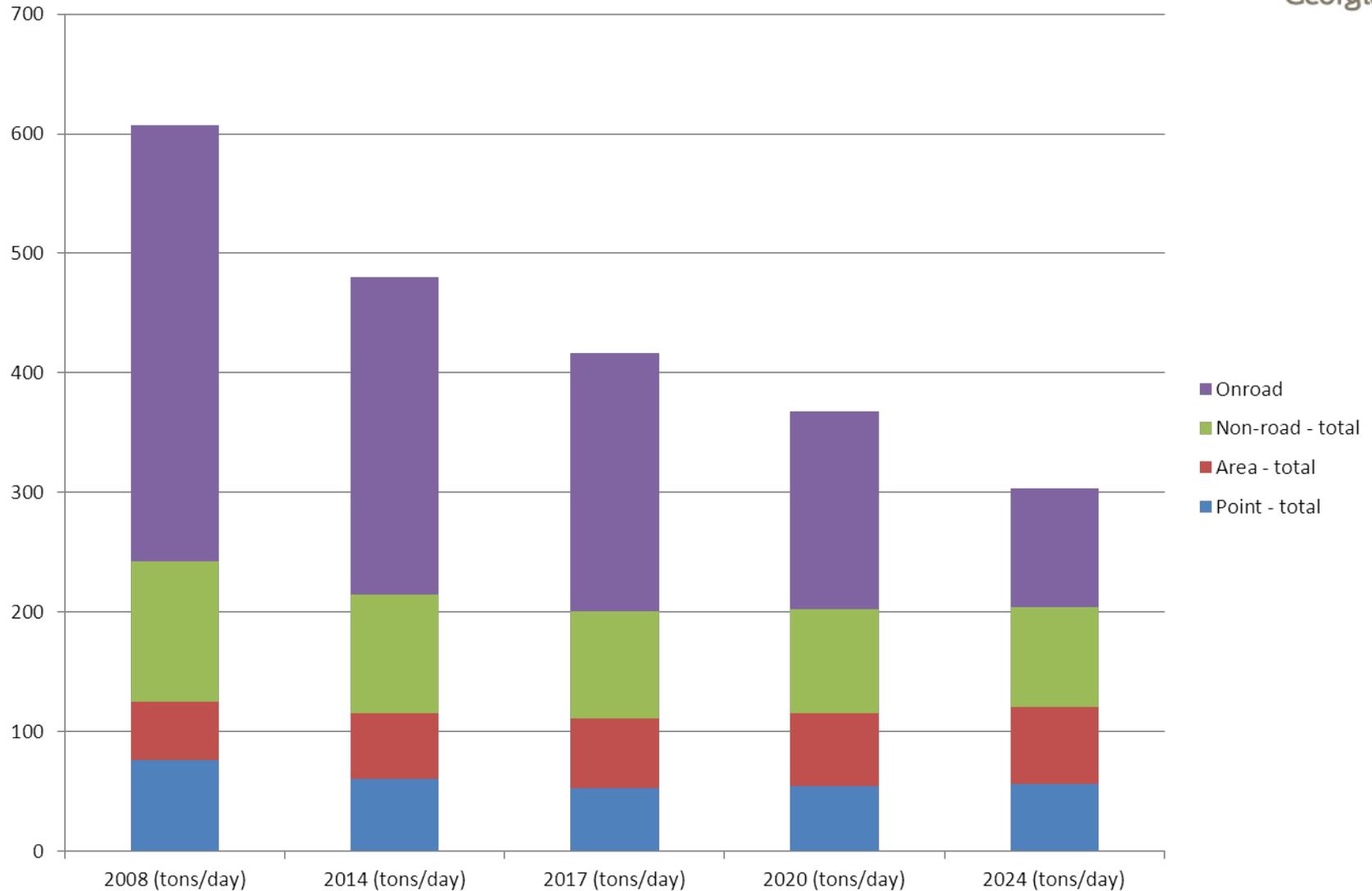
- Petition for review filed by Earthjustice and others on failure to finish the reconsideration action on the 2008 ozone NAAQS
  - Case dismissed February 17, 2012 finding EPA took no final action
  - EPA intends to complete the reconsideration as part of the 2013/2014 review
- Deadline suit filed by WildEarth Guardians and Sierra Club to compel the Agency to make findings of failure to submit ozone infrastructure SIPs for 2008 NAAQS and to take final action on the SIPs for TN and KY
  - Currently responding to Plaintiffs’ motion for summary judgment regarding a schedule for this action.
  - Georgia EPD submitted a “complete” SIP on March 6, 2012.
    - EPD may need to revise this submittal with regard to the interstate transport provisions in CAA section 110(a)(2)(D)(i).

# Atlanta Ozone NAA - Attainment-year (2008) NOx Emissions Inventory (tons, summer day)

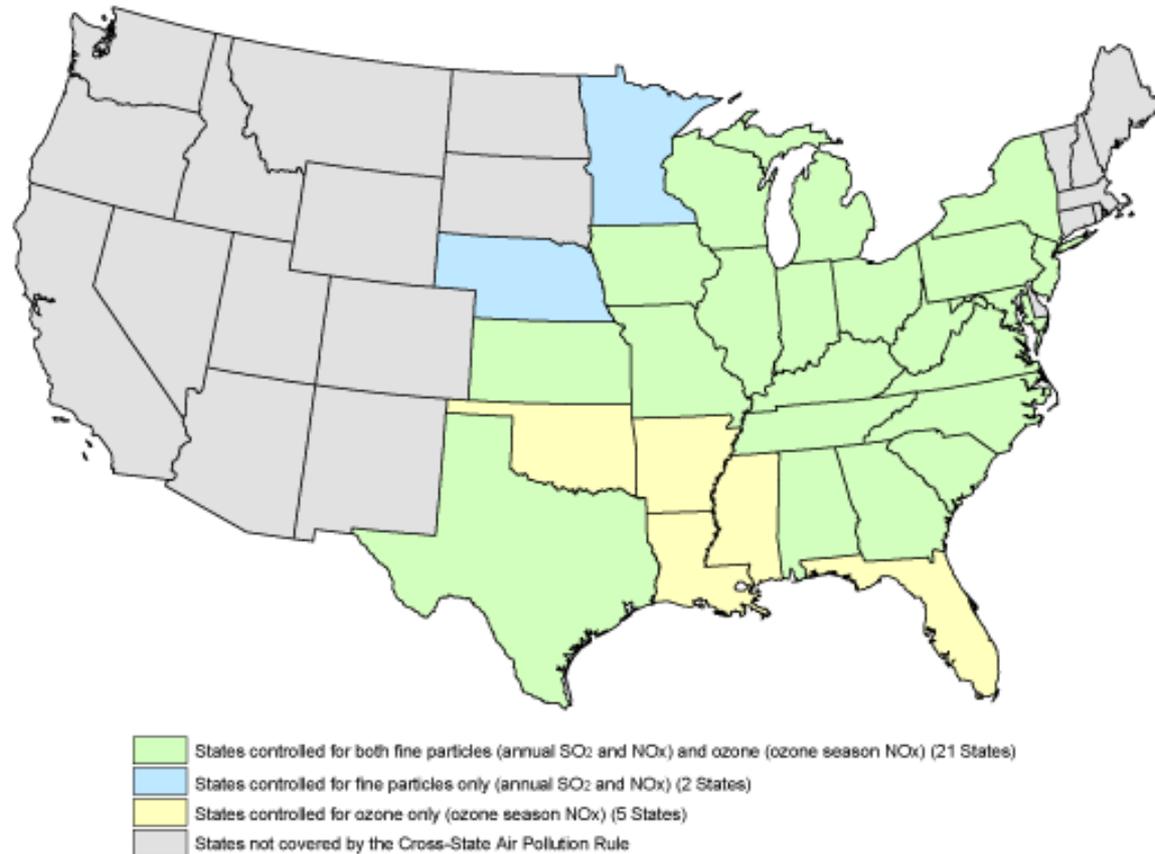


Redesignation request for Atlanta to be attainment under 1997 ozone standard submitted to EPA April 4, 2012

# Atlanta Ozone NAA - Summary of Projected NO<sub>x</sub> Emissions – Total of All Sectors (tons, summer day)



# EPA's Cross-State Air Pollution Rule



- Power Plants Only
- Replaced Clean Air Interstate Rule (CAIR) that was overturned by court decision
- Intended to mitigate interstate transport of emissions the cause ozone and PM<sub>2.5</sub> attainment problems for 1997 and 2006 standards (§110(a)(2)(D)(i))
- Imposes NO<sub>x</sub> and SO<sub>2</sub> emission caps on power plants in affected states beginning 2012
- Many entities (including Georgia) are challenging this rule

# EPA's Cross-State Air Pollution Rule



- Stayed by D.C. Circuit Court of Appeals on Dec. 30, 2011
  - “...is stayed pending the court’s resolution of these petitions for review. Petitioners have satisfied the standards required for a stay pending court review... Respondent is expected to continue administering the Clean Air Interstate Rule pending the court’s resolution of these petitions for review.”
  - Oral Arguments held on April 13, 2012
  - ? Decision estimated in June or July 2012 ?
- Georgia EPD concerns with Rule:
  - EPA went to FIP without giving States fair opportunity to do a SIP.
  - EPA did not give us ‘credit’ for MP rule. Instead, they treated the MP controls as zero cost.
  - EPA’s modeling is inadequate. EPA “projected” many areas to be in nonattainment in 2012 when they actually were in compliance in 2011, or sooner. EPA’s base case emissions for Georgia are far higher than reality.
  - EPA should not have included annual NOx limits because they do not significantly contribute to PM2.5 in Georgia.

# Sierra Club Startup, Shutdown, Malfunction (SSM) Petition (June 2011)



- Identifies 39 states (including Georgia) across all 10 Regions
- Action to grant or deny required by settlement agreement due by August 2012
  - May involve SIP call
- Separately, EPA has already taken action regarding Utah's SIP
  - 74 FR 21639, April 18, 2011, "Finding of Substantial Inadequacy of Implementation Plan; Call for Utah State Implementation Plan Revision"
  - Utah given deadline of November 2012 to submit revised SIP
  - Mandatory sanctions (offsets and highway funding restrictions) are on the table

# Georgia's Current SSM Regulatory Language



- 391-3-1-.02(2)(a)(7)
  - (i) Excess emissions resulting from startup, shutdown, malfunction of any source which occur through ordinary diligence is employed shall be allowed provided that (I) the best operational practices to minimize emissions are adhered to, and (II) all associated air pollution control equipment is operated in a manner consistent with good air pollution control practice for minimizing emissions, and (III) the duration of excess emissions is minimized.
  - (ii) Excess emissions which are caused entirely or in part by poor maintenance, poor operation, or any other equipment or process failure which may reasonably be prevented during startup, shutdown or malfunction are prohibited and are violations of this Chapter (391-3-1).

# Revision to Georgia Law Regarding Environmental Permit Review – SB 427



- Amends O.C.G.A. Section 12-2-2
  - Effective July 1, 2013
- “The director shall develop and implement procedures for timely processing of applications ..., including but not limited to **procedures for expedited review and granting of applications upon payment of a fee** in an amount established by the director to offset the cost of expediting.... Such procedures shall also provide any applicant who has applied to the division for issuance or renewal of a permit or variance with the ability to securely track the status of his or her application, with real time updates, via the division's Internet website.”
- Strikes language that would require a refund if permit review is not completed prior to deadline.

# Georgia EPD – NAAQS/PSD Permitting Projects



- PSD application guidance
- Pre-processed met data and background ambient concentrations to be made available statewide
- Statewide NAAQS and PSD Increment inventory to be made available to prospective PSD applicants