

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 Order 12866 (58 FR 51735, October 4, 1993);
- 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).

In addition, this determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing these actions and

other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This determination that the Pittsburgh Area has attained the 1997 8-hour ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Dated: May 23, 2011,

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart NN—Pennsylvania

- 2. In § 52.2037, paragraph (q) is added to read as follows:

#### § 52.2037 Control strategy plans for attainment and rate-of-progress: Ozone.

\* \* \* \* \*

(q) *Determination of attainment*—In accordance with 40 CFR 51.918, EPA has determined that Pittsburgh-Beaver Valley 8-hour ozone nonattainment area has attained the 1997 8-hour ozone standard and that certain requirements of section 172(c) of the Clean Air Act are suspended as long as the nonattainment area continues to meet the 1997 8-hour ozone NAAQS. This determination is based upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007 to 2009 monitoring

period. Complete, quality-assured air monitoring data for 2010 are consistent with continued attainment. This determination suspends the obligation of the Commonwealth of Pennsylvania to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for the Pittsburgh Area for as long as the area continues to meet the 1997 8-hour ozone NAAQS. If a violation of the 1997 8-hour ozone NAAQS is monitored in the Pittsburgh-Beaver Valley 8-hour ozone nonattainment area, this determination shall no longer apply.

[FR Doc. 2011–13275 Filed 5–27–11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2011–0084–201135; FRL–9312–5]

### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama, Georgia, and Tennessee: Chattanooga; Determination of Attaining Data for the 1997 Annual Fine Particulate Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA has determined that the Chattanooga, Tennessee-Georgia, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Chattanooga Area” or “Area”) has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). The Chattanooga Area is comprised of Hamilton County in Tennessee, Catoosa and Walker Counties in Georgia, and a portion of Jackson County in Alabama. This determination of attainment is based upon quality-assured and certified ambient air monitoring data for the 2007–2009 period showing that the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. The requirements for the Area to submit an attainment demonstration and associated reasonably available control measures (RACM), a reasonable further progress (RFP) plan, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the standard shall be

suspended so long as the Area continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS.

**DATES:** *Effective Date:* This final rule is effective on June 30, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R04-OAR-2011-0084. All documents in the docket are listed in the <http://www.regulations.gov> Web site. Although listed in the electronic docket, some information is not publicly available, *i.e.*, confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy for public inspection during normal business hours at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960.

**FOR FURTHER INFORMATION CONTACT:** Joel Huey or Sara Waterson, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303-8960. Mr. Huey may be reached by phone at (404) 562-9104 or via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov). Ms. Waterson may be reached by phone at (404) 562-9061 or via electronic mail at [waterson.sara@epa.gov](mailto:waterson.sara@epa.gov).

**SUPPLEMENTARY INFORMATION:**

- I. What action is EPA taking?
- II. What is the effect of this action?
- III. What is EPA's final action?
- IV. Statutory and Executive Order Reviews

**I. What action is EPA taking?**

EPA is determining that the Chattanooga Area (comprised Hamilton County in Tennessee, Catoosa and Walker Counties in Georgia, and a portion of Jackson County in Alabama) has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination is based upon quality assured, quality controlled and certified ambient air monitoring data that shows the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS based on the 2007-2009 data.

Other specific requirements of the determination and the rationale for EPA's action are explained in the notice of proposed rulemaking (NPR) published on March 22, 2011 (76 FR

15895). For summary purposes, a monitor in Rossville did not meet data completeness requirements for 2007 due to monitor shut-down. Data substitution was used to determine the attainment status of the Rossville site. The Georgia Environmental Protection Division (GA EPD) developed a weight-of-evidence approach for an alternative method of data substitution. EPA determined that GA EPD successfully demonstrated a strong correlation between the PM<sub>2.5</sub> data from the Rossville site and two other sites in the Area. The annual design value for 2007-2009 for the Chattanooga Area is 12.7 µg/m<sup>3</sup>, at the Siskin Drive site (47-065-4002). The comment period closed on April 21, 2011. No comments were received in response to the NPR.

**II. What is the effect of this action?**

This final action, in accordance with 40 CFR 51.1004(c), suspends the requirements for this Area to submit attainment demonstrations, associated RACM, RFP plans, contingency measures, and other planning SIPs related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS as long as this Area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS. Finalizing this action does not constitute a redesignation of the Chattanooga Area to attainment for the 1997 annual PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this action does not involve approving maintenance plans for the Area as required under section 175A of the CAA, nor does it involve a determination that the Area has met all requirements for a redesignation.

**III. What is EPA's final action?**

EPA is determining that the Chattanooga Area has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination is based upon quality assured, quality controlled, and certified ambient air monitoring data showing that this Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS during the period 2007-2009. This final action, in accordance with 40 CFR 51.1004(c), will suspend the requirements for this Area to submit attainment demonstrations, associated RACM, RFP plans, contingency measures, and other planning SIPs related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS as long as the Area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS. EPA is taking this final action because it is in accordance with the CAA and EPA policy and guidance.

**IV. Statutory and Executive Order Reviews**

This action makes a determination of attainment based on air quality, and will result in the suspension of certain federal requirements, and it will not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
  - 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). In addition, this 1997 PM<sub>2.5</sub> clean NAAQS data determination for the Chattanooga Area does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.
- The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must

submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 1, 2011. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter.

Dated: May 19, 2011.

**Gwendolyn Keyes Fleming**,  
Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

#### PART 52—[AMENDED]

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

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

#### Subpart B—Alabama

■ 2. Section 52.62 is amended by adding paragraph (b) to read as follows:

**§ 52.62 Control strategy: Sulfur oxides and particulate matter.**

\* \* \* \* \*

(b) *Determination of Attaining Data.* EPA has determined, as of May 31, 2011, the Chattanooga, Tennessee, nonattainment area has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area

continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS.

#### Subpart L—Georgia

■ 3. Section 52.578 is amended by adding paragraph (b) to read as follows:

**§ 52.578 Control Strategy: Sulfur oxides and particulate matter.**

\* \* \* \* \*

(b) *Determination of Attaining Data.* EPA has determined, as of May 31, 2011, the Chattanooga, Tennessee, nonattainment area has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS.

#### Subpart RR—Tennessee

■ 4. Section 52.2231 is amended by adding paragraph (c) to read as follows:

**§ 52.2231 Control strategy: Sulfur oxides and particulate matter.**

\* \* \* \* \*

(c) *Determination of Attaining Data.* EPA has determined, as of May 31, 2011, the Chattanooga, Tennessee, nonattainment area has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. This determination, in accordance with 40 CFR 52.1004(c), suspends the requirements for this area to submit an attainment demonstration, associated reasonably available control measures, a reasonable further progress plan, contingency measures, and other planning SIPs related to attainment of the standard for as long as this area continues to meet the 1997 annual PM<sub>2.5</sub> NAAQS.

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#### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[A-1-FRL-9310-9]

#### Prevention of Significant Deterioration (PSD) Program; Massachusetts; Announcing Delegation Agreement Between EPA and Massachusetts Department of Environmental Protection

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Announcement of delegation agreement.

**SUMMARY:** This document announces that effective April 11, 2011, EPA Region 1 has signed an agreement with the Massachusetts Department of Environmental Protection (MassDEP) delegating authority to implement and enforce the Federal Prevention of Significant Deterioration (PSD) program to the MassDEP. Therefore, effective that date, MassDEP is the implementing authority for the PSD program in Massachusetts. This document explains the consequences of this change for owners and operators of sources that have PSD permits or that will need such permits in the future.

**DATES:** *Effective Date:* EPA's PSD program delegation agreement with the MassDEP is effective on April 11, 2011.

**ADDRESSES:** The Delegation Agreement is available either electronically through <http://www.epa.gov/NE/communities/nsemissions.html> or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays.

Copies of the Delegation Agreement are also available for public inspection during normal business hours, by appointment at the Division of Air Quality Control, Department of Environmental Protection, One Winter Street, 8th Floor, Boston, MA.

**FOR FURTHER INFORMATION CONTACT:** Brendan McCahill, EPA Region 1, (617) 918-1652, or send an e-mail to [mccahill.brendan@epa.gov](mailto:mccahill.brendan@epa.gov).

#### SUPPLEMENTARY INFORMATION:

*I. Background:* On June 30, 1982 EPA delegated authority to implement the Federal PSD program in 40 CFR 52.21 to the MassDEP. On December 31, 2002, EPA published in the **Federal Register** revisions to the Federal PSD regulations (67 FR 80186). A final rule revising the Federal portions of implementation plans in 40 CFR part 52 to include the revisions to the Federal PSD regulations was published in the **Federal Register** on March 10, 2003. Both of these actions were effective on March 3, 2003.

On February 27, 2003, the MassDEP notified the Regional Administrator of EPA Region 1 that the MassDEP would not accept authority for the