

Dated: June 16, 2011.

**J.E. Ogden,**

*Captain, U.S. Coast Guard, Captain of the Port, Sector Detroit.*

[FR Doc. 2011-16246 Filed 6-28-11; 8:45 am]

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2011-0316-201139; FRL-9426-1]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama: Birmingham; 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 Birmingham, Alabama, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Birmingham Area” or “Area”) has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standard (NAAQS). The Birmingham Area is comprised of Jefferson and Shelby Counties in their entireties, and a portion of Walker County in Alabama. This determination of attainment is based upon quality-assured and certified ambient air monitoring data for the 2008–2010 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 July 29, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R04-OAR-2011-0316. 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 Birmingham Area (comprised of Jefferson and Shelby Counties in their entireties, and a portion of Walker 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 2008–2010 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 April 12, 2011 (76 FR 20291). For summary purposes, the Pelham High School monitor did not meet data completeness for the 3rd quarter of 2010. The 3-year 2008–2010 design value with data substitution is 11.8 µg/m<sup>3</sup>; therefore, the monitor passes the data substitution test. The official design value for the monitor is 10.9 µg/m<sup>3</sup>. The Area's highest 3-year average annual concentration for 2008–2010 is 13.7 µg/m<sup>3</sup> at the North Birmingham monitor. The comment period closed on May 12, 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 Birmingham 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 Birmingham 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 2008–2010. 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 Birmingham 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 29, 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: June 14, 2011.

**A. Stanley Meiburg,**  
*Acting 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 (c) to read as follows:

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

\* \* \* \* \*

(c) *Determination of attaining data.* EPA has determined, as of June 29, 2011, the Birmingham, Alabama, 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.

[FR Doc. 2011-16378 Filed 6-28-11; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 60**

**Standards of Performance for New Stationary Sources**

*CFR Correction*

In Title 40 of the Code of Federal Regulations, Part 60 (§ 60.1 to end of part 60 sections), revised as of July 1, 2010, on page 60, in § 60.4(d)(2)(viii), the table entitled “Delegation Status for New Source Performance Standards for Shasta County Air Quality Management District, Siskiyou County Air Pollution Control District, South Coast Air Quality Management District, and Tehama County Air Pollution Control District” is corrected to read as follows:

**§ 60.4 Address.**

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(d) \* \* \*  
(2) \* \* \*  
(viii) \* \* \*

**DELEGATION STATUS FOR NEW SOURCE PERFORMANCE STANDARDS FOR SHASTA COUNTY AIR QUALITY MANAGEMENT DISTRICT, SISKIYOU COUNTY AIR POLLUTION CONTROL DISTRICT, SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, AND TEHAMA COUNTY AIR POLLUTION CONTROL DISTRICT**

	Subpart	Air Pollution Control Agency			
		Shasta County AQMD	Siskiyou County APCD	South Coast AQMD	Tehama County APCD
A .....	General Provisions .....	X	X	X	.....
D .....	Fossil-Fuel Fired Steam Generators Constructed After August 17, 1971 .....	X	.....	X	.....
Da .....	Electric Utility Steam Generating Units Constructed After September 18, 1978.	.....	.....	X	.....
Db .....	Industrial-Commercial-Institutional Steam Generating Units .....	.....	.....	X	.....
Dc .....	Small Industrial Steam Generating Units .....	.....	.....	X	.....
E .....	Incinerators .....	X	.....	X	.....
Ea .....	Municipal Waste Combustors Constructed After December 20, 1989 and On or Before September 20, 1994.	.....	.....	X	.....
Eb .....	Municipal Waste Combustors Constructed After September 20, 1994 .....	.....	.....	X	.....