

conformance to which cannot be ascertained from the submission.

(2) Such notification shall not prejudice the foreign board of trade from resubmitting a revised version of the contract, which addresses the deficiencies or issues identified by the Commission.

(k) *Foreign Trading Systems.* A foreign board of trade, who is a recipient of a Foreign Trading System No-Action Letter (and is compliant with the requirements of such letter) and is requesting Commission certification of its non-narrow-based security index futures contract, may request that such contract submitted under paragraph (e) of this section be made available for trading under that Letter upon expiration of the applicable review period provided for under either paragraph (g) or (h) of this section. Absent Commission notification to the contrary, the foreign board of trade may make that contract available for trading on the Foreign Trading System upon expiration of the review period provided under paragraph (g) or (h) of this section.

(l) *Changes in Facts and Circumstances.* Any certification of a non-narrow based security index futures contract submitted under paragraph (a) or (e) of this section shall be considered to be based on the facts and representations contained in the foreign board of trade's submissions to the Commission. Accordingly, the foreign board of trade shall promptly notify the Commission of any changes in material facts or representations.

(m) *Grandfathered No-Action Letters.* Any non-narrow-based security index futures contract that is the subject of an existing no-action letter issued by the Office of General Counsel, as of the date of the adoption of Rule 30.13, shall be deemed to be in conformance with the criteria of Section 2(a)(1)(C)(ii) of the Act, provided that the contract remains fully compliant with the requirements of such letter.

\* \* \* \* \*

3. Appendix D to Part 30 is revised to read as follows:

**Appendix D to Part 30—Commission Certification with Respect to Foreign Futures and Options Contracts on a Non-Narrow-Based Security Index**

In its analysis of a request for certification by a foreign board of trade relating to a security index futures contract traded on that foreign board of trade pursuant to Regulation 30.13, the Commission will evaluate the contract to ensure that it complies with the three criteria of Section 2(a)(1)(C)(ii) of the Act.

(1) Because security index futures contracts are cash settled, the Commission also

evaluates the contract terms and conditions relating to cash settlement. In that regard, the Commission examines, among other things, whether the cash price series is reliable, acceptable, publicly available and timely; that the cash settlement price is reflective of the underlying cash market; and that the cash settlement price is not readily susceptible to manipulation. In making its determination, the Commission considers the design and maintenance of the index, the method of index calculation, the nature of the component security prices used to calculate the index, the breadth and frequency of index dissemination, and any other relevant factors.

(2) In considering the susceptibility of an index to manipulation, the Commission examines several factors, including the structure of the primary and secondary markets for the component equities, the liquidity of the component stocks, the method of index calculation, the total capitalization of stocks underlying the index, the number, weighting and capitalization of individual stocks in the index, and the existence of surveillance sharing agreements between the board of trade and the securities exchange(s) on which the underlying securities are traded.

(3) To verify that the index is not narrow-based, the Commission considers the number and weighting of the component securities and the aggregate value of average daily trading volume of the lowest weighted quartile of securities. Under the Act, a security index is narrow-based if it meets any one of the following criteria:

(i) The index is composed of fewer than 10 securities;

(ii) Any single security comprises more than 30% of the total index weight;

(iii) The five largest securities comprise more than 60% of the total index weight; or

(iv) The lowest-weighted securities that together account for 25% of the total weight of the index have an aggregate dollar value of average daily trading volume of less than US\$30 million (or US\$50 million if the index includes fewer than 15 securities).

Issued in Washington, DC, on November 30, 2010 by the Commission.

**David A. Stawick,**

*Secretary of the Commission.*

[FR Doc. 2010-31014 Filed 12-10-10; 8:45 am]

**BILLING CODE 6351-01-P**

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[EPA-R04-OAR-2010-0798-201048; FRL-9237-7]**

**Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Rome; Determination of Attaining Data for the 1997 Annual Fine Particulate Standards**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine that the Rome, Georgia, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Rome Area”) has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The Rome Area is comprised of Floyd County in its entirety. This proposed clean data determination is based upon complete, 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. If EPA finalizes this proposed clean data determination, 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 annual PM<sub>2.5</sub> NAAQS.

**DATES:** Comments must be received on or before January 12, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-0798, by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail:* [benjamin.lynorae@epa.gov](mailto:benjamin.lynorae@epa.gov).

3. *Fax:* (404) 562-9040.

4. *Mail:* EPA-R04-OAR-2010-0798, 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.

5. *Hand Delivery:* Lynorae Benjamin, Chief, 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. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

*Instructions:* Direct your comments to Docket ID No. EPA-R04-OAR-2010-0798. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://www.regulations.gov>.

[www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through <http://www.regulations.gov> or e-mail, information that you consider to be CBI or otherwise protected. The <http://www.regulations.gov> Web site is an "anonymous access" system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through <http://www.regulations.gov>, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

**Docket:** All documents in the electronic docket are listed in the <http://www.regulations.gov> index. Although listed in the index, some information is not publicly available, *i.e.*, 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 at <http://www.regulations.gov> or in hard copy 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. EPA requests that if at all possible, you contact the person 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 Federal holidays.

**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. Mr. Huey can also be reached 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 background for this action?
- III. Does the Rome area meet the annual PM<sub>2.5</sub> NAAQS?
  - A. Criteria
  - B. Rome Area Air Quality
- IV. What is the effect of this action?
- V. Statutory and Executive Order Reviews

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

EPA is proposing to determine that the Rome Area (comprised of Floyd County) has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS.<sup>1</sup> The proposal is based upon complete, quality-assured and certified ambient air monitoring data for the 2007-2009 monitoring period that show that the Area has monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS.

#### II. What is the background for this action?

On July 18, 1997 (62 FR 36852), EPA established an annual PM<sub>2.5</sub> NAAQS at 15.0 micrograms per cubic meter (µg/m<sup>3</sup>) based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. At that time, EPA also established a 24-hour NAAQS of 65 µg/m<sup>3</sup>. See 40 CFR 50.7. On January 5, 2005 (70 FR 944), EPA published its air quality designations and classifications for the 1997 PM<sub>2.5</sub> NAAQS based upon air quality monitoring data from those monitors for calendar years 2001-2003. These designations became effective on April 5, 2005. The Rome Area was designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.311.

On October 17, 2006 (71 FR 61144), EPA retained the 1997 annual PM<sub>2.5</sub> NAAQS at 15.0 µg/m<sup>3</sup> based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations, and promulgated a 24-hour NAAQS of 35 µg/m<sup>3</sup> based on a 3-year average of the 98th percentile of 24-hour concentrations. On November 13, 2009, EPA designated the Rome Area as attainment for the 2006 24-hour NAAQS (74 FR 58688). In that action, EPA also clarified the designations for the NAAQS promulgated in 1997, stating that the Rome Area was designated as

nonattainment for the annual NAAQS but attainment for the 24-hour standard. Thus, today's action does not address attainment of either the 1997 or the 2006 24-hour NAAQS.

In response to legal challenges of the annual standard promulgated in 2006, the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) remanded this NAAQS to EPA for further consideration. See *American Farm Bureau Federation and National Pork Producers Council, et al. v. EPA*, 559 F.3d 512 (DC Cir. 2009). However, given that the 1997 and 2006 annual NAAQS are essentially identical, attainment of the 1997 annual NAAQS would also indicate attainment of the remanded 2006 annual NAAQS.

On April 25, 2007 (72 FR 20664), EPA promulgated its PM<sub>2.5</sub> implementation rule, codified at 40 CFR part 51, subpart Z, in which the Agency provided guidance for State and Tribal plans to implement the 1997 PM<sub>2.5</sub> NAAQS. This rule, at 40 CFR 51.1004(c), specifies some of the regulatory consequences of attaining the NAAQS, as discussed below.

#### III. Does the Rome area meet the annual PM<sub>2.5</sub> NAAQS?

##### A. Criteria

Today's rulemaking proposes that the Rome Area is attaining the 1997 annual PM<sub>2.5</sub> NAAQS. The Rome Area is comprised of Floyd County in its entirety.

Under EPA regulations at 40 CFR 50.7, the annual primary and secondary PM<sub>2.5</sub> NAAQS are met when the annual arithmetic mean concentration, as determined in accordance with 40 CFR part 50, Appendix N, is less than or equal to 15.0 µg/m<sup>3</sup> at all relevant monitoring sites in the subject Area.

##### B. Rome Area Air Quality

EPA has reviewed the ambient air monitoring data for the Rome Area in accordance with the provisions of 40 CFR part 50, Appendix N. All data considered have been quality-assured, certified, and recorded in EPA's Air Quality System database. This review addresses air quality data collected in the 3-year period from 2007-2009.

The following table provides the annual average concentrations averaged over 2007-2009 at the site in the Rome Area with at least 75 percent complete data in each quarter of each of those 3 years. Quarters 1 and 2 of 2008 had completeness of approximately 73 percent for site 13-115-0005, which is the only particulate matter monitoring site in this Area. Data substitution, as described in 40 CFR part 50, Appendix

<sup>1</sup> "1997 annual PM<sub>2.5</sub> NAAQS" refers to both the primary and secondary standards, which are identical.

N, was used to make a complete record. In March 2009, 13-115-0005 was relocated to site 13-115-0003. The

design value below is a combined monitor record. The 3-year average annual concentration for 2007-2009 on

this table without data substitution is 13.3  $\mu\text{g}/\text{m}^3$  and 14.6  $\mu\text{g}/\text{m}^3$  with data substitution.

TABLE 1—ANNUAL AVERAGE CONCENTRATIONS IN THE ROME AREA

	County	Site No.	Annual average concentration ( $\mu\text{g}/\text{m}^3$ )
Without data substitution .....	Floyd .....	13-115-0003	13.3
With data substitution .....	Floyd .....	13-115-0003	14.6

The Rome Area is meeting the 1997 annual  $\text{PM}_{2.5}$  NAAQS both with and without data substitution. More generally, EPA believes that the Rome Area is now meeting the 1997 annual  $\text{PM}_{2.5}$  NAAQS.

Since few data are available for 2010, the 2007-2009 data represent the most recent available data for EPA to use in its assessment. On the basis of this review, EPA is proposing to determine that the Rome Area has attained the 1997 annual  $\text{PM}_{2.5}$  NAAQS.

EPA is soliciting public comments on its proposal to determine that the Rome Area has attained the 1997 annual  $\text{PM}_{2.5}$  NAAQS.

#### IV. What is the effect of this action?

If this proposed clean data determination is made final, the requirements for the Rome  $\text{PM}_{2.5}$  nonattainment Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 annual  $\text{PM}_{2.5}$  NAAQS would be suspended for so long as the Area continues to attain the  $\text{PM}_{2.5}$  NAAQS. See 40 CFR 51.1004(c). Notably, as described below, any such determination would not be equivalent to the redesignation of the Area to attainment for the annual  $\text{PM}_{2.5}$  NAAQS.

If this proposed rulemaking is finalized and EPA subsequently determines, after notice-and-comment rulemaking in the **Federal Register**, that the Area has violated the annual  $\text{PM}_{2.5}$  NAAQS, the basis for the suspension of the specific requirements would no longer exist for the Rome nonattainment Area, and the Area would thereafter have to address the applicable requirements. See 40 CFR 51.1004(c).

Finalizing this proposed action would not constitute a redesignation of the Area to attainment of the annual  $\text{PM}_{2.5}$  NAAQS under section 107(d)(3) of the Clean Air Act (CAA or Act). Further, finalizing this proposed action does not involve approving a maintenance plan for the Area as required under section

175A of the CAA, nor would it find that the Area has met all other requirements for redesignation. Even if EPA finalizes the proposed action, the designation status of the Rome Area would remain nonattainment for the 1997 annual  $\text{PM}_{2.5}$  NAAQS until such time as EPA determines that the Area meets the CAA requirements for redesignation to attainment and takes action to redesignate the Area.

This action is only a proposed clean data determination that the Rome Area has attained the 1997 annual  $\text{PM}_{2.5}$  NAAQS. Today's action does not address the 24-hour  $\text{PM}_{2.5}$  NAAQS.

If the Rome Area continues to monitor attainment of the annual  $\text{PM}_{2.5}$  NAAQS, the requirements for the Rome Area to submit an attainment demonstration and associated RACM, a RFP plan, contingency measures, and any other planning SIPs related to attainment of the annual  $\text{PM}_{2.5}$  NAAQS will remain suspended.

#### V. 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. 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. Accordingly, this proposed action merely approves 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 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 proposed rule 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.

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

Environmental protection, Air pollution control, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 30, 2010.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

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