

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Parts 52 and 81**

[EPA-R04-OAR-2013-0084; FRL-9942-61-Region 4]

**Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, GA, 1997 Annual PM<sub>2.5</sub> Nonattainment Area to Attainment****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** On August 30, 2012, the Georgia Department of Natural Resources, through the Georgia Environmental Protection Division (GA EPD), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia, fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as the "Atlanta Area" or "Area") to attainment for the 1997 Annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) and a related state implementation plan (SIP) revision containing a maintenance plan for the Atlanta Area. EPA is taking the following separate final actions related to the August 30, 2012, redesignation request and SIP revision: Determining that the Atlanta Area is continuing to attain the 1997 Annual PM<sub>2.5</sub> NAAQS; approving into Georgia's SIP the State's plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS in the Atlanta Area (maintenance plan), including the associated motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and direct PM<sub>2.5</sub> for the year 2024; and redesignating the Atlanta Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. Additionally, EPA finds the 2024 MVEBs for the Atlanta Area adequate for the purposes of transportation conformity.

**DATES:** This rule is effective February 24, 2016.

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2013-0084. All documents in the docket are listed on the [www.regulations.gov](http://www.regulations.gov) Web site. Although listed in the index, some information is not publicly available, *i.e.*, Confidential Business Information 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 [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Air Regulatory Management Section,

Air Planning and Implementation 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 a.m. to 4:30 p.m., excluding Federal holidays. **FOR FURTHER INFORMATION CONTACT:** Joel Huey, Air Planning and Implementation 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).

**I. What is the background for the actions?**

On July 18, 1997, EPA promulgated the first air quality standards for PM<sub>2.5</sub>. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (µg/m<sup>3</sup>), based on a 3-year average of annual mean PM<sub>2.5</sub> concentrations. In the same rulemaking, EPA promulgated a 24-hour standard of 65 µg/m<sup>3</sup>, based on a 3-year average of the 98th percentile of 24-hour concentrations. On October 17, 2006, EPA retained the annual average NAAQS at 15 µg/m<sup>3</sup> but revised the 24-hour NAAQS to 35 µg/m<sup>3</sup>, based again on the 3-year average of the 98th percentile of 24-hour concentrations. *See* 71 FR 61144.

On January 5, 2005, and supplemented on April 14, 2005, EPA designated the Atlanta Area as nonattainment for the 1997 PM<sub>2.5</sub> NAAQS.<sup>1</sup> *See* 70 FR 944 and 70 FR 19844, respectively. On November 13, 2009, EPA promulgated designations for the 2006 24-hour PM<sub>2.5</sub> NAAQS and designated the Atlanta Area as unclassifiable/attainment for that standard. *See* 74 FR 58688. EPA did not promulgate designations for the 2006 Annual PM<sub>2.5</sub> NAAQS because that NAAQS was essentially identical to the 1997 Annual PM<sub>2.5</sub> NAAQS.

On August 30, 2012, Georgia submitted a request to EPA for redesignation of the Atlanta Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS and a related SIP revision

<sup>1</sup>The Atlanta Area is comprised of twenty whole counties and two partial counties in Georgia: Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding, Walton, and portions of Heard and Putnam Counties.

containing a maintenance plan for the Area. In a notice of proposed rulemaking (NPR) published on January 11, 2016, EPA proposed to determine that the Atlanta Area is continuing to attain the 1997 Annual PM<sub>2.5</sub> NAAQS; to approve, as a revision to the Georgia SIP, the State's 1997 Annual PM<sub>2.5</sub> NAAQS maintenance plan, including the 2024 MVEBs for NO<sub>x</sub> and direct PM<sub>2.5</sub>, for the Atlanta Area; and to redesignate the Atlanta Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.<sup>2</sup> *See* 81 FR 1144. In that notice, EPA also notified the public of the status of the Agency's adequacy determination for the NO<sub>x</sub> and direct PM<sub>2.5</sub> MVEBs for the Area. No adverse comments were received on the January 11, 2016, proposed rulemaking. The details of Georgia's submittal and the rationale for EPA's actions are further explained in the NPR.

**II. What are the effects of these actions?**

Approval of the redesignation request changes the legal designation of the counties in the Atlanta Area, found at 40 CFR 81.311, from nonattainment to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. Approval of Georgia's associated SIP revision also incorporates a plan into the SIP for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS in the Atlanta Area as described in the NPR. The maintenance plan establishes NO<sub>x</sub> and direct PM<sub>2.5</sub> MVEBs for 2024 for the Area and includes contingency measures to remedy any future violations of the 1997 Annual PM<sub>2.5</sub> NAAQS and procedures for evaluation of potential violations. The 2024 NO<sub>x</sub> and PM<sub>2.5</sub> MVEBs are 44,430 tons per year (tpy) and 2,281 tpy, respectively, for the Area.

**III. Final Actions**

EPA is taking three separate final actions regarding Georgia's request to redesignate the Atlanta Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS and associated SIP revision. First, EPA is determining that the Atlanta Area is continuing to attain the 1997 Annual PM<sub>2.5</sub> NAAQS. Second, EPA is approving and incorporating the maintenance plan for the Atlanta Area, including the NO<sub>x</sub> and direct PM<sub>2.5</sub> MVEBs for 2024, into the Georgia SIP. Third, EPA is determining that Georgia has met the criteria under CAA section 107(d)(3)(E) for the Atlanta Area for redesignation from nonattainment to

<sup>2</sup>In section IX of EPA's January 11, 2016, NPR, EPA inadvertently referenced "NO<sub>x</sub> and VOC MVEBs" where the notice should have read "NO<sub>x</sub> and PM<sub>2.5</sub> MVEBs," consistent with numerous other such references in the notice. *See* 81 FR 1161, 2nd and 3rd columns.

attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS. On this basis, EPA is approving Georgia's redesignation request for the 1997 Annual PM<sub>2.5</sub> NAAQS for the Atlanta Area. As mentioned above, approval of the redesignation request changes the official designation of the counties in the Atlanta Area for the 1997 Annual PM<sub>2.5</sub> NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that EPA finds the newly-established NO<sub>x</sub> and direct PM<sub>2.5</sub> MVEBs for the Atlanta Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners must demonstrate conformity to the new NO<sub>x</sub> and direct PM<sub>2.5</sub> MVEBs pursuant to 40 CFR 93.104(e)(3).

In accordance with 5 U.S.C. 553(d), EPA finds that there is good cause for this action to become effective immediately upon publication. This is because a delayed effective date is unnecessary due to the nature of a redesignation to attainment, which relieves the Area from certain CAA requirements that would otherwise apply to it. The immediate effective date for this action is authorized under both 5 U.S.C. 553(d)(1), which provides that rulemaking actions may become effective less than 30 days after publication if the rule grants or recognizes an exemption or relieves a restriction, and section 553(d)(3), which allows an effective date less than 30 days after publication as otherwise provided by the agency for good cause found and published with the rule. The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Today's rule, however, does not create any new regulatory requirements such that affected parties would need time to prepare before the rule takes effect. Rather, today's rule relieves the State of various requirements for the Atlanta Area. For these reasons, EPA finds good cause under 5 U.S.C. 553(d)(3) for this action to become effective on the date of publication of this action.

#### IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to

attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, 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 action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For these reasons, these actions:

- Are not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are 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.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are 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,
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 April 25, 2016. 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

##### 40 CFR Part 52

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

##### 40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: February 8, 2016.

**Heather McTeer Toney.**

*Regional Administrator, Region 4.*

40 CFR parts 52 and 81 are amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF PLANS

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

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

##### Subpart L—Georgia

- 2. Section 52.570(e) is amended by adding an entry for "1997 Annual PM<sub>2.5</sub> Maintenance Plan for the Atlanta Area" to the end of the table to read as follows:

§ 52.570 Identification of plan. (e) \* \* \*

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
1997 Annual PM <sub>2.5</sub> Maintenance Plan for the Atlanta Area.	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in their entireties and portions of Heard and Putnam Counties.	8/30/12	2/24/16 [Insert citation of publication].	

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.311, the table entitled “Georgia—1997 Annual PM<sub>2.5</sub> NAAQS” is amended under “Atlanta, GA:” by

revising the entries for the counties to read as follows:

§ 81.311 Georgia \* \* \* \* \*

**GEORGIA—1997 ANNUAL PM<sub>2.5</sub> NAAQS**  
[Primary and secondary]

Designated area	Designation <sup>a</sup>		Classification	
	Date <sup>1</sup>	Type	Date <sup>2</sup>	Type
Atlanta, GA:				
Barrow County .....	2/24/16	Attainment		
Bartow County .....	2/24/16	Attainment		
Carroll County .....	2/24/16	Attainment		
Cherokee County .....	2/24/16	Attainment		
Clayton County .....	2/24/16	Attainment		
Cobb County .....	2/24/16	Attainment		
Coweta County .....	2/24/16	Attainment		
DeKalb County .....	2/24/16	Attainment		
Douglas County .....	2/24/16	Attainment		
Fayette County .....	2/24/16	Attainment		
Forsyth County .....	2/24/16	Attainment		
Fulton County .....	2/24/16	Attainment		
Gwinnett County .....	2/24/16	Attainment		
Hall County .....	2/24/16	Attainment		
Heard County (part) .....	2/24/16	Attainment		
The northeast portion that extends north of 33 degrees 24 minutes (north) to the Carroll County border and east of 85 degrees 3 minutes (west) to the Coweta County border.				
Henry County .....	2/24/16	Attainment		
Newton County .....	2/24/16	Attainment		
Paulding County .....	2/24/16	Attainment		
Putnam County (part) .....	2/24/16	Attainment		
The area described by U.S. Census 2000 block group identifier 13–237–9603–1.				
Rockdale County .....	2/24/16	Attainment		
Spalding County .....	2/24/16	Attainment		
Walton County .....	2/24/16	Attainment		

<sup>a</sup> Includes Indian Country located in each county or area, except as otherwise specified.  
<sup>1</sup> This date is 90 days after January 5, 2005, unless otherwise noted.  
<sup>2</sup> This date is July 2, 2014, unless otherwise noted.