

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 52**

[EPA-R04-OAR-2011-0408-201146; FRL-9459-2]

**Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Alabama, Tennessee, and Georgia: Chattanooga and Macon; Determination of Attainment by Applicable Attainment Date for the 1997 Annual Fine Particulate Standards****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Final rule.

**SUMMARY:** EPA is determining that the Chattanooga, Alabama-Tennessee-Georgia, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Chattanooga Area”) and the Macon, Georgia PM<sub>2.5</sub> nonattainment area (hereafter referred to as “the Macon Area”) have attained the 1997 annual PM<sub>2.5</sub> national ambient air quality standards (NAAQS) by the applicable attainment date of April 5, 2010. The determinations of attainment were previously finalized by EPA on May 31, 2011, for the Chattanooga Area and June 2, 2011, for the Macon Area, and were based on quality-assured and certified monitoring data for the 2007–2009 monitoring period. The Chattanooga Area is comprised of Hamilton County in Tennessee, Catoosa and Walker Counties in Georgia, and a portion of Jackson County in Alabama. The Macon Area is comprised of Bibb County in its entirety and a portion of Monroe County in Georgia. EPA is determining to find that both of the above-identified areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date. EPA is finalizing these actions because they are consistent with the Clean Air Act (CAA) and its implementing regulations.

**DATES:** *Effective Date:* This final rule is effective on October 11, 2011.

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R04-OAR-2011-0408. 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’s telephone number is (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 actions is EPA taking?
- II. What is the effect of these actions?
- III. What are EPA’s final actions?
- IV. Statutory and Executive Order Reviews

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

Based on EPA’s review of the quality-assured and certified monitoring data for 2007–2009, and in accordance with section 179(c)(1) of the CAA and EPA’s regulations, EPA is determining that the Chattanooga and Macon Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010.

On May 31, 2011, for the Chattanooga Area and June 2, 2011, for the Macon Area, EPA published two final rulemakings to make determinations of attainment to suspend the requirements for the Chattanooga and Macon Areas to submit attainment demonstrations and associated reasonably available control measures (RACM), reasonable further progress (RFP) plans, contingency measures, and other planning State Implementation Plan (SIP) revisions related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS so long as the Areas continue to attain the 1997 annual PM<sub>2.5</sub> NAAQS. See 76 FR 31239 for the final rulemaking related to the Chattanooga Area; see 76 FR 31858 for the final rulemaking related to the Macon Area. Those final rulemakings also include useful background information on the PM<sub>2.5</sub> NAAQS relevant to the Chattanooga and Macon Areas. Today’s actions make determinations that the Chattanooga and Macon Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. Today’s actions are simply

focused on the date by which the areas had attaining data.

Other specific requirements of the determinations and the rationale for EPA’s actions are explained in the notice of proposed rulemaking (NPR) published on June 2, 2011 (76 FR 31900). The comment period closed on July 5, 2011. No comments were received in response to the NPR.

**II. What is the effect of these actions?**

Today’s actions are determinations that the Chattanooga and Macon Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010, consistent with CAA section 179(c)(1). Finalizing these actions does not constitute a redesignation of either the Chattanooga or Macon Areas to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the CAA. Further, finalizing these actions does not involve approving maintenance plans for either the Chattanooga or Macon Areas as required under section 175A of the CAA, nor would it find that the Chattanooga or Macon Areas have met all other requirements for redesignation. The designation status of the Chattanooga and Macon Areas remains nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS until such time as EPA determines that the individual area meets the CAA requirements for redesignation to attainment and takes action to redesignate the individual area.

**III. What are EPA’s final actions?**

EPA is determining, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period, that the Chattanooga and the Macon Areas attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. These actions are being taken pursuant to section 179(c)(1) of the CAA and are consistent with the CAA and its implementing regulations.

**IV. Statutory and Executive Order Reviews**

These actions make determinations of attainment based on air quality, and would not impose additional requirements beyond those imposed by state law. For that reason, these actions:

- Are 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);
- 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 a 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
- Do 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, these 1997 PM<sub>2.5</sub> determinations of attainment by applicable attainment date for the Chattanooga and Macon Areas do 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 November 7, 2011. Filing a petition for reconsideration by the Administrator of these final rules do not affect the finality of these actions 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. These actions may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

For purposes of judicial review, the two determinations approved by today’s action are severable from one another.

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

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

Dated: August 18, 2011.

**Beverly H. Banister,**

*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 52.64 is added to read as follows:

##### § 52.64 Determination of attainment.

Based upon EPA’s review of the air quality data for the 3-year period 2007–2009, EPA determined that the Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment area attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the Area’s air quality as of the attainment date, whether the Area attained the standard. EPA also determined that the Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

#### Subpart L—Georgia

- 3. Section 52.577 is added to read as follows:

##### § 52.577 Determination of attainment.

(a) Based upon EPA’s review of the air quality data for the 3-year period 2007–2009, EPA determined that the

Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment area attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the Area’s air quality as of the attainment date, whether the Area attained the standard. EPA also determined that the Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment area is not subject to the consequences of failing to attain pursuant to section 179(d).

(b) Based upon EPA’s review of the air quality data for the 3-year period 2007–2009, EPA determined that the Macon, Georgia PM<sub>2.5</sub> nonattainment Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the Area’s air quality as of the attainment date, whether the Area attained the standard. EPA also determined that the Macon, Georgia PM<sub>2.5</sub> nonattainment Area is not subject to the consequences of failing to attain pursuant to section 179(d).

#### Subpart RR—Tennessee

- 4. Section 52.2232 is added to read as follows:

##### § 52.2232 Determination of attainment.

Based upon EPA’s review of the air quality data for the 3-year period 2007–2009, EPA determined that the Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by the applicable attainment date of April 5, 2010. Therefore, EPA has met the requirement pursuant to CAA section 179(c) to determine, based on the Area’s air quality as of the attainment date, whether the Area attained the standard. EPA also determined that the Chattanooga, Alabama-Georgia-Tennessee PM<sub>2.5</sub> nonattainment Area is not subject to the consequences of failing to attain pursuant to section 179(d).

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