

All comments will be available for public inspection upon request at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available on the USPTO Web site at <http://www.uspto.gov>. All comments submitted through the Federal eRulemaking Portal will be made publicly available on that Web site. Because comments will be made available for public inspection, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:** Nicolas Oettinger, Office of the General Counsel, by telephone at 571-272-7832, by e-mail at [nicolas.oettinger@uspto.gov](mailto:nicolas.oettinger@uspto.gov), or by mail addressed to Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Nicolas Oettinger.

**SUPPLEMENTARY INFORMATION:**

On January 18, 2011, President Obama issued Executive Order 13563, Improving Regulation and Regulatory Review. In the Executive Order, the President stated:

Our regulatory system must protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation. It must be based on the best available science. It must allow for public participation and an open exchange of ideas. It must promote predictability and reduce uncertainty. It must identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends. It must take into account benefits and costs, both quantitative and qualitative. It must ensure that regulations are accessible, consistent, written in plain language, and easy to understand. It must measure, and seek to improve, the actual results of regulatory requirements.

E.O. 13563, 76 FR 3281, at Section 1(a). The Executive Order directed agencies to develop and submit, within 120 days, preliminary plans for reviewing their existing “significant regulations” (as that term is defined in Executive Order 12866) and determining whether and how such regulations could be made more effective and less burdensome. The Executive Order also directed agencies to provide the public with an opportunity to participate in the regulatory process and to provide comments on the development of such a plan, and further directed that timely on-line access to the rule making docket be provided so that the public had the opportunity to comment on all pertinent parts of the rule making docket.

As the Office begins work on a preliminary plan for reviewing its existing significant regulations, it is requesting that the public participate in that process. The Office is asking the public to provide comments on how such a plan should be developed, what such a plan should include, which significant regulations should be reviewed, and how those regulations might be improved. The Office recognizes that the intellectual property community and the public in general will have useful information and opinions about how USPTO regulations can be reviewed and improved in order to best achieve its mission of promoting innovation and competition. This request for comments will help the Office gather information that will inform its decisions about developing a plan for reviewing the Office’s existing significant regulations.

The Office welcomes any comments that you think might be helpful in developing a plan for reviewing significant USPTO regulations. Some questions that may be helpful to consider in preparing such comments include:

1. What is the best way for the Office to identify which of its significant regulations should be modified, streamlined, expanded, or repealed? What process should the Office use to select rules for review and how should it prioritize such review?
2. What can the Office, relative to its regulation process, do to reduce burdens and maintain flexibility for the public while promoting its missions?
3. How can the Office ensure that its significant regulations promote innovation and competition in the most effective and least burdensome way? How can these Office regulations be improved to accomplish this?
4. Are there USPTO regulations that conflict with, or are duplicative of, regulations from other agencies? If so, please identify any such rules and provide any suggestions you might have for how this conflict or duplication can be resolved in order to help the Office achieve its mission more effectively.
5. How can the Office best encourage public participation in its rule making process? How can the Office best provide a forum for the open exchange of ideas among the Office, the intellectual property community, and the public in general?

These questions are not intended to be an exhaustive list of topics for public comment. While the Office welcomes and values all comments from the public in response to this request, these comments do not bind the Office to any

further actions related to the comments, and the Office may not respond to every comment that is submitted.

Dated: March 15, 2011.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2011-6660 Filed 3-21-11; 8:45 am]

**BILLING CODE 3510-16-P**

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## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R04-OAR-2011-0055-201107; FRL-9285-1]

#### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Macon; 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 Macon, Georgia, fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as “the Macon Area” or “the Area”) has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The Macon Area is comprised of Bibb County in its entirety and a portion of Monroe County. This proposed determination of attainment 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 determination of attainment, 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 April 21, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-0055, 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-2011-0055, 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-2011-0055. 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>, 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 in <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 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 background for this action?
- III. Does the Macon area meet the annual PM<sub>2.5</sub> NAAQS?
  - A. Criteria
  - B. Macon 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 Macon Area (comprised of Bibb County in its entirety and a portion of Monroe 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 shows 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 Macon 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 Macon 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 Macon Area was designated as nonattainment for the annual NAAQS but attainment for the 24-hour NAAQS. 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 NAAQS 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.

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

**III. Does the Macon area meet the annual PM<sub>2.5</sub> NAAQS?**

**A. Criteria**

Today’s rulemaking assesses whether the Macon Area is attaining the 1997 annual PM<sub>2.5</sub> NAAQS. The Macon Area is comprised of Bibb County in its entirety and a portion of Monroe County.

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. Macon Area Air Quality**

EPA has reviewed the ambient air monitoring data for the Macon 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 (AQS) 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 sites in the Macon Area with at least 75 percent complete data in each quarter of each of those 3 years. The Macon-Allied Chemical monitor (13–021–0007) did not meet 75 percent completeness for the first quarter of 2008 and the Macon SE monitor (13–021–0012) did not meet 75 percent completeness for the second and fourth quarters of 2008 and third quarter of 2009. The 3-year average annual concentrations for 2007–2009 on this table without data substitution are

13.7 µg/m<sup>3</sup> for Macon Allied and 12.0 µg/m<sup>3</sup> for Macon SE. The 3-year average annual concentrations for 2007–2009 on this table with data substitution are 14.9 µg/m<sup>3</sup> for Macon Allied and 13.3 µg/m<sup>3</sup> for Macon SE. The data substitution procedures were separately applied to each site. The complete procedure for the maximum value data substitution test can be found in the EPA guidance document “Guideline on Data Handling Conventions for the PM NAAQS,” dated April 1999.

Additionally, EPA and Georgia Environmental Protection Division believe an error occurred in the handling of the filter collected on February 4, 2009, and thus the data from the filter’s analysis are invalid. A discussion on the sample invalidation can be found in the technical support document for this proposed rulemaking.

**TABLE 1—ANNUAL AVERAGE CONCENTRATIONS IN THE MACON AREA**

Site name	Site number	Annual average concentration (µg/m <sup>3</sup> ) without data substitution	Annual average concentration (µg/m <sup>3</sup> ) with data substitution
Macon Allied .....	13–021–0007	<sup>2</sup> 13.7	<sup>3</sup> 14.9
Macon SE .....	13–021–0012	12.0	<sup>4</sup> 13.3

The Macon Area is meeting the 1997 annual PM<sub>2.5</sub> NAAQS both with and without data substitution. The official design value is the value without data substitution. EPA is now proposing to make the determination that the Macon Area is now meeting the 1997 annual PM<sub>2.5</sub> NAAQS.

Determinations of attainment are based on the most recent three years of complete, quality-assured data. EPA also considers additional quality-assured data to the extent those data are available. In accordance with Appendix N and standard EPA practice, EPA’s review of the data was centered on the three most recent years of complete data, 2007–2009. Appendix N does not explicitly provide for comparisons to the NAAQS involving partial years of data, because various seasons of the year reflect various influences on PM<sub>2.5</sub> concentrations, and a partial year’s data may not be representative of values that would be determined from a full year’s data set. Nevertheless, EPA examined data that are available to date. For the

Area, the available data for 2010 in the AQS database are below the NAAQS for both sites; however, not all of the 2010 data have been reported and they are not yet certified. Based on 2010 data in AQS available through the third quarter of 2010, the Macon Allied site has a preliminary 2008–2010 design value of 13.0 µg/m<sup>3</sup> and the Macon SE site has a preliminary 2008–2010 design value of 11.6 µg/m<sup>3</sup>, and thus are consistent with continued attainment. The complete 2008–2010 design values are expected to be below 15.0 µg/m<sup>3</sup>. On the basis of this review, EPA is proposing to determine that the Macon Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS and is soliciting public comments on its proposed determination.

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

If this proposed determination of attainment is made final, the requirements for the Macon Area to submit an attainment demonstration and associated RACM, an RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 annual PM<sub>2.5</sub> NAAQS would be suspended for so long as the Area continues to attain the PM<sub>2.5</sub> 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 PM<sub>2.5</sub> 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 PM<sub>2.5</sub> NAAQS, the basis for the suspension of the specific requirements would no longer exist for the Macon 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 PM<sub>2.5</sub> NAAQS under section 107(d)(3) of the Clean Air Act (CAA). Further, finalizing this proposed action does not involve approving maintenance plans 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 Macon Area would remain nonattainment for the 1997 annual PM<sub>2.5</sub> 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 determination of attainment that the Macon Area has attained the 1997

<sup>2</sup> Macon Allied design value considers co-located data where primary data are not available.

<sup>3</sup> Macon Allied design value considers data substitution of 58.1 µg/m<sup>3</sup> for all missing data in 1st quarter of 2008.

<sup>4</sup> Macon SE Annual Mean considers data substitution for second and fourth quarters of 2008 and 3rd quarter of 2009.

annual PM<sub>2.5</sub> NAAQS. Today's action does not address the 24-hour PM<sub>2.5</sub> NAAQS.

If the Macon Area continues to monitor attainment of the annual PM<sub>2.5</sub> NAAQS, the requirements for the Macon 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 PM<sub>2.5</sub> NAAQS will remain suspended.

#### V. Statutory and Executive Order Reviews

This action proposes to make a determination of attainment based on air quality, and would, if finalized, result in the suspension of certain Federal requirements, and it would 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 1997 annual average PM<sub>2.5</sub> NAAQS data determination for the Macon 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.

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

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

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

Dated: March 10, 2011.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2011-6664 Filed 3-21-11; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[EPA-R04-OAR-2011-0084-201112; FRL-9284-8]

#### 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 Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to determine 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 Standards (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 proposed determination of attainment 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 determination of attainment, 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 April 21, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2011-0084, 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-2011-0084, 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-2011-0084. 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>, 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> website 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