



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R04-OAR-2010-0021(a); FRL-9662-1]

**Approval and Promulgation of Implementation Plans; Georgia;
Atlanta; Ozone 2002 Base Year Emissions Inventory**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve the ozone 2002 base year emissions inventory, portion of the state implementation plan (SIP) revision submitted by the State of Georgia on October 21, 2009. The emissions inventory is part of the Atlanta, Georgia (hereafter referred to as “the Atlanta Area” or “Area”), ozone attainment demonstration that was submitted for the 1997 8-hour ozone national ambient air quality standards (NAAQS). The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in their entirety. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective [Insert date 60 days after publication in the Federal Register] without further notice, unless EPA receives adverse comment by [Insert date 30 days after publication in the Federal Register]. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the Federal Register and inform the public that the

rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R04-OAR-2010-0021, by one of the following methods:

1. www.regulations.gov: Follow the on-line instructions for submitting comments.
 2. E-mail: benjamin.lynorae@epa.gov.
 3. Fax: (404) 562-9019.
 4. Mail: "EPA-R04-OAR-2010-0021," 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 or Courier: Lynorae Benjamin, 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's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

Instructions: Direct your comments to Docket ID No. EPA-R04-OAR-2010-0021. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at 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

www.regulations.gov or e-mail, information that you consider to be CBI or otherwise protected. The 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 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 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 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: 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. The telephone number is (404) 562-9061. Ms. Waterson can be reached via electronic mail at waterson.sara@epa.gov.

SUPPLEMENTARY INFORMATION:

- I. Background**
- II. Analysis of State's Submittal**
- III. Final Action**
- IV. Statutory and Executive Order Reviews**

I. Background

On July 18, 1997, EPA promulgated a revised 8-hour ozone NAAQS of 0.08 parts per million (ppm). Under EPA's regulations at 40 CFR part 50, the 1997 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered) (69 FR 23857, April 30, 2004).¹ Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. The ambient air quality

¹ EPA issued a revised 8-hour ozone NAAQS in 2008. The current proposed action, however, is being taken with regard to the 1997 8-hour ozone NAAQS. Requirements for the Atlanta Area for the 2010 8-hour ozone NAAQS will be addressed in the future.

monitoring data completeness requirement is met when the average percent of days with valid ambient monitoring data is greater than 90 percent, and no single year has less than 75 percent data completeness as determined in 40 CFR part 50, Appendix I.

Upon promulgation of a new or revised NAAQS, the CAA requires EPA to designate as nonattainment any area that is violating the NAAQS, based on the three most recent years of ambient air quality data at the conclusion of the designation process. The Atlanta Area was designated nonattainment for the 1997 8-hour ozone NAAQS on April 30, 2004 (effective June 15, 2004) using 2001-2003 ambient air quality data (69 FR 23857, April 30, 2004). At the time of designation the Atlanta Area was classified as a marginal nonattainment area for the 1997 8-hour ozone NAAQS. In the April 30, 2004, Phase I Ozone Implementation Rule, EPA established ozone nonattainment area attainment dates based on Table 1 of Section 181(a) of the CAA. This established an attainment date 3 years after the June 15, 2004, effective date for areas classified as marginal areas for the 1997 8-hour ozone nonattainment designations. Therefore, the Atlanta Area's original attainment date was June 15, 2007. *See* 69 FR 23951, April 30, 2004.

The Atlanta Area failed to attain the 1997 8-hour ozone NAAQS by June 15, 2007 (the applicable attainment date for marginal nonattainment areas), and did not qualify for any extension of the attainment date as a marginal area. As a consequence of this failure, on March 6, 2008, EPA published a rulemaking determining that the Atlanta Area failed to attain and, consistent with section 181(b)(2) of the CAA, the Atlanta Area was reclassified by operation of law to the next highest classification, or "moderate" nonattainment. *See* 73 FR 12013, March 6, 2008. When an area is reclassified, a new attainment date for the reclassified area must be

established. Section 181 of the CAA explains that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but no later than six years after designation, or June 15, 2010. EPA further required that Georgia submit the SIP revisions meeting the new moderate area requirements as expeditiously as practicable, but no later than December 31, 2008.

Under certain circumstances, the CAA allows for extensions of the attainment dates prescribed at the time of the original nonattainment designation. In accordance with CAA section 181(a)(5), EPA may grant up to 2 one-year extensions of the attainment date under specified conditions. On November 30, 2010, EPA determined that Georgia met the CAA requirements to obtain a one-year extension of the attainment date for the 1997 8-hour ozone NAAQS for the Atlanta Area. *See* 75 FR 73969. As a result, EPA extended the Atlanta Area's attainment date from June 15, 2010, to June 15, 2011, for the 1997 8-hour ozone NAAQS.

On October 21, 2009, Georgia submitted an attainment demonstration and associated reasonably available control measures (RACM), reasonable available control technology (RACT), contingency measures, a 2002 base year emissions inventory and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS in the Atlanta Area (hereafter referred to as "the Atlanta Area's attainment demonstration submission.") The reasonable further progress (RFP) plan was also submitted on October 21, 2009, under separate cover letter. Subsequently, on June 23, 2011 (76 FR 36873), EPA determined that the Atlanta Area attained the 1997 8-hour ozone NAAQS. The determination of attaining data was based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 period, showing that the Area had monitored attainment of the 1997 8-hour ozone NAAQS. The requirements for the

Area to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and other planning SIP revisions related to attainment of the 1997 8-hour ozone NAAQS were suspended as a result of the determination of attainment, so long as the Area continues to attain the 1997 8-hour ozone NAAQS. *See* 40 CFR 52.582(d).

On February 16, 2012, Georgia withdrew the Atlanta Area's attainment demonstration (except RACT and the emissions inventory) as allowed by 40 CFR 51.918; however, such withdrawal does not suspend the emissions inventory requirement found in CAA section 182(a)(1). Section 182(a)(1) of the CAA requires submission and approval of a comprehensive, accurate, and current inventory of actual emissions. EPA is now approving the emissions inventory portion of the Atlanta Area's attainment demonstration SIP revision submitted by the State of Georgia on October 21, 2009, as required by section 182(a)(1). EPA will take action on the RACT portion of Georgia's October 21, 2009, SIP revision, and on the RFP SIP revision in a separate action.

II. Analysis of State's Submittal

As discussed above, section 182(a)(1) of the CAA requires areas to submit a comprehensive, accurate and current inventory of actual emissions from all sources of the relevant pollutant or pollutants in such area. Georgia selected 2002 as base year for the emissions inventory per 40 CFR 51.915. Emissions contained in the Atlanta attainment plan cover the general source categories of stationary point and area sources, non-road and on-road mobile sources, and biogenic sources. A detailed discussion of the emissions inventory development can be found in Appendix K of the Georgia submittal; a summary is provided

below. Table 3-4 in the October 29, 2009, submittal lists electric generating unit (EGU) point sources in and near the Atlanta nonattainment area and the average daily ozone season nitrogen oxides (NOx) emissions. Table 3-5 in the October 29, 2009, submittal lists non-EGU point sources in the Atlanta nonattainment counties with NOx emissions larger than 100 tons/year.

The tables below provide a summary of the annual 2002 emissions of NOx and volatile organic compounds (VOC).

Table 1. 2002 Point and Area Sources Annual Emissions for the Atlanta Area (tons per year)

County	Point		Area		On-Road		Non-Road	
	NOx	VOC	NOx	VOC	NOx	VOC	NOx	VOC
Barrow	0.06	0.02	0.45	3.74	5.69	4.30	1.41	0.75
Bartow	69.92	1.31	1.30	8.05	15.76	10.56	3.89	2.54
Carroll	0.06	0.85	1.30	9.54	10.91	8.10	2.39	1.87
Cherokee	0.20	0.13	0.72	6.30	10.25	5.17	3.59	5.30
Clayton	0.30	1.29	1.08	9.53	19.96	9.90	19.21	3.83
Cobb	12.62	0.89	4.12	28.18	50.66	26.84	12.67	18.82
Coweta	23.08	0.62	0.89	3.94	7.86	3.75	3.30	2.49
DeKalb	0.49	4.66	4.06	44.67	63.33	31.21	9.98	16.76
Douglas	0.06	0.08	0.48	3.93	9.70	4.54	1.87	1.26
Fayette	-	-	0.77	4.69	5.20	2.84	2.18	1.91
Forsyth	0.12	0.48	0.84	4.82	8.41	4.28	3.11	5.36
Fulton	5.46	5.42	6.59	49.47	91.42	46.10	20.02	17.19
Gwinnett	0.09	0.13	4.55	32.02	49.26	25.20	15.36	23.85
Hall	0.29	0.69	2.79	13.69	15.12	11.59	3.80	6.47
Henry	6.44	1.34	0.60	5.26	13.40	6.40	4.68	2.75
Newton	0.00	2.01	0.79	5.21	6.72	4.95	1.95	1.29
Paulding	-	-	0.26	3.51	4.76	2.57	2.66	1.43
Rockdale	0.08	0.44	1.00	4.28	5.70	2.88	1.59	1.42
Spalding	0.00	0.18	0.79	5.95	5.25	4.14	0.87	1.21
Walton	0.01	0.32	0.47	4.92	5.72	4.66	1.70	1.53

The 182(a)(1) emissions inventory is developed by the incorporation of data from multiple sources. States were required to develop and submit to EPA a triennial emissions inventory according to the Consolidated Emissions Reporting Rule for all source categories (i.e., point, area, non-road mobile and on-road mobile). This inventory often forms the basis of data that are updated with more recent information and data that also is used in their attainment demonstration modeling inventory. Such was the case in the development of the 2002 emissions inventory that was submitted in the State's attainment demonstration SIP for this Area. The 2002 emissions inventory was based on data developed with the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) contractors and submitted by the States to the 2002 National Emissions Inventory. Several iterations of the 2002 inventories were developed for the different emissions source categories resulting from revisions and updates to the data. This resulted in the use of version G2 of the updated data to represent the point sources' emissions. Data from many databases, studies and models (e.g., Vehicle Miles Traveled, fuel programs, the NONROAD 2002 model data for commercial marine vessels, locomotives and Clean Air Market Division, etc.) resulted in the inventory submitted in this SIP. The data were developed according to current EPA emissions inventory guidance "Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations" (August 2005) and a quality assurance project plan that was developed through VISTAS and approved by EPA. EPA agrees that the process used to develop this inventory was adequate to meet the requirements of CAA section 182(a)(1) and the implementing regulations.

EPA has reviewed Georgia's emissions inventory and finds that it is adequate for the purposes of meeting section 182(a)(1) emissions inventory requirement. The emissions inventory is approvable because the emissions were developed consistent with the CAA, implementing regulations and EPA guidance for emission inventories.

III. Final Action

EPA is approving the 2002 base year emissions inventory portion of the Atlanta Area's attainment demonstration SIP revision, submitted by the State of Georgia on October 21, 2009, for the 1997 8-hour ozone NAAQS. This action is being taken pursuant to section 110 of the CAA. On March 12, 2008, EPA issued a revised ozone NAAQS. *See* 73 FR 16436. The current action, however, is being taken to address requirements under the 1997 8-hour ozone NAAQS. Requirements for the Atlanta Area under the 2008 ozone NAAQS will be addressed in the future. EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this Federal Register publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective [Insert date 60 days from the date of publication] without further notice unless the Agency receives adverse comments by [Insert date 30 days from date of publication].

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on [Insert

date 60 days from date of publication] and no further action will be taken on the proposed rule.

IV. 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 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 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 (Public Law 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 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.

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 [FEDERAL REGISTER OFFICE: insert date 60 days from date of publication of this document in the Federal Register]. 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. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's Federal Register, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: April 4, 2012

A. Stanley Meiburg,
Acting Regional Administrator,
Region 4.

40 CFR part 52 is amended as follows:

PART 52-- APPROVAL AND PROMULGATION OF IMPLEMENTATION 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 a new entry for “Atlanta; 1997 8-Hour Ozone 2002

Base Year Emissions Inventory” 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
**	**	**	*
33. Atlanta 1997 8-Hour Ozone 2002 Base Year Emissions Inventory	Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Henry, Newton, Paulding, Rockdale, Spalding and Walton Counties in their entirety.	10/21/2009	[Insert date of publication in <u>Federal Register</u>] [Insert citation of publication]