



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2012-0893; FRL- 9910-65-Region 4 ]

### **Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Georgia; Redesignation of the Rome, Georgia, 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment**

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** The Environmental Protection Agency (EPA) is taking final action to approve a request submitted on June 21, 2012, by the Georgia Department of Natural Resources, through Georgia Environmental Protection Division (GA EPD), to redesignate the Rome, Georgia, fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as the “Rome Area” or “Area”) to attainment for the 1997 Annual PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The Rome Area is comprised of Floyd County in Georgia. EPA’s approval of the redesignation request is based on the determination that Georgia has met the criteria for redesignation to attainment set forth in the Clean Air Act (CAA or Act). EPA is also approving a revision to the Georgia State Implementation Plan (SIP) to include the 1997 Annual PM<sub>2.5</sub> maintenance plan for the Rome Area. Additionally, EPA is approving into the Georgia SIP the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) and PM<sub>2.5</sub> for the year 2023 for the Rome Area that are included as part of Georgia’s maintenance plan for the 1997 Annual PM<sub>2.5</sub> NAAQS. Furthermore, EPA is approving a determination that the Area is expected to

maintain the 1997 Annual PM<sub>2.5</sub> NAAQS through the year 2024. EPA is also correcting inadvertent errors in the proposed rulemaking for this action.

**DATES:** This rule is effective [Insert date 30 days after the date of publication in the **Federal Register**].

**ADDRESSES:** EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2012-0893. 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 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:** Joydeb Majumder, 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. Joydeb Majumder may be reached by phone at (404) 562-9121 or via electronic mail at [majumder.joydeb@epa.gov](mailto:majumder.joydeb@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. What is the Background for the Actions?**

On June 21, 2012,<sup>1</sup> the Georgia Department of Natural Resources, through GA EPD, submitted a request to EPA for redesignation of the Rome Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS, and for approval of a Georgia SIP revision containing a maintenance plan for the Area.<sup>2</sup> On January 23, 2014, EPA proposed to redesignate the Rome Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS, and to approve, as a revision to the Georgia SIP, the State's 1997 Annual PM<sub>2.5</sub> NAAQS maintenance plan and the MVEBs for direct PM<sub>2.5</sub> and NOx for the Rome Area included in that maintenance plan.<sup>3</sup> *See* 79 FR 3757. EPA also proposed to determine that the Rome Area is continuing to attain the 1997 Annual PM<sub>2.5</sub> NAAQS and that attainment can be maintained through 2024. EPA received no adverse comments on the January 23, 2014, proposed rulemaking.

As stated in EPA's January 23, 2014, proposal notice, the 3-year design value of 13.3 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ ) for 2009-2011 meets the PM<sub>2.5</sub> Annual NAAQS of 15.0  $\mu\text{g}/\text{m}^3$ . EPA has reviewed the most recent ambient monitoring data, which confirms that the

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<sup>1</sup> Although EPA received Georgia's request to redesignate the Rome Area to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS on June 26, 2012, along with the maintenance plan SIP submission, the official submittal date for the redesignation request and maintenance plan is the date of the cover letter, June 21, 2012.

<sup>2</sup> EPA designated the Rome Area as nonattainment for the annual 1997 PM<sub>2.5</sub> NAAQS on January 5, 2005 (70 FR 944) as supplemented on April 14, 2005 (70 FR 19844).

<sup>3</sup> On January 12, 2012, EPA approved, under section 172(c)(3) of the CAA, Georgia's 2002 base-year emissions inventory for the Rome Area as part of the SIP revision submitted by GA EPD to provide for attainment of the 1997 PM<sub>2.5</sub> NAAQS in the Area. *See* 77 FR 1873.

Rome Area continues to attain the 1997 Annual PM<sub>2.5</sub> NAAQS beyond the 3-year attainment period of 2009-2011.

## **II. What are the Actions EPA is Taking?**

In today's rulemaking, EPA is approving Georgia's redesignation request to change the legal designation of Floyd County in Georgia from nonattainment to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS, and as a revision to the Georgia SIP, the State's 1997 Annual PM<sub>2.5</sub> NAAQS maintenance plan and the MVEBs for direct PM<sub>2.5</sub> and NO<sub>x</sub> for the Rome Area included in that maintenance plan. The maintenance plan is designed to demonstrate that the Rome Area will continue to attain the 1997 Annual PM<sub>2.5</sub> NAAQS through 2023. EPA's approval of the redesignation request is based on EPA's determination that the Rome Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Rome Area has attained and continues to attain the 1997 Annual PM<sub>2.5</sub> NAAQS and that attainment can be maintained through 2024. EPA's analyses of Georgia's redesignation request and maintenance plan are described in detail in the January 23, 2014, proposed rule. *See* 79 FR 3757.

Today, EPA is also clarifying and correcting inadvertent errors related to Tables 2 and 6 in Section V of EPA's January 23, 2014 proposed rulemaking. In Table 2 of EPA's proposed rule, the 2007 sulfur dioxide (SO<sub>2</sub>) point source emissions are presented as 24,275 tons. This was a typographical error. The 2007 SO<sub>2</sub> point source emissions should have been listed as 51,275 tons as presented in Table 3-2 of Georgia's June 21, 2012 submittal. Additionally, in Table 6 of EPA's proposed rule, the 2007 SO<sub>2</sub> emissions are presented as 25,276.1 tons. This was a typographical error. The 2007 SO<sub>2</sub> emissions should have been listed as 52,077 tons as

presented in Table 3-2 of Georgia's June 21, 2012 submittal. EPA has determined that the corrections to Tables 2 and 6 of EPA's January 23, 2014 proposed rule fall under the "good cause" exemption in section 553(b)(3)(B) of the Administrative Procedure Act which, upon finding "good cause," authorizes agencies to dispense with public participation where public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest. Public notice and comment for these typographical corrections is unnecessary because EPA's evaluation leading to the January 23, 2014, proposal considered the correct values reported in Georgia's submittal, and therefore, the corrections do not change EPA's determination that Georgia has met the requirements for the Rome Area to be redesignated to attainment for the 1997 Annual PM<sub>2.5</sub> NAAQS.

Subsequent to publication of the proposed rule, GA EPD notified EPA that the Georgia Board of Natural Resources had modified Georgia Rule 391-3-1-.02(2)(mmm) entitled "NOx Emissions from Stationary Gas Turbines and Stationary Engines used to Generate Electricity" to exempt certain engines at data centers from the rule's NOx limits and had repealed Georgia Rule 391-3-1-.02(2)(bbb) entitled "Gasoline Marketing." GA EPD adopted Georgia Rule 391-3-1-.02(2)(mmm) as a statewide ozone control measure, and the recent amendment exempts stationary engines at data centers from the rule's NOx emission limits provided that the engines operate for less than 500 hours per year and only for routine testing and maintenance (limited to May through September between 10 p.m. and 4 a.m.), when electric power from a utility is not available, or during internal system failures. These data centers are equipped with uninterruptable power supplies (UPSs) that supply electricity during a power outage, and the exempted engines are designed to provide power only when the UPSs malfunction. Given the nature of the exempted engines and the conditions necessary to qualify for the exemption, any

emissions increase is likely negligible. The Gasoline Marketing rule, enacted to improve ozone levels in the Atlanta Area, required that fuel sold in the Atlanta ozone nonattainment area and in areas determined to have contributed to ozone levels in the nonattainment area contain reduced sulfur and have a reduced Reid Vapor Pressure. This rule applied to fuel sold in the Rome Area, and the projected mobile source emissions in GA EPD's maintenance plan assumed continued implementation of the rule through the maintenance period. GA EPD has subsequently provided calculations to EPA demonstrating that the repeal of the Gasoline Marketing rule increases the on-road NO<sub>x</sub> emissions projected for 2023 in the Rome Area by approximately 3 tons per year (tpy) and does not change the projected emissions of SO<sub>2</sub> or direct PM<sub>2.5</sub>.

EPA has concluded that the changes to the aforementioned rules do not affect the Agency's decision to approve the redesignation request and maintenance plan for the Rome Area. Any increase in emissions that may result from these modifications is expected to be minimal and well within the margin necessary to maintain attainment of the 1997 Annual PM<sub>2.5</sub> standard. As discussed in the proposed rulemaking notice, emissions of SO<sub>2</sub> and NO<sub>x</sub> in the Rome Area are expected to decrease by 86 percent (52,077 tpy to 7,194 tpy) and 33 percent (15,475 tpy to 10,336 tpy), respectively between 2007 and 2023.

### **III. Why is EPA Taking These Actions?**

EPA has determined that the Rome Area has attained the 1997 Annual PM<sub>2.5</sub> NAAQS and has also determined that all other criteria for the redesignation of the Rome Area from nonattainment to attainment of the 1997 Annual PM<sub>2.5</sub> NAAQS have been met. *See* CAA section 107(d)(3)(E). One of those requirements is that the Rome Area has an approved plan demonstrating maintenance of the 1997 Annual PM<sub>2.5</sub> NAAQS over the ten-year period

following redesignation. EPA has determined that attainment can be maintained through 2024 and is taking final action to approve the maintenance plan for the Rome Area as meeting the requirements of sections 175A and 107(d)(3)(E) of the CAA. The detailed rationale for EPA's findings and actions is set forth in the January 23, 2014 proposed rulemaking. *See* 79 FR 3757.

#### **IV. What are the Effects of These Actions?**

Approval of the redesignation request changes the legal designation of Floyd County for the 1997 Annual PM<sub>2.5</sub> NAAQS. EPA is modifying the regulatory table in 40 CFR 81.311 to reflect a designation of attainment for these counties. EPA is also approving, as a revision to the Georgia SIP, the State's plan for maintaining the 1997 Annual PM<sub>2.5</sub> NAAQS in the Rome Area. The maintenance plan includes contingency measures to remedy possible future violations of the 1997 Annual PM<sub>2.5</sub> NAAQS and establishes 2023 MVEBs for direct PM<sub>2.5</sub> and NO<sub>x</sub> for the Rome Area. Within 24 months of the effective date of EPA's approval of the maintenance plan, the transportation partners will need to demonstrate conformity to the new PM<sub>2.5</sub> and NO<sub>x</sub> MVEBs pursuant to 40 CFR 93.104(e).

#### **V. Final Action**

EPA is taking final action to approve the redesignation and change the legal designation of Bibb County and a portion of Monroe County for the 1997 Annual PM<sub>2.5</sub> NAAQS. Through this action, EPA is also approving into the Georgia SIP the 1997 Annual PM<sub>2.5</sub> maintenance plan for the Rome Area, which includes the new 2023 NO<sub>x</sub> and PM<sub>2.5</sub> MVEBs of 994.4 tpy and 38.0 tpy, respectively, for this Area. EPA's approval of the redesignation request is based on the

Agency's determination that the Rome Area meets the criteria for redesignation set forth in CAA, including EPA's determination that the Rome Area has attained and continues to attain the 1997 Annual PM<sub>2.5</sub> NAAQS and that attainment can be maintained through 2024.

## **VI. 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 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 (Public Law 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,
- 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, this final 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. 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: April 30, 2014

A. Stanley Meiburg  
Acting Regional Administrator,  
Region 4.

40 CFR parts 52 and 81 are 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 “1997 Annual PM<sub>2.5</sub> Maintenance Plan for the Rome Area” at the end of the table to read as follows:

**§ 52.570 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

EPA-Approved Georgia Non-Regulatory Provisions

Name of non-regulatory 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 Rome Area	Floyd County, Rome, Georgia Area	6/21/12	[Insert date of publication in Federal Register] [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- PM<sub>2.5</sub> (Annual NAAQS)” is amended under “Rome, GA” by revising the entry for “Floyd County” to read as follows:

**§ 81.311 Georgia.**

\* \* \* \* \*

Georgia- PM<sub>2.5</sub>- (Annual NAAQS)

Designated area	Designation <sup>a</sup>	
	Date <sup>1</sup>	Type
***	***	*
Rome, GA:		
Floyd County	This action is effective [ <u>Insert date of publication in the Federal Register</u> ]	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.

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