

requirements for NO<sub>x</sub> sources in the particular nonattainment area.

The three subject ozone nonattainment areas, the South Coast, the San Joaquin Valley, and the Southeast Desert, lie within the jurisdictions of four California air districts: The SCAQMD, the SJVUAPCD, the AVAQMD, and the MDAQMD. Each of the four air districts has adopted rules intended to comply with sections 182(d)(3) and 185 of the Act and CARB has submitted them to EPA for approval into the SIP. EPA has taken action on one of the rules, SJVUAPCD Rule 3170. See 75 FR 1716 (January 13, 2010). Since then, SJVUAPCD Rule 3170 has been revised, and EPA has recently proposed approval of the amended rule. See 76 FR 45212 (July 28, 2011). EPA has not yet taken action on the rules developed by the other three districts (SCAQMD Rule 317, AVAQMD Rule 315, and MDAQMD Rule 315, all of which were submitted on April 22, 2011). Another effect of the proposed determinations of failure to attain the 1-hour ozone standard by the applicable attainment dates would be to give effect to the section 185 requirements to the extent they are not already in effect within the three subject California nonattainment areas.

## V. Proposed Actions

Under EPA's authority under CAA section 301(a) to ensure implementation of one-hour ozone anti-backsliding requirements, EPA is proposing to determine that the South Coast, the San Joaquin Valley, and the Southeast Desert failed to attain the one-hour ozone standard by the applicable attainment dates. For South Coast and San Joaquin Valley, quality-assured and certified data collected during 2008–2010 show that these two “Extreme” one-hour ozone nonattainment areas failed to attain the standard by November 15, 2010. For Southeast Desert, a “Severe-17” one-hour ozone nonattainment area, quality-assured and certified data for 2005–2007 show that the area failed to attain the standard by November 15, 2007.

These proposed determinations, if finalized, would bear on the areas' obligations with respect to certain one-hour standard anti-backsliding requirements whose implementation is triggered by a failure to attain by the applicable attainment date: section 172(c)(9) contingency measures for failure to attain and sections 182(d)(3) and 185 major stationary source fee programs. Through this proposed rule, EPA is soliciting comments on the above determinations.

## VI. Statutory and Executive Order Reviews

These actions propose to make determinations that certain areas did not attain the applicable standard based on air quality, and do not impose any requirements beyond those required by statute. For that reason, these proposed 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 economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Are not subject to the 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 Clean Air Act; and
- Do not provide EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed 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.

### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Oxides of nitrogen, Ozone, Reporting and recordkeeping

requirements, Volatile organic compounds.

Dated: September 1, 2011.

**Jared Blumenfeld,**

*Regional Administrator, Region IX.*

[FR Doc. 2011–23544 Filed 9–13–11; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA–R04–OAR–2010–0604–201140; FRL–9464–1]

### Approval and Promulgation of Implementation Plans and Designations of Areas for Air Quality Planning Purposes; Georgia: Atlanta; Determination of Attaining Data for the 1997 Annual Fine Particulate Matter Standards

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make two determinations regarding the Atlanta, Georgia, fine particulate (PM<sub>2.5</sub>) nonattainment area (hereafter referred to as the “Atlanta Area” or “Area”). First, EPA is proposing to determine that the Area has attained the 1997 annual average PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). This proposed determination of attaining data is based upon complete, quality-assured and certified ambient air monitoring data for the 2008–2010 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 attaining data, 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. Second, EPA is also proposing to determine, based on quality-assured and certified monitoring data for the 2007–2009 monitoring period, that the area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date of April 5, 2010.

**DATES:** Comments must be received on or before October 14, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA–R04–OAR–2010–0604, 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-2010-0604, 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 to 4:30, excluding federal holidays.

*Instructions*: Direct your comments to Docket ID No. EPA-R04-OAR-2010-0604. 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 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**: Sara Waterson or Joel Huey, 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. 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). Mr. Huey may be reached by phone at (404) 562-9104. Mr. Huey can also be reached via electronic mail at [huey.joel@epa.gov](mailto:huey.joel@epa.gov).

#### **SUPPLEMENTARY INFORMATION:**

- I. What actions is EPA taking?
- II. What is the background for these actions?
- III. Does the Atlanta Area meet the annual PM<sub>2.5</sub> NAAQS?
  - A. Criteria
  - B. Atlanta Area Air Quality
  - C. Has the Atlanta Area met the 1997 annual PM<sub>2.5</sub> air quality standard?
- IV. What is the effect of these actions?
- V. Statutory and Executive Order Reviews

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

EPA is proposing to determine that the Atlanta Area (comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, De Kalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Heard, Henry, Newton, Paulding, Putnam, Rockdale, Spalding and Walton Counties) has attaining data for the 1997 annual PM<sub>2.5</sub> NAAQS. The proposal is based upon complete, quality-assured and certified ambient air monitoring data for the 2008-2010 monitoring period that show that the Area has

monitored attainment of the 1997 annual PM<sub>2.5</sub> NAAQS. EPA is also proposing to determine, in accordance with EPA's PM<sub>2.5</sub> Implementation Rule of April 25, 2007 (72 FR 20664), that the Atlanta Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date of April 5, 2010.

#### **II. What is the background for these actions?**

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 Atlanta Area was designated nonattainment for the 1997 annual PM<sub>2.5</sub> NAAQS. See 40 CFR 81.301.

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 Atlanta Area as nonattainment 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 Atlanta 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 (D.C. 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 (D.C. 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.

### III. Does the Atlanta area meet the annual PM<sub>2.5</sub> NAAQS?

#### A. Criteria

Today's proposed rulemaking assesses whether (1) The Atlanta Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS, based on the most recent three years of quality-assured data, and (2) whether the Area attained that NAAQS by its applicable attainment date of April 5, 2010. The Atlanta Area is comprised of Barrow, Bartow, Carroll, Cherokee, Clayton, Cobb, Coweta, De Kalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Hall, Heard, Henry, Newton, Paulding, Putnam, Rockdale, Spalding and Walton Counties.

Under EPA regulations at 40 CFR 50.7, the 1997 annual primary and secondary PM<sub>2.5</sub> standards 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. Atlanta Area Air Quality

EPA has reviewed the ambient air monitoring data for the Atlanta 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 two 3-year periods. The period 2007–2009 is used for the determination of attainment by attainment date because that was the last period of certified data prior to the required attainment date of April 5, 2010. The period 2008–2010 is used for the determination of attaining data because that is the most recent period of certified data available now available to EPA.

Table 1 and the related discussion below show that, based on EPA's analysis of data for 2007–2009, the Area attained the 1997 annual PM<sub>2.5</sub> standard by its attainment date of April 5, 2010.

In addition, Table 2 and the related discussion below show that the Area continues to attain the standard based on available data for 2008–2010. There were data completeness issues at the Powder Springs, E. Rivers School, Fire Station #8/Georgia Tech, Gwinnett Tech, and Yorkville monitors for both the 2007–2009 and 2008–2010 periods. EPA performed a quarterly maximum data substitution test using 40 CFR Part 50 Appendix N and the April 1999 *Guideline on Data Handling Conventions for the PM NAAQS* (<http://epa.gov/ttncaaa1/t1/memoranda/pmfinal.pdf>) for the monitors with less than 75 percent complete data. Further discussion on the data substitution can be found in the technical support document (TSD) for this proposal. The three year annual design values both with and without data substitution are provided in Table 1 and Table 2 below. EPA's review of these data indicates that the Atlanta Area has met the 1997 annual PM<sub>2.5</sub> NAAQS by the attainment date of April 5, 2010.

TABLE 1—2007–2009 ANNUAL AVERAGE PM<sub>2.5</sub> CONCENTRATIONS FOR MONITORS IN THE ATLANTA, GEORGIA NONATTAINMENT AREA

Location	Site No.	Annual average concentration (µg/m <sup>3</sup> ) without data substitution	Annual average concentration (µg/m <sup>3</sup> ) with data substitution
Georgia DOT .....	13-063-0091	13.5	N/A
GA National Guard .....	13-067-0003	13.4	N/A
Powder Springs .....	13-067-0004	12.6	13.1
South DeKalb .....	13-089-0002	13.0	N/A
Police Dept. ....	13-089-2001	13.3	N/A
E. Rivers School .....	13-121-0032	13.4	14.2
Fire Station #8 <sup>1</sup> .....	13-121-0039	9.8	13.8
Gwinnett Tech .....	13-135-0002	12.7	13.3
Gainesville .....	13-139-0003	11.8	12.8
Yorkville .....	13-223-0003	12.0	12.7

N/A—Not Applicable.

TABLE 2—2008–2010 ANNUAL AVERAGE PM<sub>2.5</sub> CONCENTRATIONS FOR MONITORS IN THE ATLANTA, GEORGIA NONATTAINMENT AREA

Location	Site No.	Annual average concentration (µg/m <sup>3</sup> ) without data substitution	Annual average concentration (µg/m <sup>3</sup> ) with data substitution
Georgia DOT .....	13-063-0091	12.9	N/A
GA National Guard .....	13-067-0003	12.3	N/A
Powder Springs .....	13-067-0004	11.9	12.3
South Dekalb .....	13-089-0002	12.1	N/A
Police Dept. ....	13-089-2001	12.3	N/A
E. Rivers School .....	13-121-0032	12.3	13.0
Fire Station #8 <sup>2</sup> .....	13-121-0039	11.4	13.6
Gwinnett Tech .....	13-135-0002	12.1	12.5
Gainesville .....	13-139-0003	11.2	11.9

<sup>1</sup> Fire Station #8 was relocated to the Georgia Tech campus in 2007 and assigned a separate AQS number. It moved back to Fire Station #8 at the end

of 2008 and resumed normal operation. The annual average design value with data substitution was

calculated by combining the data records for Fire Station #8 and Georgia Tech.

TABLE 2—2008–2010 ANNUAL AVERAGE PM<sub>2.5</sub> CONCENTRATIONS FOR MONITORS IN THE ATLANTA, GEORGIA NONATTAINMENT AREA—Continued

Location	Site No.	Annual average concentration (µg/m <sup>3</sup> ) without data substitution	Annual average concentration (µg/m <sup>3</sup> ) with data substitution
Yorkville .....	13–223–0003	11.0	11.6

N/A—Not Applicable.

The Powder Springs monitor has a 2007–2009 PM<sub>2.5</sub> annual design value of 12.6 µg/m<sup>3</sup>. Since the monitor had one incomplete quarter during the second quarter of 2009, data substitution was conducted. The annual mean was recalculated, and the resulting 2007–2009 PM<sub>2.5</sub> annual design value is 13.1 µg/m<sup>3</sup>. The current 2008–2010 PM<sub>2.5</sub> annual design value is 11.9 µg/m<sup>3</sup>. Data substitution was conducted for the second quarter of 2009. The annual mean was recalculated, and the resulting 2008–2010 PM<sub>2.5</sub> annual design value is 12.3 µg/m<sup>3</sup>. This monitor is considered attaining with design values of 12.6 µg/m<sup>3</sup> and 11.9 µg/m<sup>3</sup>.

The E. Rivers School monitor did not meet data completeness for the second and third quarters of 2009 due to roof repairs during the summer of 2009 that were out of the State's control. Georgia Environmental Protection Division appropriately notified Region 4 of the temporary site closure. Additionally, the fourth quarter in 2008 is also incomplete. The 2007–2009 PM<sub>2.5</sub> annual design value is 13.4 µg/m<sup>3</sup> and the 2008–2010 PM<sub>2.5</sub> annual design value is 12.3 µg/m<sup>3</sup>. Data substitution was conducted and the recalculated annual design values are 14.2 µg/m<sup>3</sup> and 13.0 µg/m<sup>3</sup> respectively. This monitor is considered attaining with design values of 13.4 µg/m<sup>3</sup> for the 2007–2009 monitoring period and 12.3 µg/m<sup>3</sup> for the 2008–2010 monitoring period.

EPA's Office of Air Quality Planning and Standards (OAQPS) conducted an additional statistical analysis for the E. Rivers School monitor which indicates, as a weight of evidence, that despite the prolonged shut-down of the E. Rivers School monitor, the monitor would have attained in the 2007–2009 design value period. To evaluate air quality at the E. Rivers School monitor, EPA applied statistical analysis using data from other sites in the area. The approach, summarized in this section

and further described in the TSD, is appropriate for this Area but may or may not be suitable for other areas with less than complete data. EPA will evaluate the appropriateness of this analytical approach on a case-by-case basis for determinations regarding each area with less than complete data.

The first step in the analysis was to assess the correlation of concentrations at the E. Rivers School site with concentrations at other sites in the Area. The monitor in the Area that had the highest correlation with the E. Rivers School site was the Georgia DOT monitor; therefore, subsequent analyses used data from this site. The second step was to develop a regression equation expressing the relationship between concentrations at the E. Rivers School and the Georgia DOT monitors. This regression equation was used to estimate values at the E. Rivers School site on days during quarters with incomplete data when the E. Rivers School site did not measure concentrations. A 2007–2009 design value for the E. Rivers School site was then calculated using these estimated values. Under this method, the 2007–2009 design value for the E. Rivers School site was estimated to be 13.6 µg/m<sup>3</sup>.

This estimated design value was then analyzed using a statistical method, referred to as the “bootstrap method,” that involves the use of regression residuals. In this analysis, EPA repeated the regression analysis 1,000 times with different values within the probability distribution of E. Rivers School concentrations that could be associated with given concentrations at the Georgia DOT monitor. From this analysis, as described in detail in the TSD, EPA determined that the upper end of the range of potential 2007–2009 design values obtained did not exceed the NAAQS. No exceedances of the NAAQS resulted from application of the statistical analysis. Therefore, EPA concluded that for 2007–2009, the annual average concentration of the E. Rivers School monitor is below the NAAQS.

The Fire Station #8 monitor was relocated to the Georgia Tech campus

and was assigned a separate AQS number. It was moved back to Fire Station #8 at the end of 2008 and resumed normal operation. There were no data completeness issues at either site during the times each site was operated. The data records of the two sites were combined and resulted in a 13.8 µg/m<sup>3</sup> design value for the 2007–2009 design value period. As an additional weight of evidence, the bootstrap analysis described above for the E. Rivers School site was also conducted for the Fire Station #8 monitor and passed with a 2007–2009 design value of 14.1 µg/m<sup>3</sup>. The South DeKalb monitor had the highest correlation with the Fire Station #8 monitor. This bootstrap analysis is further explained in the TSD for this document. The data records of the two sites were also combined for the 2008–2010 design value period, which resulted in a 13.6 µg/m<sup>3</sup> design value.

The Gwinnett Tech monitor has a 2007–2009 PM<sub>2.5</sub> annual design value of 12.7 µg/m<sup>3</sup>. Since the monitor had one incomplete quarter during the fourth quarter of 2008, data substitution was conducted. The annual mean was recalculated, and the resulting 2007–2009 PM<sub>2.5</sub> annual design value is 13.3 µg/m<sup>3</sup>. The 2008–2010 PM<sub>2.5</sub> annual design value is 12.1 µg/m<sup>3</sup>. Data substitution was conducted for the fourth quarter of 2008. The annual mean was recalculated, and the resulting 2008–2010 PM<sub>2.5</sub> annual design value is 12.5 µg/m<sup>3</sup>. This monitor is considered attaining with design values of 12.7 µg/m<sup>3</sup> and 12.1 µg/m<sup>3</sup>, respectively.

The Gainesville monitor has a 2007–2009 PM<sub>2.5</sub> annual design value of 11.8 µg/m<sup>3</sup>. Since the monitor had two incomplete quarters during the third and fourth quarters of 2008, data substitution was conducted. The annual mean was recalculated, and the resulting 2007–2009 PM<sub>2.5</sub> annual design value is 12.8 µg/m<sup>3</sup>. The current 2008–2010 PM<sub>2.5</sub> annual design value is 11.2 µg/m<sup>3</sup>. Data substitution was conducted for the third and fourth quarters of 2008. The annual mean was recalculated, and the resulting 2008–2010 PM<sub>2.5</sub> annual design value is 11.9 µg/m<sup>3</sup>. This monitor is considered

<sup>2</sup> Fire Station #8 was relocated to the Georgia Tech campus in 2007 and assigned a separate AQS number. It moved back to Fire Station #8 at the end of 2008 and resumed normal operation. The annual average design value with data substitution was calculated by combining the data records for Fire Station #8 and Georgia Tech.

attaining with design values of 11.8 µg/m<sup>3</sup> and 11.2 µg/m<sup>3</sup>.

The Yorkville monitor has a 2007–2009 PM<sub>2.5</sub> annual design value of 12.0 µg/m<sup>3</sup>. Since the monitor had one incomplete quarter during the third quarter of 2009, data substitution was conducted. The annual mean was recalculated, and the resulting 2007–2009 PM<sub>2.5</sub> annual design value is 12.7 µg/m<sup>3</sup>. The current 2008–2010 PM<sub>2.5</sub> annual design value is 11.0 µg/m<sup>3</sup>. Data substitution was conducted for the third quarter of 2009. The annual mean was recalculated, and the resulting 2008–2010 PM<sub>2.5</sub> annual design value is 11.6 µg/m<sup>3</sup>. This monitor is considered attaining with design values of 12.0 µg/m<sup>3</sup> and 11.0 µg/m<sup>3</sup>.

EPA believes that the Atlanta Area is now meeting the 1997 annual PM<sub>2.5</sub> NAAQS. Since few data are available for 2011, the 2008–2010 data represent the most recent available data for EPA to use in its assessment. On the basis of this review, EPA is proposing to determine that the Atlanta Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS. EPA is soliciting public comments on its proposal to determine that the Atlanta Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS with 2007–2009 as well as 2008–2010 data, and attained the 1997 annual PM<sub>2.5</sub> NAAQS by the April 5, 2010, attainment date using 2007–2009 data.

#### *C. Has the Atlanta area met the 1997 annual PM<sub>2.5</sub> air quality standard?*

EPA has reviewed the ambient air monitoring data for PM<sub>2.5</sub>, consistent with the requirements contained in 40 CFR part 50 and recorded the data in the EPA AQS database, for the Atlanta Area from 2007 through the present time. On the basis of that review, EPA proposes to determine that this Area has attained and continues to attain the 1997 annual PM<sub>2.5</sub> NAAQS based on the quality-assured data for the 2007–2009 monitoring period, which demonstrates attainment by April 5, 2010, and the 2008–2010 monitoring period. In addition, based on EPA's review of the data for 2007–2009, and in accordance with section 179(c)(1) of the CAA and EPA's regulations, EPA proposes to determine that the Area attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date of April 5, 2010.

#### **IV. What is the effect of these actions?**

If this proposed determination of attaining data is made final, the requirements for the Atlanta Area to submit an attainment demonstration and associated RACM, a 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 Atlanta 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 a maintenance plan 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 Atlanta 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 that the Atlanta Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS and has done so by the April 5, 2010, attainment date. Today's action does not address the 24-hour PM<sub>2.5</sub> NAAQS.

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

In addition, if EPA's separate and independent proposed determination that the Area has attained the 1997 annual PM<sub>2.5</sub> standard by its applicable attainment date (April 5, 2010) is finalized, EPA will have met its requirement pursuant to section 179(c)(1) of the CAA to make a determination based on the Area's air quality data as of the attainment date whether the Area attained the standard by that date.

These two actions described above are proposed determinations regarding the

Atlanta Area's attainment only with respect to the 1997 annual PM<sub>2.5</sub> NAAQS. Today's actions do not address the 24-hour PM<sub>2.5</sub> NAAQS.

#### **V. Statutory and Executive Order Reviews**

These actions propose to make determinations 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, these proposed actions:

- Are not "significant regulatory actions" 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 economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions 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 proposed 1997 annual PM<sub>2.5</sub> NAAQS determinations for the Atlanta Area 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.

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

#### 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: September 1, 2011.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 2011-23527 Filed 9-13-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[EPA-R09-OAR-2011-0735; FRL-9464-2]

#### Revisions to the California State Implementation Plan, San Joaquin Valley Unified Air Pollution Control District

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from confined animal facilities (CAFs) and biosolids, animal manure, and poultry litter operations. We are approving local rules that regulate these emission sources under the Clean Air Act as

amended in 1990 (CAA or the Act). We are taking comments on this proposal and plan to follow with a final action.

**DATES:** Any comments must arrive by October 14, 2011.

**ADDRESSES:** Submit comments, identified by docket number EPA-R09-OAR-2011-0735, by one of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the on-line instructions.

2. *E-mail:* [steckel.andrew@epa.gov](mailto:steckel.andrew@epa.gov).

3. *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

**Instructions:** All comments 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 Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through <http://www.regulations.gov> or e-mail. <http://www.regulations.gov> is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

**Docket:** Generally, documents in the docket for this action are available electronically at <http://www.regulations.gov>

[www.regulations.gov](http://www.regulations.gov) and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed at <http://www.regulations.gov>, some information may be publicly available only at the hard copy location (e.g., copyrighted material, large maps), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

#### FOR FURTHER INFORMATION CONTACT:

Sona Chilingaryan, EPA Region IX, (415) 972-3368, [chilingaryan.sona@epa.gov](mailto:chilingaryan.sona@epa.gov).

#### SUPPLEMENTARY INFORMATION:

Throughout this document, "we," "us" and "our" refer to EPA.

#### Table of Contents

- I. The State's Submittal
  - A. What rules did the State submit?
  - B. Are there other versions of these rules?
  - C. What is the purpose of the submitted rule and rule revision?
- II. EPA's Evaluation and Action
  - A. How is EPA evaluating the rules?
  - B. Do the rules meet the evaluation criteria?
  - C. EPA Recommendations to Further Improve the Rules
  - D. Public Comment and Final Action
- III. Statutory and Executive Order Reviews

#### I. The State's Submittal

##### A. What rules did the State submit?

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by the local air agency and submitted by the California Air Resources Board.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted	Submitted
SJVUAPCD .....	4570	Confined Animal Facilities .....	10/21/10	4/5/11
SJVUAPCD .....	4565	Biosolids, Animal Manure, and Poultry Litter Operations .....	3/15/07	8/24/07

On September 17, 2007, EPA determined that the submittal for SJVUAPCD Rule 4565 met the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review. On May 6, 2011, EPA determined that the submittal for SJVUAPCD Rule 4570 met the completeness criteria.

#### B. Are there other versions of these rules?

There are no previous versions of Rule 4565. On January 14, 2010, EPA finalized a limited approval of an earlier

version of Rule 4570 into the SIP. Simultaneously, EPA finalized a limited disapproval of the rule for exempting major source poultry operations and for an inadequate RACT analysis for swine and poultry (75 FR 2079). The SJVUAPCD adopted revisions to Rule 4570 on October 21, 2010, partly to address these issues, and we are proposing action on that version of the rule.

#### C. What is the purpose of the submitted rule and rule revision?

VOCs help produce ground-level ozone and smog, which harm human health and the environment. Section 110(a) of the CAA requires States to submit regulations that control VOC emissions. Rule 4570 requires management practices to reduce VOCs from dairies, beef feedlots, poultry houses, and other confined animal facilities. Rule 4565 requires management practices to reduce VOC emissions from land-application of