

4. Section 199.11 is amended as follows:

a. Revising paragraph (f)(3) to read as follows:

**§ 199.11 Overpayments Recovery.**

\* \* \* \* \*

(f) \* \* \*

(3) Claims arising from erroneous TRICARE payments in situations where the beneficiary has entitlement to an insurance, medical service, health and medical plan, including any plan offered by a third party payer as defined in 10 U.S.C. 1095(h)(1) or other government program, except in the case of a plan administered under Title XIX of the Social Security Act (42 U.S.C. 1396, et seq.) through employment, by law, through membership in an organization, or as a student, or through the purchase of a private insurance or health plan, shall be recouped following the procedures in paragraph (f) of this section. If the other plan has not made payment to the beneficiary or provider, the contractor shall first attempt to recover the overpayment from the other plan through the contractor's coordination of benefits procedures. If the overpayment cannot be recovered from the other plan, or if the other plan has made payment, the overpayment will be recovered from the party that received the erroneous payment from TRICARE. Nothing in this section shall be construed to require recoupment from any sponsor, beneficiary, provider, supplier and/or the Medicare Program under Title XVIII of the Social Security Act in the event of a retroactive determination of entitlement to SSDI and Medicare Part A coverage made by the Social Security Administration as discussed in section 199.8(d) of this part.

Dated: August 24, 2011.

**Patricia L. Toppings,**

*OSD Federal Register Liaison Officer,  
Department of Defense.*

[FR Doc. 2011-23765 Filed 9-19-11; 8:45 am]

**BILLING CODE 5001-06-P**

**ENVIRONMENTAL PROTECTION  
AGENCY**

**40 CFR Part 52**

[EPA-R03-OAR-2010-0986; FRL-9468-3]

**Approval and Promulgation of Air  
Quality Implementation Plans; District  
of Columbia, Maryland, and Virginia;  
Determinations of Attainment of the  
1997 8-Hour Ozone National Ambient  
Air Quality Standard for the  
Washington, DC-MD-VA 8-Hour Ozone  
Moderate Nonattainment Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to make two determinations regarding the Washington, DC-MD-VA moderate 8-hour ozone nonattainment area (the Washington Area). First, EPA is proposing to make a determination that the Washington Area has attained the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS). This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007-2009 and 2008-2010 monitoring periods. If this proposal becomes final, the requirement for this area to submit an attainment demonstration, reasonably available control measures (RACM), a reasonable further progress (RFP) plan, and contingency measures related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. Second, EPA is also proposing to determine that the Washington Area has attained the 1997 8-hour ozone NAAQS by its attainment date of June 15, 2010. These actions are being taken under the Clean Air Act (CAA).

**DATES:** Written comments must be received on or before October 20, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID Number EPA-R03-OAR-2010-0986 by one of the following methods:

A. <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

B. *E-mail:* [fernandez.cristina@epa.gov](mailto:fernandez.cristina@epa.gov).

C. *Mail:* EPA-R03-OAR-2010-0986, Cristina Fernandez, Associate Director, Office of Air Quality Planning, Mailcode

3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

*Instructions:* Direct your comments to Docket ID No. EPA-R03-OAR-2010-0986. 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 information that you consider to be CBI or otherwise protected through <http://www.regulations.gov> or e-mail. 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.

*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 during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

**FOR FURTHER INFORMATION CONTACT:** Maria A. Pino, (215) 814-2181, or by e-mail at [pino.maria@epa.gov](mailto:pino.maria@epa.gov).

**SUPPLEMENTARY INFORMATION:** For detailed information regarding this proposal, EPA prepared a Technical Support Document (TSD). The TSD can be viewed at <http://www.regulations.gov>. The following outline is provided to aid in locating information in this action.

- I. What is EPA proposing?
- II. What is the background for these actions?
- III. What are the effects of these actions?
- IV. What is EPA's analysis of the relevant air quality data?
- V. General Information Pertaining to SIP Submittals from the Commonwealth of Virginia
- VI. Proposed Actions
- VII. Statutory and Executive Order Reviews

### **I. What is EPA proposing?**

Pursuant to sections 181(b)(2)(A) and 179(c) of the CAA, EPA is proposing to determine that the Washington Area attained the 1997 8-hour ozone NAAQS by its attainment date, June 15, 2010. This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data for the 2007–2009 monitoring period that show the area has monitored attainment of the 1997 8-hour ozone NAAQS during this monitoring period. Complete, quality assured, and certified ambient air monitoring data for the 2008–2010 monitoring period shows continued attainment.

EPA is also proposing to make a determination that the Washington Area has attained the 1997 8-hour ozone NAAQS. This proposed determination is based upon complete, quality assured, and certified ambient air monitoring data that show the area has monitored attainment of the 1997 8-hour ozone NAAQS for the 2007–2009 and 2008–2010 monitoring periods. Once this proposal is final, the requirement for this area to submit an attainment demonstration, reasonably available control measures, a reasonable further progress plan, and contingency measures related to attainment of the 1997 8-hour ozone NAAQS shall be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS. Although these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval. The District of Columbia, the State of Maryland, and the Commonwealth of Virginia submitted these SIP elements for the Washington Area to EPA for review and approval in June 2007.

On March 27, 2008 (73 FR 16436), EPA promulgated a revised 8-hour ozone standard of 0.075 parts per million (ppm). On January 6, 2010, EPA again addressed this 2008 revised standard and proposed to set the primary 8-hour ozone standard within the range of 0.060 to 0.070 ppm, rather than at 0.075 ppm. EPA is working to complete reconsideration of the standard and thereafter will proceed with attainment/nonattainment area designations. This proposed rulemaking relates only to a determination of attainment for the 1997 8-hour ozone standard and is not affected by the ongoing process of reconsidering the 2008 standard. This action addresses only the 1997 8-hour ozone standard of 0.08 ppm, and does not address any subsequently revised 8-hour ozone standard.

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

#### *A. The Washington Area*

In 1997, EPA revised the health-based NAAQS for ozone, setting it at 0.08 ppm averaged over an 8-hour time frame. EPA set the 8-hour ozone standard based on scientific evidence demonstrating that ozone causes adverse health effects at lower ozone concentrations and over longer periods of time, than was understood when the pre-existing 1-hour ozone standard was set. EPA determined that the 8-hour standard would be more protective of human health, especially children and adults who are active outdoors, and individuals with a pre-existing respiratory disease, such as asthma.

On April 30, 2004 (69 FR 23951), EPA finalized its attainment/nonattainment designations for areas across the country with respect to the 8-hour ozone standard. These actions became effective on June 15, 2004. Among those nonattainment areas is the Washington Area. The Washington Area includes the District of Columbia; Arlington, Fairfax, Loudoun, and Prince William Counties and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park in Virginia; and Calvert, Charles, Frederick, Montgomery, and Prince George's Counties in Maryland. The Washington Area was classified as a moderate nonattainment area. *See*, 40 CFR 81.309, 81.321 and 81.347. Moderate areas are required to attain the 1997 8-hour ozone NAAQS by no later than six years after designation, or June 15, 2010. *See*, 40 CFR 51.903.

#### *B. Requirement to Determine Attainment by the Attainment Date*

Under CAA sections 179(c) and 181(b)(2), EPA is required to make a determination that a nonattainment area has attained by its attainment date, and publish that determination in the **Federal Register**. Under CAA section 181(b)(2), which is specific to ozone nonattainment areas, if EPA determines that an area failed to attain the ozone NAAQS by its attainment date, EPA is required to reclassify that area to a higher classification.

#### *C. Clean Data Determination*

Under the provisions of EPA's ozone implementation rule (*See*, 40 CFR section 51.918), if EPA issues a determination that an area is attaining the relevant standard (through a rulemaking that includes public notice and comment), it will suspend the area's obligations to submit an attainment demonstration, RACM, RFP, contingency measures and other planning requirements related to attainment for as long as the area continues to attain. The determination of attainment is not equivalent to a redesignation. The state must still meet the statutory requirements for redesignation in order to be redesignated to attainment.

#### *D. Ambient Air Quality Monitoring Data*

Complete, quality assured, certified 8-hour ozone air quality monitoring data for 2007 through 2009 show that the Washington Area has attained the 1997 8-hour ozone NAAQS. The Washington Area continues to attain the 1997 8-hour ozone NAAQS considering complete, quality assured, certified 8-hour ozone air quality monitoring data for 2008 through 2010.

### **III. What are the effects of these actions?**

If finalized, the proposed actions will not constitute a redesignation to attainment under section 107(d)(3) of the CAA. The designation status of the Washington Area will remain nonattainment for the 1997 8-hour ozone NAAQS until such time as EPA determines that the area meets the CAA requirements for redesignation to attainment, including an approved maintenance plan.

#### *A. Proposed Determination of Attainment by the Attainment Date*

EPA is proposing to determine that the Washington Area has attained the 1997 ozone NAAQS by its applicable attainment date of June 15, 2010. Once this determination of attainment is made final, EPA will have met its

requirement pursuant to CAA sections 181(b)(2)(A) and 179(c) to determine, based on the area's air quality as of the attainment date, whether the area attained the standard by that date. The effect of a final determination of attainment by the area's attainment date will be to discharge EPA's obligation under CAA sections 181(b)(2)(A) and 179, and to establish that, in accordance with CAA section 181(b)(2)(A), the area will not be reclassified for failure to attain by its applicable attainment date.

**B. Clean Data Determination**

EPA is proposing to determine that the Washington Area is attaining the 1997 8-hour ozone NAAQS. Once EPA finalizes this determination of attainment, the CAA requirement for the Washington Area to submit an attainment demonstration and associated reasonably available control measures, a reasonable further progress plan, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS would be suspended for so long as the area continues to attain the 1997 8-hour ozone NAAQS.

The determination of attainment will:

1. Suspend the requirements to submit an attainment demonstration, RACM, RFP plan, contingency measures, and any other planning SIPs related to attainment of the 1997 8-hour ozone NAAQS;

2. Continue until such time, if any, that EPA (i) redesignates the area to attainment at which time those requirements no longer apply, or (ii) subsequently determines that the area has violated the 1997 8-hour ozone NAAQS;

3. Be separate from, and not influence or otherwise affect, any future designation determination or requirements for the area based on any new or revised ozone NAAQS; and

4. Remain in effect regardless of whether EPA designates this area as a nonattainment area for purposes of any new or revised ozone NAAQS.

Although these requirements are suspended, EPA is not precluded from acting upon these elements, which were submitted to EPA in June 2007.

**IV. What is EPA's analysis of the relevant air quality data?**

Consistent with the requirements contained in 40 CFR part 50, EPA has reviewed the complete, quality assured and certified ozone ambient air monitoring data for the monitoring periods 2007–2009 and 2008–2010 for the Washington Area, as recorded in the EPA Air Quality System (AQS) database. On the basis of that review, EPA has concluded that this area attained the 1997 8-hour ozone NAAQS based on data for the 2007–2009 ozone seasons, and continues to attain based

on data for the 2008–2010 ozone seasons.

**A. Data Requirements**

Under EPA regulations at 40 CFR part 50, the 1997 8-hour ozone standard is attained at a site when the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations at an ozone monitor is less than or equal to 0.08 parts per million (ppm) (i.e., 0.084 ppm, based on the rounding convention in 40 CFR part 50, appendix I). This 3-year average is referred to as the design value. When the design value is less than or equal to 0.084 ppm at each monitoring site within the area, then the area is meeting the NAAQS.

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

**B. 2007–2009 Ozone Data**

Table 1 shows the ozone design values for each monitor in the Washington Area for the years 2007–2009. All 2007–2009 design values are below 0.084 ppm, and all monitors meet the data completeness requirements. Therefore, the Washington Area has attained the 1997 8-hour ozone NAAQS, considering 2007–2009 data.

TABLE 1—2007–2009 WASHINGTON AREA 1997 8-HOUR OZONE DESIGN VALUES

State	County	Monitor ID	2007–2009 Design value (ppm)	2007–2009 Average % data completeness
Maryland	Calvert	240090011	0.074	92
	Charles	240170010	0.075	99
	Frederick	240210037	0.076	98
	Montgomery	240313001	0.078	93
	Prince George's	240330030	0.078	95
		240338003	0.078	98
Virginia	Arlington	510130020	0.079	100
		510590005	0.073	99
	Fairfax	510590018	0.080	100
		510590030	0.080	99
		510591005	0.078	93
		510595001	0.077	100
		511071005	0.077	99
	Prince William	511530009	0.071	98
	Alexandria City	515100009	0.075	97
		110010025	0.077	95
	District of Columbia	110010041	0.078	100
110010043		0.080	100	

**C. 2008–2010 Ozone Data**

In 2010, four monitors in Fairfax County, Virginia were shutdown due to lack of funding. Virginia Department of Environmental Quality (VADEQ)

worked with EPA prior to the Fairfax County Health Department shutting down these monitors. Because the Washington Area has more ozone monitoring sites than minimally

required, and because VADEQ performed an analysis on the sites that were being shutdown showing a strong correlation between the ambient ozone data collected at the Fairfax County

ozone sites targeted for discontinuation and existing VADEQ ozone air monitoring sites currently operating in proximity to the Fairfax County area, EPA approved the shutdowns in VADEQ's 2010 Annual Network Plan.

Therefore, EPA will not consider these monitors for comparison to the NAAQS with respect to 2010 data.

Table 2 summarizes the 2008–2010 design values for the Washington Area. All 2008–2010 design values are below

0.084 ppm, and all monitors meet the data completeness requirements. Therefore, 2008–2010 data indicates that the Washington Area continues to attain the 1997 8-hour ozone NAAQS.

TABLE 2—2008–2010 WASHINGTON AREA 8-HOUR OZONE DESIGN VALUES

State	County	Monitor ID	2008–2010 Design value (ppm)	2008–2010 Average % data completeness
Maryland	Calvert	240090011	0.077	93
	Charles	240170010	0.075	99
	Frederick	240210037	0.076	98
	Montgomery	240313001	0.074	93
	Prince George's	240330030	0.079	93
Virginia		240338003	0.077	99
	Arlington	510130020	0.079	95
	Fairfax	510590030	0.081	94
	Loudoun	511071005	0.075	94
	Prince William	511530009	0.070	94
	Alexandria City	515100009	0.074	91
District of Columbia		110010025	0.075	90
		110010041	0.077	94
		110010043	0.079	95

#### D. Conclusion

EPA's review of the complete, quality assured and certified ozone ambient air monitoring data for the monitoring periods 2007–2009 and 2008–2010 indicates that the Washington Area has met the 1997 8-hour ozone NAAQS. Additional information on air quality data for the Washington Area can be found in the TSD.

#### V. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) "privilege" for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the

product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law, Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information "required by law," including documents and information "required by Federal law to maintain program delegation, authorization or approval," since Virginia must "enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts \* \* \*." The opinion concludes that "[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval."

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that "[t]o the extent consistent with requirements

imposed by Federal law," any person making a voluntary disclosure of information to a State agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since "no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity."

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the CAA, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the CAA is likewise unaffected by this, or any, state audit privilege or immunity law.

## VI. Proposed Action

Pursuant to sections 179 and 181(b)(2)(A) of the CAA, EPA is proposing to determine that the Washington Area has attained the 1997 8-hour ozone NAAQS by its moderate area attainment date, June 15, 2010. If EPA finalizes this determination, the requirements to submit an attainment demonstration and associated RACM, RFP plan, contingency measures, and any other planning requirements related to attainment of the 1997 8-hour ozone NAAQS will be suspended, as provided in 40 CFR section 51.918, so long as the area continues to attain the 1997 8-hour ozone NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

## VII. Statutory and Executive Order Reviews

Under the Clean Air Act, 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 Clean Air Act. Accordingly, this action merely proposes to approve state law as meeting Federal requirements and does 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 Clean Air Act; 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, these proposed determinations of attainment of the 1997 8-hour ozone NAAQS for the Washington Area do not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because this proposed action 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, Ozone, Reporting and recordkeeping requirements.

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

Dated: August 31, 2011.

**W.C. Early,**

*Garvin, Regional Administrator, Region III.*

[FR Doc. 2011-24098 Filed 9-19-11; 8:45 am]

**BILLING CODE 6560-50-P**

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R04-OAR-2009-1010-201063; FRL-9467-7]

### Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; North Carolina: Redesignation of the Hickory-Morganton-Lenoir 1997 Annual Fine Particulate Matter Nonattainment Area to Attainment

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

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve SIP revisions submitted on December 18, 2009, and December 22, 2010 (supplemental submission) by the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NC DENR), Division of Air Quality (DAQ), to

support North Carolina's request to redesignate the Hickory-Morganton-Lenoir fine particulate matter (PM<sub>2.5</sub>) nonattainment area (hereafter the "Hickory Area" or "Area") to attainment for the 1997 Annual PM<sub>2.5</sub> National Ambient Air Quality Standards (NAAQS). The Hickory Area is comprised of Catawba County in its entirety. EPA is now proposing four separate but related actions. First, EPA is proposing to approve the December 18, 2009, PM<sub>2.5</sub> redesignation request, including the December 22, 2010, Motor Vehicle Emission Simulator (MOVES) mobile model supplement for the Hickory Area, provided that EPA takes final action to approve specific provisions of the North Carolina Clean Smokestacks Act (NCCSA). Second, EPA is proposing to approve North Carolina's 2008 emissions inventory for the Hickory Area under section 172(c)(3) of the Clean Air Act (CAA or Act). Third, subject to the same proviso regarding the NCCSA and final approval of the 2008 emissions inventory, EPA is proposing to approve the 1997 Annual PM<sub>2.5</sub> NAAQS maintenance plan for the Hickory Area, including the 2008 baseline emissions inventory, and the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO<sub>x</sub>) for the years 2011 and 2021, and the mobile insignificance determination for direct PM<sub>2.5</sub> for the Hickory Area. EPA is also describing the status of its transportation conformity adequacy determination for the new 2011 and 2021 MVEBs for NO<sub>x</sub> that are contained in the 1997 Annual PM<sub>2.5</sub> NAAQS maintenance plan for the Hickory Area. Fourth and separate from the action to redesignate the Hickory Area, EPA is proposing to determine that the Area has attained the 1997 annual PM<sub>2.5</sub> NAAQS by its applicable attainment date of April 5, 2010. These proposed actions are being taken pursuant to the CAA and its implementing regulations.

**DATES:** Comments must be received on or before October 20, 2011.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-1010, 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) 562-9019.

4. *Mail*: EPA-R04-OAR-2009-1010, 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.