

The Acting EPA Administrator, Andrew R. Wheeler, signed the following notice on 7/31/2018, and EPA is submitting it for publication in the *Federal Register* (FR). While we have taken steps to ensure the accuracy of this Internet version of the rule, it is not the official version of the rule for purposes of compliance. Please refer to the official version in a forthcoming FR publication, which will appear on the Government Printing Office's FDSys website (<http://gpo.gov/fdsys/search/home.action>) and on Regulations.gov (<http://www.regulations.gov>) in Docket No. EPA-HQ-OAR-2012-0918. Once the official version of this document is published in the FR, this version will be removed from the Internet and replaced with a link to the official version.

6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-HQ-OAR-2012-0918; FRL-]

Air Quality Designations for the 2012 Primary Annual Fine Particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) for Areas in Florida

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is establishing initial air quality designations for the 2012 primary annual fine particle (PM_{2.5}) National Ambient Air Quality Standard (NAAQS) for the remaining undesignated areas in the state of Florida. When the EPA designated the majority of areas in the country for this NAAQS in December 2014 and March 2015, the EPA deferred initial area designations for certain areas, including all of the Florida, because the EPA could not determine using available data whether the areas were meeting or not meeting the NAAQS. In August 2016, the EPA designated most of the state of Florida (62 of 67 counties). Following the August 2016 designation action, two areas (five counties) in Florida remained undesignated. The EPA could not determine at that time whether the areas were meeting or not meeting the NAAQS. Florida has now submitted complete, quality-assured, and certified air quality monitoring data for the period 2015-2017 for the areas identified in this action. Based on these data, the EPA is designating the remaining five counties as unclassifiable/attainment for the 2012 primary annual PM_{2.5} NAAQS.

DATES: This final rule is effective on **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-HQ-OAR-2012-0918. All documents in the docket are listed in the index at <http://www.regulations.gov>. 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 in the docket or in hard copy at the EPA Docket Center, William Jefferson Clinton West Building, Room 3334, 1301 Constitution Avenue, NW, Washington, D.C. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744 and the telephone number for the Air Docket is (202) 566-1742.

In addition, the EPA has established a website for the rulemakings to initially designate areas for the 2012 primary annual PM_{2.5} NAAQS at: <https://www.epa.gov/particle-pollution-designations>. This website includes the EPA's final PM_{2.5} designations actions, as well as state and tribal initial recommendation letters, the EPA's modification letters, technical support documents, responses to comments and other related technical information.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this action, please contact: Carla Oldham, U.S. EPA, Office of Air Quality Planning and Standards, Air Quality Policy Division, C539-04, Research Triangle Park, NC 27711, telephone (919) 541-3347, email at oldham.carla@epa.gov. The Region 4 contact is Madolyn Sanchez, U.S. EPA, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides

and Toxics Management Division, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960, telephone (404) 562-9644, email at *sanchez.madolyn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 14, 2012, the EPA promulgated a revised primary annual PM_{2.5} NAAQS to provide increased protection of public health from fine particle pollution (78 FR 3086; January 15, 2013). In that action, the EPA strengthened the primary annual PM_{2.5} standard from 15.0 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$) to 12.0 $\mu\text{g}/\text{m}^3$, which is attained when the 3-year average of the annual arithmetic means does not exceed 12.0 $\mu\text{g}/\text{m}^3$. Section 107(d) of the Clean Air Act (CAA), 42 U.S.C. 7407(d), governs the process for initial area designations after the EPA establishes a new or revised NAAQS. Under CAA section 107(d), each governor is required to, and each tribal leader may, if they so choose, recommend air quality designations to the EPA by a date that cannot be later than 1 year after the promulgation of a new or revised NAAQS. The EPA considers these recommendations as part of its duty to promulgate the area designations and boundaries for the new or revised NAAQS. If, after careful consideration of these recommendations, the EPA believes that it is necessary to modify a state's recommendation and intends to promulgate a designation different from a state's recommendation, the EPA must notify the state at least 120 days prior to promulgating the final designation and the EPA must provide the state an opportunity to demonstrate why any proposed modification is inappropriate. These modifications may relate either to an area's designation or to its boundaries.

On December 18, 2014, the Administrator of the EPA signed a final action promulgating initial designations for the 2012 PM_{2.5} NAAQS for the majority of the United States, including areas of Indian country (80 FR 2206 FR; January 15, 2015). In that action, the EPA also deferred

initial area designations for certain areas where available data, including air quality monitoring data, were insufficient to determine whether the area met or did not meet the NAAQS, but where forthcoming data were likely to result in complete and valid air quality data sufficient to determine whether these areas meet the NAAQS. Accordingly, the EPA stated that it would use the additional time available as provided under section 107(d)(1)(B) of the CAA to assess relevant information and subsequently promulgate initial designations for the identified areas through a separate rulemaking action or actions. The deferred areas included the entire state of Tennessee, except three counties in the Chattanooga area; several areas in the state of Georgia, including two neighboring counties in the bordering states of Alabama and South Carolina; the entire state of Florida; and areas of Indian country located in these areas.

In separate actions published on April 15, 2015 (80 FR 18535), September 6, 2016 (81 FR 61136), and May 19, 2017 (82 FR 22888), the EPA promulgated designations of unclassifiable/attainment for all remaining deferred areas in the state of Georgia (including two neighboring counties in the bordering states of Alabama and South Carolina), all of the remaining deferred areas in the state of Tennessee, and 62 counties in the state of Florida, including areas of Indian country located in those areas.

II. Purpose and Designation Decisions Based on 2015–2017 Data

The purpose of this action is to announce and promulgate initial area designations of unclassifiable/attainment for the 2012 PM_{2.5} NAAQS for the remaining five undesignated counties in the state of Florida. The counties are: Alachua County, Broward County, Gilchrist County, Miami-Dade County, and Palm Beach County. Alachua and Gilchrist Counties make up the Gainesville, FL Core Based Statistical Area (CBSA). Broward, Miami-Dade, and Palm Beach Counties make up the Miami-Fort Lauderdale-West Palm Beach Counties CBSA. The

EPA initially deferred designating these counties in the EPA's January 15, 2015, rulemaking.¹ Since then, the state of Florida has submitted to the EPA complete, quality-assured, and certified air quality monitoring data from 2015-2017 for the two CBSAs.² The air quality data indicate that the CBSAs are attaining the 2012 PM_{2.5} NAAQS. In addition, because there are no nearby violating areas, the counties in these CBSAs are not causing or contributing to a violation of the 2012 PM_{2.5} NAAQS in a nearby area. Therefore, the EPA is designating the remaining five undesignated counties in these CBSAs as unclassifiable/attainment. These designations are consistent with Florida's recommended area designations and boundaries for these areas for the 2012 PM_{2.5} NAAQS. The table at the end of this final rule (amendments to 40 CFR 81.310 -- Florida) lists all areas for which the EPA has promulgated an initial designation in Florida. Areas of Indian country located in the listed areas are included in the designated areas.

III. Environmental Justice Considerations

When the EPA establishes a new or revised NAAQS, the CAA requires the EPA to designate all areas of the U.S. as either nonattainment, attainment, or unclassifiable. The EPA provided a meaningful opportunity for members of the public to participate in the development of the 2012 primary annual PM_{2.5} NAAQS that underlies the present action, including conducting an outreach and information call with environmental justice organizations on August 9, 2012.

As part of the process of reviewing the PM air quality criteria and revising the primary annual PM_{2.5} NAAQS, the EPA identified persons from lower socioeconomic strata as an at-risk

¹ See also the technical support document for the deferred Florida areas in the rulemaking docket, documents numbered EPA-HQ-OAR-2012-0918-0323 and EPA-HQ-2012-0918-0332.

² Monitoring requirements are in accordance with 40 CFR part 58. Design values are calculated in accordance with 40 CFR part 50, Appendix N.

population for PM-related health effects. As a result, the EPA carefully evaluated the potential impacts on low-income and minority populations. Based on this evaluation and consideration of public comments, the EPA eliminated spatial averaging provisions as part of the form of the primary annual PM_{2.5} NAAQS in order to avoid potential disproportionate impacts on at-risk populations, including populations from lower socioeconomic strata. *See* 78 FR at 3267 (January 15, 2013).

This final action addresses designation determinations for certain areas in Florida for the 2012 primary annual PM_{2.5} NAAQS. The CAA requires the EPA to determine through a designation process whether an area meets or does not meet any new or revised national primary or secondary NAAQS. The promulgation of area designations facilitates public understanding and awareness of the air quality in an area. For this action, the complete and valid monitoring data from Florida indicate that all the areas at issue in this action are meeting the 2012 primary annual PM_{2.5} NAAQS. Furthermore, no area affected by this action is contributing to a violation of the 2012 primary annual PM_{2.5} NAAQS in a nearby area.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is exempt from review by the Office of Management and Budget because it responds to the CAA requirement to promulgate air quality designations after promulgation of a new or revised NAAQS.

B. Executive Order 13771: Reducing Regulations and Controlling Regulatory Costs

This action is not an Executive Order 13771 regulatory action because actions such as air quality designations after promulgating a new revised NAAQS are exempt from review under

Executive Order 12866.

C. Paperwork Reduction Act (PRA)

This action does not impose an information collection burden under the PRA. This action fulfills the non-discretionary duty for the EPA to promulgate air quality designations after promulgation of a new or revised NAAQS and does not contain any information collection activities.

D. Regulatory Flexibility Act (RFA)

This designation action under CAA 107(d) is not subject to the RFA. The RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA), 5 U.S.C. 553, or any other statute. Section 107(d)(2)(B) of the CAA explicitly provides that designations are exempt from the notice and comment provisions of the APA. In addition, designations under CAA section 107(d) are not among the list of actions that are subject to the notice and comment procedures of CAA section 307(d).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538 and does not significantly or uniquely affect small governments. The action implements mandates specifically and explicitly set forth in the CAA for the 2012 primary annual PM_{2.5} NAAQS (40 CFR 50.18). The CAA establishes the process whereby states take primary responsibility for developing plans to meet the 2012 primary annual PM_{2.5} NAAQS.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

This action does not have tribal implications. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. The CAA provides for states and eligible tribes to develop plans to regulate emissions of air pollutants within their areas, as necessary, based on the designations. The TAR provides tribes the opportunity to apply for eligibility to develop and implement CAA programs, such as programs to attain and maintain the PM_{2.5} NAAQS, but it leaves to the discretion of the tribe the decision of whether to apply to develop these programs and which programs, or appropriate elements of a program, the tribe will seek to adopt. This rule does not have a substantial direct effect on one or more Indian tribes.

H. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

The EPA interprets Executive Order 13045 as applying to those regulatory actions that concern environmental health or safety risks that the EPA has reason to believe may disproportionately affect children, per the definition of “covered regulatory action” in section 2-202 of the Executive Order. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution or Use

This action is not subject to Executive Order 13211, because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer and Advancement Act (NTTAA)

This rulemaking does not involve technical standards.

K. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

The EPA believes that this action does not have disproportionately high and adverse human health or environmental effects on minority populations, low-income populations and/or indigenous peoples, as specified in Executive Order 12898 (59 FR 7629, February 16, 1994).

The documentation for this determination is contained in Section III of this preamble, “Environmental Justice Considerations.”

L. Congressional Review Act (CRA)

This action is subject to the CRA, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the U.S. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

M. Judicial Review

Section 307 (b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by the EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit: (i) When the agency action consists of “nationally applicable regulations promulgated, or final actions taken by the Administrator,” or (ii) when such action is locally or regionally applicable, if “such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.”

This final action, in conjunction with the previous final actions designating areas across the U.S. for the 2012 primary annual PM_{2.5} NAAQS, is “nationally applicable” within the

meaning of section 307(b)(1). At the core of this final action is the EPA's interpretations of the definitions of nonattainment, attainment and unclassifiable under section 107(d)(1) of the CAA, and its application of those interpretations to areas across the country. For the same reasons, the Administrator is also determining that the final designations are of nationwide scope and effect for the purposes of section 307(b)(1) of the CAA. This is particularly appropriate because, in the report on the 1977 Amendments that revised section 307(b)(1) of the CAA, Congress noted that the Administrator's determination that an action is of "nationwide scope or effect" would be appropriate for any action that has a scope or effect beyond a single judicial circuit. H.R. Rep. No. 95-294 at 323, 324, reprinted in 1977 U.S.C.C.A.N. 1402-03. Here, the scope and effect of this final action extends to numerous judicial circuits since the designations apply to areas across the country. In these circumstances, section 307(b)(1) and its legislative history calls for the Administrator to find the action to be of "nationwide scope or effect" and for venue to be in the D.C. Circuit.

Thus, any petitions for review of final designations must be filed in the Court of Appeals for the District of Columbia Circuit within 60 days from the date final action is published in the *Federal Register*.

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National Ambient Air Quality Standard (NAAQS) for Areas in Florida**

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated:

Andrew R. Wheeler,
Acting Administrator.

For the reasons set forth in the preamble, 40 CFR part 81 is amended as follows:

PART 81—DESIGNATIONS OF AREAS FOR AIR QUALITY PLANNING PURPOSES

1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designations

2. Section 81.310 is amended by revising the table titled, “Florida--2012 Annual PM_{2.5} NAAQS (Primary)” to read as follows:

§81.310 Florida.

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Florida--2012 Annual PM_{2.5} NAAQS

[Primary]

Designated area ¹	Designation		Classification	
	Date ²	Type	Date ²	Type
Statewide:				
Alachua County	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Unclassifiable/Attainment		
Baker County		Unclassifiable/Attainment		
Bay County		Unclassifiable/Attainment		
Bradford County		Unclassifiable/Attainment		
Brevard County		Unclassifiable/Attainment		
Broward County	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Unclassifiable/Attainment		
Calhoun County		Unclassifiable/Attainment		
Charlotte County		Unclassifiable/Attainment		
Citrus County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		

Collier County		Unclassifiable/Attainment		
Columbia County		Unclassifiable/Attainment		
DeSoto County		Unclassifiable/Attainment		
Dixie County		Unclassifiable/Attainment		
Duval County		Unclassifiable/Attainment		
Escambia County		Unclassifiable/Attainment		
Flagler County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Gadsden County		Unclassifiable/Attainment		
Gilchrist County	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Unclassifiable/Attainment		
Glades County		Unclassifiable/Attainment		
Gulf County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hardee County		Unclassifiable/Attainment		
Hendry County		Unclassifiable/Attainment		
Hernando County		Unclassifiable/Attainment		
Highlands County		Unclassifiable/Attainment		
Hillsborough County		Unclassifiable/Attainment		
Holmes County		Unclassifiable/Attainment		
Indian River County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Lafayette County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Leon County		Unclassifiable/Attainment		
Levy County		Unclassifiable/Attainment		
Liberty County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Manatee County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Miami-Dade County	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE	Unclassifiable/Attainment		

	FEDERAL REGISTER]			
Monroe County		Unclassifiable/Attainment		
Nassau County		Unclassifiable/Attainment		
Okaloosa County		Unclassifiable/Attainment		
Okeechobee County		Unclassifiable/Attainment		
Orange County		Unclassifiable/Attainment		
Osceola County		Unclassifiable/Attainment		
Palm Beach County	[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]	Unclassifiable/Attainment		
Pasco County		Unclassifiable/Attainment		
Pinellas County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
St. Johns County		Unclassifiable/Attainment		
St. Lucie County		Unclassifiable/Attainment		
Santa Rosa County		Unclassifiable/Attainment		
Sarasota County		Unclassifiable/Attainment		
Seminole County		Unclassifiable/Attainment		
Sumter County		Unclassifiable/Attainment		
Suwanee County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Volusia County		Unclassifiable/Attainment		
Wakulla County		Unclassifiable/Attainment		
Walton County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		

¹Includes areas of Indian country located in each county or area, except as otherwise specified.

²This date is October 6, 2016, unless otherwise noted.

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