



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 81**

**[EPA-HQ-OAR-2012-0918; FRL-9962-89-OAR]**

**RIN 2060-AT44**

### **Air Quality Designations for the 2012 Primary Annual Fine Particle (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) for Areas in Tennessee**

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

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is establishing air quality designations in the United States (U.S.) for the 2012 primary annual fine particle (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) for the remaining undesignated areas in the state of Tennessee. When the EPA designated the majority of areas in the country in December 2014, and March 2015, the EPA deferred initial area designations for several locations, including all of the state of Tennessee except three counties in the Chattanooga area, because the EPA could not determine using available data whether the areas were meeting or not meeting the NAAQS. However, we believed that forthcoming data in 2015 would allow the EPA to make that determination. Tennessee has now submitted complete, quality-assured, and certified air quality monitoring data for 2015 for the areas identified in this document, and based on these data, the EPA is designating these areas as unclassifiable/attainment for the 2012 primary annual PM<sub>2.5</sub> 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 <https://www.regulations.gov> index. 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 <https://www.regulations.gov> 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<sub>2.5</sub> NAAQS at:

<https://www3.epa.gov/pmdesignations/2012standards/index.htm>. This website includes the EPA's final PM<sub>2.5</sub> designations, 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 Planning Division, C539-04, Research Triangle Park, North Carolina 27711, telephone (919) 541-3347, email at [oldham.carla@epa.gov](mailto: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](mailto:sanchez.madolyn@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On December 14, 2012, the EPA promulgated a revised primary annual PM<sub>2.5</sub> 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<sub>2.5</sub> 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 primary PM<sub>2.5</sub> NAAQS based on 2011-2013-air quality

monitoring data for the majority of the U.S., including areas of Indian country (80 FR 2206; January 15, 2015). In that action, the EPA also deferred initial area designations for several areas where available data, including air quality monitoring data, were insufficient to determine whether the areas 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), and September 6, 2016 (81 FR 61136), the EPA completed 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) and 62 counties in the state of Florida, including areas of Indian country located in those areas.

## **II. Purpose and Designation Decisions Based on 2013–2015 Data**

The purpose of this action is to announce and promulgate initial area designations of unclassifiable/attainment for the 2012 PM<sub>2.5</sub> NAAQS for the remaining 92 counties in the state of Tennessee.<sup>1</sup> All of the areas at issue in this action were initially deferred in the EPA's

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<sup>1</sup> The 3 previously designated unclassifiable/attainment counties in the Chattanooga area are Hamilton County, Marion County and Sequatchie County.

January 15, 2015, rulemaking.<sup>2</sup> Since then, the state of Tennessee submitted to the EPA complete, quality-assured, and certified air quality monitoring data from 2013-2015 for these deferred areas. These data provide the EPA with sufficient information to promulgate initial designations for the remaining undesignated areas in the state of Tennessee in this action. Air quality data collected and submitted to the EPA for 2013-2015 for these areas indicate that the areas are attaining the 2012 PM<sub>2.5</sub> NAAQS and are not causing or contributing to a violation of the NAAQS in a nearby area. Therefore, the EPA is designating the remaining 92 undesignated counties in the state of Tennessee as unclassifiable/attainment. This designation is consistent with Tennessee's recommended area designations and boundaries for these areas for the 2012 PM<sub>2.5</sub> standard. The table at the end of this final rule (amendments to 40 CFR 81.343 – Tennessee) lists all areas for which the EPA has promulgated an initial designation in Tennessee. There are no areas of Indian country covered by this action.

### **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<sub>2.5</sub> standard 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<sub>2.5</sub> standard, the EPA identified persons from lower socioeconomic strata as an at-risk

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<sup>2</sup> See also the technical support document for the deferred Tennessee areas in the rulemaking docket, document numbered EPA-HQ-OAR-2012-0918-0325.

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<sub>2.5</sub> standard 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 Tennessee based on that 2012 primary annual PM<sub>2.5</sub> standard. 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 ambient air quality standard. 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 Tennessee indicate that all affected areas are meeting the NAAQS. Furthermore, no area affected by this action is contributing to a NAAQS violation 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. 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.

*C. Regulatory Flexibility Act (RFA)*

This designation action under CAA section 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 section 107(d) are not among the list of actions that are subject to the notice and comment procedures of CAA section 307(d).

*D. 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 PM<sub>2.5</sub> NAAQS (40 CFR 50.18). The CAA establishes the process whereby states take primary responsibility for developing plans, where required, to meet the 2012 PM<sub>2.5</sub> NAAQS.

*E. Executive Order 13132: Federalism*

This action does not have federalism implications. It will not have a 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.

*F. Executive Order 13175: Consultation and Coordination with Indian Tribal Government.*

This action does not have tribal implications. It will neither impose substantial direct compliance costs on federally recognized tribal governments, nor preempt tribal law. Areas of Indian country are not being designated as part of this action.

*G. 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.

*H. 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.

*I. National Technology Transfer and Advancement Act (NTTAA)*

This rulemaking does not involve technical standards.

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

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.”

*K. 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).

*L. 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 annual PM<sub>2.5</sub> 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). 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 relate to the designations for 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*.

**List of Subjects in 40 CFR Part 81**

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

Dated: May 10, 2017.

E. Scott Pruitt,  
Administrator.

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

**PART 81—DESIGNATION 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 81.343 is amended by revising the table entitled “Tennessee--2012 Annual PM<sub>2.5</sub> NAAQS [Primary]” to read as follows:

**§81.343 Tennessee.**

\* \* \* \* \*

Tennessee--2012 Annual PM<sub>2.5</sub> NAAQS

[Primary]

Designated area <sup>1</sup>	Designation		Classification	
	Date <sup>2</sup>	Type	Date <sup>2</sup>	Type
Statewide:				
Anderson County		Unclassifiable/Attainment		
Bedford County		Unclassifiable/Attainment		
Benton County		Unclassifiable/Attainment		
Bledsoe County		Unclassifiable/Attainment		
Blount County		Unclassifiable/Attainment		
Bradley County		Unclassifiable/Attainment		
Campbell County		Unclassifiable/Attainment		
Cannon County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Cheatham County		Unclassifiable/Attainment		
Chester County		Unclassifiable/Attainment		
Claiborne County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Cocke County		Unclassifiable/Attainment		
Coffee County		Unclassifiable/Attainment		
Crockett County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
Davidson County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
DeKalb County		Unclassifiable/Attainment		
Dickson County		Unclassifiable/Attainment		

Dyer County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fentress County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Gibson County		Unclassifiable/Attainment		
Giles County		Unclassifiable/Attainment		
Grainger County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Grundy County		Unclassifiable/Attainment		
Hamblen County		Unclassifiable/Attainment		
Hamilton County	April 15, 2015	Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardeman County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Hawkins County		Unclassifiable/Attainment		
Haywood County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Hickman County		Unclassifiable/Attainment		
Houston County		Unclassifiable/Attainment		
Humphreys County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
Lauderdale County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lewis County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Loudon County		Unclassifiable/Attainment		
McMinn County		Unclassifiable/Attainment		
McNairy County		Unclassifiable/Attainment		
Macon County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marion County	April 15, 2015	Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Maury County		Unclassifiable/Attainment		
Meigs County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Moore County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Obion County		Unclassifiable/Attainment		
Overton County		Unclassifiable/Attainment		

Perry County		Unclassifiable/Attainment		
Pickett County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Rhea County		Unclassifiable/Attainment		
Roane County		Unclassifiable/Attainment		
Robertson County		Unclassifiable/Attainment		
Rutherford County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Sequatchie County	April 15, 2015	Unclassifiable/Attainment		
Sevier County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Smith County		Unclassifiable/Attainment		
Stewart County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Sumner County		Unclassifiable/Attainment		
Tipton County		Unclassifiable/Attainment		
Trousdale County		Unclassifiable/Attainment		
Unicoi County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Van Buren County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Weakley County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Williamson County		Unclassifiable/Attainment		
Wilson County		Unclassifiable/Attainment		

<sup>1</sup> Includes areas of Indian country located in each county or area, if any, except as otherwise specified.

<sup>2</sup> This date is [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER], unless otherwise noted.

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[FR Doc. 2017-10245 Filed: 5/18/2017 8:45 am; Publication Date: 5/19/2017]