



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA-R06-OAR-2018-0624; FRL-9990-00-Region 6]

Air Quality Designation for the 2010 Sulfur Dioxide (SO₂) Primary National Ambient Air Quality Standard; Arkansas; Redesignation of the Independence County Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On April 20, 2018, the State of Arkansas, through the Arkansas Department of Environmental Quality (ADEQ) submitted a request for the Environmental Protection Agency (EPA) to assess new available information and redesignate the Independence County unclassifiable area (hereinafter referred to as the “County” or “Area”) for the 2010 sulfur dioxide (SO₂) primary national ambient air quality standard (NAAQS) to attainment/unclassifiable. Pursuant to the Clean Air Act (CAA), the EPA is approving the State’s request and redesignating the Area to attainment/unclassifiable for the 2010 primary SO₂ NAAQS based on EPA’s review confirming that the State’s modeling results appropriately characterize the air quality in Independence County, Arkansas and that predicted ambient SO₂ concentrations are below this NAAQS.

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

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2018-0624. All documents listed in the docket are listed on the <https://www.regulations.gov> website. Although listed in the index, some information may not be

publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, TX 75202. 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 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Ruben Casso, (214) 665-6763, casso.ruben@epa.gov. To inspect the hard copy materials, please schedule an appointment with Mr. Casso.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," or "our" means the EPA.

I. Background

In a notice of proposed rulemaking (NPRM) published on November 23, 2018 (83 FR 59350)¹ EPA proposed to approve the State's redesignation request. The details of Arkansas' submittal and the rationale for EPA's actions are further explained in the NPRM. EPA did not receive any relevant adverse comments on the proposed action.²

¹ Proposed AR SO₂ redesignation can be found at www.regulations.gov; Docket EPA-HQ-OAR-2014-0464)

² ADEQ submitted a letter supportive of EPA's proposed redesignation which can be found at www.regulations.gov/document Docket EPA-R06-OAR-2018-0624-0028. An anonymous comment regarding the writing in support of the Roadless Area Conservation; National Forest System Lands in Alaska was not relevant to this action. This comment can be found at www.regulations.gov Docket EPA-R06-OAR-2018-0624-0027.

As noted in our NPRM, on April 20, 2018, Arkansas submitted a request to change the EPA's previous designation and redesignate Independence County from unclassifiable to attainment/unclassifiable for the 2010 SO₂ primary NAAQS. The EPA has reviewed the modeling provided by the State with its redesignation request and finds that it is acceptable for assessing the attainment status of Independence County, and that predicted ambient SO₂ concentrations are below the 2010 SO₂ primary NAAQS of 196.4 µg/m³, or 75 ppb.

II. Final Action

The EPA is approving Arkansas' April 20, 2018, request to change the EPA's previous designation and redesignate Independence County from unclassifiable to attainment/unclassifiable for the 2010 SO₂ primary NAAQS.

III. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment/unclassifiable is an action that affects the status of a geographical area and does not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment/unclassifiable does not in and of itself create any new requirements. Accordingly, this action merely redesignates an area to attainment/unclassifiable and does not impose additional requirements. For that reason, this action:

- Is exempt from review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because it is exempt under Executive Order 12866;
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is not subject to 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 (Public Law 104-4);
- Is not subject because it does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because it does not establish an environmental standard intended to mitigate health or safety risks;
- 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 this action does not involve technical standards;
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994); and
- Does not have Tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000) because no tribal lands are located within the Area and the redesignation does not create new requirements. The EPA notes this action will not impose substantial direct costs on Tribal governments or preempt Tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the

United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2). Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 81

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

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

Dated: March 7, 2019.

Anne Idsal,
Regional Administrator, Region 6.

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.*

2. In § 81.304, the table entitled “Arkansas-2010 Sulfur Dioxide NAAQS (Primary)” is amended by revising the entry for “Independence County” to read as follows:

§ 81.304 Arkansas.

* * * * *

ARKANSAS-2010 SULFUR DIOXIDE NAAQS (PRIMARY)

Designated area ¹	Designation	
	Date ²	Type
Independence County	[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].	Attainment/Unclassifiable
* * * * *		

¹Includes any Indian country in each county or area, unless otherwise specified. EPA is not determining the boundaries of any area of Indian country in this table, including any area of Indian country located in the larger designation area. The inclusion of any Indian country in the designation area is not a determination that the state has regulatory authority under the Clean Air Act for such Indian country.

²This date is April 9, 2018, unless otherwise noted.

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