



6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[EPA-R04-OAR-2019-0374; FRL-9998-31-Region 4]

**Air Plan Approval and Air Quality Designation; FL;**

### **Redesignation of the Duval County Ozone Unclassifiable Area**

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

**ACTION:** Proposed rule.

**SUMMARY:** On June 19, 2019, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Duval County, Florida ozone unclassifiable area (hereinafter referred to as the “Duval County Area” or “Area”) to attainment for the 2015 primary and secondary 8-hour ozone national ambient air quality standards (NAAQS). EPA now has sufficient data to determine that the Duval County Area is in attainment of the 2015 primary and secondary 8-hour ozone NAAQS. Therefore, EPA is proposing to approve the State’s request and redesignate the Area to attainment/unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS based upon valid, quality-assured, and certified ambient air monitoring data showing that the Area is in compliance with the 2015 primary and secondary 8-hour ozone NAAQS.

**DATES:** Comments must be received on or before **[Insert date 30 days after date of publication in the Federal Register]**.

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2019-0374 at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. EPA may publish any comment received to its public docket. Do not submit electronically any information

you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (i.e., on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <http://www2.epa.gov/dockets/commenting-epa-dockets>.

**FOR FURTHER INFORMATION CONTACT:** Madolyn Sanchez, Air Regulatory Management Section, Air Planning and Implementation Branch, Air and Radiation Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Sanchez can be reached by telephone at (404) 562-9644 or via electronic mail at [sanchez.madolyn@epa.gov](mailto:sanchez.madolyn@epa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Clean Air Act (CAA or Act) establishes a process for air quality management through the establishment and implementation of the NAAQS. After the promulgation of a new or revised NAAQS, EPA is required to designate areas, pursuant to section 107(d)(1) of the CAA, as attainment, nonattainment, or unclassifiable. On October 1, 2015, EPA published a final rule revising the primary and secondary 8-hour NAAQS for ozone to a level of 70 parts per billion (ppb), based on a 3-year average of the annual fourth-highest daily maximum 8-hour ozone concentrations. *See* 80 FR 65292 (October 26, 2015). EPA established the standards based on significant evidence and numerous health studies demonstrating that serious health effects are associated with exposures to ground-level ozone.

The process for designating areas following promulgation of a new or revised NAAQS is contained in section 107(d)(1) of the CAA. On June 4, 2018 (83 FR 25776), EPA published a final rule designating certain areas across the country, including the Duval Area, as nonattainment, unclassifiable, or attainment/unclassifiable<sup>1</sup> for the 2015 primary and secondary 8-hour ozone NAAQS based upon air quality monitoring data from monitors for calendar years 2015-2017.<sup>2</sup> The monitors in the Duval County Area had incomplete data for the 2015-2017 timeframe. Therefore, EPA designated Duval County as unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS.

As discussed in section III below, the monitors in the Duval County Area now have sufficient data to determine that the Area is attaining the 2015 primary and secondary 8-hour ozone NAAQS. Therefore, on June 19, 2019, Florida submitted a request for EPA to redesignate the Duval County Area to attainment for the 2015 primary and secondary 8-hour ozone NAAQS.<sup>3</sup>

## **II. What are the criteria for redesignating an area from Unclassifiable to Attainment/Unclassifiable?**

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<sup>1</sup> For the ozone initial area designations in 2018, EPA used a designation category of “attainment/unclassifiable” for areas that had monitors showing attainment of the standard and were not contributing to nearby violations and for areas that did not have monitors but for which EPA had reason to believe were likely attaining the standard and not contributing to nearby violations. EPA used the category “unclassifiable” for areas in which EPA could not determine, based upon available information, whether or not the NAAQS was being met and/or EPA had not determined the area to be contributing to nearby violations. EPA reserves the “attainment” category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

<sup>2</sup> This action, combined with final rules published on November 16, 2017 (82 FR 54232) and July 25, 2018 (83 FR 35136), completed the 2015 8-hour ozone NAAQS designations for all areas.

<sup>3</sup> Although Florida requested redesignation of the Area to “attainment,” EPA is proposing to redesignate the area to “attainment/unclassifiable” because, as noted above, EPA reserves the “attainment” category for when EPA redesignates a nonattainment area that has attained the relevant NAAQS and has an approved maintenance plan.

Section 107(d)(3) of the CAA provides the framework for changing the area designations for any NAAQS pollutants. Section 107(d)(3)(A) provides that the Administrator may notify the Governor of any state that the designation of an area should be revised “on the basis of air quality data, planning and control considerations, or any other air quality-related considerations the Administrator deems appropriate.” The Act further provides in section 107(d)(3)(D) that even if the Administrator has not notified a state Governor that a designation should be revised, the Governor of any state may, on the Governor’s own motion, submit a request to revise the designation of any area, and the Administrator must approve or deny the request.

When approving or denying a request to redesignate an area, EPA bases its decision on the air quality data for the area as well as the considerations provided under section 107(d)(3)(A).<sup>4</sup> In keeping with section 107(d)(1)(A), areas that are redesignated to attainment/unclassifiable must meet the requirements for attainment areas and thus must meet the relevant NAAQS. In addition, the area must not contribute to ambient air quality in a nearby area that does not meet the NAAQS. The relevant monitoring data must be collected and quality-assured in accordance with 40 CFR Part 58 and recorded in the EPA Air Quality System (AQS) database. The designated monitors generally should have remained at the same location for the duration of the monitoring period upon which the redesignation request is based.<sup>5</sup>

### **III. What is EPA’s rationale for proposing to redesignate the Area?**

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<sup>4</sup> While CAA section 107(d)(3)(E) also lists specific requirements for redesignations, those requirements only apply to redesignations of nonattainment areas to attainment and therefore are not applicable in the context of a redesignation of an area from unclassifiable to attainment/unclassifiable.

<sup>5</sup> See Memorandum from John Calcagni, Director, EPA Air Quality Management Division, entitled “Procedures for Processing Requests to Redesignate Areas to Attainment” (September 4, 1992).

In order to redesignate the Area from unclassifiable to attainment/unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS, the 3-year average of annual fourth-highest daily maximum 8-hour ozone concentration values (i.e., design value) over the most recent 3-year period must be less than or equal to 70 ppb at all monitoring sites in the Area over the full 3-year period, as determined in accordance with 40 CFR 50.19 and Appendix U of Part 50. EPA reviewed ozone monitoring data from the monitoring stations in the Duval County Area for the 2015 primary and secondary 8-hour ozone NAAQS for the 3-year period from 2016-2018. These data have been quality-assured, certified, and recorded in AQS by Florida, and the monitoring locations have not changed during the monitoring period. As summarized in Table 1, the design values for all of the monitors in the Area for the 2016-2018 period are well below the 2015 primary and secondary 8-hour ozone NAAQS.

**Table 1 – 2015 8-Hour Ozone Design Values for the Monitors in the Duval County Area for 2016-2018**

| <b>AQS Site #</b> | <b>Site Name</b>     | <b>2016-2018 Ozone Design Value (ppb)</b> |
|-------------------|----------------------|---|
| 12-031-0077       | Sheffield Elementary | 58  |
| 12-031-0100       | Mayo Clinic          | 60  |
| 12-031-0106       | Cisco Drive          | 61  |

Because the 3-year design values, based on complete, valid, certified, and quality-assured data, demonstrate that the Area meets the 2015 primary and secondary 8-hour ozone standards, EPA is proposing to redesignate the Duval County Area from unclassifiable to attainment/unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS.

#### **IV. Proposed Action**

EPA is proposing to approve Florida’s June 19, 2019, redesignation request and to redesignate the Duval County Area from unclassifiable to attainment/unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS. If finalized, approval of the redesignation request

would change the legal designation, found at 40 CFR Part 81, of Duval County from unclassifiable to attainment/unclassifiable for the 2015 primary and secondary 8-hour ozone NAAQS.

## **V. 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 create any new requirements. Accordingly, this proposed action merely proposes to redesignate an area to attainment/unclassifiable and does not impose additional requirements. For that reason, this proposed action:

- Is not a significant regulatory action subject to 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 redesignations are exempted 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 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 (Public Law 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 CAA; and
- Will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

This proposed action does not apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, this proposed action does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

#### **40 CFR Part 81**

Environmental protection, Air pollution control.

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

Dated: August 5, 2019.

Mary S. Walker,  
Regional Administrator,  
Region 4.

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