



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R04-OAR-2018-0552; FRL-10001-35-Region 4]

Air Plan Approval and Designation of Areas; FL; Redesignation of the Hillsborough

County 2010 1-Hour Sulfur Dioxide Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In a letter dated June 7, 2018, the State of Florida, through the Florida Department of Environmental Protection (FDEP), submitted a request for the Environmental Protection Agency (EPA) to redesignate the Hillsborough County sulfur dioxide (SO₂) nonattainment area (hereinafter referred to as the “Hillsborough County Area” or “Area”) to attainment for the 2010 1-hour SO₂ primary national ambient air quality standard (NAAQS) and to approve an accompanying state implementation plan (SIP) revision containing a maintenance plan for the Area. Through a letter dated April 16, 2019, FDEP submitted a revision to the June 7, 2018, redesignation request and SIP revision asking EPA to incorporate certain conditions into the SIP from a recent permit revision applicable to the Tampa Electric Company – Big Bend Station (Big Bend) power plant. EPA is taking final action: to determine that the Hillsborough County Area attained the 2010 1-hour SO₂ NAAQS by its applicable attainment date of October 4, 2018; to approve the SIP revision containing the State’s plan for maintaining attainment of the 2010 1-hour SO₂ standard and to incorporate the maintenance plan into the SIP; to redesignate the Hillsborough County Area to attainment for the 2010 1-hour SO₂ NAAQS;

and to incorporate into the SIP certain permitting conditions applicable to Big Bend, including a condition that lowers the SO₂ emissions cap and a condition that restricts fuel use at two electric generating units to natural gas.

DATES: This rule will be effective **[Insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA-R04-OAR-2018-0552. All documents in the docket are listed on the www.regulations.gov web site. 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 the 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. 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: 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 may be reached by phone at (404) 562-9644 or via electronic mail at sanchez.madolyn@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What is the Background for the Actions?

On June 2, 2010, EPA revised the primary SO₂ NAAQS, establishing a new 1-hour SO₂ standard of 75 parts per billion (ppb). *See* 75 FR 35520 (June 22, 2010). Under EPA's regulations at 40 CFR part 50, the 2010 1-hour SO₂ NAAQS is met at a monitoring site when the 3-year average of the annual 99th percentile of daily maximum 1-hour average concentrations is less than or equal to 75 ppb (based on the rounding convention in 40 CFR part 50, appendix T). *See* 40 CFR 50.17. Ambient air quality monitoring data for the 3-year period must meet a data completeness requirement. A year meets data completeness requirements when all four quarters are complete, and a quarter is complete when at least 75 percent of the sampling days for each quarter have complete data. A sampling day has complete data if 75 percent of the hourly concentration values, including state-flagged data affected by exceptional events which have been approved for exclusion by the Administrator, are reported.¹

Upon promulgation of a new or revised NAAQS, the Clean Air Act (CAA or Act) requires EPA to designate as nonattainment any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the NAAQS. EPA designated the Hillsborough County Area as nonattainment for the 2010 1-hour SO₂ NAAQS, effective on October 4, 2013, using 2009-2011 complete, quality assured, and certified ambient air quality data. *See* 78 FR 47191 (August 5, 2013). The Hillsborough County Area is comprised of the

¹ *See* 40 CFR part 50, appendix T, section 3(b).

portion of Hillsborough County encompassed by the polygon with the vertices using Universal Transverse Mercator (UTM) coordinates in UTM zone 17 with datum NAD83 as follows: (1) Vertices-UTM Easting (m) 358581, UTM Northing 3076066; (2) vertices-UTM Easting (m) 355673, UTM Northing 3079275; (3) UTM Easting (m) 360300, UTM Northing 3086380; (4) vertices-UTM Easting (m) 366850, UTM Northing 3086692; (5) vertices-UTM Easting (m) 368364, UTM Northing 3083760; and (6) vertices-UTM Easting (m) 365708, UTM Northing 3079121. Under the CAA, nonattainment areas must attain the NAAQS as expeditiously as practicable but not later than five years after the October 4, 2013, effective date of the designation. *See* CAA section 192(a). Therefore, the Hillsborough County Area's applicable attainment date was no later than October 4, 2018.

EPA's 2010 SO₂ nonattainment designation for the Area triggered an obligation for Florida to develop a nonattainment SIP revision addressing certain requirements under title I, part D, subpart 1 (hereinafter "Subpart 1"), and to submit that SIP revision to EPA in accordance with the deadlines in title I, part D, subpart 5 (hereinafter "Subpart 5"). Subpart 1 contains the general requirements for nonattainment areas for criteria pollutants, including requirements to develop a SIP that provides for the implementation of reasonably available control measures (RACM), requires reasonable further progress (RFP), includes base-year and attainment-year emissions inventories, a SIP-approved nonattainment new source review (NNSR) permitting program that accounts for growth in the area, enforceable emission limitations and other such control measures, and provides for the implementation of contingency measures. This SIP revision was due within 18 months following the October 4, 2013, effective date of designation

(i.e., April 4, 2015). *See* CAA section 191(a). Florida submitted a nonattainment SIP revision to EPA on April 3, 2015.

On July 3, 2017 (82 FR 30749), EPA approved Florida's April 3, 2015, SO₂ nonattainment SIP revision. This SIP revision provided a modeled attainment demonstration and satisfied the required nonattainment planning requirements mentioned above for the Hillsborough County Area. The revision included a base year emissions inventory, a modeling demonstration of attainment for the 2010 SO₂ NAAQS, RACM/Reasonable Available Control Technology (RACT), an RFP plan, a NNSR permitting program, and contingency measures for the Hillsborough County Area.

As part of that action, EPA incorporated into the Florida SIP specified SO₂ emissions caps, compliance monitoring, and recordkeeping and reporting requirements for emission units at the Mosaic Fertilizer, LLC Riverview facility (Permit No. 0570008-080-AC, issued on January 15, 2015) and Big Bend (Permit No. 0570039-074-AC, issued on February 26, 2015). Florida based its modeled attainment demonstration, submitted with its April 3, 2015, nonattainment SIP revision, on these conditions. Big Bend has four emission units (EUs 1 through 4), and Big Bend's permit placed an SO₂ emissions cap on all four units at 3,162 pounds per hour (lb/hr) on a 30-day boiler operating day average. To demonstrate compliance with the four-unit cap, Permit No. 0570039-074-AC required each unit to monitor SO₂ emissions with a continuous emission monitoring system (CEMS).

On December 14, 2018, Florida issued a final air construction permit to Big Bend (Permit No. 0570039-120-AC) that, among other things, lowers the four-unit emissions cap from 3,162 lb/hr to 2,156 lb/hr; restricts EUs 1 and 2 to only burn natural gas; and since the amount of sulfur

in natural gas is negligible, authorizes the removal of the SO₂ CEMS for EUs 1 and 2 and requires monitoring for these two units in accordance with the calculation method allowed for gas-fired acid rain units in 40 CFR part 75 to demonstrate compliance with the lowered emissions cap.² EUs 1 and 2 share a stack and a flue gas desulfurization (FGD) system to control SO₂. Permit No. 0570039-074-AC required certified CEMS as the method of SO₂ emissions monitoring and compliance for EUs 1 and 2. However, with the restriction on EUs 1 and 2 to burn natural gas in the revised permit, the new method of monitoring and compliance for EUs 1 and 2 utilizes the protocol in 40 CFR Part 75, Appendix D to determine the hourly SO₂ emission rate from each unit. EUs 3 and 4 continue to certify compliance with the emissions cap through use of CEMS. Therefore, Big Bend will demonstrate compliance of the lowered four-unit emissions cap through a combination of 40 CFR Part 75, Appendix D (EUs 1 and 2) and SO₂ CEMS data (EUs 3 and 4). As required by 40 CFR Part 75, Appendix D, section 2.1, Big Bend will measure and record the hourly flow rate of natural gas combusted by EUs 1 and 2 with an in-line fuel flowmeter. The pounds-per-hour SO₂ emission rates for each of these two units will then be calculated by using the equation provided in 40 CFR Part 75, Appendix D, section 3.3.1, along with the measured hourly natural gas flow rate to each unit and the vendor certified sulfur content of the combusted natural gas.

On June 7, 2018,³ Florida submitted a request to EPA to redesignate the Hillsborough County Area to attainment for the 2010 1-hour SO₂ NAAQS and a related SIP revision

² Florida incorporated the conditions applicable to Big Bend from Permit No. 0570039-120-AC into the facility's Title V operating permit on February 8, 2019.

³ The June 7, 2018, submission was received by EPA on June 12, 2018.

containing a maintenance plan for the Area. On April 16, 2019, FDEP submitted a revision to the June 7, 2018, redesignation request and SIP revision asking EPA to incorporate into the SIP certain permit conditions established in Permit No. 0570039–120–AC.⁴ As noted below, some of these conditions replace conditions that EPA incorporated into the SIP from Permit No. 0570039-074-AC in the Agency’s July 3, 2017 action approving the State’s nonattainment SIP. The conditions identified for incorporation into the SIP from Permit No. 0570039-120-AC are: (1) Section 2, Condition 4 (new) – describing the 40 CFR part 75, Appendix D monitoring methodology and compliance requirements for EUs 1 and 2; (2) the “SO₂ Emissions Cap” provision from Section 3, Condition 4 (replacement) – setting a four-unit emissions cap of 2,156 lb/hr averaged over a 30-day boiler operating day, requiring that EUs 1 and 2 demonstrate compliance with the cap by monitoring natural gas fuel flow and following the procedures in Appendix D to 40 CFR 75 to determine SO₂ mass emissions, and requiring that EUs 3 and 4 demonstrate compliance with the cap through CEMS; (3) the “SO₂ CEMS” provision from Section 3, Condition 4 (replacement) – requiring EUs 3 and 4 to use CEMS to demonstrate compliance with the cap and to meet the quality assurance and quality control requirements outlined in the facility’s title V permit; and (4) the “Methods of Operation” for Units 1 and 2 provision from Section 3, Condition 6 (new) – restricting EUs 1 and 2 to burning only natural gas from a federally regulated pipeline. In a notice of proposed rulemaking (NPRM) published on July 31, 2019 (84 FR 37173), EPA proposed to determine that the Area attained the 2010 1-hour SO₂ NAAQS by its attainment date of October 4, 2018; to approve the maintenance plan for the Area as meeting the maintenance plan requirements of CAA section 175A and to incorporate

⁴ The April 19, 2019, submission was received by EPA on April 25, 2019.

it into the SIP; to approve Florida's request for redesignation of the Area from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS as meeting the redesignation requirements of CAA section 107(d)(3)(E); and to incorporate into the SIP the aforementioned permitting conditions applicable to Big Bend. No comments were received on the July 31, 2019, proposed rulemaking. The details of Florida's submittal and the rationale for EPA's actions are further explained in the NPRM, including the modeled attainment demonstration and consideration of SO₂ ambient air monitoring data trends in the area to determine attainment with the 2010 1-hour SO₂ NAAQS.

II. What Are the Effects of These Actions?

Approval of the redesignation request changes the legal designation of the Hillsborough County Area, found at 40 CFR 81.310, from nonattainment to attainment for the 2010 1-hour SO₂ NAAQS. Approval of Florida's associated SIP revision also incorporates a plan into the SIP for maintaining the 2010 1-hour SO₂ NAAQS in the Hillsborough County Area as described in the NPRM. The CAA section 175A maintenance plan also establishes contingency measures to remedy any future violations of the 2010 1-hour SO₂ NAAQS and procedures for evaluation of potential violations. The Area is required to implement this maintenance plan and the prevention of significant deterioration program for the 2010 1-hour SO₂ NAAQS. The approved maintenance plan can only be revised if the revision meets the requirements of CAA section 110(l) and, if applicable, CAA section 193. Approval of the SIP revision also incorporates into the SIP certain permitting conditions applicable to Big Bend, making them permanent and federally enforceable.

III. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference into Florida's SIP the following conditions from Air Permit No. 0570039-120-AC issued by FDEP to Big Bend with an effective date of December 14, 2018, related to an SO₂ emissions cap and fuel restriction at the facility and associated compliance monitoring, recordkeeping, and reporting requirements:⁵ (1) Section 2, Condition 4; (2) the "SO₂ Emissions Cap" provision from Section 3, Condition 4;⁶ (3) the "SO₂ CEMS" provision from Section 3, Condition 4;⁷ and (4) the "Methods of Operation" for Units 1 and 2 provision from Section 3, Condition 6.⁸ Therefore, these material have been approved by EPA for inclusion in the state implementation plan, have been incorporated by reference by EPA into that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference in the next update to the SIP compilation.⁹

EPA has made, and will continue to make, these materials generally available through www.regulations.gov and at the EPA Region 4 Office (please contact the person identified in the **"FOR FURTHER INFORMATION CONTACT"** section of this preamble for more information).

⁵ For additional information regarding these permit conditions, see Section I, above, and Section V of the NPRM.

⁶ In its April 16, 2019, submittal, Florida identifies this provision as "Section 3, Subsection B, Specific Condition 2"; however, it is contained under the heading "4. Permit Being Modified: Permit No. 0570039-096-AC" in Section 3 of Permit No. 0570039-120-AC. See Section V of the NPRM for additional information.

⁷ In its April 16, 2019, submittal, Florida identifies this provision as "Section 3, Subsection B, Specific Condition 3"; however, it is contained under the heading "4. Permit Being Modified: Permit No. 0570039-096-AC" in Section 3 of Permit No. 0570039-120-AC. See Section V of the NPRM for additional information.

⁸ In its April 16, 2019, submittal, Florida identifies this provision as "Section 3, Subsection A, Specific Condition 3a"; however, it is contained under the heading "6. Permits Being Modified: Permit Nos. 0570039-066-AC & 109-AC" in Section 3 of Permit No. 0570039-120-AC. See Section V of the NPRM for additional information.

⁹ See 62 FR 27968 (May 22, 1997).

IV. Final Action

EPA is taking final actions regarding Florida's request to redesignate the Hillsborough County Area to attainment for the 2010 1-hour SO₂ NAAQS and associated SIP revision. EPA is determining that the Hillsborough County Area attained the 2010 1-hour SO₂ NAAQS by its applicable attainment date of October 4, 2018. EPA is also approving the SIP revision containing the State's plan for maintaining attainment of the 2010 1-hour SO₂ standard and incorporating the maintenance plan into the SIP. EPA is approving Florida's redesignation request and redesignating the Hillsborough County Area to attainment for the 2010 1-hour SO₂ NAAQS. Finally, EPA is incorporating the aforementioned permit conditions for Big Bend into the SIP. As mentioned above, approval of the redesignation request changes the official designation of the Hillsborough County Area from nonattainment to attainment, as found in 40 CFR part 81.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 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 CAA.

Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For this reason, these actions:

- Are not significant regulatory actions 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);
- Are not Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory actions because redesignations and SIP approvals are exempted under Executive Order 12866;
- Do not impose information collection burdens under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Are 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.*);
- Do 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);
- Do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Are 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).

These actions are not approved to 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, the rule 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.

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 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Sulfur dioxide, Reporting and recordkeeping requirements.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control.

Dated: October 10, 2019.

Mary S. Walker,
Regional Administrator,
Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52-APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

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

Subpart K – Florida

2. Section 52.520 is amended by:

- a. In paragraph (d), revising the entry for “Tampa Electric Company – Big Bend Station”
Air Permit No. 0570039-074-AC,

b. In paragraph (d), adding a new entry for “Tampa Electric Company – Big Bend Station” at the end of the table, and

c. In paragraph (e), adding a new entry for “2010 1-hour SO₂ Maintenance Plan for the Hillsborough Area” at the end of the table to read as follows.

§ 52.520 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED FLORIDA SOURCE-SPECIFIC REQUIREMENTS

| Name of source | Permit No. | State effective date | EPA approval date | Explanation |
|---|-------------------------------|-----------------------------|--|---|
| ** | ** | * | * | * |
| Tampa Electric Company-Big Bend Station | Air Permit No. 0570039-074-AC | 2/26/2015 | 7/3/2017, 82 FR 30749 | Only Section 3, Subsection B, Condition 5 |
| ** | ** | * | * | * |
| Tampa Electric Company-Big Bend Station | Air Permit No. 0570039-120-AC | 12/14/2018 | [Insert date of publication in Federal Register] [Insert citation of publication] | Only Section 2, Condition 4; the “SO ₂ Emissions Cap” provision from Section 3, Condition 4; the “SO ₂ CEMS” provision from Section 3, Condition 4; and the “Methods of Operation” for Units 1 and 2 provision from Section 3, Condition 6. |

(e) * * *

EPA-APPROVED FLORIDA NON-REGULATORY PROVISIONS

| Provision | State effective date | EPA approval date | FEDERAL REGISTER, notice | Explanation |
|--|-----------------------------|--|----------------------------------|--------------------|
| ** | ** | ** | * | |
| 2010 1-hour SO ₂ Maintenance Plan for the Hillsborough Area | 6/7/2018 | [Insert date of Publication in <u>Federal Register</u>] | [Insert citation of publication] | |

PART 81-DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

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

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

4. In § 81.310, the table entitled “Florida-2010 Sulfur Dioxide NAAQS (Primary)” is amended by revising the entry for “Hillsborough County, FL” to read as follows:

§ 81.310 Florida.

* * * * *

Florida-2010 Sulfur Dioxide NAAQS (Primary)

| Designated area | Designation | |
|--|--|------------|
| | Date ¹ | Type |
| Hillsborough County, FL ² | [Insert 30 days after date of date of publication in the Federal Register] | Attainment |
| Hillsborough County (part) | | |
| That portion of Hillsborough County encompassed by the polygon with the vertices using Universal Traverse Mercator (UTM) coordinates in UTM zone 17 with datum NAD83 as follows: (1) Vertices-UTM Easting (m) 358581, UTM Northing 3076066; (2) vertices-UTM Easting (m) 355673, UTM Northing 3079275; (3) UTM Easting (m) 360300, UTM Northing 3086380; (4) vertices-UTM Easting (m) 366850, UTM Northing 3086692; (5) vertices-UTM Easting (m) 368364, UTM Northing 3083760; and (6) vertices-UTM Easting (m) 365708, UTM Northing 3079121 | | |
| *** | ** | ** |

¹ This date is 4/9/2018, unless otherwise noted.

² Excludes Indian country located in each area, if any, unless otherwise specified.

³ Includes any Indian country in each county or area, unless otherwise specified. The 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.

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[FR Doc. 2019-23375 Filed: 11/8/2019 8:45 am; Publication Date: 11/12/2019]