

(3) *Chapter 61 disability retirees retiring with less than 20 years of service.* Veterans who receive disability retired pay under 10 U.S.C. Chapter 61 with less than 20 years of creditable service are not eligible for concurrent receipt.

(4) *Improved Pension.* A veteran may receive improved pension and military retired pay at the same time without having to waive military retired pay. However, in determining entitlement to improved pension, VA will treat military retired pay in the same manner as countable income from other sources.

(c) *Waiver—(1) When a waiver is necessary.* (i) A waiver of military retired pay is necessary in order to receive disability compensation when a veteran is eligible for both military retired pay and disability compensation but does not have a qualifying service-connected disability or disabilities rated at 50 percent or more.

(ii) All veterans who are eligible to receive both military retired pay and disability compensation, except those receiving compensation for a disability rated 100 percent, must file a waiver in order to receive the maximum allowable amount of disability compensation during the phase-in period. The phase-in period ends on December 31, 2013. After December 31, 2013, veterans retired under 10 U.S.C. chapter 61 who are eligible for concurrent receipt must still file a waiver under the circumstances described in paragraph (b)(2) of this section.

(Authority: 10 U.S.C. 1414, 38 U.S.C. 5304, 5305)

(2) *How to file a waiver of military retired pay.* A veteran may request a waiver of military retired pay in any written, signed statement, including a VA form, which reflects a desire to waive all or some military retired pay. The statement must be submitted to VA or to the Federal agency that pays the veteran's military retired pay. VA will treat as a waiver an application for VA compensation filed by a veteran who is entitled to military retired pay.

(d) *Elections and the right to reelect either benefit.* (1) A veteran who has filed a waiver of military retired pay under this section has elected to receive disability compensation. A veteran may reelect between benefits covered by this section at any time by submitting a written, signed statement to VA or to the Federal agency that pays the veteran's military retired pay.

(2) An election filed within 1 year from the date of notification of Department of Veterans Affairs entitlement will be considered as "timely filed" for effective date

purposes. See § 3.401(e)(1). If the veteran is incompetent, the 1-year period will begin on the date that notification is sent to the next friend or fiduciary. In initial determinations, elections may be applied retroactively if the claimant was not advised of his or her right of election and its effect.

(Authority: 38 U.S.C. 5304(a), 5305)

[FR Doc. 05-13396 Filed 7-6-05; 8:45 am]

BILLING CODE 8320-01-P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

[Region II Docket No. R02-OAR-2005-NY-0001; FRL-7934-3]

### Air Quality Redesignation for the 8-Hour Ozone National Ambient Air Quality Standards; New York State

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

**ACTION:** Proposed rule.

**SUMMARY:** On April 15, 2004, we, the Environmental Protection Agency (EPA) announced nationwide designations under the 8-hour ozone National Ambient Air Quality Standard (NAAQS). That action designated several counties in the Syracuse area as unclassifiable. The counties in the Syracuse area included in the designation were Onondaga, Madison, Cayuga and Oswego in the State of New York. This action proposes to redesignate the above counties to attainment. We are soliciting comments on this proposed action.

**DATES:** Comments must be received on or before August 8, 2005.

**ADDRESSES:** Submit your comments, identified by Regional Material in EDocket (RME) ID Number R02-OAR-2005-NY-0001, by one of the following methods:

1. Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

2. Agency Web site: <http://docket.epa.gov/rmepub/>. RME, EPA's electronic public docket and comment system, is EPA's preferred method for receiving comments. Once in the system, select "quick search," then key in the appropriate RME Docket identification number. Follow the on-line instructions for submitting comments.

3. E-mail: [Werner.Raymond@epa.gov](mailto:Werner.Raymond@epa.gov).

4. Mail: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency Region 2, 290

Broadway, New York, New York 10007-1866.

5. Hand Delivery or Courier. Deliver your comments to: EPA Region 2, Air Programs Branch, 290 Broadway, New York, New York 10007-1866.

**Instructions:** Direct your comments to RME ID Number R02-OAR-2005-NY-0001. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at <http://docket.epa.gov/rmepub>, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through RME, [regulations.gov](http://regulations.gov), or e-mail. The EPA RME website and the Federal [regulations.gov](http://regulations.gov) website are "anonymous access" systems, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through RME or [regulations.gov](http://regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

**Docket.** All documents in the electronic docket are listed in the RME index at <http://docket.epa.gov/rmepub/>. Although listed in the index, some information is not publicly available, i.e., CBI 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 RME or in hard copy at the Environmental Protection Agency, Air Programs Branch, 290 Broadway, New York, New York. EPA requests that you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The interested persons wanting to examine these documents should make an

appointment with the office at least 24 hours in advance.

**FOR FURTHER INFORMATION CONTACT:**

Robert Kelly at 212 637 4249, or by e-mail at [Kelly.Bob@epa.gov](mailto:Kelly.Bob@epa.gov).

**SUPPLEMENTARY INFORMATION:** This section provides additional information by addressing the following questions:

What Is the Background for This Action?

What are the statutory requirements for designations and redesignations and what are EPA's regulatory requirements and policy regarding redesignations?

What new information is available regarding air quality in the Syracuse metropolitan area?

What about Syracuse's air quality in the future?

What action is EPA taking in regard to the designation of the Syracuse area?

**What Is the Background for This Action?**

On April 15, 2004, the Administrator of the EPA signed a final rule (69 FR 23858; April 30, 2004) announcing the designations under the 8-hour ozone NAAQS. That action designated several counties in the Syracuse area as unclassifiable and provided that the designation was effective on June 15, 2004. The Syracuse area designation was based on the review of ozone data from 2001 through 2003. The counties in the Syracuse area designated as unclassifiable are Onondaga, Madison, Cayuga, and Oswego Counties in New York State. In that action, we stated that we would review all available information and make an attainment or nonattainment decision after reviewing the 2004 ozone data.

**What Are the Statutory Requirements for Designations and Redesignations and What Are EPA's Regulatory Requirements and Policy Regarding Redesignations?**

Section 107(d) of the Clean Air Act (CAA) sets forth the criteria and process for designations and redesignations. An explanation of statutory requirements for the 8-hour ozone designations that became effective on June 15, 2004, and the actions EPA took to meet those requirements can be found in the final rule that established the designations (69 FR 23858; April 30, 2004). In Section 107(d)(3), the CAA addresses redesignations and provides that the Administrator or the Governor of a state may initiate the redesignation process. One of the bases for redesignation under that section is air quality data.

To determine whether an area is attaining the 8-hour ozone NAAQS, we consider the most recent three consecutive years of data in accordance with 40 CFR part 50, Appendix I. For

the purpose of this rulemaking, we reviewed the ozone data from 2002 through 2004.

**What New Information Is Available Regarding Air Quality in the Syracuse Metropolitan Area?**

On December 14, 2004 the New York State Department of Environmental Conservation submitted the quality assured 8-hour ozone data for 2004, the most recent ozone season; certified the ozone data as correct, complete and appropriate for regulatory use; and requested that EPA redesignate the Syracuse area from unclassifiable to attainment. The counties included in the redesignation request include Onondaga, Madison, Cayuga, and Oswego Counties.

Consistent with 40 CFR part 50, Appendix I, section 2.3, paragraph (d)(1), the 8-hour ozone standard is met if the three year average value of the annual fourth-highest daily maximum (the design value) is less than 0.085 parts per million (ppm). For the 2002–2004 time period, the design values at monitors in the Syracuse area are 0.079 ppm at East Syracuse and 0.077 ppm at Camp Georgetown, indicating that the 8-hour ozone NAAQS has been attained at all monitors in the Syracuse metropolitan area.

**What About Syracuse's Air Quality in the Future?**

The design value at the Syracuse monitor was less than 0.085 ppm for ten years before 2003, so it is unlikely to violate the 8-hour standard in the future. EPA and the State will continue to review air quality data for violations of the 8-hour ozone standard.

**What Action Is EPA Taking in Regard to the Designation of the Syracuse Area?**

Based upon regulatory requirements in 40 CFR part 50, Appendix I and including monitoring data from the most recent ozone season, the monitors in the Syracuse metropolitan area are in attainment of the 8-hour ozone standard. Thus, we are proposing to redesignate Onondaga, Madison, Cayuga, and Oswego Counties in New York as attainment for the 8-hour ozone standard.

We are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

**Statutory and Executive Order Reviews**

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and therefore is not subject to review by the

Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001). This action merely designates an area for planning purposes based on air quality, and does not establish any new regulations. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The redesignation is an action which affects the status of a geographic area but does not impose any new requirements on governmental entities or sources. Therefore because it does not impose any additional enforceable duty, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

The Onondaga and Oneida Tribes are located within the Syracuse area. The redesignation of the Syracuse area from unclassifiable to attainment will not create any new or burdensome requirements upon the tribes. Therefore, this redesignation does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely establishes the attainment status, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing state redesignation requests, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS),

EPA has no authority to disapprove a redesignation request for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a state recommendation, to use VCS in place of a state request that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

Environmental protection, Air pollution control, National park, Wilderness area.

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

Dated: June 27, 2005.

**George Pavlou,**

*Acting Regional Administrator, EPA Region 2.*

[FR Doc. 05-13344 Filed 7-6-05; 8:45 am]

**BILLING CODE 6560-50-P**

### ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 300

[FRL-7933-9]

#### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of intent to delete the Jones Sanitation Superfund Site from the National Priorities List.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 2 office is issuing this notice of intent to delete the Jones Sanitation Superfund Site (Site), located in Hyde Park, New York from the National Priorities List (NPL) and requests public comment on this action. The NPL is Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. The EPA and the State of New York, through the Department of Environmental Conservation (NYSDEC), have determined that potentially responsible parties have implemented all appropriate response actions. Moreover, EPA and NYSDEC have determined that the Site poses no significant threat to

public health or the environment. In the "Rules and Regulations" Section of today's **Federal Register**, we are publishing a direct final notice of deletion for the Jones Sanitation Superfund Site without prior notice of this action because we view this as a noncontroversial revision and anticipate no significant adverse comment. We have explained our reasons for this action in the preamble to the direct final deletion. If we receive no significant adverse comment(s) on this notice of intent to delete or the direct final notice of deletion or other notices we may issue, we will not take further action on this notice of intent to delete. If we receive significant adverse comment(s), we will withdraw the direct final notice of deletion and it will not take effect. We will, as appropriate, address all public comments. If, after evaluating public comments, EPA decides to proceed with deletion, we will do so in a subsequent final deletion notice based on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, see the direct final notice of deletion which is located in the Rules section of this **Federal Register**.

**DATES:** Comments concerning this Site must be received by August 8, 2005.

**ADDRESSES:** Written comments should be addressed to: Isabel Rodrigues, Remedial Project Manager, Emergency and Remedial Response Division, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007-1866.

**FOR FURTHER INFORMATION CONTACT:** Ms. Isabel Rodrigues at the address provided above, or by telephone at (212) 637-4248, by Fax at (212) 637-4284 or via e-mail at [Rodrigues.Isabel@EPA.GOV](mailto:Rodrigues.Isabel@EPA.GOV).

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final Notice of Deletion which is located in the Rules section of this **Federal Register**.

**Authority:** 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9675; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: June 6, 2005.

**George Pavlou,**

*Acting Regional Administrator, U.S. EPA, Region II.*

[FR Doc. 05-13347 Filed 7-6-05; 8:45 am]

**BILLING CODE 6560-50-P**

### FEDERAL COMMUNICATIONS COMMISSION

#### 47 CFR Part 73

[MM Docket No. 99-25; FCC 05-75]

#### Creation of a Low Power Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on ownership and eligibility issues related to low power FM (LPFM) authorizations, including: whether LPFM authorizations should be transferable and, if so, whether transferability should be broadly permitted or limited to special circumstances; whether to extend the deadline for submission of a time-share proposal after a mutually exclusive group of LPFM applicants is announced; whether to permit renewal of licenses granted under involuntary time-sharing, successive license term procedures; whether to permanently restrict ownership of LPFM stations to local entities; and whether to permanently prohibit multiple ownership of LPFM stations. The Commission also seeks comment on technical issues related to LPFM authorizations, including: whether to extend the LPFM construction period to 36 months; whether to allow applicants submitting a time-share proposal to relocate the transmitter to a central location, notwithstanding the site relocation limits for minor amendments; whether and, if so, under what conditions LPFM applications should be treated as having "primary" status with respect to prior-filed FM translator applications and existing FM translator stations; and whether an LPFM station should be permitted to continue to operate even when interference is predicted to occur within the 70 dBu contour of a subsequently-authorized second- or third-adjacent channel full service FM station.

**DATES:** Comments must be filed on or before August 8, 2005, and reply comments must be filed on or before August 22, 2005. Written comments on the proposed information collection requirements contained in the document must be submitted by the public, the Office of Management and Budget (OMB), and other interested parties on or before September 6, 2005.

**ADDRESSES:** You may submit comments, identified by MM Docket No. 99-25, by any of the following methods: